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Official Report of Debates (Hansard)

Monday 29 May 2006

Journal des débats (Hansard)

Lundi 29 mai 2006

Standing committee on general government

Stronger City of Toronto for a Stronger Ontario Act, 2006

Residential Tenancies Act, 2006

Comité permanent des affaires gouvernementales

Loi de 2006 créant un Toronto plus fort pour un Ontario plus fort

Loi de 2006 sur la location à usage d'habitation

Chair: Linda Jeffrey
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Monday 29 May 2006

Lundi 29 mai 2006

The committee met at 1002 in room 151.

STRONGER CITY OF TORONTO FOR A STRONGER ONTARIO ACT, 2006

LOI DE 2006 CRÉANT UN TORONTO PLUS FORT POUR UN ONTARIO PLUS FORT

Consideration of Bill 53, An Act to revise the City of Toronto Acts, 1997 (Nos. 1 and 2), to amend certain public Acts in relation to municipal powers and to repeal certain private Acts relating to the City of Toronto / Projet de loi 53, Loi révisant les lois de 1997 Nos 1 et 2 sur la cité de Toronto, modifiant certaines lois d'intérêt public en ce qui concerne les pouvoirs municipaux et abrogeant certaines lois d'intérêt privé se rapportant à la cité de Toronto.

The Chair (Mrs. Linda Jeffrey): Good morning. The standing committee on general government is called to order. We meet today to resume clause-by-clause consideration of Bill 53, the Stronger City of Toronto for a Stronger Ontario Act.

Committee, you will recall we were on section 165 of the bill, and we had just voted on a new section 165.2. We were in the midst of handing out a government amendment on page 62 that creates a new section 165.3.

Mr. Duguid, are you going to read that motion, or is somebody else?

Mr. Brad Duguid (Scarborough Centre): I'll do the first one here, while everybody else is getting settled.

I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 165.2:

"Inquiry by registrar

"165.3(1) This section applies if the registrar conducts an inquiry under this part in respect of a request made by city council, a member of council or a member of the public about compliance with the system of registration described in section 165 or with a code of conduct established under that section.

"Powers on inquiry

"(2) The registrar may elect to exercise the powers of a commission under parts I and II of the Public Inquiries Act, in which case those parts apply to the inquiry as if it were an inquiry under that act.

"Duty of confidentiality

"(3) Section 160 applies, with necessary modifications, with respect to the registrar and every person acting under the instructions of the registrar in the course of conducting an inquiry.

"Report

"(4) If the registrar makes a report to city council in respect of an inquiry, the registrar may disclose in the report such matters as in the registrar's opinion are necessary for the purposes of the report.

"Publication of reports

"(5) City council shall ensure that reports received from the registrar are made available to the public.

"Testimony

"(6) Neither the registrar nor any person acting under the instructions of the registrar is a competent or compellable witness in a civil proceeding in connection with anything done when conducting an inquiry.

"Reference to appropriate authorities

"(7) If the registrar, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other act or of the Criminal Code (Canada), the registrar shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to city council."

In summary, what this does is it defines the powers of the lobbyist registrar, if the city appoints a lobbyist registrar.

The Chair: Any debate?

Mr. Ernie Hardeman (Oxford): I'm kind of confused. I wonder why a whole new section would be added, which would appear to me in just listening to it to have quite far-reaching legislative authority, and why that wasn't in the bill before. Is there something that's changed in the registrar, or in the lobbyist part of the act, that requires this to be put in?

Mr. Duguid: No. It should have been in before. The bill says that the city has to set up a lobbyist registry. What we didn't do in the act originally was define who's going to oversee that lobbyist registry. It was brought to our attention that we're going to have to give the city the authority to set up somebody to be in charge of it and give them similar powers to some of the other officials that we've mandated the city to set up: the Auditor General, the Integrity Commissioner, an Ombudsman, those kinds of things. We didn't do the same thing for a lobbyist registrar. That's something that the city would

need to appoint to oversee their lobbyist registry. That was an oversight.

Mr. Hardeman: If I could go on then, in "Duty of confidentiality" in subsection (3), "Section 160 applies, with necessary modifications." What would be the necessary modifications? It would seem to me, if you're setting a standard, that the standard would not be set by leaving it open to someone else adding modifications.

The Chair: Mr. Duguid, do you want some staff help answering this question?

Mr. Duguid: I don't think so. I think we want to give the city some flexibility too, as they're setting up this position, to further define it and to assign the lobbyist registrar what duties they see fit. What we've done is sort of given an outline of what the position would entail, but there may be other details the city might want to place upon this lobbyist registrar.

Mr. Hardeman: Maybe, Madam Chair, I could get somebody from the legal branch. It would seem to me, given the words "with necessary modifications," that the city gets to decide what those modifications are. In fact, they could modify it to the extent that 160 does not apply because there would be nothing left of it to apply.

The Chair: Could somebody from staff come forward and help answer this question? Legislative counsel? Are you happy with legislative counsel at this table answering?

Mr. Hardeman: Yes, that's fine. Anybody can help me out here. I'm totally at a loss.

Ms. Laura Hopkins: The reference to "with necessary modifications" is a drafting technique. It doesn't give the city authority to make necessary modifications. What is does is enable us to read section 160, substituting references to the commissioner which are in that section with references to the registrar, and persons acting under the instructions of the commissioner would be person acting under the instructions of the registrar. Those would be the only modifications.

Mr. Hardeman: Thank you very much.

The Chair: Any further debate? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Mr. Tabuns, you have a motion that is—

Mr. Peter Tabuns (Toronto–Danforth): My motion is the same as government motion number 62, so I will withdraw that.

The Chair: Thank you.

Mr. Hardeman: I'm starting to think they're ganging up on me. The government and the New Democrats seem to have the same motions—

The Chair: I can't believe that they would do that. I think they're just working well together. I think this is a result of that.

Shall section 165.3 carry? All those in favour? All those opposed? That's carried.

Mr. Tabuns, you have number 64.

1010

Mr. Tabuns: I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 165.3:

"Penalties

"165.4 If the registrar reports to city council that, in his or her opinion, a person has contravened registration requirements established under section 165 or the code of conduct for persons who lobby public office holders, the council may impose either or both of the following penalties after considering the registrar's report:

"1. Remove the person's name from the registry described in subsection 164(1).

"2. Prohibit the person from lobbying public office holders for a period of one year or less."

This in fact gives some penalty for contravening the regulations or the code of conduct around registration of lobbyists and, I think, would actually be necessary to have lobbyists treat the code of conduct with respect, let us say.

The Chair: Mr. Hardeman?

Mr. Hardeman: I think this was part of the discussion when we were discussing the actual provision of the lobbyists' registry. I never really got it clarified as to what happens to your lobbying activity if you're not registered. It's one thing to suggest that lobbyists must register, but how do you prevent people from lobbying if you've taken them off the registry? What are the qualifications to be a lobbyist? You say you have to be registered, but you are and then the city doesn't let you register any more, how do you then enforce the non-lobbying? I just can't understand how that would work. What's the onus on people to stay registered?

Mr. Tabuns: I think the onus on people is the discomfort that a city councillor would have in talking to anyone who is not registered who is barred from lobbying. I think it would discredit any councillor who in fact engaged in conversation around these issues with a lobbyist.

Mr. Hardeman: Maybe it's wording and maybe I'm way off, but the question becomes, if they're not registered—they're taken off the registry—does that mean they cannot lobby? To me, I don't know what's in the bill that actually says that you must be registered to be a lobbyist. The bill says you must register before you can lobby, so you've done your thing, you're registered; then, if the city takes you off the list, do they have the ability to say, "You are no longer a lobbyist"?

Mr. Tabuns: In fact, this says that you are no longer a lobbyist. You're prohibiting from lobbying public office holders.

Mr. Hardeman: How do they do that? It's a not a licensed activity.

Mr. Tabuns: No, it isn't a licensed activity; it's a political activity. If councillors are regularly reporting their contacts with those who come in to talk to them about bylaws or other actions on the part of the city, they know who is on the lobbyist register and who is not. They are not going to want to show on their list of people they've met with the name of a person who has been prohibited from lobbying.

City hall is a fairly small place. People notice who's going in and out of what office. It becomes a problem

fairly quickly and fairly visibly when you have someone who's prohibited from lobbying who's working the hallways.

The Chair: Any further questions? Seeing none, all those in favour of the motion? All those opposed? That's lost.

Sections 166 to 177: There are no changes or amendments. All those in favour of the motion? All those opposed? That's carried.

Government motion on page 65, Mr. Brownell.

Mr. Jim Brownell (Stormont–Dundas–Charlottenburgh): I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 177:

"Testimony

"177.1 Neither the Auditor General nor any person acting under the instructions of the Auditor General is a competent or compellable witness in a civil proceeding in connection with anything done under this part."

The Chair: Any comments or questions? All those in favour? All those opposed? That's carried.

Mr. Tabuns, I believe the next motion is a duplicate.

Mr. Tabuns: I agree, Madam Chair, and thus withdraw it.

The Chair: Great minds think alike.

Shall section 177.1 carry? All those in favour? All those opposed? That's carried.

Sections 178 through 183 have no changes. All those in favour of those sections? All those opposed? That's carried.

Government motion, page 67, Mr. Lalonde.

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell): I move that subsection 184(4) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out.

The Chair: Comments or questions?

Mr. Hardeman: I'm just trying to find out what the section is. If somebody could tell me what the section is that we're striking out—what the wording is rather than just the number.

The Chair: Mr. Duguid, could you—

Mr. Duguid: Yes, it's section 184. The way the bill was originally written, it would have required an amendment to a procedural bylaw for council to designate a member of council other than the mayor to preside at a council meeting. This removes that section, and I just want to verify—I'll just take a look at the original section here.

Yes. The section as originally written said that the procedural bylaw "may," with the consent of head of council, designate a member of city council other than the head of council to preside at meetings of city council. I think Toronto councillors thought that this was a little onerous to have to go through a procedural bylaw change to appoint someone to chair a council meeting. The tradition of Toronto council is, the mayor doesn't have to always be in the seat; other people can be as well. It's just to make it a little bit easier to ensure that they don't have to go through a procedural bylaw change or amend the procedural bylaw when they designate a member of council other than the mayor to preside at council meetings.

One of the things this act does is, it gives the city the ability to appoint, if you want, a speaker or a permanent council chair. It has to be a member of council, but they have the ability to do that, and it's a direction that they've indicated a likelihood of pursuing.

Mr. Hardeman: I guess my concern is that, as it's presently written, what we're talking about striking out is that permissive authority by which council can pass a bylaw to allow the appointing of a head of council other than the mayor for times when the mayor is absent. If we take that out, what is there that allows council to do that? Council doesn't pick the mayor; the people do. Without this section, how do they then pass a bylaw that allows someone other than the mayor to fill the seat?

Mr. Duguid: What this does is, it allows council to determine who their speaker is going to be, if they choose to go that route. It's something that was recommended to them by the Buller report because of the onerous job of mayor of the city and the aspects in terms of governance responsibilities and now, with this legislation, some enhanced governance responsibilities. The theory is that it might be a good idea for council to appoint a speaker or a chairperson to chair their council meetings, and this just allows them to do it without having to amend their procedural bylaw. It was a request from council to just make sure that it was clear that they'd be able to appoint a chair or a speaker to chair their meetings. I'm not convinced they couldn't have done it anyway, but they wanted this to make sure it was clear, and we're happy to oblige.

Mr. Hardeman: I guess I need a legal opinion too. It would seem to me that if it's in the original draft as a discretionary authority of council and you take discretionary authority away from council, does that mean they no longer have it, or does that mean it's wide open and they can do anything they like? It seems to me this may include that so council could have a procedural bylaw that says that Brad Duguid will be the mayor in place of the mayor in case the mayor doesn't show up for the meeting. If you take that out, it means in my mind that at every council meeting, council would have to decide who of those present would be head of council. I think it's going to make it more onerous than helpful because it is so permissive.

I wonder if I could get an opinion from legislative counsel as to what they believe?

1020

Ms. Hopkins: Section 187 of the new act, which we haven't yet arrived at, addresses the subject of who presides at meetings of council; so section 187 governs the decisions about who the presiding person is.

I don't think the removal of this subsection would have the result of requiring council to make a decision on a meeting-by-meeting basis.

Mr. Hardeman: But it would if section 187 wasn't there. I have to deal with the bill as we're proceeding.

We're taking out the section that says that council may appoint a replacement, and I don't see any reason to strike it out. What's the advantage of striking it out?

Ms. Hopkins: I need to ask for the expert help of a lawyer from municipal affairs.

Mr. Scott Gray: Scott Gray, from municipal affairs, legal branch. The purpose of this amendment, in co-ordination with other amendments, is simply that the city said, "We don't want to have to amend our procedural bylaw to appoint an alternative presiding officer." So instead of making it a requirement that you do it in the procedural bylaw, we're making it a stand-alone bylaw, which is a motion that we're getting to two or three from now.

You're quite right: If this was taken out and the other section wasn't put it, then they wouldn't have this authority. But this section is presuming that if you remove the power here, you'll have the good sense to put it in two or three motions later, when it's not required to be part of the procedure bylaw.

The Chair: Any further questions?

Mr. Hardeman: I gather we're going to strike it out—we could go on forever on it—but it would seem to me that section 187 says exactly the same thing, only it's not discretionary anymore. We'll discuss that when we get to section 187.

Mr. Gray: It's not mandatory that it be in the procedure bylaw. They're given discretion to do it, but they don't have to do it by amending the procedure bylaw. That's what we're trying to achieve in that motion, simply to say that it doesn't have to be done through an amendment to the procedure bylaw; you can just pass a bylaw to do it.

Mr. Hardeman: I guess that's my point. My real thrust here is that section 185 is a much better approach and gives much more discretion to city council than section 187, because 187 says, "It will be the head of council or one designated by a procedural bylaw," and section 185 says, "They may be appointed or they may not be appointed." I think when we're finished, 187 is the wrong one, not 185.

Mr. Gray: I know we're not at 187, but 187 does give the same "may" discretionary power to council. Section 187, new subsection (1.1): "City council may designate another member of council to preside at meetings of the city...." Something you have to do in your procedure bylaw you can do in a stand-alone bylaw.

The Chair: Any further questions? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Mr. Tabuns, I believe your motion is a duplicate.

Mr. Tabuns: That's correct, Madam Chair, and thus is withdrawn.

The Chair: Shall section 184, as amended, carry? All those in favour? All those opposed? That's carried.

Sections 185 and 186 have no changes. All those in favour of those sections? All those opposed? They're—

Interjection.

The Chair: Mr. Hardeman, do you want to discuss 185 and 186?

Mr. Hardeman: Section 186.

The Chair: Can I move 185? All those in favour of 185? All those opposed? That's carried.

Section 186.

Mr. Hardeman: It's 187 I want.

The Chair: I figured it was.

Section 186: All those in favour of this section? All those opposed? That's carried.

The next one is a government motion.

Mr. Lou Rinaldi (Northumberland): I move that subsection 187(1) of the City of Toronto Act, 2006, as set out in schedule A to this bill, be struck out and the following substituted:

"Presiding officer

"(1) The head of council or other presiding officer designated under this section shall preside at all meetings of city council, except where otherwise provided.

"Same

"(1.1) With the consent of the head of council, city council may designate another member of council to preside at meetings of the city, and the designation may be made be secret ballot."

The Chair: Any discussion?

Mr. Tabuns: I propose a similar motion, but in this motion that I would put forward, if this one were to fail, I suggest that council may designate a speaker or a person who will preside over the meeting without having to have the permission of the head of council. I think that the amendment put forward by the government reflects a strong mayor approach to the City of Toronto Act and diminishes the power of the council. So I urge members of this committee to reject the government motion and then adopt my motion when we get to that point.

Mr. Hardeman: I guess my question really is to the parliamentary assistant: Is this not just a replacement for 185?

Mr. Duguid: It's definitely related. I think the concern the city had with 185 was it could be interpreted to mean that every time the mayor leaves the chair and designates somebody else to chair a meeting, they may have to go through a procedural bylaw change which, if I recall, probably requires a two-thirds vote every time he does it. That may or may not have been the case. It may have been just an interpretation. What this does is clarify what's intended here.

Yes, Mr. Tabuns is correct. We don't want to open the door to hostile takeovers of the mayor's seat, and that's why it's important that the mayor have consent with designating another member of council to preside over a council meeting.

The idea of the secret ballot was a request of the city, and it kind of makes sense. We do a similar approach here. It's to ensure that when you're electing a chair, you don't feel that, down the road, if you don't support that chair, maybe they're going to remember that you didn't support them and treat you a little differently. You would hope that wouldn't happen, but it's just human nature. It provides the ability to vote freely on a secret ballot and know that there'll be no repercussions down the road.

Mr. Hardeman: The question is, after the appointment, is it the assumption that the appointee would be able to conduct a meeting in the presence of the mayor, or is this just in the absence of the mayor?

Mr. Duguid: The assumption would include the presence of the mayor. Often the mayor will remove himself from the mayor's chair anyway. Quite often, if he wants to participate in debate—and not all councils are the same—the mayor will remove himself from the chair and allow somebody else to chair while he's participating in debate. In this case, the door is still open to appointing a full-time speaker or chair of council meetings, and the mayor may not ever chair a council meeting or may infrequently chair a council meeting if the mayor chooses and if council chooses to go in that kind of a direction.

The Chair: Any further questions? Seeing none, all those in favour of the motion? All those opposed? That's carried.

I believe that makes your motion—

Mr. Tabuns: Redundant.

The Chair: —redundant, Mr. Tabuns. Thank you.

Shall section 187, as amended, carry?

Mr. Hardeman: A recorded vote on that one.

The Chair: A recorded vote has been requested.

Ayes

Brownell, Duguid, Lalonde, Rinaldi.

Nays

Hardeman, Tabuns.

The Chair: It's carried.

Section 188: government motion.

Mr. Brownell: I move that section 188 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by striking out "or other member of council designated to preside at meetings in the city's procedure bylaw" and substituting "or other member of council designated under section 187 to preside at meetings".

1030

The Chair: Any comments or questions?

Mr. Hardeman: I need an explanation on this. What are we changing?

Mr. Duguid: My understanding is that this is just to make it consistent with what we changed in the previous amendment; it's consequential to amendment 69. It's a change that was necessary as a result of that.

The Chair: Any comments or questions? All those in favour? All those opposed? That's carried.

Shall section 188, as amended, carry? All those in favour? All those opposed? That's carried.

Government motion for section 189: Mr. Lalonde.

Mr. Lalonde: I move that subsection 189(2) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding at the beginning "Except as provided by section 187".

The Chair: Mr. Duguid.

Mr. Duguid: A short explanation: The same as the first one, this is just consequential to government motion 69 regarding the selection of the speaker by secret ballot. It's just making this section consistent with what we've done there.

Mr. Hardeman: I didn't get the opportunity or I didn't get up my hand up quickly enough for the previous one, where it said "by secret ballot." I personally am opposed to any votes being held in council on a secret ballot. In the Legislature, we all stand up to be counted, whether we agree or disagree or want the public to know. I think it's important that all decisions made are made in public for the public. I object to that being put in, because that would nullify the other one again. I think it all should be done in an open vote.

Mr. Duguid: I'm just a little surprised to hear that, given that the tradition of the Legislature is to choose our own Speaker, if I recall, by secret ballot. I suppose the member's entitled to his view. Maybe he doesn't agree with that either and thinks that should be changed too, which is fine. But if we've got one set of rules for ourselves, surely we shouldn't be thinking that other levels of government should have other sets of rules.

Mr. Hardeman: I think we missed the point. This is not the speaker of the council; this is the head of council for the time being. All mayors in the province of Ontario are elected by vote, and the mayor of Toronto will be elected the same way. This is someone to take the place of that.

I've spent many years in local government, and the one position that is elected that way in two-tier systems is the warden. I know that everybody in my community stands up and is counted for who they vote for as warden of the county.

The Chair: Any further comments or questions? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Shall section 189, as amended, carry? All those in favour? All those opposed? That's carried.

There are no changes in sections 190 through 195. All in favour of those sections? All those opposed? That's carried.

Mr. Tabuns, you have an amendment.

Mr. Tabuns: I move that subsection 196(3) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by striking out "subject to the approval of the city auditor" and substituting "subject to the approval of the city auditor or another officer designated by city council".

Very simply, as currently written, the legislation requires the auditor to approve all record retention schedules. In the opinion of the city, that's fairly cumbersome and fairly costly, so this would allow the city auditor or another officer designated by council to approve those record retention schedules.

The Chair: Mr. Hardeman.

Mr. Hardeman: To the mover of the motion, I'm just wondering, does that mean that if the city auditor says there must be a certain length of retention, the city could appoint another officer to change that decision?

Mr. Tabuns: That's a good question. Perhaps legal staff could assist me. As I understand it, whichever officer is given the authority to set those schedules sets those schedules.

The Chair: You're asking for clarification?

Mr. Tabuns: Yes.

Ms. Hopkins: I'd agree with what Mr. Tabuns has just said.

Mr. Tabuns: As I understand it, the person who is given the authority sets the schedule. I don't see where you would simply change the schedule by appointing another authority. The schedule would be set by that person who had been given the authority.

I have to say, in addition, should city council decide to dismiss its auditor or hobble its auditor in the manner you're suggesting, I think that could become quite a public political issue.

The Chair: Mr. Hardeman.

Mr. Hardeman: I guess my question relates to all local municipal government. In fact, it's all decided by the auditor. Though this new act will have a slightly different function for the auditor and their appointment, under the new act, the retention of records is not that big an issue. I mean, I can't see that there's a great variation in the length of retention of records as you go around the province to different municipalities. I'm not sure I see the justification of saying that someone other than the auditor should be able to approve the retention of records. This isn't something that comes before the auditor every day, that they say, "We have these records. We'd like to know whether we can destroy them or not." It's a schedule prepared for the whole city by the auditor and approved by the auditor, and then they function under that, unless there's a request and all agree to change that. So I see no reason why you would want to expand the authority of who makes those final decisions.

Mr. Tabuns: The city simply argues that this allows them essentially to spread a fairly burdensome responsibility, and on that basis makes the request for the change.

The Chair: Any further comments or questions? Seeing none, all those in favour of the amendment? Those opposed? That's lost.

Shall section 196 carry? All those in favour? All those opposed? That's carried.

There are no changes to section 197. Shall section 197 carry? All those in favour? All those opposed? That's carried.

Section 198, government motion: Mr. Rinaldi.

Mr. Rinaldi: I move that paragraph 1 of subsection 198(1) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out and the following substituted:

"1. Except in accordance with section 30 of the Municipal Elections Act, 1996,

"i. a city employee, or

"ii. a person who is not a city employee but who holds any administrative position of the city or who is the clerk, treasurer, integrity commissioner, auditor general or ombudsman of the city or the registrar appointed under section 165.2."

The Chair: Any comments or questions?

Mr. Hardeman: Does the present act not say exactly the same thing, or is there a change?

Mr. Duguid: The purpose is to ensure that their lobbyist registry is added to the list of officials ineligible to hold office as a member of council.

The Chair: Any further comments or questions? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Shall 198, as amended, carry? All those in favour? All those opposed? That's carried.

There are no changes to sections 199 through 206. All those in favour of those sections? All those opposed? That's carried.

Section 207: Mr. Tabuns.

Mr. Tabuns: Madam Chair, there are a number of motions here that are similar in content that give the city of Toronto control over local boards. Unless you would like them all to be voted on individually, I can read each one and we can vote on them as a block, because the intent is the same.

Mr. Duguid: That's fine by us.

1040

The Chair: Any further comments or questions?

Mr. Tabuns: Would you like me to read them, then?

Mr. Hardeman: Do they all fit in succession in the section?

Mr. Tabuns: They do. Well, from 207 to 214, to 215, to 216, to 217.

The Chair: Mr. Tabuns, I understand you cannot vote on them as a block.

Mr. Tabuns: Ah. Then I'll go through them, Madam Chair.

I move that subsection 207(2) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding at the beginning, "Subject to a bylaw under section 8".

Again, my purpose in moving this is to extend the power of the city to ensure that it controls its local boards.

Mr. Duguid: For this, and I can make the same comments for subsequent similar motions, we don't see a need to do this and we're not sure that there's any other effect. I guess I'd be a little concerned about potential unintended consequences, but regardless, we don't see this as being necessary, so we won't be supporting it.

The Chair: Any further comments or questions?

Mr. Tabuns: Simply that I'm prepared to go ahead with it.

Mr. Hardeman: Is "Subject to a bylaw," an add-on, that they must have bylaws as opposed to just policies?

Mr. Tabuns: It would be subject to the city of Toronto bylaws.

The Chair: Any further comments or questions? Seeing none, all those in favour of the motion? All those opposed? That's lost.

Shall section 207 carry? All those in favour? All those opposed? That's carried.

There are no changes to sections 208 through 213. All those in favour of those sections? All those opposed? That's carried.

The next motion is 214: Mr. Tabuns.

Mr. Tabuns: I move that subsection 214(2) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding at the beginning, "Subject to a bylaw under section 8".

The Chair: Any comments or questions? All those in favour of the motion? All those opposed? That's lost.

Shall section 214 carry? All those in favour? All those opposed? That's carried.

Mr. Tabuns, you have the next motion.

Mr. Tabuns: I move that subsection 215(2) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding at the beginning, "Subject to a bylaw under section 8".

The Chair: Any comments or questions? All those in favour of the motion? All those opposed? That's lost.

Shall section 215 carry? All those in favour? All those opposed? That's carried.

Mr. Tabuns: I move that subsection 216(2) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding at the beginning, "Subject to a bylaw under section 8".

The Chair: Comments or questions? Seeing none, all those in favour of the motion? All those opposed? That's lost.

Shall section 216 carry? All those in favour? All those opposed? That's carried.

Mr. Tabuns: I move that subsection 217(3) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding at the beginning, "Subject to a bylaw under section 8".

The Chair: Any comments or questions? Seeing none, all those in favour? All those opposed? That's lost.

Shall section 217 carry? All those in favour? All those opposed? That's carried.

Committee, there are no changes on sections 218 through 221. All those in favour of those sections? All those opposed? That's carried.

On part VII, financial administration, there are no changes from sections 222 through 226. All those in favour of those sections? All those opposed? That's carried.

Mr. Tabuns, section 227 is your motion.

Mr. Tabuns: I will withdraw this, Madam Chair.

The Chair: Thank you very much.

Shall section 227 carry? All those in favour? All those opposed? That's carried.

Government motion: Mr. Brownell.

Mr. Brownell: I move that subsections 228(2) and (3) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out and the following substituted:

"Inspection

"(2) The reports of the city auditor provided to city council under subsection (1) are public records and may be inspected by any person at the clerk's office during normal office hours."

The Chair: Any comments or questions? Mr. Hardeman.

Mr. Hardeman: Is this just taking the minister's authority away, clarifying the public's authority, and the minister could be a member of the public?

Mr. Duguid: Yes. It's consequential to a motion we passed—I think it was 34—which removes the ability of the minister to ask the auditor to make reports. This is consequential to what we did previously.

The Chair: Any further comments or questions? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Mr. Tabuns, you have the next motion.

Mr. Tabuns: My motion here is substantially the same as the one put forward by the government, so I will withdraw it.

The Chair: Thank you.

Shall section 288, as amended, carry? All those in favour? All those opposed? That's carried.

Committee, there are no changes on 229 to 230. All those in favour of those sections? All those opposed? That's carried.

Section 231: I believe there's a recommendation. Mr. Tabuns.

Mr. Tabuns: I simply recommend that the committee vote against section 231 of the City of Toronto Act, 2006, as set out in schedule A to the bill. This is quite a harsh section in the act. It says that the Minister of Finance can retain funds owed to the city of Toronto should the city of Toronto fail to provide the minister with information. I just find that is not a reasonable power to exercise against the city on a question of information.

The Chair: Mr. Hardeman.

Mr. Hardeman: Since it was being recommended to vote against something—I have been unable to vote against anything so far—I was hoping I would be able to listen to him. But it seems to me that this is one of the few safeguards in there that says there is a penalty if you don't follow the rules of the act. I can't support this amendment to vote against the section, so I'll be voting for the section.

The Chair: All those in favour of section 231? All those opposed? That's carried.

Committee, there are no changes on sections 232 through 236. All those in favour of those sections? All those opposed? That's carried.

Section 237: Mr. Tabuns.

Mr. Tabuns: I move that clauses 237(c), (d) and (e) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out.

These requirements are more onerous than those of the Canadian Institute of Chartered Accountants. It gives the minister the ability to make regulations regarding the city's reserve fund. If we're going to treat the city as a mature level of government, putting ourselves in a posi-

tion to set the requirements for the city's reserve fund seems, again, going too far.

The Chair: Any comments or questions?

Mr. Duguid: We won't be supporting this amendment. There is a need, at this point in time, anyway, for province-wide standards regarding the management of reserve funds. I think it's important that the province retain that ability, and it probably should be consistent across the province. There may come a time when the public interest is not best served by ensuring that the province is capable of stepping in to ensure that liabilities can be covered, but I don't think we're at that time right now, so we won't be supporting that motion.

1050

Mr. Hardeman: It's another one of those cases where I won't be able to vote against this as part of the bill, because I believe it's important, as the parliamentary assistant said, that certain things need province-wide standards. There's presently a law in place that says we must have full cost-recovery for some of the infrastructure that's in the ground, and it would seem inappropriate to me that an area such as the city of Toronto would not be responsible to their citizens to do that, to make sure there is full cost-recovery and that the money is in place to replace that infrastructure if and when the time comes. I think this is not only good for continuity across the province but will also ensure for the people of Toronto that their government is not putting money from infrastructure into other services that they deem appropriate. This isn't a section that says the minister is going to control it; it just says that if they're not doing it, he can, by regulation, make it happen. I support that.

The Chair: Any further comments or discussion? All those in favour of the motion? All those opposed? That's lost.

Shall section 237 carry? All those in favour? All those opposed. That's carried.

Committee, there are no changes to sections 238 through 239. Shall they carry? All those in favour? All those opposed? That's carried.

On part VIII, finances, there are no changes on sections 240 to 243. Any comments or questions? Shall they carry? That's carried.

On section 244, there's a government motion.

Mr. Kevin Daniel Flynn (Oakville): I move that subsection 244(2) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out and the following substituted:

"Exception

"(2) Despite subsection (1), the city may apply an amount in a sinking or retirement fund to pay for any capital expenditure of the city if the balance of the fund; including any estimated revenue, as audited by the city auditor is or will be sufficient to entirely repay the principal of the debt for which the fund was established on the date or dates the principal becomes due."

The Chair: Any comments?

Mr. Duguid: This probably needs some clarification. This gives the city the ability to apply sinking or retirement funds to capital projects. The amendment clarifies that the auditor need not approve every single transaction. It could have been interpreted that that's what the bill had said originally, and that wasn't the intent. These transactions are audited as part of the audit process so they will be transparent and audited and all that stuff, but the auditor doesn't have to approve every single transaction when it comes to applying a sinking or retirement fund to capital projects.

Mr. Hardeman: I totally agree with the sinking fund, but how does the issue of a retirement fund apply to the city? Are there other retirement funds within the city structure that would be beyond the OMERS fund? Hopefully, this doesn't deal with the OMERS fund.

Mr. Duguid: The answer to that question is yes. Believe it or not, as a member of city council there for nine years, I was not aware of that until I asked the very question to staff that the member just asked. There are other funds; they probably predate OMERS. I don't know what amounts or what the funds are, but there are other funds, and that's really what they're talking about here.

Mr. Hardeman: I'd just want to ask the legal branch to make sure that they're not allowed to use OMERS for capital projects as opposed to putting it in OMERS.

Mr. Duguid: I don't know the answer to that question, but maybe staff can respond to that.

Ms. Janet Hope: Janet Hope, municipal finance branch. Just to clarify the use of the term "retirement fund" in this context, it's not a pension fund; it's a retirement fund in the context that this is the financing section.

Mr. Hardeman: Superannuation-type funding?

Ms. Hope: Yes. It's just speaking to any kind of fund that's set up as a retirement fund, along with sinking funds.

The Chair: Any further comments or questions? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Mr. Tabuns, you have the next motion.

Mr. Tabuns: Since the substance of the motions is the same, I'll withdraw.

The Chair: Thank you.

Shall section 244, as amended, carry? All those in favour? All those opposed? That's carried.

There are no changes to sections 245 through 252. Shall those sections carry? All those in favour? All those opposed? That's carried.

Part IX, fees and charges, section 253: There are no changes. Shall it carry? All those in favour? All those opposed? That's carried.

On section 254, there's a government motion.

Mr. Lalonde: I move that section 254 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following subsection after subsection 254(1):

"Same

"(1.1) A fee or charge imposed for capital costs related to services or activities may be imposed on persons not receiving an immediate benefit from the services or

activities but who will receive a benefit at some later point in time."

The Chair: Any comments or questions? Mr. Duguid, did you want to do any preamble to this?

Mr. Duguid: Do you want an explanation? Okay. Currently, only sewage and water capital costs can be raised from a person before the service is actually being provided. What this does is give the city flexibility to include other services, similar to the flexibility under the city's area rating authority that we've provided within this act. It just gives them a little more flexibility to determine capital costs and cover capital costs.

Mr. Hardeman: Could I ask what other type of services you might be referring to?

Mr. Duguid: That's a good question. I suppose they'd have the ability—this would open it up to capital costs, I would assume, for everything from community centres to other things. I don't know specifically what the city has in mind in this particular area. I just know it gives them more flexibility in terms of raising revenues for services to be provided in the future.

Mr. Hardeman: There was a lot of concern expressed during the deputations about using the fees and user charges for purposes other than that for which they were intended; that, in fact, it was a new way of raising revenue through taxation without actually calling it taxation. My question would be—since this is pretty broad; it can be charged to "persons not receiving immediate an benefit"—if the city of Toronto decided that they were going to upgrade the Gardiner and put it underground and that all the people of Toronto were going to pay a user fee to do that, could they charge a user fee and put it in the fund for road construction?

Mr. Duguid: I'm not sure about that. What this does is give them the ability to charge a fee for a service that is to be provided in the future. An area fee is something that they'd be able to do. They can do that now for sewage and water in an area. If a particular area, for instance, was converting their meters or something like that, they could charge a fee to residents to do that. This opens it up for other capital expenditures.

I could give examples off the top of my head, but I don't know specifically where this would be applied other than it provides any capital expenditures that could be used in the future. If an area decides that they want a particular capital facility to be provided, the city would now have the ability to say, "You can pay a little extra." They will collect a fee for that and allow you to have that service provided or that particular facility built. But they have to collect the fee in advance, which they can't do right now.

Mr. Hardeman: I guess the question would be—and maybe we'll need a legal interpretation of it again, if we could—whether this in any way implies that it's directed to certain people, as opposed to an overall levy on city people, like a poll tax, only we call it a user fee for transportation and then we could put in a poll tax on the people of Toronto without ever asking anyone because this section gives them the power to do that?

The Chair: Can we ask somebody from municipal staff to assist with this answer on this one?

Mr. Gray: You've raised a number of points. The first point I'd make is that it can't be a tax in the sense that you can raise more than your actual costs. This is a fee and charge section, so whatever fees you impose are going to have to reflect your actual costs. If your definition of "tax" is raising general revenue beyond your needs for a particular purpose, it certainly can't be a tax. The point that was raised, of course, is that this can already be done through the taxation mechanism. It could be done through the general tax levy or, if you don't want to impose it on the whole city, you could area-rate the cost for any capital improvement ahead of time.

1100

The city hasn't told us, because they don't know themselves, of course. They want the flexibility. When you're putting in sewer and waterlines, you may want to be rebuilding the road at the same time, and that's going to happen two or three years from now. So an example would be, you're digging up the road to put in the sewer and water, and in addition to raising the capital cost for the sewer and waterline, you're also raising the cost for restoring that road.

The poll tax issue: The fee and charge section says specifically that whatever this part authorizes, it does not authorize anything that's in the nature of a poll tax. If the city does anything that smells like a poll tax to a court, that's not going to survive a court challenge. So I'm not quite sure what your reference to a poll tax was in that context.

Mr. Hardeman: I guess the reason may be that part: If it smells like a poll tax, it's not going to be allowed, only I don't know what a poll tax smells like. My concern is that if the city decided for future capital infrastructure that they wanted to bury the Gardiner—that's one that's been in the news in the past—and decided that was going to be a cost attributable to building infrastructure for the city and that it would benefit all the residents of the city, and they were going to start building the reserve for that by charging a user fee to everyone in the city, is there anything in this section that prohibits that from happening?

Mr. Gray: No. That's just a large example of rebuilding a road. They can do that either by a general levy or they could do it by area-rating, and now this would allow them to do it by a user fee and charge, which, in terms of a mechanism, is probably more difficult for the city to collect, because if it doesn't have the status of taxes, they can't use property tax sales to collect. Ordinarily, from a city perspective, taxation is going to be more attractive because it's easier to collect.

Mr. Hardeman: If I could go on with this, we're getting closer to what a poll tax smells like. If this allows the charging of the tax city-wide to bury the Gardiner and everyone is expected to pay it, it's still considered, in your explanation, a user fee, but even someone without a car is going to be charged that fee strictly on the basis that they live in Toronto?

Mr. Gray: It's going to be up to the city. One of the great joys of this new legislation is, it used to be that the province would vet every authority you'd give to municipalities to make sure it complied with the Human Rights Code, complied with the Constitution, and now we've effectively downloaded all that to the city. The city says, "We're capable of making those judgments, and if you give us a broad power, it is up to us to make sure we don't offend, whether it's constitutional law or the limits that we've retained in the legislation," one of which is that it cannot be a poll tax.

Mr. Hardeman: I guess my concern is that the province did see fit to include the words "poll tax," that that's a prohibited tax.

Mr. Gray: Yes.

Mr. Hardeman: My concern is that with this amendment, we've in fact created it by another name, because we can broadly charge for other than the ones that are presently allowed. Water and sewer—they can do all those now. This is one that's going to be brand new, and it's made so broad that in fact it could cover a major infrastructure program in the city and be charged to every city resident because they are a resident, not because they're going to use the amenity.

Mr. Gray: As I say, it is up to the city to make sure it's not a poll tax. If they can structure it in a way that it's not a poll tax, they'll be able to use this authority; if in fact it is, you're charging people for no other reason than they fact they exist. In my mind, that's the core definition of what a poll tax is: You're not charging them for any reason other than the fact that they exist and we want a body to tax. So they have to make sure, when they design a system of fees and charges, that they're not charging people solely because they're there, for the sole reason that they're there. They have to charge them for some other reason, and they're going to have to be able to justify that there is another reason for imposing this fee on them. In this case, they would have to be able to convince a court that they in fact will benefit from having the Gardiner buried. If the court cannot be convinced that all these people who don't have cars will benefit from the Gardiner being buried, then the charge may very well be struck down.

Mr. Hardeman: I guess my problem is that the government saw fit to include the words "poll tax" and not allow it. In that part of the act, they didn't put in to say, "We know that we've told them not to do it, that they won't do it. We put it in there specifically so they don't do it." Now we're putting in an amendment that says, "They can try it another way, but we're quite sure that if they do, it will go to court, and the court will decide whether it's appropriate or not, whether they can define it as a poll tax or not," or whatever.

To me, and I'm not a lawyer, it would seem that if it's being charged just because you live in Toronto and they have a major project that the city of Toronto believes is appropriate, one could make a case that you're going to benefit from it because you're a taxpayer in Toronto. So it's an infrastructure user fee, even though you may never use that infrastructure.

An argument can be made that there are people living in Toronto who have never used mass transit, but the taxes and the charges for that are not considered a poll tax. It just seems to me that we're creating an avenue here through an amendment that allows a much broader use of user fees than original user fees were intended for, recognizing that this bill also takes out the requirement to match the cost of administering the service with the amount raised. In this bill, if they put the tax in for the Gardiner, it doesn't mean that at the end of the day they have to use it for the Gardiner. So they've just found another way to tax. I think this is opening the door to do that.

Mr. Gray: On that last point, certainly the courts interpreting user fee provisions have said the fees that you impose have to be a reasonable estimate of the cost that you're going to incur for whatever purpose you're raising those fees. This is not authority for the city to raise general revenue. This is authority for them to impose fees that are a reasonable estimate of what the costs will be for whatever capital costs they anticipate incurring a year or two or three into the future.

Mr. Duguid: I appreciate the efforts of the member opposite, but let's just read the section out loud so we can see what we're talking about here:

"A fee or charge imposed for capital costs related to services or activities may be imposed on persons not receiving an immediate benefit from the services or activities but who will receive a benefit at some later point in time."

I think it's clear that a poll tax would not qualify under this kind of scenario. This is something where you're going to get a benefit, probably in a particular community, and there has to be a benefit accruing to a particular group or particular resident. It gives the city a little more flexibility, the same flexibility we've given them on an area rating basis to be able to provide an additional property tax fee if they're going to build something in a particular area and the community wants it done and they move forward on that basis.

This provides them with a fee or a charge that they can impose for a capital cost. It's not an avenue for a poll tax. It's not an avenue for any kind of an overall tax. It has to be for a specific capital cost, and there has to be a benefit that accrues to the particular people who could be charged this fee. So I'm not sure—I understand the questions; at the same time, I think they've been adequately responded to.

1110

Mr. Hardeman: Maybe the parliamentary assistant can understand it better than I can, but I heard the legal branch saying that there is no restriction as to how broad the community will be that is going to be charged or how far or how close you have to be to the investment in order to be considered a beneficiary and being charged.

You mentioned certain communities that put in certain services, and even though you don't live on the street where the services are going in, it's part of your community, so you could be paying a fee for that service to

go in. This is suggesting that there is no longer—we already have an area rating, they can already charge that user fee within an area. If this amendment was just to say we're going to allow the pre-charging of area ratings so you can build a reserve to do that project, I wouldn't have the concern I do. But this is based on their having to decide what they're going to spend the money on in the future, and then the whole city could be the designated area that's going to pay the user fee. They could build the reserve to do the project, and the end result would be, as a resident of the city living in Scarborough, I benefit from the city having a better transportation network, including the change in the Gardiner. So I would benefit and it would be a legitimate charge. That, to me, sounds a whole lot like just charging a poll tax for capital projects that we don't feel we can get into the capital budget of the city in the present taxation system. I think that's wrong.

The Vice-Chair (Mr. Jim Brownell): Any further debate?

Mr. Duguid: Yes. Just to clarify, there are a number of safeguards that we have in place. There are the courts. An interpretation of this legislation—if there's abuse in any way, the courts are there. But the province has the ability, as well, in the area of provincial interests; we've retained the ability to intervene if there's an area of provincial interest in a decision that's made by the city. So I'm not concerned.

I don't think the city has any intentions of abusing this and imposing a poll tax or any other kind of tax, other than they want the flexibility. It's difficult to build capital projects. We're all in favour of building infrastructure and giving the city a little more flexibility in being able to finance the building of infrastructure and trying to update the infrastructure in the city that's very much in need of being updated. We think that's a positive provision for the city that will help the city build and compete with other cities its size around the world. So this is an important provision and something that we continue to support.

The Vice-Chair: Any further debate?

Mr. Hardeman: Just to finish it off, or we're going to be at this one all day, my total concern rests in the last comments the parliamentary assistant made. We all know we need to build more infrastructure. In fact, in most municipalities, we need to build more infrastructure than we have the ability to fund. If it had been in the bill originally, I likely wouldn't have had any concern, but my real concern is that this is an amendment that's being put in, and I see that all the small things that we were referring to are already in the bill through the local improvement and the area rating and all these other good things. This one opens it right up, that it could be a broad infrastructure investment within the city. If the province really believes that they may need to step in, then I don't think they should put it in there. I supported the part of the bill that says the province can, by regulation, protect the interests of the province. I don't think this is an issue of interest to the province; I think this is an issue of interest to the residents of the city of Toronto, and I don't think they want to be burdened with extra service charges that they don't directly benefit from. This amendment will give the city of Toronto the ability to charge them all for services that they believe the province should be paying for, but the province hasn't put up enough money, so they charge it to the people of Toronto. With that, I can't support this amendment.

The Vice-Chair: Okay. I think we've had a good debate on this. You've heard the motion. All in favour? Opposed?

Mr. Hardeman: Recorded vote.

Ayes

Duguid, Flynn, Lalonde, Rinaldi, Tabuns.

Nays

Hardeman, MacLeod.

The Vice-Chair: The motion is carried.

Next we have government motion 254(4): Mr. Flynn.

Mr. Flynn: I move that subsection 254(4) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out.

The Vice-Chair: You've heard the motion. Any debate?

Mr. Hardeman: Can I get an explanation of why we don't like it in there?

Mr. Duguid: Sure. It's consequential to a previous amendment. I don't have written down which previous amendment it was, but it's consequential to an amendment we've already passed.

The Vice-Chair: Any further debate? You've heard the motion. All in favour? Opposed? Carried.

We have 254(4): Mr. Tabuns.

Mr. Tabuns: Given that my motion has substantially the same content as the government motion we just passed, I withdraw.

The Vice-Chair: Thank you.

Shall section 254, as amended, carry? All those in favour? Opposed? Carried.

The next motion is 254.1: Mr. Tabuns.

Mr. Tabuns: I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 254:

"Fee for pension plan administration

"254.1 Without limiting sections 7 and 8, those sections authorize the city to pass bylaws imposing fees on a defined benefit pension plan to reimburse the city for its costs of administering the plan."

The Vice-Chair: Any debate?

Mr. Duguid: Chair, we won't be supporting this. Administrative costs for pension plans are regulated under the Pension Benefits Act. If we were to contemplate these kinds of changes, that's something we'd have to do under a review of that act. We'll not be looking to support this.

Mr. Hardeman: To the mover of the motion, what pension plan are we talking about?

Mr. Tabuns: I'll be honest, Mr. Hardeman. I don't know which pension plan within the city's portfolio this would cover, but if the city has administrative costs of administering a pension plan, they want to be able to recover them.

Mr. Hardeman: Isn't the city a co-owner of the pension plan to start with? Wouldn't their involvement in it be part of their cost?

Mr. Tabuns: At the city's request, I've put this forward so they can recover their costs. I apologize: I don't have greater detail to give you.

Mr. Hardeman: I'm going to tell the city that you've done a wonderful job of putting it forward, but I can't vote for it.

Mr. Tabuns: I appreciate that. I'll convey that directly to them.

The Vice-Chair: You've heard the motion. All in favour? Opposed? The motion is lost.

There are no amendments to sections 255 through 257. Shall those sections carry? All those in favour? Opposed? Carried.

We're on 258, a government motion: Mr. Rinaldi.

Mr. Rinaldi: I move that section 258 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out and the following substituted:

"Approval of bylaw of local board

"258(1) The city may pass a bylaw providing that a bylaw of a local board (extended definition) of the city which is not a local board (extended definition) of any other municipality imposing fees or charges under this part does not come into force until the city passes a resolution approving the bylaw of the local board.

"Exception

"(2) A bylaw under subsection (1) does not apply with respect to fees or charges that are subject to approval under any federal act or under a regulation made under section 261."

1120

The Vice-Chair: You've heard the motion. Any debate?

Mr. Duguid: Just by way of explanation, currently the bill would require that any local board fee bylaws automatically go to city council. That may well be what city council wants to happen, but it would require—it could be all kinds of little fees; I don't know for sure, but even little library charges and things like that would have to go to council for approval. City council will set up its mechanism, and this gives them the flexibility to ensure that these fees go to city council, but they may allow some boards to set their own fees and not have to go through city council. It will be up to the council to decide how they want to structure their protocol.

The Vice-Chair: Any further debate?

Mr. Hardeman: To try again, parliamentary assistant, the suggestion is that all bylaws of local boards that include fees must be passed by city council before they become law?

Mr. Duguid: As the bill is written, without this amendment that would be the case.

Mr. Tabuns: I would say that the city of Toronto council would like to have more authority deciding under what circumstances local boards can charge fees, and thus I won't support this motion. In fact, I would move that should this committee reject this motion, we reject the text in the act as currently written.

Mr. Hardeman: I believe there's very little difference between the present bill and this new resolution. The present bill says all bylaws must be approved by the city, and this one says all local boards' bylaws must be approved by the city, in a convoluted way. Tell me again what the difference is.

Mr. Duguid: The difference is that you can either mandate that all fees have to be approved by the city or you can give the city the ability to determine whether it has to go through city council or not go through city council. It gives them a little additional flexibility.

Mr. Hardeman: Maybe I need a legal definition here, then. Is what you're suggesting, parliamentary assistant, that the city may pass a resolution that they approve the bylaw?

Mr. Duguid: In this case, the city would set their policy as to when and where a board would have to have its fees approved by city council. They could say all boards, or they could say that for certain fees or charges the board sets them and the board sets them on an annual basis, that kind of thing.

Mr. Hardeman: So this really says they don't have to approve the local bylaw if they don't want to.

Mr. Duguid: It'll be up to the city to determine one way or another whether the local boards would have to report to council—well, I shouldn't say report to council—would have to have council approval before they can raise any of their fees.

The Vice-Chair: Any further debate? You've heard the motion. All in favour? Opposed? Carried.

Next we have 258: Mr. Tabuns.

Mr. Tabuns: Given the previous vote, Mr. Chair, my motion is redundant, so I will withdraw.

The Vice-Chair: Okay, that has been withdrawn.

Shall section 258, as amended, carry? All those in favour? Opposed? Carried.

Seeing no amendments to 259 and 260, shall sections 259 and 260 carry? All those in favour? Opposed? Carried.

Next is 261.

Mr. Tabuns: I move that section 261 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following clause after clause 261(i):

"(i.1) providing that, despite the Assessment Act, city council may appoint a court of revision for the city;"

It's simply saying that the city of Toronto needs to take more authority for dealing with assessment issues and property tax issues within its jurisdiction and, within this act, giving them the power to start to do that.

The Vice-Chair: Any further debate?

Mr. Hardeman: To the mover of the motion, what's the intent of this court of revision?

Mr. Tabuns: It's a court of revision for assessments for properties within the city of Toronto, assessment of property tax values.

Mr. Hardeman: Being from the country, a court of revision as to who pays what portion of the grain—we're talking here about being able to reassess assessment?

Mr. Tabuns: Yes, to change assessments, to have a revision of assessments.

The Vice-Chair: Any further debate?

Mr. Hardeman: Again, I can't support this resolution. The province has worked long and hard, not totally successfully in all instances, to have a unified and fair assessment in the province of Ontario, across the whole province. I'll be the first to admit that we have some problems in assessment right now, but if one goes back a number of years, the reason we started on the present approach was that the city of Toronto was out of sync with fair market assessment, fair value assessment. It was so far out that some of them were at 1940 levels. In fact, that was where the big challenge was in trying to bring fair and equitable assessment across the province. If, through this act, we decide that the process of achieving that fair and equitable assessment across the province is in jeopardy because one municipality—granted, a large one—makes decisions differently than everyone else, that's going to be very detrimental to a fair system across the province.

I would also point out that in changing this, if we have a different system in the city of Toronto for setting the values, then the portion of the assessment used by the province to charge education taxes would no longer be fairly assessed across the province. One can make a case that that's not happening now either, but at the same time, we have to have a balance in assessment, a fair assessment, to get a fair system in place of who pays what taxes. If we change it on the assessment side rather than on the taxation side, I think we will end up with a bigger problem than we presently have.

Mr. Tabuns: I'd argue that in fact the city of Toronto should be in a position where it can exercise a fair amount of discretion, a fair amount of power over its property tax system. I would also say that I don't think property taxes from one city should be used to support the operations of other cities. The way the province currently operates—that is, putting costs for education onto municipalities; the download, if you will—is problematic for the city of Toronto and in fact for many municipalities in this province. I think this is the first step to changing that.

Mr. Hardeman: I don't disagree that some changes need to be made to make sure that everybody's paying their fair share in the province. At the same time, I don't believe this will do that. Changing assessed values in the city of Toronto will have a very small impact in relation to other municipalities. The big impact, and the reason I am opposed to this motion, is that the city of Toronto will be able to move more taxes to the industrial-commercial side and less to the residential side within their own boundaries. I don't believe that's a decision that city council should be allowed to make or should be in the position to make or be asked to make, because that part of it is what hasn't worked well in years gone by, and I don't think it would work well now.

1130

The Vice-Chair: Any further debate? You've heard the motion. All in favour? Opposed? The motion is lost.

Shall section 261 carry? All those in favour? Opposed? It's carried.

Next we have part X: Power to impose taxes, section 262. It's a PC motion.

Ms. Lisa MacLeod (Nepean–Carleton): I move that subparagraphs 5 ii and iii of subsection 262(2) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out.

The Vice-Chair: Any debate on this motion? Mr. Hardeman.

Mr. Hardeman: When we had the public delegations on the bill, the business and commercial presenters, particularly the hospitality industry, made great presentations on what the negative impact would be if these taxes were allowed to be charged. They were so thorough in their presentation that the mayor of Toronto made some comments, which I'll paraphrase, that "We wouldn't do anything that would put that much negative impact on any one of our citizens or any one of our businesses." I'm not sure it was these taxes exactly, but "We wouldn't impose taxes that would do that. But we want to be treated like a mature level of government. We want the right to be able to do it, and we can make decisions about whether the impacts will be negative." I don't anyone who came forward suggested that there would no impact from these taxes.

The other thing was that we didn't have anyone come forward, including members from the government side—and hopefully in this debate we can get some information on that—who could come up with a way of implementing these taxes. I would just quote from the bill, for the record:

"i. for the purchase of admission to a place of amusement as defined in the Retail Sales Tax Act,

"ii. for the purchase of liquor as defined in section 1 of the Liquor Licence Act for use or consumption,

"iii. for the production by the person of beer or wine, as defined in section 1 of the Liquor Licence Act, at a brew on premise facility, as defined in section 1 of that act, for use or consumption, or

"iv. for the purchase of tobacco as defined in section 1 of the Tobacco Tax Act for use or consumption."

That sounds fairly good, and governments, since time began—we have traditionally called them "sin taxes"—have decided that whenever we need more money, the best place to put it is on alcohol, cigarettes and places of entertainment, considering that those are the three elements that are not necessities of life. We usually consider that spending on those items is discretionary, and that makes it a good place for government to increase taxes.

Having said that, if you allow that process only in one municipality, the implementation becomes almost impossible. The act does deal with the fact that the city can ask the province to collect on their behalf, so for liquor and restaurants, I suppose we could ask the province, along with their tax, to put a municipal liquor tax on the drinks served in all drinking establishments in the city of Toronto. I don't think it would work well, but it may work downtown. But I would have a little trouble trying to figure out how that would work on the boundary between Peel region and the city of Toronto or York region and the city of Toronto. If you go to Steeles Avenue, have a drinking establishment on one side of the road that doesn't have the extra tax, and you go to the other side of the road and they do have the extra tax, I don't think the one on the south side of Steeles Avenue is going to be in business very long with an extra tax that no one else has to pay.

I think it's possible. I don't think it's the right thing to do and I don't think it's practical to do it, but I think it's possible.

The next one, of course, is on cigarettes. Nothing is being charged as highly as cigarettes are today in our market. I'm not going to defend or support lowering the tax at this point, but I think it's important to recognize that the cigarette tax is put on prior to sale at the counter. I don't know how we're going to keep track of which cigarettes are purchased in the region outside Toronto and which ones are purchased in Toronto.

The only one of these taxes where it is clearly defined as to where it will be is entertainment. Obviously, if people come into the city and go to the SkyDome—the Rogers Centre, my apologies—to go to a ball game, yes, the operators could charge a tax for the city of Toronto and pass it on to Toronto. At the same time, I suppose they could charge that in their property taxes, or maybe they could put it in that broad, poll tax type taxation system we've created previously in the bill, where they can charge a user fee for any purpose.

If the intent here really is to allow the city to raise money on those three items, first of all, on alcohol, rather than have the city get the power to charge the tax and have the province do it for them, and then send it back to the city, why is it not done as the province has done with the gasoline tax?

I would point out that we hear quite often from the government side about how we have given two cents a litre—is it still two cents? I think it is—of the gas tax back to municipalities to help with their infrastructure, but there's absolutely no relationship between the litres of gas sold in the city of Toronto and the amount of money the city of Toronto gets at two cents a litre for their mass transit. In fact, the cities that tend to have the largest amount of mass transit, where the two cents a litre are going, tend to be the ones that have the fewest stations where they sell gasoline.

What it really is: The province says, "This is how many litres of gasoline that were sold in the province. Two cents a litre generates this much money, and this is how we allocate that money throughout the province to help municipalities with their costs." They didn't see the need to include an extra tax, or another tax, a totally different line item on the bill to get those two cents. If they decided that the present taxation system didn't have room for that amount, I suppose they could have considered just increasing that price and people would pay more, and then they could send that money back.

To me, it doesn't require the transfer of the power to tax those three items to the municipality, where in my opinion it won't work, in order to make the city happy so that they're mature and have the right to tax when the mayor says, "We have no intention of doing that, because that would be negative to our people."

This sounds wonderful. We came out with the City of Toronto Act and we were going to have greater taxing abilities, but the taxing abilities, if these are the only three in it, amount to very little and I think it is going to mess up the system. It will deteriorate and have a negative impact on all industry or commercial enterprises in Toronto that have to abide by these rules.

We heard from the hotel and motel association how their industry just could not afford another line item on their bills for another tax. I think this creates that. If the province believes the city of Toronto should have those revenues, they should take it out of that section of the bill that presently is provincial tax and divide that up to help the city of Toronto.

1140

One of the presenters actually made that case. They actually came in and said, "There's nothing wrong with an extra tax, provided the province lowers its portion." I think that makes a good case that you don't really need a separate tax; what you need is a better division of the resources between the province and the municipalities.

So I see absolutely no benefit to this section. The mayor has said he's not going to use it. We're going to take him at his word. If it's left in, I suppose it's irrelevant, but the industries all believe that it's going to be implemented and that it's going to be a great detriment to their industries.

Rather than wait for the minister to have to put in a regulation to turn the clock back, I think this would be a great time for this committee to look ahead a little bit and see that since there's no positive to this being in there, why don't we vote against it and eliminate it? I think everyone would benefit from having it eliminated and letting the province and the city of Toronto discuss a fair and equitable distribution of funding from those products without having another level of government put another taxation system in place for this to happen.

I would recommend that everyone on the committee vote against this and strike this section out.

Mr. Duguid: I appreciate the motion brought forward by my colleague. However, I think this is really where the rubber hits the road on this particular bill. It's where you either have the courage to move boldly ahead and show confidence in the people of Toronto, that they're mature enough, responsible enough and capable enough

to manage their own affairs, or you take the old approach, and it was the old Tory approach, of condescension, of not trusting the city of Toronto, of being suspicious of them, that it would probably be harmful to them in the policies you bring forward.

We have courage on this side of the House. Our Premier has courage to move forward with what is very bold legislation. In the face of hypothetical scenarios about groups that have come before us to lobby that their particular group may down the road, at some point, be impacted by something the city may do, we will not—if we were to succumb to this particular request at this time, it would just be the thin edge of the wedge, and bit by bit we would watch this act unravel to the point where there would be no alternative sources of revenue provided to the city.

The mayor of the city made it clear when he was here and made his deputation that a tax on alcohol is not something the city has any interest in, certainly at this point in time. The idea of how they would even go about doing it and administering this tax is something that would be very challenging, to say the least. It's hypothetical at best.

It would be easy for us to take the easy way out and say, "We heard from some people who deputed before us, an industry that we greatly respect and that we've provided great assistance to over the last year in terms of budget measures that have provided them with some tax breaks," but if we were to succumb to that lobby now, we would also have to succumb to subsequent motions that we see coming forward on the same hypothetical basis. It would unravel what we're trying to accomplish here, and I think that would be unfortunate.

I've got a quote from the Leader of the Opposition that I'd like to read into the record because it's totally counter to the approach the Conservative Party is taking on this issue. This is John Tory when he was a candidate for the leadership of his party:

"We have to re-examine completely the relationship between the municipal and provincial government to give the city governments more latitude to raise some of their own revenue, if they choose to do so. They will be accountable for whatever they choose to do to fund some things that are a priority to those cities.... Right now they have to go and ask for permission to do everything and I don't think that's right."

I think he had it right when he was running for the leadership. Somewhere along the way he has lost his path when it comes to this legislation, and this particular motion is probably the one part of this debate that is where the line needs to be drawn.

We have the courage and trust in the people of Toronto to know they will be accountable for their decisions. We wish the party opposite had the same confidence in the people of Toronto, but unfortunately through this motion, and subsequent motions that will come forward, it's obvious they don't.

Ms. MacLeod: I'd like to remark on courage. I think it's pretty courageous to stand up for all Ontarians when we start to see bad taxing policy, when we're looking at putting forward initiatives that are bad for business. If the mayor of Toronto has said he's not going to use it, and the parliamentary assistant has acknowledged that the mayor of Toronto will not be using this taxing authority, it's not the easy way out, it's the rational way out: We have to remove this from the bill. This is a regressive tax. It has negative impacts on businesses in Toronto and we feel on this side that it's dangerous precedent-setting for other jurisdictions across this province.

In my own community of Nepean–Carleton and in the city of Ottawa, we have heard businesses that are opposed to this being enacted in legislation. I'd like you to consider the comments from my colleague from Oxford, our critic for municipal affairs who has spoken against this, but also to listen to the mayor. He says he does not want to put this into play. I think we ought to respect that, and we ought to strike this out.

The Chair: Any further comments or questions?

Mr. Hardeman: I take some exception to some of the comments from the parliamentary assistant. We've gone through this debate before on some of the other parts of the bill. This isn't an issue about who said what years ago and how we got here. What it's about is providing the best possible legislation for the new city of Toronto. In my opinion, this part doesn't do that.

The parliamentary assistant says, "But we have courage and we have trust in the people of Toronto, so we will do what the members of Toronto city council want, not what the people of Toronto want." You see, we have courage in the people of Toronto, and they came in and told us what negative impact this is going to have on their businesses and on the general economy of Toronto. The city fathers, the politicians, the people who run the city have said, "We wouldn't use this if we think it's going to be negative for our economy." The people they're talking about come in and say, "This will be devastating to our industry."

Then, to me, to make sure the people of Toronto get what they have a right to expect from their politicians, we don't put policies in place that, if enacted, will be negative to their economy and to their livelihood. It's our job to be put forward legislation that will benefit the people of Toronto, not the governance of Toronto.

As to the faith the government is suggesting they have in the city of Toronto, I find it rather interesting that when we go back to a previous part of the bill where it talks about the makeup of city council, the province has put forward a position on what they believe a new city council should look like, and then they put in protection to make sure that if the city doesn't come up with that, we can, by regulation—we had a considerable debate on that. If one checks the Hansard on that, I'm sure you would notice that I had great concerns about how the regulation was so explicit that they could not only suggest the type of governance the city of Toronto should have, but the Minister of Municipal Affairs can actually name the type of committees he believes the city should have, appoint the members of the committee he or she

thinks should be on the committee, appoint the chair of the committee who he believes is the right chair of the committee, and set down the operational instructions as to how that committee should operate. That's how explicit it is and how much faith the minister has in the city of Toronto and its governance model.

Now they turn around and say, "I know, folks, you don't really like us being that explicit about how we think you should be governed, so in return, we can't take that away because we want to protect what we think is the provincial interest, in order to make you feel a little better, we will give you these three taxing authorities: the cigarettes, the alcohol and recreation venues. The city says, "Well, that's good, because what we need is greater taxing authority." Nowhere in this bill does it say that before you get this taxing authority, you have to set up what in our mind is a different governance structure to make it more cost-effective. You need to do a review of the city—its administration, its function and how it works—to see how you can make it more effective and efficient.

1150

We all know, and I'm sure the government does too, that the estimates from those three items in this section, which is the section on taxing authority, is between, I think, $30 million and $60 million. In the last budget, the city got $300 million from the province to help make ends meet. They said, "This is just for now, because by next year you'll have the new City of Toronto Act and you'll have a way of dealing with your own finances. You no longer will have to come to the province for assistance." This doesn't do it, and yet there are other things that need to be done, which is to look at the efficiency and the effective operation of the city. But the province has not put anything in here to deal with that, to say you're going to provide the services in the most cost-effective manner. They just said, "Here's your taxing authority. Now, go to it."

Again, the people who are going to pay those taxes, the people of the city of Toronto, are not being asked, or at least are not being listened to, because there wasn't one presenter, other than the political side, who thought it was a good idea to increase taxes in the city of Toronto. I didn't hear anybody come in and say, "You know, the one answer, the real solution for the city of Toronto is, if we could just increase taxes, then we would have a better city." That isn't what they said.

In fact, I think it was the CFIB came in and had a very thorough chart and presentation on the impact of and the decline of the city of Toronto, mostly related to the tax burden in the city. It is more costly to be operating in the city of Toronto and it's more costly to be living in the city of Toronto, and we're doing nothing about that except allowing that to be increased as opposed to decreased. I really find it strange that we would put this in there and just say that the answer to our problems in the city of Toronto is to increase taxation. That's not what we heard, that's not what the city of Toronto has been saying all along. As politicians, they're not objecting to putting this in. I'm going to take the mayor's word for it that they're not going to implement it. But what they said was that they needed more realignment of services, they needed more authority over what they were providing, and of course they needed more money to do that.

My colleague also mentioned how this is going to affect the rest of the province of Ontario. Even before the introduction of Bill 53—it may have been just after—I was starting to get a great deal of correspondence from people in my riding, businesses in my riding who were 100% opposed to the City of Toronto Act. At that point, I hadn't even read the City of Toronto Act, so I'm not sure if it had been introduced or not. But they were all very concerned about just solving the municipal financial problems by increasing taxation on small business. It just doesn't make sense. The people in Oxford county were very concerned about that; the people in Nepean–Carleton are very concerned about that. The people in all of the province are very concerned that once this is here, why would taxation not be fair in Ottawa if it's fair in Toronto. Why would that not be a universal plan? I think it's the wrong plan. I don't think taxing consumption is a great way to deal with the shortfall in the money that municipalities have, as opposed to realigning or looking at the services they're providing and whether the property tax base that they have can afford to pay for the services they're being asked to provide. I think that makes far more sense than putting these taxes in place that will in fact ruin a lot of our businesses in Toronto and, by extension, when we do the new Municipal Act, ruin a lot of small businesses in the province of Ontario. I strongly recommend that the whole committee votes against that section.

The Chair: Further comments or questions? Seeing none, all those in favour of the motion? All those—

Mr. Hardeman: Recorded vote.

Ayes

Hardeman, MacLeod.

Nays

Brownell, Duguid, Flynn, Lalonde, Rinaldi, Tabuns.

The Chair: That's lost.

Mr. Tabuns, you have the next motion.

Mr. Tabuns: I move that paragraphs 8, 11 and 13 of subsection 262(2) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out.

Very simply, the act as written restricts the ability of the city of Toronto to use taxation powers to help finance energy efficiency, help finance environmental improvement. I would say that given the position of the government—the words of the parliamentary assistant most recently in discussing Mr. Hardeman's motion about the government taking a strong stand and giving the city of Toronto the power to deal with its problems as it sees

fit—all of us are well aware of the environmental crunch that we have in the city of Toronto, problems with supply of power and thus the need to invest in conservation and energy efficiency.

We know that we have severe air quality problems in this city, thus the need to invest in the reduction of combustion of fossil fuels. It makes sense for us to take these particular restrictions out of the act so the city of Toronto can make its own decisions about how it's going to invest in energy efficiency and conservation and have a source of revenue to do the same. I think that striking out these sections will be tremendously advantageous to the city.

I should note that Toronto Hydro is one of the local distribution companies, local utilities in Ontario, that's been most aggressive in investing in energy efficiency. There's tremendous political will in the city of Toronto to do that. I think we should give them assistance in carrying forward those sorts of approaches.

The Chair: Further comments or questions? Mr. Hardeman.

Mr. Hardeman: To the mover of the motion, I'm wondering, as you referred to Toronto Hydro and the taxation, is it not possible under this act for Toronto Hydro to carry on and charge for those energy-efficient things without the city being allowed to charge extra taxes that they could use for other purposes?

Mr. Tabuns: As I understand it, they currently have to go through the Ontario Energy Board, and there's a fairly restrictive approach on the part of the OEB. I think the city of Toronto wants to give itself more authority in these matters.

The Chair: Any further comments or questions? All those in favour of the motion—

Mr. Hardeman: Recorded vote.

Ayes

Tabuns.

Nays

Brownell, Duguid, Flynn, Hardeman, Lalonde, MacLeod, Rinaldi.

The Chair: That's lost.

Next motion, Ms. MacLeod.

Ms. MacLeod: Schedule A to the bill: subsection 262(2) paragraph 9.2 of the City of Toronto Act, 2006.

I move that subsection 262(2) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following paragraph after paragraph 9:

"9.2 A tax imposed on a person in respect of the issuance of a demolition permit under this act, the Building Code Act"—am I on the right one?

The Chair: No.

Mr. Hardeman: No; the one before that.

Ms. MacLeod: I got ahead of myself. Sorry. I apologize. I'm so, so excited.

1200

I move that subsection 262(2) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following paragraph after paragraph 9:

"9.1 A tax imposed on a person in respect of the registration of a conveyance of land as described in subsection 2(1) of the Land Transfer Tax Act."

The Chair: Thank you. Any comments or questions?

Mr. Hardeman: It somewhat relates—it totally relates to the presentations we received from all the people in realty activity in the city of Toronto and their opposition to what appears to be the ability of the new city of Toronto under the new act to charge a land transfer tax.

There's nothing in the act that says that; it's just the concern that because it isn't mentioned as a prohibited tax, it may in fact be one they could just put on top of the present land transfer tax. A concern with that is that not only is it going to increase the cost of all property, including housing in Toronto, which is already at a record high in the province of Ontario, but it would also have the city charging a fee or a tax on something—an activity—that they have very little, if any, involvement with at all, which is the transfer of property from one owner to another through the Ontario land registry system.

I don't believe there should be an ability for someone to just move in and charge that tax, and I was convinced, when the hearings started, that that wasn't a possibility anyway. But as we heard the presenters, one after the other, saying that their real concern was that that was the intent, and that of course this would be a way to start making up that gap between the $30 million or $40 million or $50 million that would be available through the other taxation the government is putting in place and the $200-million and $300-million shortfall that the city finds with their budget—they could get that.

The land transfer tax is also one of these taxes that are not a tax by choice. You can't move the property out of the city of Toronto before you transfer it so that you wouldn't have to pay it in other parts of the province. The people there—as you buy and sell property, you have to do it within the jurisdiction where the property is situated. So it would be a quick and easy way to do it.

From a functional point of view, I suppose it would also be one of the easier ones for the city to administer, because all the property is within the city and it's not a matter of choice whether people go somewhere else, except that over time you will see a decline in the economy of Toronto because people are not coming to Toronto; they're not buying and selling here because it's another place where the cost of doing business is higher than it is anywhere else, and we'll see a great boom in Brampton, Madam Chair, because things will be much cheaper there because the cost in Toronto keeps going up. Again, it wasn't new. For all the presenters from Toronto who were making presentations, that was one of the real challenges in Toronto: Everything is more expensive. This would be another way for that to happen.

The reason we put forward this motion to have it specified that it is a situation that cannot be taxed is because there didn't seem to be real support for it being a taxable item. The mayor suggested he had no suggestion that he was going to do that. The government side, at least from what I heard, seemed to consider that it had not given any thought that there would be a tax on this. In fact, it was suggested that if they decided to do that, this might be one of those places where the minister could use his regulatory powers to prevent it from happening.

Again, if that's where we are, then that's where we should stay. If we think we should regulate it so that they can't do it, then before they make the decision, we just include it in the list of those we weren't prepared to regulate, up to 13 of them. Why don't we make it one of those that say it should be regulated? I don't think anyone came forward, including the mayor, who suggested that this tax should be a city tax. Just to clarify it, we put forward that we should make it one of the exempted taxes that they can't charge.

The Chair: Any further comments? Seeing none, all those in favour of the motion? All those opposed?

Mr. Hardeman: Recorded, please.

Ayes

Hardeman.

Nays

Brownell, Duguid, Flynn, Lalonde, Rinaldi, Tabuns.

The Chair: That's lost.

Mr. Hardeman, you still have the floor. Number 97.

Mr. Hardeman: I move that subsection 262(2) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following paragraph after paragraph 9:

"9.2 A tax imposed on a person in respect of the issuance of a demolition permit under this act, the Building Code Act, 1992 or any other act."

The Chair: Any comments or questions?

Mr. Hardeman: It's similar to the other ones. There were presentations made that we shouldn't include taxing powers that would inhibit the development of the city of Toronto. It would make the cost of building more expensive and the cost of doing business in Toronto above that which would be charged in the area surrounding Toronto, because people would tend to go to the other areas.

The demolition permit is a rather interesting place. Again, you have to buy a permit to demolish it in order to be able to build a new facility there. I believe that the permitting fee should include the total cost of building a new building, and that should be into the new one, not a special permit and a special tax on the permit to demolish the building, to allow the city to rejuvenate and to include new buildings. So I think it's a poor place to put an extra tax. Yet, if the city decided to put it there, there is no ability for a citizen not to pay for it. They have a building that needs to be torn down, they want to sell it as a vacant lot, and now they have to pay an extra tax in order to create the sale so someone else can buy a building permit, which is where the city wants to go, to have a building put up there, not to try to make increased revenue from the demolition of the building that's there. So I think it's pretty straightforward. I just think that's not the right place to put that tax. They already have the ability to put taxes and fees on building, and I think they should leave it on building, not on the demolition of a building.

But just as an afterthought, when we look at brownfield situations, it would be more difficult if you put a tax on demolition. It would make it more difficult to clean up brownfields, because no one would be willing to pay the extra tax for the permits to remove what is there in order to provide a clean site for future development.

This is one that I would hope everyone, including the government side, would support because I think there should be no tax on this type of activity.

The Chair: Any further comments or questions? Seeing none, all those in favour of the motion?

Mr. Hardeman: Recorded vote.

Ayes

Hardeman, MacLeod.

Nays

Brownell, Duguid, Flynn, Lalonde, Tabuns.

The Chair: That's lost.

Shall section 262 carry? All those in favour? All those opposed? That's carried.

Committee, there are no amendments to sections 263 through 267. Shall they carry? All those in favour? All those opposed? Carried.

Mr. Tabuns, you have motion 98.

1210

Mr. Tabuns: I move that part XI of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out and the following substituted:

"Part XI

"Traditional Municipal Taxes

"Tax rates and property classes

"268(1) The city may, by bylaw, determine the rates of taxes to be levied for municipal purposes upon real property in the city that is assessed under the Assessment Act as rateable property for municipal purposes, and the bylaw may establish property classes of rateable property that differ from the classes established under the Assessment Act.

"Enforcement

"(2) The bylaw may provide for the collection of the taxes and for enforcement measures."

I'm moving this motion to give the city of Toronto power to run its own property tax system. A level of government in this country that has control of its tax

system is a level of government that actually is in charge of its operations. We would not expect the federal government to impose on us the method by which we set taxes. I believe we should be extending this authority to the city of Toronto. It needs the power to determine how it's going to tax the citizens, the businesses and the institutions within its borders, and this amendment would give it that power.

I believe there will be a need to move to this system over time, given that the city of Toronto's needs are different from those of some area municipalities within this province. I note that the city of Toronto is the size of a number of provinces in this country. It should have the jurisdiction to determine how it raises the funds necessary for its operation.

The Chair: Further comments or questions?

Ms. MacLeod: I'm going to have to vote against this motion. I think this type of patchwork is dangerous precedent-setting across the province. As a member who represents a fairly large city in this province as well, I just don't think this is a feasible solution.

Mr. Hardeman: I too have concerns with this motion, because it's broader than it appears to be. One has to go back a long way. The city of Toronto, or at least the greater Toronto area, has been the largest in Canada for some time now. But it wasn't that long ago that the disparity between residential and multi-residential in how taxes are applied was structured in the city of Toronto—incidentally, the city of Toronto had the power to set that tax rate. There's no place in this country that I'm aware of where the disparity between the multi-residential tax rate and the single-family tax rate is greater than in the city of Toronto. That increases the cost of living for everyone who lives in rental accommodation in multi-residential units in the city of Toronto.

That wasn't done by the province. That wasn't done by anyone but the people who govern the city of Toronto. Each year when they set their budget—this resolution suggests that they will set their budget, and I believe they should be able to—when they could decide who was going to pay the bill, they always stuck it to the multi-residential and the industrial-commercial, not the single-family residents. That has been a trend over time. I don't believe we should have a bill now that says we want to go back to that day where we can get that great disparity.

I do believe—and I wish it was in a separate motion—that the city should have the ability to set property tax classes so they can deal with some of the intricacies of small business as it relates to large business and so forth. I think that makes sense. But the rate they charge—the difference between the two—I think we need to make sure there's a connection between who pays the bill and who goes to the polls on election day. If you look at it in real terms, you'll find that there's a connection between the people who go to the polls, who are the voters—they usually get a better deal out of the taxation system than the people who are just paying the taxes, such as industrial-commercial. That's the way it's been. It's that way all over the province. But I think it's important that somebody then has to set the difference between the two rates.

I support a system where there are more classes. In part of the province we have the industrial class and then we have a large industrial class. They pay a different rate, for all kinds of good reasons. Each municipality justifies the difference, but the rates are set and the disparity between the two is set by the province. I think that's the way it should stay for the city of Toronto too, so that we don't get this system where we get an ever-increasing difference between the high-rise—the best one to use for an example is the multi-residential paying four times, I think it is, or three-something, difference in the city of Toronto between the rate on a multi-residential and a single-family property. I think we have to try to move away from that, as opposed to making that forever entrenched in the city of Toronto.

Mr. Tabuns: I don't disagree when the member talks about the inequity of single-family dwelling taxes as opposed to taxes charged to tenants in high-rise or multi-unit buildings. I think it's an inequity that needs to be resolved. I know that city of Toronto politicians are well aware of it. Certainly in 1998, after the city had been amalgamated, it was a substantial source of discussion.

I don't know the current status of that inequity. My sense, however, is that the city of Toronto, given the powers to set its rates, to shape its own property tax system, would be politically compelled to deal with that inequity if they have not dealt with it to date.

Insofar as tax payments by industrial and commercial, I would say it is reasonable, in a city where they are accessing a workforce that's well-trained, where they depend on a social fabric that's healthy, where they depend on safety and security provided by social investment through government, that they pay more per square foot than those who live in single-family dwellings or in apartment buildings. I don't think that's an unfair approach to taxation at all. In fact, I would say that to the extent that those operations don't pay a substantial portion of the tax, it is difficult to deal with the social problems that are then left unattended.

I don't think it's unreasonable for us to give the city of Toronto this power. I think they, the people who are elected by the citizens of Toronto, will exercise it to deal with the problems as they see fit, which I thought was the intention of this legislation.

Mr. Hardeman: I thank you very much for the explanation. I do want to clarify. I too believe that the industrial-commercial section should pay more than single-family residential. My concern is strictly that if you go back a number of years, you'll find that there was a great concern that there was an out-migration of industrial-commercial assessment to the area outside of Toronto because of the tax rate. As we find ourselves now with the multi-residential, the disparity got too great to go back in the short term when the problem was realized. I think everyone realizes now that the multi-residential in Toronto is causing a hardship on renters. It's causing rents to be too high. To get back to where it

would be reasonable is much more difficult, but we did get there over time, one step at a time, not realizing what the problem was until it was too late to solve it quickly. That's the same with—

The Chair: Mr. Hardeman, can I ask you to speak into the microphone. It's not a side bar.

Mr. Hardeman: It's not sure that it's that important, Madam Chair.

The Chair: I'm sure it is vitally important, but we do need to capture it for Hansard.

Mr. Hardeman: That's why I think it's so important that we don't let that disparity grow between the industrial-commercial sector—and they are different too—and the residential to the point where the industrial-commercial move out and the city of Toronto has only the people services and the people consuming them there. One of the biggest challenges I see in the city of Toronto—and we see that with the pooling of our social services—is because the city of Toronto, over time, has grown much faster in people and people's needs than it has in the investment area, and that's because the taxation has taken a lot of that investment out into the suburbs. I think there's a risk of that continuing to happen. It's not that I don't think they should pay their fair share; it's just that I don't think we should be instituting a system that will make that out-migration greater as time goes on.

1220

The Chair: Any further comments or questions? Seeing none, all those in favour of the motion?

Mr. Tabuns: Recorded vote.

The Chair: A recorded vote has been requested.

Ayes

Tabuns.

Nays

Brownell, Duguid, Hardeman, Lalonde, MacLeod, Rinaldi.

The Chair: That's lost.

Shall section 268 carry? All those in favour? All those opposed? That's carried.

Mr. Tabuns, you have the next motion.

Mr. Tabuns: Withdrawn, given that the main motion, the previous one, lost.

The Chair: You're going to withdraw it? Thank you.

Shall sections 269 through 282 carry? All those in favour? That's carried.

On Part XII, Limits on traditional municipal taxes, there are no changes from section 283 to section 297. All those in favour? All those opposed? That's carried.

On Part XIII, Collection of traditional municipal taxes, there are no changes or amendments to sections 298 through 336. All those in favour? All those opposed? That's carried.

On Part XIV—

Interjection.

The Chair: I'm sorry, but I'm trying to be efficient here.

On Part XIV, Sale of land for tax arrears (real property taxes), from section 337 to section 360 there are no changes. All those in favour of those sections? All those opposed? That's carried.

On Part XV, Enforcement, on section 361 there are no changes. All those in favour of that section? All those opposed? That's carried.

Mr. Tabuns, you have section 362.

Mr. Tabuns: I move that section 362 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following subsections:

"Surrender of driver's licence and vehicle permit

"(3.1) Without limiting section 7 or 8, city council may pass bylaws requiring the driver of any class of motor vehicle that is regulated under a bylaw for licensing, regulating or governing any business to surrender for reasonable inspection, upon the demand of an inspector appointed by bylaw to enforce the bylaw, his or her driver's licence issued under the Highway Traffic Act or the law of another jurisdiction and the permit for the vehicle issued under section 7 of the Highway Traffic Act or the law of another jurisdiction.

"Restriction

"(3.2) A bylaw passed under subsection (3.1) does not empower the inspector to stop a moving vehicle or to retain the driver's licence or permit for the vehicle after reasonable inspection of it."

I note that the City of Ottawa Act, 2001, has set a precedent for this, so the city is asking for powers that have already been granted in another jurisdiction. One use this power may be put to is enabling the city to enforce its anti-idling bylaw, which was adopted a number of years ago as a measure to cut down on air pollution and smog in this city. Giving city inspectors the right to enforce that bylaw would contribute to clean air in this city.

The Chair: Comments or questions? Seeing none, all those in favour of the motion?

Mr. Tabuns: Recorded vote.

The Chair: A recorded vote has been requested.

Ayes

Tabuns.

Nays

Brownell, Duguid, Flynn, Hardeman, Lalonde, MacLeod, Rinaldi.

The Chair: Shall section 362 carry? All those in favour? All those opposed? That's carried.

Committee, there are no amendments to sections 363 through 371. All those in favour of those sections? All those opposed? That's carried.

Mr. Tabuns, you have section 372.

Mr. Tabuns: I move that section 372 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following clause after clause (a):

"(a.1) the entry is made for the purpose of inspecting rental property;"

It's simply to give the city the ability to inspect to see that in fact city bylaws are being respected and adhered to, a protection for tenants, in most cases, in a single-family dwelling where you have multiple tenants. That is where it would be most effective and most used.

The Chair: Comments or questions?

Mr. Duguid: We won't be supporting this. We believe tenants should have the same rights as homeowners and in this case there wouldn't be a level playing field between homeowners and tenants. Tenants should have the same rights. We don't think this would be fair to tenants, to suggest that somehow their rights of entry are different than anybody else's.

Ms. MacLeod: I'd like to echo that I feel the same way. I think we have to have a level playing field.

Mr. Tabuns: In my previous life as a Toronto city councillor, I often had to deal with absentee landlords who ran disruptive houses, who broke bylaws, demoralized the tenants who were living in their properties and were extraordinarily difficult to deal with. Those absentee landlords play a variety of interesting games. It would be advantageous to the city of Toronto, in dealing with houses that are sometimes called crackhouses or otherwise houses that are run by absentee landlords and are disruptive of neighbourhoods, to give the city of Toronto authority to act in a variety of ways when we encounter those problems.

The city of Toronto, I would say, is not at all a city that could be called anti-tenant, but it does want to ensure that neighbourhoods are protected to the extent the city can protect them. I will address that further in the next motion. I would say it's to the advantage of those of us sitting around this table today to give the city those powers so that it can deal with social and, frankly, landlord problems that it currently has a great deal of difficulty dealing with.

The Chair: Any further comments or questions? Seeing none, all those in favour of the motion?

Mr. Tabuns: A recorded vote.

The Chair: A recorded vote has been requested.

Ayes

Tabuns.

Nays

Duguid, Brownell, Flynn, Hardeman, Lalonde, MacLeod, Rinaldi.

The Chair: That's lost.

Shall section 372 carry? All those in favour? All those opposed? That's carried.

There are no amendments to sections 373 through 376. Shall it carry? All those in favour? All those opposed? That's carried.

Mr. Tabuns, you have 377.

Mr. Tabuns: I move that section 377 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following subsection:

"Same

"(2) If, in connection with a duty or liability described in subsection (1), an order is made or an agreement entered into relating to land,

"(a) the order or agreement may be registered against the land to which it applies; and

"(b) the city may enforce the order or agreement against the owner and any and all subsequent owners of the land."

Last week, I had an opportunity to talk to the superintendent of one of the police divisions in my riding. They deal with absentee landlords who are buying houses on a speculative basis, filling them with people. When problems arise with those houses, the actions of absentee landlords who are served with notices by the city, orders by the city—simply disappear. They sell their house to another numbered company which they control. The city has to start all over. When that process works its way through and that numbered company gets hit with an order, then that one is folded and another one appears. So you get a series of identities used to insulate the real owner from action by the city. This would give the city the power to actually get at landlords who engage in this sort of activity. I think it would make sense to give the city that power.

Again I should note that dealing with speculative absentee landlords who run houses that are highly problematic to a neighbourhood and to the police is in the interest of this Parliament and this city. If there is no further debate, I would like a recorded vote on this one.

1230

The Chair: No further comments? A recorded vote has been requested.

Ayes

Tabuns.

Nays

Brownell, Duguid, Flynn, Hardeman, Lalonde, MacLeod, Rinaldi.

The Chair: That's lost.

Shall section 377 carry? All those in favour? All those opposed? That's carried.

There are no changes to sections 378 through 384. Shall it carry? All those in favour? All those opposed? That's carried.

Part XVI, liability of the city, there are no changes in sections 385 through 388. Shall it carry? All those in favour? All those opposed? That's carried.

Part XVII, other city bodies, section 389: Shall it carry? All those in favour? All those opposed? That's carried.

Mr. Tabuns, you have section 390.

Mr. Tabuns: There are three motions here. I will just state the reason, and then I'll go through the motions. I understand the process.

The motion seeks to remove a provision that gives the TTC the right to set fees and charges without council approval. The city should have the discretion to determine whether these powers should be granted to the Toronto Transit Commission. That's the effect of these amendments.

I move that subsection 390(1) the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out.

The Chair: Any comments or questions?

Mr. Duguid: My read of this is that this is certainly something the city should decide on, but if you just gave a private corporation the ability to step in and start providing service within Toronto—and this issue came up not too long ago in the city—there's nothing to stop that private corporation from scooping all the good routes, the economic routes, at the expense of the non-economic routes, and the TTC and taxpayers would be left to find ways to try to fund the routes that don't make economic sense—in other words, don't have the ridership. They're important routes for people to get around the city, but they may not have the ridership to keep them economic. So I think this would be a dangerous route to go. Certainly it's something that should be left up to the city to determine how they would rather proceed.

Mr. Hardeman: I couldn't believe the explanation I just heard, because surely the city council would not deprive the people on those unprofitable routes of service just to save money. We've been talking about having respect for the decision-making abilities of the city. That's what this whole act was about. Now we're saying that giving them the power to set rates or to approve rates, we don't think they would do that in the best interests of all the people in the city?

The Chair: Is that a question?

Mr. Hardeman: Yes, it's a question to the parliamentary assistant, because I think that's what I heard in his explanation, that they might discontinue non-profitable routes just to save money.

Mr. Duguid: No, I think you totally misunderstood what I was saying.

Mr. Hardeman: Okay. That's why I wanted to clarify it.

Mr. Duguid: This issue came up not long ago in the city of Toronto, and it's a case of the ability of private corporations or private services to provide public transit. On the surface, it sounds like a great idea. The problem that many have—the TTC—is that if you allowed that to happen, the economic routes that the city provides, the routes that could make money, that do make a profit for the TTC, could be skimmed off by the private sector, and the revenues from those profitable routes could not then be used to subsidize the unprofitable routes, which would mean that the people coming in from the far reaches of the city would potentially lose their service, or taxes would have to go sky-high to subsidize those non-economic routes.

The Chair: Any further comments or questions? All those in favour of the motion? All those opposed? That's lost.

Mr. Hardeman: A recorded vote.

The Chair: A recorded vote after the vote? I'm going to say no. You have to act a little quicker.

Shall section 390 carry? All those in favour? All those opposed? That's carried.

Mr. Tabuns, you have the next motion.

Mr. Tabuns: I move that subsection 391(3) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out.

The same argument, Madam Chair.

The Chair: Okay. Does anybody want a recorded vote before I start taking the vote on this one? No? Okay.

All those in favour of the motion? All those opposed? That's lost.

Shall section 391 carry?

Mr. Hardeman: A recorded vote.

The Chair: A recorded vote has been requested on section 391.

Ayes

Brownell, Duguid, Flynn, Lalonde, Rinaldi.

Nays

Hardeman, MacLeod, Tabuns.

The Chair: That's carried.

Mr. Tabuns, you have the next—392.

Mr. Tabuns: I move that subsection 392(1) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out.

Same argument, Madam Chair.

The Chair: Any questions or comments? Seeing none, all those in favour of the motion? All those opposed? That's lost.

Shall section 392 carry? All those in favour? All those opposed? That's carried.

Section 393 has no changes. Shall it carry? All those in favour? All those opposed? That's carried.

A government motion on 394. Mr. Lalonde.

Mr. Lalonde: I move that subsection 394(1) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by striking out "are used by the TTC for the purpose of a passenger transportation system, or as car yards or shops in connection with the passenger transportation system" and substituting "are used by the TTC for the purposes of a passenger transportation system, including car yards and shops used in connection with the passenger transportation system,"

The Chair: Any comments or questions? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Mr. Tabuns: Motion 107 is withdrawn on the grounds of similarity to the previous motion.

The Chair: Thank you very much. You have the next motion.

Mr. Tabuns: I move that subsection 394(1) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by striking out "So long as any lands and easements owned by the city or by the TTC" at the beginning and substituting "So long as any lands and easements owned, leased or occupied by the city or by the TTC".

Simply, right now lands that are owned by the TTC for these purposes are exempt from property taxes. They're subject to payment in lieu. If in fact a commuter parking lot is on land leased by the TTC, it should be treated for purposes of taxation in the same way as a property that's owned.

The Chair: Any comments or questions?

Mr. Hardeman: Should who the tenant is decide whether the property is taxable or not? It would seem to me this is going to create a problem when you have the city being the lessor—the property is not taxable—but in fact the owner is going to charge lease rates based on it being taxed.

Mr. Tabuns: I would argue that the city of Toronto and the TTC will negotiate with landowners and will notice that a landowner is charging a rate higher than they, in turn, are being charged for taxes. So that particular concern is not one that bothers me in this case. I understand the reason for the question, but I think the city's approach to this is a practical one.

The Chair: Any further comments or questions? All those in favour of the motion? All those opposed? That's lost.

Shall section 394 carry, as amended? All those in favour? All those opposed? That's carried.

There are no changes to sections 395 through 397. Shall they carry? All those in favour? All those opposed? That's carried.

1240

Government motion 398: Mr. Rinaldi.

Mr. Rinaldi: I move that subsection 398(2) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out.

The Chair: Any comments or questions?

Mr. Hardeman: I just wanted clarification on what we're actually doing here.

Mr. Duguid: This specific power for the Toronto Police Services Board to impose fees is not required. The board already has much broader powers to impose fees under another section, section 9 of the act. They already have these powers so it's not required here.

Mr. Hardeman: It's just a redundancy.

Mr. Duguid: Yes. It's more technical, I guess.

The Chair: Further comments or questions? Seeing none, shall the motion carry? All those in favour? All those opposed? That's carried.

Mr. Tabuns, I believe your motion is a very similar one.

Mr. Tabuns: Your belief is correct, Madam Chair. Thus, I withdraw it.

The Chair: Thank you very much.

Shall section 398, as amended, carry? All those in favour? All those opposed? That's carried.

Committee, there are no changes to sections 399 through 411. Shall they carry? All those in favour? All those opposed? That's carried.

The next motion is the new section 411: Mr. Tabuns.

Mr. Tabuns: I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 411:

"Toronto Centre for the Performing Arts

"Status

"411.1 The Toronto Centre for the Performing Arts is deemed to be a city board."

I think it's fairly straightforward.

The Chair: Any comments or questions? Seeing none, all those in favour of the motion? All those opposed? That's lost.

The next motion, 112, is yours.

Mr. Tabuns: I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 411:

"Toronto Economic Development Corporation

"Status of board

"411.2 The city of Toronto Economic Development Corporation is deemed to be a local board of the city for the purposes of clauses 145(b), (c) and (d)."

The Toronto Economic Development Corporation has been a board controlled and appointed by the city for quite a while, so I'm a bit surprised that it's not counted as a local board, and I would suggest that we make it so within the act.

Ms. MacLeod: May I ask perhaps our staff why that was omitted, what the rationale is for the series of boards that Mr. Tabuns is actually asking to be included?

The Chair: Maybe Mr. Duguid could.

Mr. Duguid: It's not something that we're opposed to in principle, but it's something that we can do through regulation. It needs a little more thought before we move forward. There are a number of things that would be looked at that would have to be done through regulation. We're not opposed to the concept, but including it here—we're not ready yet to fully support it.

Ms. MacLeod: Thank you for that clarification.

The Chair: Any further comments or questions? Seeing none, all those in favour of the motion? All those opposed? That's lost.

Next is section 412: Mr. Brownell.

Mr. Brownell: I move that the English version of section 412 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by striking out "corporation" and substituting "body corporate".

The Chair: Comments or questions? Ms. MacLeod.

Ms. MacLeod: Just a clarification on the change in terminology, the rationale?

Mr. Duguid: We actually had this debate on the first day.

Ms. MacLeod: I wasn't here. Was this before or after I was elected?

Mr. Duguid: It's just a legal term to make to make it consistent with the Municipal Act.

Mr. Hardeman: I was just going to suggest a thank you to my colleague Ms. MacLeod for asking the question, because it had been a week or so since we had the lengthy discussion about "corporation" and "body corporate" that I had somewhat forgotten. Thank you very much for that.

The Chair: Okay. Is everybody happy with the motion? No further questions? All those in favour of it? All those opposed? That's carried.

There's another good motion following it, but exactly the same; I presume you'll withdraw it?

Mr. Tabuns: Withdrawn.

The Chair: Thank you very much.

Shall section 412, as amended, carry? All those in favour? All those opposed? That carries.

Government motion on section 412.1: Mr. Flynn.

Mr. Flynn: I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 412:

"Sinking fund committees

"Committees continued

"412.1 Every sinking fund committee that exists immediately before this section comes into force is continued as a local board of the city."

The Chair: Any comments or questions? Seeing none, all those in favour of the motion? All those opposed? That carries.

Shall section 412.1, as amended, carry? All those in favour? All those opposed? That carries.

Committee, we have no changes to part XVIII, transition, sections 413 to 422. Shall it carry? All those in favour? All those opposed? That carries.

Government motion on section 423: Mr. Lalonde.

Mr. Lalonde: I move that subsection 423(1) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by striking out "is continued until it is dissolved by the city" at the end and substituting "is continued as a local board of the city until the board of management is dissolved by the city".

The Chair: Any discussion?

Mr. Hardeman: Why is it required for the board of management as opposed to not fitting in with the section as it presently is: "Every board of management that exists immediately before this section comes into force for a business improvement area in the city is continued until it is dissolved by the city"? Why was that not sufficient?

Mr. Duguid: All I know is that this clarifies that the city can make changes to the boards, but the legal reason why it was necessary to clarify I can't answer. We could get staff, perhaps, but it's more technical.

The Chair: Are you okay with that explanation? No further comments or questions? All those in favour of the motion? All those opposed? That's carried.

Again, another good motion, Mr. Tabuns.

Mr. Tabuns: Good, but withdrawn.

The Chair: Thank you.

Shall section 423, as amended, carry? All those in favour? All those opposed? That's carried.

Committee, there are no changes to sections 424 through 426. Shall they carry? All those in favour? All those opposed? That's carried.

Part XIX, miscellaneous matters: There are no changes from 427 through 445. Shall they carry? All those in favour? All those opposed? That carries.

That takes us to section 446. A government motion: Mr. Rinaldi.

Mr. Rinaldi: I move that section 446 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by striking out the portion before paragraph 1 and substituting the following:

"Emergency measures

"446 Without limiting sections 7 and 8, those sections authorize the city to do the following things for emergency response purposes:"

The Chair: Any comments or questions? Seeing none, all those in favour of the motion? All those opposed? That carries.

Mr. Tabuns.

Mr. Tabuns: Same fate, Madam Chair.

The Chair: I think it's a very good motion. Thank you for withdrawing it.

Mr. Tabuns: It already passed.

The Chair: Shall section 446, as amended, carry? All those in favour? All those opposed? That carries.

Sections 447 through 455 have no amendments. Shall they carry? All those in favour? All those opposed? That carries.

There are no changes to the preamble. Shall it carry? All those in favour? All those opposed? That carries.

Shall schedule A, as amended, carry? All those in favour? All those opposed? That carries.

Now schedule B: "Public Acts: Repeals and Amendments." There are no changes to sections 1 and 2. Shall they carry? All those in favour? All those opposed? That carries.

On section 3, there's a government motion: Mr. Brownell.

1250

Mr. Brownell: I move that section 3 of schedule B to the bill be amended by adding the following section:

"(3.1) On the day that section 1 of schedule E to Bill 14 comes into force, the City of Toronto Act, 2006 is amended by adding the following section:

"Continued application of the Provincial Offences Act

"369.1 Section 75.1 of the Provincial Offences Act does not apply with respect to a contravention of a bylaw passed under this act."

The Chair: Any comments or questions? All those in favour of the motion? All those opposed? That carries.

Shall section 3, as amended, carry? All those in favour? All those opposed? That carries.

Sections 4 and 5 have no changes. Shall they carry? All those in favour? All those opposed? That's carried.

Section 6: Mr. Tabuns.

Mr. Tabuns: I move that subsection 6(3) of schedule B to the bill be amended by adding the following subsection to section 128 of the Highway Traffic Act after subsection (6.4):

"Same

"(6.5) Despite clause (1)(a), the council of the city of Toronto may by bylaw provide that no person shall drive a motor vehicle at a rate of speed greater than 40 kilometres per hour on a highway within the city."

This is just giving the city of Toronto the power to set the speed limit on different classes of streets.

The Chair: Any comments or questions? Seeing none, all those in favour of the motion? All those opposed? That's lost.

Shall section 6 carry? All those in favour? All those opposed? That's carried.

There are no changes to sections 7, 8 and 9. Shall they carry? All those in favour? All those opposed? That's carried.

Mr. Tabuns?

Mr. Tabuns: I move that section 70.1 of the Municipal Elections Act, 1996, as set out in section 10 of schedule B to the bill, be amended by adding the following subsection:

"Restriction on contributions, candidate for mayor

"(5) Despite subsections 71(1) and (2), the maximum total contribution a contributor may make to a candidate for the office of mayor of the city of Toronto is $2,500."

The Chair: Any comments or questions?

Mr. Duguid: We're going to support this. We're going to make this change to the Municipal Act anyway. Mr. Tabuns has worked so hard on this legislation. We've got to give him at least one victory here, so we'll support this.

Mr. Tabuns: I appreciate it.

Mr. Flynn: It's the Tabuns amendment.

Mr. Hardeman: Now that we're into the spending limits and so forth, I'm just wondering why it is only for the mayor as opposed to everyone.

Mr. Tabuns: I don't know why the city of Toronto requested just that cap on the mayor.

Mr. Hardeman: I guess my question might be, is it because he was the only mayor there?

The Chair: I think that was a rhetorical question. No further comments or questions? Shall the motion carry? All those opposed? That's carried.

Shall section 10, as amended, carry? All those in favour? All those opposed? That's carried.

Section 11: There are no amendments. Shall it carry? All those in favour? All those opposed? That's carried.

In section 11.1, the NDP has put forward a motion, but I believe it's out of order. But you have to read it before I can rule it out of order, just so you know.

Mr. Tabuns: Then I'll read so you can rule.

I move that schedule B to the bill be amended by adding the following section:

"Provincial Offences Act

"11.1 The Provincial Offences Act is amended by adding the following section:

"Penalties for certain offences in the city of Toronto

"2.1 If administrative penalties are established under section 81 of the City of Toronto Act, 2006 for failure to comply with any bylaws respecting the parking, standing or stopping of vehicles, the penalties established under this act do not apply with respect to the contravention of the city bylaws respecting the parking, standing or stopping of vehicles."

Why would you rule that out of order?

The Chair: Because the Provincial Offences Act hasn't been opened in Bill 53. That's why I cannot rule it in order.

Sections 12 and 13 have not got any amendments. Shall they carry? All those in favour? All those opposed? That's carried.

There's a government motion on section 14: Mr. Flynn.

Mr. Flynn: I move that section 14 of schedule B to the bill be struck out and the following substituted:

"Commencement

"14(1) Subject to subsection (2), this schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

"Same

"(2) Subsections 11(2) and (4) of this schedule come into force on the day the Stronger City of Toronto for a Stronger Ontario Act, 2006, receives royal assent."

The Chair: Any comments? Mr. Hardeman.

Mr. Hardeman: I just want to point out for the record that a number of deputants came forward and said that this act should not be enacted and come into force until such time as the city had designed their new form of structure of governance, because they felt there was a connection between how the city was going to govern with the new council and new committee structures and some of the powers that the city is getting under the new act.

The act is quite clear on and points out the connection between governance and the need for change of governance, and if the city can't come up with an appropriate governance model, the province will step in and make that happen. This is all directly related to the rest of the act, which implements the new authority and the new abilities that the city will have. I think we've had considerable discussion about the new powers, shall we say, that the city will have, and they are all related to the structure of the new city council. Everyone, including the mayor, came forward and said that the present structure is not adequate to deal with the situation as the act proposes.

I will not support this issue that designs when the act will be implemented, with no consideration given to what we were told by almost all the people, that there was a connection between the design of structure in the city of Toronto and the powers that this act is going to give them. I think there should be a connection between royal

assent and proclamation and that restructuring of city council.

The Chair: Mr. Duguid.

Mr. Duguid: Very briefly, the need for making sure that this initiative is in place upon royal assent is to ensure that there's not a rush to destroy heritage properties between royal assent and proclamation of the bill, which would not be, I think, until the end of the year. Just to clarify for the member opposite, that's the reason this amendment is here. He may have another reason for not supporting it, and that's fine.

The Chair: Any further comments or questions? Seeing none, shall the motion carry? All those in favour? All those opposed? That's carried.

Shall section 14, as amended, carry? All those in favour? All those opposed? That's carried.

Shall schedule B, as amended, carry? All those in favour? All those opposed? That's carried.

Schedule C: Section 1 has no changes that I can see. Shall it carry? All those in favour? All those opposed? That's carried.

Section 1.1: Mr. Tabuns, I believe it's out of order. Again, you have to read it, and then I—

Mr. Tabuns: I move that schedule C to the bill be amended,

(a) by adding to the heading for the schedule "and amendments" after "repeals"; and

(b) by adding the following section:

"City of Toronto Act, 1985

"1.1 Section 9 of the City of Toronto Act, 1985, being chapter Pr22, is amended by adding the following subsection:

"Activities re small businesses

"(6) The city of Toronto Economic Development Corporation, which was incorporated under the authority described in subsection (1), may exercise the powers described in section 84 of the City of Toronto Act, 2006, with necessary modifications."

The Chair: Just so you know why I rule it out of order, it's because the City of Toronto Act, 1985, hasn't been opened in this legislation; that part hasn't been opened.

Section 2 has no amendments. Shall section 2 carry? All those in favour? All those opposed? That's carried.

Shall table 1 carry? All those in favour? All those opposed? That's carried.

Schedule C has no changes in it. Shall it carry? All those in favour? All those opposed? That's carried.

Going back to the first day we started, when we had sections 1, 2 and 3, short title: Shall it carry? All those in favour? All those opposed? That's carried.

Shall the title of the bill carry? All those in favour? All those opposed? That's carried.

Shall Bill 53, as amended, carry? All those in favour? All those opposed? Carried.

Shall I report the bill, as amended, to the House? All those in favour? All those opposed? Carried.

That concludes this committee's consideration of Bill 53. I'd like to thank all my colleagues on the committee for their work on their bill. The committee thanks the ministry staff and the members of the public who contributed to our committee's work.

This committee now stands adjourned until the call of the Chair. Thank you.

The committee recessed from 1301 to 1601.

SUBCOMMITTEE REPORT

The Chair: Good afternoon. The standing committee on general government is called to order. We're here today to conduct public hearings on Bill 109, An Act to revise the law governing residential tenancies.

Our first order of business is the adoption of the report of the subcommittee on committee business. Mr. Rinaldi, could you move the report and read it into the record?

Mr. Rinaldi: Your subcommittee on committee business met on Thursday, May 18, 2006, and recommends the following with respect to Bill 109, An Act to revise the law governing residential tenancies:

(1) That the committee shall meet for public hearings at Queen's Park on Monday, May 29, 2006, from 4 p.m. to 6 p.m.; on Wednesday, May 31, 2006, from 4 p.m. to 6 p.m. and from 7 p.m. to 9 p.m.; and on Monday, June 5, 2006, from 4 p.m. to 6 p.m.

(2) That the evening time of 7 p.m. to 9 p.m. on Wednesday, May 31, 2006, be reserved for individuals.

(3) That the committee shall meet on Wednesday, June 7, 2006, at 3:30 p.m. for clause-by-clause consideration of the bill.

(4) That the committee clerk, with the authority of the Chair, post information regarding the committee's business on the Ontario parliamentary channel, the committee's website and one day in the Toronto Star.

(5) That interested people who wish to be considered to make an oral presentation on Bill 109 should contact the committee clerk by 5 p.m., Wednesday, May 24, 2006.

(6) That, if required, the committee clerk supply the subcommittee members with a list of requests to appear received, and that the list be sent to the members of the subcommittee by 6 p.m. on Wednesday, May 24, 2006.

(7) That, if required, each of the subcommittee members supply the committee clerk with a prioritized list of the names of witnesses they would like to hear from by 12 noon, Thursday, May 25, 2006, and that these witnesses must be selected from the original list distributed by the committee clerk to the subcommittee members.

(8) That the committee clerk, in consultation with the Chair, be authorized to schedule witnesses from the prioritized lists provided by each of the subcommittee members.

(9) That if all groups can be scheduled, the committee clerk, in consultation with the Chair, be authorized to schedule all interested parties and no party lists will be required.

(10) That groups and individuals be offered 10 minutes in which to make a presentation.

(11) That, in order to accommodate out-of-town witnesses, video and teleconferencing be offered.

(12) That the deadline for written submissions be 12 noon, Monday, June 5, 2006.

(13) That the research officer prepare an interim summary of the testimony heard.

(14) That the deadline for filing amendments, as determined by the orders of reference dated May 16 and May 17, 2006, be 12 noon on Wednesday, June 7, 2006.

(15) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the report of the sub-committee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair: Any debate on the subcommittee report? Seeing none, all those in favour? All those opposed? That's carried.

RESIDENTIAL TENANCIES ACT, 2006

LOI DE 2006 SUR LA LOCATION À USAGE D'HABITATION

Consideration of Bill 109, An Act to revise the law governing residential tenancies / Projet de loi 109, Loi révisant le droit régissant la location à usage d'habitation.

ADVOCACY CENTRE FOR TENANTS ONTARIO

The Chair: I'd like to welcome all our witnesses and guests here today. Our first group is the Advocacy Centre for Tenants Ontario. Welcome. When you begin, if you're all going to speak, I'm going to need all your names and the group you speak for, for Hansard. You'll have 10 minutes after you've introduced yourselves. I'll give you a one-minute warning if you get close to the end. If you leave some time, there will be an opportunity for us to ask questions.

Ms. Kathy Laird: My name is Kathy Laird. I'm the director of legal and advocacy services at the Advocacy Centre for Tenants Ontario. With me here today is Jennifer Ramsay, the advocacy and outreach coordinator for the Advocacy Centre for Tenants, and Grace Vaccarelli, staff lawyer.

The Tenant Protection Act, which we are here today to bury, created a perfect storm that caught up thousands of tenants in this province. The legislation encouraged eviction applications, and between June 1998 and December 2005, almost 400,000 eviction applications were filed against tenant households. Under the so-called Tenant Protection Act, more than 220,430 tenant households were ordered evicted without a hearing. The TPA turned the new Ontario Rental Housing Tribunal into an eviction machine. Tenant advocates said so, but so did one of its adjudicators in a decision released in January of this year.

Just so everyone knows how it worked, if a tenant got a notice of eviction hearing and went to the tribunal on their hearing day to tell their side of the story, they would find out when they got there that they weren't on the hearing docket and they had already been ordered evicted, and that was because they missed the five-day filing period.

I want to tell you what the previous Ontario Ombudsman said about this process in the 2003-04 annual report: "...the default eviction process has resulted in large numbers of individuals being evicted without mediation or a hearing on the merits. I am particularly concerned that such evictions may have disproportionate consequences for vulnerable tenants: seniors, single parents with small children, individuals with disabilities and those for whom English is not a first language."

The Liberals took power promising to remove the draconian aspects of the Tenant Protection Act. In ending the process of evictions without a hearing, this legislation represents a victory for access to justice. It is a social justice victory, because it should mean the end of a process where those who are most vulnerable are most at risk of losing their housing unfairly.

There are some particular areas where we think Bill 109 needs amendment. We've given you our detailed submissions on that and you all have the bound package of those amendments. There are only a couple of things that I want to touch on in my oral remarks. Overall, our suggested amendments are one of two types:

—areas where the bill does not include an important tenant protection provision that was a feature of the previous Landlord and Tenant Act; or

—areas where the bill brings in a previously unknown provision that we think is out of keeping with the package of rights and responsibilities under the regime.

1610

In the first category, the suggested amendment that I'll draw your attention to is the need to include a mechanism for a tenant to bring an application to set aside an eviction order that is made in their absence. This is found on page 2 of your package. This is something we had under the Landlord and Tenant Act. If you missed your first hearing date in front of the registrar, you could bring an application to set that aside, provided you met the threshold, and that threshold was that you had a good reason for not being there and that you had merits to be argued in a hearing.

That's what we're asking for: Restore us to the position we were in under the landlord and tenant legislation. I'd just like to point out that if that isn't put in place, those tenants who, for good cause, are unable to attend their hearing on the first date—a date which is set with only landlord input and no tenant input into that date, I'd point out—those tenants will lose a whole package of protections in this legislation, including the right to rely on all the circumstances affecting their tenancy and the ability to raise maintenance issues, if that is a factor in the dispute.

This wouldn't be much work for the tribunal. Currently, set-aside applications represent about 8% of all applications. We would expect that it would be much

less under this process. So it's not a huge work impact, but it is an important justice feature that we have had under all previous legislation.

The second category, I'll quickly point out to you, is the provision dealing with undue damage. It's on page 5. For the first time—I'm hoping this is just a drafting error—the words "wilful" and "negligent" do not appear, and they have been in all previous legislation. What this means is that if a tenant, through no fault of their own, causes damage to the unit, the tenant is strictly liable. Of course, in our civil liability law, liability follows fault—negligent or wilful conduct. That was in previous legislation. We hope the government will certainly add it to this.

The example I would give is an Ottawa case where a tenant bought a defective light and left it on while they were having dinner in the other room. The light caught fire. There was damage to the unit. The Ontario Rental Housing Tribunal held the tenant responsible, although they were not at fault; it was a defective lamp. The court overturned that finding. In our law, you can't be held strictly liable where you're not at fault. Landlords, of course, have insurance to cover just this type of loss. So we're looking for an amendment in that area.

There are three other issues I want to touch on briefly. How am I doing for time?

The Chair: You have about four minutes.

Ms. Laird: The submetering provisions: Landlords will now be allowed to take utilities out of the package of services that a tenant receives for their rent. In our view, this has questionable value as a conservation measure. We understand that conservation is high on this government's agenda; however, we think it will take incentives off landlords. Landlords are the ones who have control over windows, appliances and insulation. They have control over the high-impact items. If they are allowed to take utilities out of the rent, tenants are left holding an increasing cost item. Unless we get this right in regulations, landlords will be able to walk away scot-free. So we're looking to solve this problem in regulations and we're hoping to work with the government on that.

The next item I want to touch on is evictions for rent subsidy revocations. I'll try to keep this really brief. The previous government brought in two pieces of draconian housing legislation, and the other one was the Social Housing Reform Act. The SHRA, as we call it, radically changed the relationship between social housing tenants and their landlords by providing that a rent subsidy would cease whenever a tenant failed to comply with a filing requirement. What this means is that tenants are losing their subsidies, not because they no longer qualify but because they failed to file the piece of paper that shows they no longer qualify.

In social housing you have a disproportionate representation of tenants who have disabilities, who are elderly, who are single moms of young children living on social assistance. This is a group that has in the past sometimes missed this deadline. We never saw evictions before we had the SHRA. The housing providers would wait and would get that information. Now tenants are being evicted for rent arrears that have arisen due to the subsidy revocation, even though they still qualify.

Where this ties into this piece of legislation is under section 203 of Bill 109. Social housing tenants will lose the right to raise those issues at a hearing in front of the new Landlord and Tenant Board. In the past, legal clinics have raised this across the province. Sometimes we have gotten the tribunal to hear us, sometimes not. Under section 203, we will never be able to raise the merits. I'd just like to point out to you that that means we'll have two classes of tenants in the province: tenants in private housing who can raise the merits of an arrears application, to use the most common example, and tenants in public housing, who are caught, who can't say, "Look, I'm still on welfare, I still qualify. I just didn't file the paper in time." Those tenants will not be able to rely on the eviction relief provisions in this legislation. So we're hoping that provision will not be proclaimed, at least until social housing tenants gain a forum for independent review of subsidy revocation decisions. It can be the Landlord and Tenant Board, or it can be the Social Benefits Tribunal, but there has to be somewhere where you can go and get a hearing on the merits.

Finally, I just want to touch on vacancy decontrol.

The Chair: You have one minute left.

Ms. Laird: Obviously, tenants lobbied hard to get vacancy decontrol out of the legislation. We were unsuccessful. I just want to point out that we still have a critical affordable housing crisis in this province. Rents have continued to rise in every central metropolitan area across the province, despite improved vacancy rates. The rates may have slowed down, but the rents continue to go up. Some 42% of Ontario tenants pay 30% of their household income on shelter costs and the social housing waiting list across the province stands at 122,426 households. A recent ONPHA—Ontario Non-Profit Housing Association—survey in April 2006 found that 80% of the households on the waiting list had gross incomes below $20,000, so this is a very vulnerable population. The reason we wanted rent regulation on vacant units is that we wanted to lose no more of the affordable housing units that have been slipping through our fingers. Obviously, in the absence of rent regulation on vacant units, it's even more critical that the government keep its commitment to bring on-stream the affordable housing units that are promised under the federal-provincial affordable housing program. Thank you.

The Chair: Thank you. You've exhausted your time. We appreciate your report, and we've got your handout. Thank you very much.

HAMILTON AND DISTRICT APARTMENT ASSOCIATION

The Chair: Our next delegation is the Hamilton District Apartment Association. Good afternoon, and thank you for being here today. We have your handout.

As you get yourself settled, once you begin and you've introduced yourself and the organization you speak for, you'll have 10 minutes. I'll give you a one-minute warning if you get close to the end. If you leave time, there will be an opportunity for us to ask questions.

Mr. Arun Pathak: Good afternoon, my name is Arun Pathak, and I am the president of the Hamilton and District Apartment Association. The association has about 150 members who own or manage about 20,000 rental units. I myself have been an involved property manager for over 20 years. I am also the chair of the Halton Housing Advisory Committee, which is set up by the region to advise regional council and to try to find housing solutions for those struggling to maintain a reasonable quality of living.

Before getting into specific issues of the legislation, I want to give you a background of landlords, the types of tenants and the way our industry has been historically treated. Landlords have been typically viewed as in opposition to tenants and the government. This isn't true. We value tenants. They are our valued customers. They keep us working. The reason we are viewed as adversaries is because we cannot discontinue our services and are often trying to collect payments, long after the services have been used, from people in poverty.

Also, we don't want to oppose our government either. We want to find a solution that allows our tenants to live and afford the housing we provide. The reason we typically have issues with government is that we feel that it has let its people down. No government has provided a strong, sustainable solution for the housing needs of its people. Instead, they've passed the problem of poverty onto the rental housing industry. This is not a problem that can be solved by reducing the ability of our industry to survive.

1620

Let me also explain further through highlighting the different types of tenants that exist. Some time ago I had the sheriff come to do an eviction and his comment was, "I know this person. I've evicted him three times recently." These are the tenants who will benefit from the new legislation. On the other end of the scale, I have tenants who talk to me about my health and their families. Some bring me presents when they go on vacation or at Christmas, or bring me pies when they're baking.

The pay their rent on time, and these tenants don't know or care what the tribunal is, or about the proposed legislation. They are the silent majority of tenants who are not helped by this legislation the way bad tenants are. When I say silent majority, I mean you won't hear from them, because they are satisfied with our services. This majority is composed of good tenants who work hard, sometimes at more than one job, in order to pay their bills on time, including their rent. It isn't always easy for them, and we also need to consider the effect we are having on these people, who struggle but manage to keep up with their responsibilities.

When the government passes the buck and makes the rental housing industry carry the full burden of poverty problems, it makes it harder for these good people, who are barely making it, to continue to keep their heads above water.

Let me demonstrate. Most people understand that insurance premiums go up with insurance fraud and the prices at the mall are higher because of shoplifting. This same simple logic tells you that the good tenants suffer because of bad tenants, either through higher rents or less services or less improvements to the building. I can assure you that my buildings would be in better condition and have better appliances and upkeep if I didn't have so many bad debts which I cannot collect.

I know that when property managers talk about rent increases for capital improvements or to cover increases to their costs, this is a concern to many tenants. There are far too many people in Ontario living in poverty. The correct solution to the poverty problem is to ensure that everyone has the income to obtain appropriate housing. We don't ask other industries, even for necessities, to supply goods or services below market because some people cannot afford them. When people cannot afford to pay for groceries, we don't force stores to lower the price on bread to accommodate them. Instead, we provide food banks so that those who need help can get it. Similarly, when someone cannot afford shelter, we should not force landlords to lower their rents, but should provide more subsidies so people who need help can get it.

Le me move on from these larger problems that the legislation reinforces and discuss some of the more direct problems. One of the things that helps the bad tenants in this legislation are the delays in the hearings for non-payment of rent. Justice delayed is justice denied. Property owners do not currently get justice because of delays in scheduling hearings, and the proposals will only make thing worse.

The perceived problem with default orders could have been solved by wording the hearing notice differently. It could say, "You will face eviction if you do not file a dispute to this application." I said "perceived problem" with the default process because prior to the tribunal, the courts held hearings on all cases, and about 90% of these cases that I saw were undisputed. The proposals will waste time as property managers attend hearings needlessly.

Further delays will be caused by allowing tenants to raise other matters at hearings about rent. It will be a criminal waste of the board's time if property managers are not aware in advance of the issues to be raised and adjournments take place because of this. Also, the time wasted on other issues will bring the board to a standstill. If the legislation is to proceed with hearings for all cases, and other matters may be raised at hearings, then there must be a requirement to notify managers in advance of what issues are to be raised and no other issues added. Also, the board should be mandated by the legislation to schedule hearings to take place within 10 to 15 days.

As a property manager, I'm concern that some bad tenants may cause damage so that they have a reason to dispute the application.

With more hearings and longer hearings at the board, will the cost of filing an application increase? Because in most cases, the tenant is responsible for paying that.

Another problem with the proposed act is the possibility of orders prohibiting a rent increase or denial of an above-guideline application if there are maintenance issues. All maintenance issues should go through a property standards officer and only be considered if serious and a work order is not complied with within the time allowed. The way it's written, the application for an increase above guideline can be dismissed if there are property standards issues. Again, we could be rewarding vandalism with lower rents. The risk of the application being dismissed this way is a disincentive to improve Ontario's housing stock. Who will want to improve his or her building if the money has to be spent up front and there is no certainty of recovery? The reduction in the amounts that can be allowed for capital expenditure from 4% a year with full carryover to 3% with a two-year limit on carryover will reduce or delay capital expenditure with corresponding losses of jobs in the construction industry.

I want you to know that I didn't come here simply to find problems with the government's proposed solution; I want to fairly evaluate the legislation. This legislation doesn't solve the problem that the citizens of this province cannot afford reasonable housing. We need a sustainable, long-term solution. There are other alternatives, and they need to be considered.

A better option to solve this problem is the equalization of property tax rates. One of the reasons so many tenants in Ontario live in poverty is the extremely high property taxes they pay in their rent. Many municipalities have a multi-residential property tax rate that is between two and three times the residential rate. Why do we reserve a higher rate for those typically in lower income brackets? In Hamilton, Halton and Toronto, tens of thousands of tenants are paying more than $100 a month in unfair, unjustified taxes because the multi-residential tax rate is so high. Any provincial government that cares about the plight of poor tenants has to look at this issue and force the municipalities to equalize tax rates. Of course, if the objective is politics, then we will not see that happen. But if any MPPs care, they will work on fixing this inequity. Considering the poverty of tenants, a case can even be made for lower multi-residential tax rates than residential.

Another solution would be to offer more shelter subsidies for tenants. We all see the need for the food bank, so why don't we feel that the same support is needed for securing suitable shelter?

The Chair: You have one minute left.

Mr. Pathak: However, if you want to treat the symptom of upset tenants who need assistance, putting in place this legislation may give the impression that the government cares. But it is a solution that only helps the image of the government. Passing this legislation is simpler than forcing municipalities to treat tenants fairly and risk upsetting homeowners, but it doesn't change the fact that it's the right thing to do and a more sustainable solution to our shared problem.

I want to finish by saying that I stand in opposition to this legislation on behalf of landlords who can see it threaten Ontario's rental housing industry, but I also want to oppose it for the silent majority of tenants who don't even know they are being given this placebo. This isn't an issue of tenants versus landlords; we all want the same thing. I've explained logically the many flaws with this solution and how it doesn't really address the issue of tenants' inability to afford housing. Given time, I could mention many more flaws.

As the government, you have a responsibility to your constituents to do what is in their best interest. This legislation makes it easy to defer your responsibility, as governments have done in the past. But you owe it to all the renters province-wide to provide them with a long-term, sustainable solution that they deserve. Ensure that municipalities don't overtax, and provide tenants with the subsidies they need. I've often accepted late payments and instalments because I feel the pain of tenants who have a problem making ends meet. Do you?

The Chair: Thank you very much for your delegation today. We appreciate your being here.

ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW

The Chair: Our next delegation is the Association of Community Organizations for Reform Now. Welcome. As you get yourselves settled, if you're all going to speak, I need you to identify everybody who is speaking. But if it's just one person, you can identify yourself and the organization you speak for. After you've done that, you'll have 10 minutes. I'll give you a one-minute warning when you get close to the end.

Ms. Marva Burnett: Good afternoon. My name is Marva Burnett, and I am here to comment on the government's proposed Bill 109, the Residential Tenancies Act, on behalf of ACORN members across the province.

For starters, I'd like to tell you about ACORN. We are the Association of Community Organizations for Reform Now. We are working families fighting for working families. In essence, we are just working families. Although we have been ruffling feathers in property management offices for a couple of years, we do this by default. Rest assured: We are winning. In Toronto, sadly, we have to fight the Residential Tenancies Act. We are fighting for affordable, livable housing because proposed Bill 109 leaves systemic flaws in our communities' high-rise apartment buildings that force us to pay rising rents and to live in illegal, substandard housing—and when I say "illegal," I mean illegal.

1630

Do you know how many high-rises we have that don't have childproof locks on their balcony doors or windows? More than you'll know. When we look at the municipal code, chapter 629, article 4, section 21, our landlord is supposed to have safety locks so our children

won't fall out of these windows. It's happening. It is illegal.

Lenna Bradburn, head of municipal licensing and standards in Toronto, and her associates at city hall all agree there isn't much action that they can take: a $1,000 fine after a year of warnings or work orders maybe, but it is not reasonable. For instance, if you have an apartment building with 300 tenants who are paying $1,000 a month in rent, that is $300,000 a year. If you have to fine a landlord $1,000 after a year, that's nothing to the landlords, because that's not even a drop in their bucket.

You heard the landlord before me. He said tenants are really middle- and low-income people who are working really hard to pay their rents. In this bill, I read that you guys are going to increase the maximum fine. Do you guys know how many landlords are being given the minimum fine, much less the maximum fine? Since this law was passed, there has been only one maximum fine. If you raise the minimum fine, what is the minimum fine? No one can actually tell you what the minimum fine is for an offence. So if the maximum fine is $1,000, these landlords are getting away scot-free. We should be doubling the minimum fine instead of the maximum fine, because the maximum fine is not being charged. We need to do this in order to protect the tenants, because we live in real squalor. The reason why there are vacancies out there—yes, I understand that there are vacancies because we have turnovers of units because people move out because they buy homes, but also a big reason is because there are units that are being condemned. We need to look at that when we get on television and start talking about a 3.9% vacancy rate out there. Take everything into consideration before we talk about that, because a lot of us, as tenants, have been living in these units.

Let's get into Bill 109. We're getting rid of the 6% interest on the last month's rent.

Inflation: When the landlords deposit all of the last month's rent they get into the bank, I don't think the bank is paying them inflation. The bank is paying them prime and plus. So for this bill to adjust and give us inflation on our last month's rent is just wrong, because when a landlord deposits the last month's rent for a tenant, it's not just one tenant he's depositing for. He's depositing for 300 units, and that's a lot of money. When he gets that interest, prime plus 1% or 2%, we should be getting back some of that, too, not just inflation.

Getting back to the reason why we need to get rid of the minimum fines, nobody is charging it, because we just went to the rental tribunal at 1775 Weston Road. That landlord has been charged and ordered to pay $250,000 to the tenants in abatement of rent. However, when they went into court, it was 60-something work orders they had, 63, and then they come out of court and it's 105 work orders in place. That shows you the system isn't working, because nothing is being enforced. Bill 109 should be addressing all of these issues. If you're just going to take Bill 109 off the tenancy act and change two or three things, that's nice. But you can't rush this, because you're affecting all of the tenants who are paying not just 30% of their income in rent but they're sometimes paying 80% of their income in rent, plus it's the elderly, single parents, people who are living on social assistance, people with disabilities. This bill needs to address all of that.

You're having three committee hearings on this. Today there's a TTC strike. How many people did we get come down here to speak to you guys about this issue that's affecting them? Three committee hearings are not enough for a law that's going to affect so many people's lives. We are asking you to add some more hearings on to the list that you guys have. I think it's well deserved, because you have tenants in London, in Kingston, tenants all over, and these are all the hearings that you guys have. So you need to add more hearings for this bill.

Please don't rush this bill through, because it affects us. I'm a tenant. I have two children and I can tell you that I pay more than 90% of my income in rent. You guys need to know that this affects us daily. As the landlord said, I am one of those tenants who fights to pay her rent on time. You guys have to stop this, really stop and think about it and look at it and do some more consulting. Thank you.

Applause.

The Chair: Excuse me. Sorry. Please don't clap. You're going to cut off the time that people have to speak. I appreciate that you liked what she said, but you're cutting off her ability to speak.

You have about a minute and a half left, so 30 seconds for each party should they want to ask you a question, beginning with Mr. Hardeman.

Mr. Hardeman: Thank you very much for a well-delivered presentation to the committee. I would be the first to say I agree with you on the length of time that's being allotted to hear from the public, on the short notice and on the inability for all the delegates to be able to be heard to make a presentation.

I had the pleasure, if I can call it that, to do the road trip, shall we say, on the Tenant Protection Act, to hear from everyone. I know the issue requires a lot of input and we very much appreciate yours. I wish that the government had decided to do that with this act too, to make sure we heard from everyone. Barring that, we do appreciate your presentation and we will surely take that into consideration as we debate the bill further.

The Chair: Mr. Marchese.

Mr. Rosario Marchese (Trinity–Spadina): Marva, we don't have much time. We know there are a lot of good landlords and we know there are a lot of bad landlords as well. Can you describe what a bad landlord is like?

Ms. Burnett: A bad landlord is my landlord. You fill out 15 work orders and you still don't get it done. You call in the building inspectors. They come in and you still don't get anything done. They're constantly filing court cases with the tribunal. It is false and you only have five days to respond. They're not fixing the buildings. They're just letting everything go and taking the benefits. That is a bad landlord.

The Chair: Mr. Duguid, did you have—

Mr. Duguid: Thank you for taking the time to join us today and for your presentation. We'll take a look at some of the suggestions that you've made, both what you've mentioned and what you have on your paper.

On the one request that you've made regarding public hearings, I'm sure you're aware that we've had the most extensive set of public hearings on this particular piece of legislation that this province has ever engaged in. We went to 10 different cities across the province to have input into the drafting of this legislation. We heard from thousands of landlords and tenants right across Ontario. We're very proud of the fact that a number of submissions made from tenants have actually changed the original intent as we moved forward with the drafting of this legislation.

So tenants have had a great deal of input in what is before us. In fact, if you look at the massive reform of the eviction process, that came about as a result of a lot of input we received from tenants. Your input today is very, very welcome, and I thank you for it.

The Chair: Thank you very much for being here today. We appreciate it.

1640

EFFORT TRUST

The Chair: Our next group is Effort Trust. Welcome. As you get yourself settled, we have your handout here. Could you introduce yourself and the group you speak for? Once you start to speak, you'll have 10 minutes. I'll give you a one-minute warning. Hopefully, you won't need that much time, and we'll be able to ask you questions if you have time left over.

Mr. David Horwood: Greetings to the committee. Madam Chair, thank you very much. My name is David Horwood. I'm the assistant vice-president of Effort Trust, a Hamilton-based property management and financial services company.

Effort Trust is a landlord that has been in business for approximately 50 years, with a focus on smaller markets: Hamilton, St. Catharines, Welland, Kitchener, Cobourg, Jarvis. We absolutely have our fingers on the pulse of rental housing outside the prime areas in the province. As a result, I think we have a unique perspective on some of the more mundane and less publicized aspects of the way the rental housing market works.

Very briefly, I'd like to recognize the ongoing commitment that MPPs have shown to review this legislation, try to come up with aspects of it that can be improved and ideally help prevent situations like what we just heard, a very passionate and honest account of a sad story in the apartment business.

I would like to mention, though, that I think there are lots of things that have been improved under the legislation as it has evolved over the years, and I wish we could continue to build on that and not take a regressive step. I'm going to give you a few points where I think we may be taking that sort of step right now.

Section 30 of Bill 109 has to do with property standards and orders preventing rent increases. I feel that the legislation, as it is drafted, may force the Landlord and Tenant Board to adjudicate on property issues on which they just don't have the expertise. Municipalities already have building departments and committees that are knowledgeable, credible and reliable in inspecting and enforcing work orders. Where they are not doing their jobs is an area that I believe falls outside of rental tenancies reform.

Any reviews or orders approving rent increases should be limited to official work orders, as issued by the municipalities, and they should be considered within the time limits that have been prescribed in those municipalities. Any application that would prevent a rent increase may have merit and should be treated as such, but it should be accompanied by a formal review and formal documentation to support this claim in order to prevent frivolous or disruptive steps that may prevent the regular operation of our business.

Section 78 has to do with mediation. One of the things we have been very involved in through the Ontario Rental Housing Tribunal in Hamilton is taking advantage of mediation to both speed up the process and come up with arrangements that may be more equitable for both parties than a tribunal adjudicator may find on their own.

My fear is that as section 78 is written, the Landlord and Tenant Board must allow the commitments made by landlords and tenants to be binding and upheld. If they were to remove this provision from the act, and then the new act going forward prevented adjudicators from upholding mediated settlements, I feel it would be a great detriment to landlords and tenants working together to come up with solutions that may be more productive than adjudication.

Section 82, tenant issues raised on non-payment applications, is in my opinion unthinkable and impractical. As somebody who has to appear at the tribunal often, if I don't have, in advance, information about what I may need to either defend or promote, I can't be effective, I can't be credible and I cannot be of assistance to the adjudicator. It's impossible for me to defend against allegations that have never before been publicized, documented or brought to my attention. It leaves board adjudicators in another untenable position and without complete evidence, as I may not be able to produce a defence that would be meaningful and credible. Delays and adjournments will result, further bogging down the tribunal, or the Landlord and Tenant Board, as it may be known.

I feel it's important to maintain obligations for each party to file an application as it exists under current legislation and as it has existed in past legislation. If there is a legitimate problem, the tribunal, or the Landlord and Tenant Board, must deal with it and must review it, but it must be made as part of an application. If there are adjustments to fees to make it more affordable for tenants of modest means to do that, then please consider that, but to simply allow a respondent in a financial matter to raise

issues that may not be known to the landlord or to their agent who appears on their behalf would be a terrible step backward.

Section 126 has to do with above guideline increases. I feel that the proposed limit of 3% is not nearly enough to incent the proper reinvestment in multi-family buildings. We're talking about a rental stock that is in general between 30 and 40 years old and in desperate need of reinvestment. Some of the price controls that have been placed on this industry over the years have resulted in a lack of reinvestment. During the Tenant Protection Act, we've seen some of the most significant, substantial and visible actions of reinvestment in those properties, and that has largely been facilitated by the modest recovery of the 4% guideline. I understand that in subsequent years there may be another increase, but to lower that would be a great disincentive to landlords, of all walks of life and throughout the province, to make reinvestments in their properties. The age of the buildings and the cost to reinvest will not be getting less expensive, and I feel that the standard guideline increase, especially if it were to revert to a cost-of-living increase, may not capture the accumulated reinvestment that needs to be placed in these buildings.

Proposals may also act as a forum for tenants to raise other unrelated issues. Again, I encourage tenants, where they have a legitimate complaint with their apartment or with the way their building is being managed, to raise those issues within the framework that already exists.

Section 137 has to do with an energy conservation initiative and the installation of smart meters. As it is written, section 137 is, in my opinion, counterproductive to the goal of encouraging energy conservation. It leaves a number of open-ended risks to the landlord that are great and would act as a deterrent to sub-metering. We know that the province wishes to encourage people to conserve. We also know that the only way to really, and in a meaningful way, encourage somebody to conserve is to give them accountability for their consumption. Currently, the large majority of our apartment stock throughout the province is bulk-metered, and tenants have no accountability whatsoever for their consumption. As a result, we know that people who are abusive of consumption continue to be subsidized by tenants who are responsible and who take care in the way they use their utilities.

If we were to look at improving section 137, there would be a few ways. Number one is to remove the open-ended liability that exists as it is written. It would be to ensure that all costs of electricity consumption, including administrative charges, as they should be, would be borne by the users. Consumers have to understand the accountability that comes from using a commodity.

The 12-month monitoring rule, a delay that is proposed to allow tenants to actually understand what amount their rent may be reduced and to see what their consumption is, is well intentioned, but will serve two purposes: one of them a delay of a year or more, which certainly isn't in keeping with our spirit of incenting conservation immediately and in a meaningful way, and it may also encourage some people to over-consume during that period of time in order to achieve a greater-than-normalized rent reduction.

I feel, and I've spoken with other members in our industry, that the proposed language for section 137 would be a great disincentive to sub-meter. As a result, I can't believe this would be a productive step forward for anybody.

I also have a general concern of fairness with respect to the language that is used in Bill 109. I feel it reflects a continuing bias of tenants over landlords.

Obviously there's a well-known and publicized lack of availability for legal aid for landlords who may have to appear in a tribunal setting, and who unfortunately are not permitted to speak with the legal aid duty counsel who is on site to assist tenants only. I encourage you to consider the plight of a small, independent landlord who may not have an organization or the knowledge of the act or the tribunal process to be able to defend themselves. To simply offer legal aid to tenants I'm afraid reinforces a long-standing position of bias.

1650

Furthermore, section 182, providing the right to raise unrelated maintenance issues at financial hearings, is a clear step in the wrong direction, as is section 183, where the board may lose objectivity in whether or not to enforce an eviction.

The Chair: You have one minute left.

Mr. Horwood: Thank you.

I feel that if in any way language was used that would have favoured the landlord, it would be an outrage. I recognize that this is not to improve the landlord's standing against that of the tenant but to raise the equality issue and to ensure that both parties—landlords and tenants—have the opportunity to work in a balanced environment.

What we heard just a few minutes ago was a very, very difficult story, and unfortunately not that uncommon at all. I feel that there's clearly an affordability issue. We know that there are thousands and thousands of empty apartments ready to be occupied, that there are waiting lists at the moment that are not being satisfied by these empty apartments. We clearly have an affordability issue, not a shortage of units. We need to house people in existing units, and I encourage you to find other ways to help these people who desperately do need your help. I'm a landlord in Hamilton. I live in the same neighbourhood, I shop in the same grocery stores as my tenants. We're neighbours, and I'm proud to be in this business, but I do feel that the steps you're taking with this proposed language may end up moving in the wrong direction and will help neither landlords and certainly not tenants.

The Chair: Thank you for being here today.

FEDERATION OF RENTAL-HOUSING PROVIDERS OF ONTARIO

The Chair: Our next delegation is the Federation of Rental-housing Providers of Ontario. Good afternoon. As you settle yourself in, if you need water, please help

yourself. If you could identify yourself and the group that you speak for. You'll have 10 minutes, and when you get close, I'll give you the one-minute warning.

Mr. Vince Brescia: Thank you, Chair, and thank you, committee, for having me today. I know our time here is short, so I'm going to be as quick as I can and to the point.

My name is Vince Brescia. I'm the president of the Federation of Rental-housing Providers of Ontario. We're essentially an industry association for landlords, large and small, across all corners of the province. Our time is very short, and I'm under no illusions that we can discuss in a meaningful fashion some of the issues that we have with the legislation. It appears to us that the legislation is set to proceed, so I'm not going to bore you with what you might perceive as platitudes, our long-standing concerns about the legislation in this province. I'm going to try to focus in on some key concerns that we have with this bill.

I've distributed a few things to give you background about the eviction process, how it works; our long-standing slide presentation on why we don't think there's even a need for reform and how things have worked quite well compared to previous legislative regimes in this province; a little overview of the non-payment process and the time frames and a little context for it for you as you deliberate these matters; and finally our detailed comments on the bill, which we hope you as a committee will consider as you consider amendments to the legislation.

I'm going to highlight only a couple of things in the bill, but I don't want you to think there are only two or three things that we're concerned about; it's just the short time that we have here.

Our first concern is general. It relates to a couple of provisions in the bill. We think overall—and I don't think it's intentional, but what's going to happen as a result of this legislation is that the tribunal, or the new Landlord and Tenant Board, as it is going to be called, is going to collapse. We want to be on record as saying that. We're hopeful that amendments can be brought in that make sure that doesn't happen. We certainly hope you'll consider it, because there are a few things that are happening. One is that we're now going to force everything into a hearing—that's the first thing you're doing—whether or not the tenant wants it. As one of your earlier deputants said, we think you might want to consider making sure that the tenant actually wants a hearing before you force one. You're trying to address a concern—a perceived concern, as we see it—that tenants aren't having their rights met or the ability to participate. You just need to find a way to ask them directly if they want a hearing, because our experience in many of the cases under the old system, as was said, they don't show up to a hearing, or they actually don't even want one, if you ask them. So you might want to consider lessening the workload.

Our second concern is around section 82, which is going to allow tenants to raise any matter in a hearing and have it heard, as though they had made a separate application. We think just this one change alone—when you add it on to the fact that now everything is supposed to go to a hearing—is going to more than quadruple the hearing workload of the tribunal. It takes a significant amount of time to hear these matters, and we think it will be used primarily as a delay tactic. Our experience is that tenants, when they are in these situations, are looking for delay tactics. This will be one that they use. They'll use it to seek adjournment. We're concerned that a landlord should know the case that they have to face when they go to the tribunal. Some people refer to it as trial by ambush. It's not allowed in small claims court, for example. You should have at least two weeks' notice of the case that you're about to meet. Things should not be raised on the spot. You have no way to respond to them, no way to prove a negative if you're a landlord if the tenant makes allegations that something wasn't fixed.

The amount of time it takes to hear these matters—a non-payment issue is rather straightforward to address, but if you're just going to open it up to these tactics, we think it will get abused. We're very concerned that it is bad tenants who will largely be the winners under this scenario. The government has stated as its intention in bringing in this legislation that they want to bring in legislation that's fair for good tenants and good landlords. We think that it is really bad tenants who will abuse the system in this circumstance. They'll cause the damage themselves and point to it. Very often there's no way to prove the cause of damage, and they'll use it to get an adjournment, which is another delay that the landlord doesn't want—more time lost.

I gave you background on the process and the cost for landlords. We want to retain any tenant who will pay, because it costs us significantly when we lose a tenant. So please consider that. The other concern I wanted to raise with you is something at OPRIs, which existed under the Rent Control Act, the NDP provision that is coming back. We're very concerned that under the NDP provision it was strictly related to municipal work orders when OPRIs were put into effect. We're concerned that in this legislation the board is going to have to make determinations as to when a landlord breaches property standards bylaws, versus trained inspectors who are in the field who are physically inspecting the property, who are visiting the property and making that determination. This provision will allow rents to be frozen based on verbal evidence given at hearings or Polaroids presented at hearings. We don't think it will lead to quality decisions when this happens. We think it's overlap and duplication with municipal standards. It will be up to the landlord when a board makes one of these determinations to decide when they've complied, so the landlord will act on their own and then you'll be back into another counter-application by the tenant.

In contrast, in the municipal world, the work order is not lifted until the municipal inspector lifts the work order. Why have the overlap and duplication? We think if you wanted to use this OPRI provision—as you know, we're against it, you've seen it in all our materials, just the concept—but if you want to do this we think it should

be limited to work orders for those reasons. I wanted to keep my comments brief in case any of you had any questions, so I'll limit my remarks to that. I don't know, Chair, if we have any time left, but I'm happy to answer any questions.

The Chair: You do. You have about a minute for each party, beginning with Mr. Marchese.

Mr. Marchese: Quickly: Do you know any bad landlords?

Mr. Brescia: Do I know any bad landlords? I can't say I know any personally. There are some out there. There are lots of bad tenants and I hear a lot about those from others.

Mr. Marchese: I'm sure there are bad tenants too. Can you describe a bad landlord?

Mr. Brescia: A bad landlord doesn't respond to maintenance concerns in a timely format, doesn't have good customer relations. There are a lot fewer of those under the current system, we find, than under the old system. Bad landlords could thrive under the old system, particularly with constrained revenues, and cutting corners and lineups with the shortages caused by rent controls. Our experience is that strict rent controls caused more of them.

Mr. Marchese: The rate of return over the last 10 years, based on your knowledge and experience—what has it been for apartment owners?

Mr. Brescia: A lot of it's published, because we now have back in the industry some institutional players.

Mr. Marchese: What would that be?

Mr. Brescia: Well, it has fluctuated. It's too low for them to want to brag about it, but it's 6%, in that sort of neighbourhood, 6% to 8%.

Mr. Marchese: That would be good, wouldn't you say?

Mr. Brescia: Not particularly great.

Mr. Marchese: You'd like to do better. It used to be 10%.

Mr. Brescia: Well, it's not. For a risky investment, it's something where you're looking to get more than you can get investing in a bond, so it's not like it's spectacular, no. It's a fairly low and stable rate of return.

The Chair: From the government side, Mr. Duguid.

Mr. Duguid: Mr. Brescia, I want to thank you for the work you've put into this. Like some of the presenters before us, I know you've been involved with us on this issue for over two years now in terms of providing input to us, and feedback and being involved in the consultation process that we were involved in. I want to thank you for your role in that.

1700

Mr. Brescia: We appreciated the chance to have input, thank you.

Mr. Duguid: The comments you made were on the issue of outstanding maintenance and how we provide incentives to landlords to ensure their buildings and units are well-kept. That was an option we had to look at: Do we do it just for property standards orders, where you can get a rent freeze for just property standards orders, or do you do it for serious maintenance issues? Do you not think that the new Landlord and Tenant Board will be quite capable of determining what a serious maintenance issue is? I think that's really the concern with—

Mr. Brescia: No. I think it's actually going to be a circus of Polaroids. Some people have written about systems like this in New York; William Tucker wrote about what would happen. I think the tribunal, given the amount of time they'll have for some of these hearings and making very serious decisions that will impact on landlords, with municipal inspectors out in the field—they're becoming even more empowered with legislation this committee dealt with earlier today to deal with property standards issues. Municipalities have tremendous power to look after any serious maintenance or health and safety violation. We think that's good enough. There is one system to deal with it and we'd like it confined to that.

We're really concerned about the quality of decisions that are going to come out of the tribunal regarding this matter. They just don't have the expertise and they're not going to be in the field to physically inspect. It's all verbal-evidence-based and hearsay, so we're quite concerned about that. I can appreciate what you're trying to do, though. I understand.

Mr. Hardeman: Thank you for the presentation. A couple of things: First of all, I was impressed with and support the issue of the work orders as they go to the tribunal, to have a third party actually issue the order and also have that available to a tribunal to hear whether it has or hasn't been met. We hear a lot of things about the—this is primarily with bad landlords and bad tenants and this act is to help facilitate that. When I look at your figures, that it costs on average around $3,000 to the landlord to change tenants if it's against the wishes of the tenant, could you explain why anyone would want to do that just to have another tenant?

Mr. Brescia: There is no landlord who wants to do that, I can tell you that, particularly in current market conditions. It's too much of a loss to walk away from, and a landlord will do anything they can to keep a tenant who is paying. There is no landlord who wants to do that. Unfortunately, there are circumstances where either the tenant can't pay or, in our experience, many cases where the tenant won't pay, and we do need a lever to deal with that situation. Your sense of it is right. We do not want to walk away from—if there's any way, if we can get a payment plan, anything like that, you'll hear from all of our members, we will try and find a way to retain the tenancy. It's not just that $3,000 that you're walking away from. You're walking away from new advertising costs, new lease costs. There are additional turnover costs with getting a new tenant into the place. So if you can work something out, you will, absolutely.

The Chair: Thank you very much for being here today.

HIGH PARK TENANTS' ASSOCIATION

The Chair: Our next delegation is the High Park Tenants' Association. Welcome. If you could say your

name for Hansard and the organization you speak for, you'll have 10 minutes. I'll give you a one-minute warning if you get close to the end.

Mr. Kristopher Sambrano: My name is Kristopher Sambrano and I represent the High Park Tenants' Association. Thank you for very much for giving me an opportunity to speak on my behalf as well as the tenants of my association. I live here in Toronto, in High Park, and have lived in High Park for the last 14 years. As a matter of fact, I can't imagine living anywhere else. It is my home. I'm a renter. I work full time. I'm also the president of the High Park Tenants' Association, which represents 2,400 units in the High Park area. The HPTA, as we're called, exists because we need to exist to counterbalance the forces of management and landlords, and particularly to weather the perfect storm caused by the Tenant Protection Act.

I applaud you for ushering in new legislation, as do the tenants of my association. Without exaggeration, we would say this new legislation, Bill 109, is met with the same gratitude and appreciation as a drowning man might have for the sudden appearance of a raft—inflated, of course.

To the members of the HPTA and the FMTA, whom we support, the introduction of the previous legislation, the Landlord and Tenant Act, as far as we're concerned, was a shipwreck. It was a shipwreck as far as the tenants were concerned. It left us floundering in an ocean of capital expenditures, fast-tracked evictions and, probably one of the single most devastating aspects of the Landlord and Tenant Act, vacancy decontrol. Imagine our relief when we heard about Bill 109. Make no mistake, this bill saved our lives because we were going down for the third time.

As I said before, it was like a raft. We eagerly climbed aboard and started looking forward to what we have found in this raft. There was fresh water in the way of costs no longer borne. There was fresh food in the way in which the tribunal was to explore further AGIs and, for the first time, to have the power to reject the application if they deemed the repairs to be unnecessary. That's one of the things that our association has been going through for the past few years: unnecessary repairs. As we continue to explore the contents of this raft, we found many positives things, things that gave the tenants sustenance—hope, if you will.

Now I'm going to stop for just a moment, because at this point you might think I'm exaggerating here with the metaphor of the ocean and the raft. But the truth of the matter is, I'm not. Because the tenants' association is so large—remember, 2,400 units—my association works with students, middle- and low-income tenants, seniors, fixed-income tenants, widowers, widows, single parents, new Canadians, old Canadians. I work with them on a daily basis. I help them cross the street to the management office, and I'll tell you more about that office a bit later. Bear with me while I finish my original story.

Without a joke, because we've been out there in the TPA sea, getting tossed around a long time, this new bill has actually become our salvation. But there was one thing missing, and we looked everywhere for it. We soon realized that, though this raft was timely and it did in fact save us, there was one very important thing missing. Where were the oars? We looked through the masses of pages and the nuances of language, into the give-and-take that this new legislation offered in order that it be fair for everyone, but we could not find the oars. We could not find the thing we need to eventually take us back to the shore. We could not find the end to vacancy decontrol, which means this raft, this salvation, helps us but doesn't take us any closer to land. In fact, as renters, we're out there in the water and we are looking for a place to call home.

Some of you might ask, what is the effect of vacancy decontrol? To the young people, the five or six students who have to cram into a two-bedroom apartment, who come to me and ask why the rents are so high, I can only tell them of a time when the rents were better regulated, a time when someone left an apartment and the landlord could only raise the rent by a certain guideline, which kept the apartment affordable.

Out in High Park, when I talk about affordable housing, even though I'm young I feel like an old-timer talking about when the buffalo used to run rampant through the prairies of Ontario. You see, the truth of the matter is, High Park is a very popular place to live, and the rents continue to go higher and higher. There is no limit there to prevent the landlords from charging whatever they like. If you've been out there, it's perfect; it's desirable for friends, for family, for business, and when people move out, they often move out because they can't afford the rent anymore. The people who move in are not the everyday people. The people like me—the average, everyday guy—are the people who are moving out because we can't afford it anymore.

As I say, I do know lots of people as head of the association. I know a woman who has shared her junior one-bedroom apartment with her son since he was five years old. He's now 15 years old. There're still sharing that junior one-bedroom apartment, but they can't move to another one because another junior one-bedroom apartment in that area is about $1,400.

1710

First, as long as the—how do I put this? One of the things that often happens is those long-term tenants are singled out in AGIs. She's faced one for two years in a row. So she can't save the money to move out, and she can't move to a larger apartment, because those apartments are out of her price range. And as market rents drive the price of that one-bedroom apartment up, every day it becomes farther and farther from her reach. So in short, the landlord's ability and the right to charge whatever they like for an apartment, once the tenant has left, is completely wrong.

Please keep in mind the forces in place that regulate the market in other places do not apply in my neighbourhood. If you look at the vacancy rate as a whole, the vacancy rate in Rexdale is not the same as in High Park.

It's a totally different landscape. It's a totally different economy. Vacancy decontrol does not work for tenants in my neighbourhood. The landlords charge high rents and selectively and systematically weed out anyone, with the exception of people with a high income. So in this particular case, this woman, like many tenants, is stuck. She's been given a raft but no oars.

Finally, in respect to the AGIs, as everyone knows, above-guideline increases, my landlords do single out the long-term tenants, and when I ask management why, they say the long-term tenants are not paying the market rents. Well, once again, management decides market rent, and they can do so on a whim—on a daily basis, on a monthly basis. The rental market is the only market where long-term tenants are punished for their loyalty to landlords and their loyalty to the communities. I mean, the longer you stay, the more they try and get you out in hopes of flipping the apartment and finding someone who will pay more rent.

Tenants in good standing are unable to move to larger apartments, and they're singled out through AGIs in a deliberate attempt to push their rents so high that that particular tenant who has been there for 20 or 30 years, whose kids have been brought up in that neighbourhood, can't afford it anymore; they have to leave.

Never in my life have I ever seen a landlord standing in line at the food bank, yet I see tenants there. Never in my life have I heard of landlords having to share their junior one-bedroom apartment with their kids, but I've just given you an example.

The Chair: You have a minute left.

Mr. Sambrano: Thank you.

I see these people. I help them. I walk them across the street to help persuade the landlord that these tenants can't afford these AGIs. I walk them across the street optimistically, hoping that I can negotiate some sort of a plan for these people. So basically, my question or what I'd like to say is, am I my brother's keeper? Well, you know what? Today, I am, and the landlords, as far as I'm concerned, have an opportunity to help people. They, too, can be their brother's keeper.

So we're no longer drowning, and we're in a better situation than before, but not by much. Has this legislation saved us? Yes, from eventual catastrophe and devastation, but I feel it has just prolonged the inevitable. We see the sharks; we don't see any land ahead. The Titanic was a wonderful film. It was entertaining. It was an Academy Award-winning film, but this isn't Hollywood. Our plight is serious. We're not getting paid for our performances, because our performances are very real, and when people go down for the third time, they stay down. No amount of special effects is going to change that. Please amend Bill 109. Please end vacancy decontrol. Give us the oars we need to get us back to our homes.

The Chair: Thank you very much. Did you want to provide the committee with your speaking notes? Are they legible? You can always submit them later.

Mr. Sambrano: I can send them in at a later date.

The Chair: If you want to, you can.

Mr. Sambrano: Okay. I think that would be wonderful.

The Chair: Just that opportunity. It was a very interesting deputation.

Mr. Sambrano: Thank you very much.

The Chair: Thank you.

BOARDWALK RENTAL COMMUNITIES

The Chair: Our next delegation is the Boardwalk Rental Communities. Welcome. As you get yourself settled, if you could introduce yourself and the organization that you speak for. After you've done that, you'll have 10 minutes. If you get close to the one-minute mark, I'll give you a little nod and let you know that you have a minute left.

Ms. Kim O'Brien: Thank you. My name is Kim O'Brien. I represent Boardwalk Rental Communities. First of all, I'd like to thank you all for affording me the opportunity to speak in front of you today.

Boardwalk Rental Communities is Canada's largest owner and operator of multi-family apartment units. We are across five provinces in Canada. We have over 33,000 units, 4,300 of which are here in Ontario.

Over our 20-year history, we have fought that typical portrayal of the bad landlord that's so often the case in society. For the first couple of minutes, I'd like to give you some background on our organization and really give you an idea of what we strive to do each and every day.

Our mission as an organization is to serve and provide our residents with quality rental communities. The focal point of our portfolio is the quality of our portfolio. Over the last five years, we've invested over $350 million back into our portfolio, $50 million of it here in our properties in Ontario. While we don't have anything directly in Toronto, our portfolio is located in London, Windsor and Kitchener.

Customer service, each and every day, is at the core of what we do. We're very proud that we have a 24-hour call centre—24 hours a day, seven days a week, 365 days a year—where customers can phone in at any hour of the day. If they can't get through to their local customer service agent on their site, they can talk to one of our call centre agents, who can dispatch if it's a maintenance person that they need to come out, or whatever type of emergency may be happening in their unit at any particular time.

On the site level, we have associates who are dedicated to customer service, associates who are dedicated to maintenance, associates who are dedicated to cleaning and associates who are dedicated to landscaping. So each and every day, we reinforce our commitment to provide our residents and our customers with the best product that we possibly can.

We understand, though, that our product is a very sensitive one: people's homes. That's not something that we take lightly. We are very proud that we have in our organization a gentleman who serves as a director of

community development. His focus is to work with numerous organizations across the country to be able to come up with different initiatives and projects where we can use our resource, our rental units, to work with organizations, be they those that support disabled people or homeless foundations across Canada, to make sure that we're coming up with all kinds of initiatives to provide housing to all areas of society.

We don't typically support building of new affordable subsidized housing. We feel that that money is better suited working with us and different levels of governmental organizations to provide subsidized units where individuals with different economic or health hardships, are able to incorporate and live daily in an environment with everyday human beings who are functioning members of society—going to work, going to school etc. We have given up units in our buildings over the years; there's an example in London where we have one unit that we give free of rent to an organization that helps place disabled people back into the community.

Each and every day, as I say, we take this commitment very, very seriously. We're not just in it for the almighty dollar, although we have unit holders, and their interests are important to us as well, but all of our stakeholders are equally so.

One thing that I really would like tell you a little bit about is our own internal subsidy program. This is nothing that's mandated by anybody. For any of our residents who have been with us and are good-standing residents, if they can prove that they can't afford a rental increase, we will waive it. We receive many phone calls if there are rental increases being issued, and we spend time with each and every one of those customers to understand what their financial position is and to be able to come up with a means to facilitate them staying with us. Customer retention is key to us.

For the provinces that we're in where there's no control on how much a rental increase is—for example, in Alberta, you can increase twice a year, and it doesn't matter the amount—we limit the amount that we increase. We take that obligation on ourselves, and as much as there could be potential for $200 and $300 rental increases at a time, we will not raise any existing customer by $50 at a time. That's just our own internal policy.

We just want to make sure everybody understands that it's not all big, bad landlords out there, that there are groups that really take the responsibility of the product they provide seriously as well.

1720

With regard to the proposed bill, as much as we see some problems throughout it, the one area that we'd like to concentrate on is section 82 and to reiterate some of the comments that Mr. Brescia made earlier in his talk with you. What concerns us most is that we find it to be very biased and, as a party who each and every day provides a standard level of product—and I'd invite you to tour some of our properties; we're very proud of our brand across Canada. We commit to providing that each and every day, and when our customer reneges on their commitment and decides not to pay their rent, their ability to present us with allegations that we're not aware of we see as justly unfair.

We welcome the opportunity for customers to speak to any concerns that they have over the quality of their product. Certainly, to add to your point, yes, there are a lot of bad landlords out there, and we fully advocate for a customer's right to be able to bring these issues forward. But for the ones who each and every day are striving to provide a product that the customers can be proud to call their home, we see this as justly unfair, as I said.

We're concerned about the abuse that could take place as people see this as a delay tactic to really not have to pay their rent at all. For us, as we see it, we would have to come, understand what the allegation is, and then cause an adjournment. I challenge any good-paying, good customer: Who sees the benefit in that? They are struggling each and every day to work, just like everybody else, and they pay their rent on time, they're never late, and to see the possibility of their neighbour across the hall, who could very well be insinuating allegations that are not true just to delay paying their rent, doesn't work for anybody.

So we're really concerned that there could be damage done to our units just as a reaction to any of these—if we were to file a non-payment charge, we are concerned that our units could see unnecessary damage as people try to come up with allegations or pictorial evidence that there is damage in the units.

Our other concern is, just as we said, the delay in the system. We think that the system has lots of areas where it can provide some really good service, but if we're constantly bogged down, then we just don't see who's going to win.

So ultimately, we just want to continue to provide a product for the good people who work hard every day and pay their rent on time. And I concur with one of the other gentlemen before: If there is a problem—we've worked with many of our customers over the years—if they can't make it on time this month, then we'll figure something out, because we do understand that the product we're providing is a home.

Overall, we would really like to see section 82 taken out. But if that's not able to happen, then certainly we as the other party would really like to be able to understand before we appear before the board what's been charged against us so we can prepare our case and not delay the process longer so that we have people who are just bringing down the system—the rotten apple who's bringing it down for everybody else—continuing to win and foster potential abuse through this section.

As well, if there are true concerns, there are mechanisms in place where tenants can file that. We're completely fine with that. But if, truly, they're holding back their rent because of some awful, deplorable conditions, then we propose that they're able to pay their rent to the board as an act of good faith, so everybody can understand that there really, truly is a deep concern and people

are not just trying to cause further delay in payment of their rent, their contractual rent that they're obligated to pay.

We have to provide the product, and it's a partnership. That's how we see it. I think it's the same with any with our financial obligations. But sometimes there may be a perception that it's okay not to pay your rent. Quite frankly, we just see our costs going up with people who can delay the system further and further: increases in our admin costs, increases in our legal costs, increases in our bad debt. Ultimately, it's the good people, the good customers, who end up paying for that.

We're also concerned about the potential for people to inflict financial hardship even on themselves. They may be tempted, if they're going through a rough time, not to even pay the rent because they understand that there could be further long delays, never having to be evicted. We would just hate to see that happen to individuals. As I said, these are our concerns with this one particular section.

We, as an organization, look to Ontario as a place where we—

The Chair: I'm sorry, but I failed to tell you that you had a minute left. You have exhausted it, so if you could summarize.

Ms. O'Brien: We look to Ontario as a place where we want to see further investment opportunities. We're open for business here, and we hope Ontario is as well. We've had a great run here, and we look to continue it in the future. Thank you.

The Chair: Thank you very much for being here.

GREATER TORONTO APARTMENT ASSOCIATION

The Chair: Our next delegation is the Greater Toronto Apartment Association. Welcome. I know you know the drill, so I'll let you get started.

Mr. Brad Butt: Yes, I am familiar with the drill. Madam Chair, members of the committee, my name is Brad Butt. I'm the president and CEO of the Greater Toronto Apartment Association. We're very pleased to have this opportunity to speak to you about our concerns with Bill 109.

Our association comprises more than 240 companies that own and operate in excess of 160,000 private rental apartment units across the greater Toronto area. Our members manage apartment properties 24 hours a day, seven days a week. The rental housing industry is like no other—we care for people's homes. We interact with our clients, the tenants, every day. We provide decent, affordable accommodation for millions of residents across the greater Toronto area.

Bill 109, the Residential Tenancies Act, is a piece of legislation that we believe threatens the balance between an apartment building owner's rights and obligations and the rights and obligations of the tenants. The current Tenant Protection Act did attempt to level the playing field, where this bill, in our view, is completely one-sided.

In the very short time allotted, I would simply like to refer to a couple of sections of the bill that require serious amendment.

First, we recommend that you completely scrap section 82, which would allow for unrelated matters to be presented in a hearing for non-payment of rent. Over 80% of all eviction applications are for non-payment of rent. Nothing has changed in 30 years of different pieces of legislation in that regard. Therefore, the only issue that should be before a member of the new Landlord and Tenant Board is whether or not the rent has been paid and whether it ever will be. Allowing other evidence to be presented that is unrelated, in our view, will simply confuse board members and result in considerable delays.

Second, section 30, which relates to orders prohibiting rent increases due to maintenance, must be limited to only the most serious orders. My experience in particular, in dealing with officials at the city of Toronto, is that these issues get very political, especially when local members of council get involved, rather than ensuring whether or not there is proper and adequate building maintenance. Maintenance issues are ongoing—we know that—especially with the age of the rental housing stock, and landlords should be encouraged and not penalized to invest in maintenance matters.

Third, section 137 on submetering must be eliminated. The rules as they relate to metering make it very expensive and cumbersome to implement. This section actually totally flies in the face of this government's energy conservation initiatives. Submetering, or smart metering, requiring the tenant to take over the meter with a corresponding rent reduction should be simple. The result will be less energy consumed and more savings for tenants. However, the current framework will discourage submetering.

Fourth, section 83 gives the new board the power to refuse or postpone evictions. This essentially takes what is supposed to be an unbiased tribunal and forces it to side with the tenant. No other court or tribunal does this, and neither should the new Landlord and Tenant Board. We recommend to you that this section be eliminated.

Finally, I want to warn committee members about what we see as a huge administrative cost as a result of this bill. Forcing every single application to a hearing, even when a tenant does not dispute the application filed against them, adds significant increased costs and time delays at the proposed Landlord and Tenant Board. At a time when government should be looking for cost savings, this will result in many millions of dollars of new money being required.

1730

Members of the committee, at a time when the rental marketplace has never worked better for tenants, with lowering rents and high vacancy rates, at a time when we are seeing new apartments being built and millions invested in an aging housing stock, why would the government propose such a draconian change that would threaten this environment?

I encourage you to address the sections of the bill that I have detailed and recommend they be changed. Let's ensure that we will continue to have a healthy affordable rental market for everyone. Thank you very much.

The Chair: Wow, you left lots of time. That's great.

Mr. Butt: I thought it was time for the committee members to ask some questions.

The Chair: That's good. It's a good thing to get them to wake up.

Mr. Flynn: I wanted to explore or expand upon your comments on section 137, on submetering. I think you make a very good point that it should be simple. You would think that anyone in the room would agree that a homeowner and a tenant should have some form of equity in their ability to conserve, to reduce their own hydro bills. The rules as you see them in the existing or the proposed legislation, how do you say that that makes what should be a simple task become a difficult task?

Mr. Butt: One of the biggest problems with section 137 is it's requiring a huge, upfront capital cost of installing the meters that are actually going to monitor the electricity consumption in occupied apartments, and then, after all the bills have gone through—and there's been no revenue by the way, back to the landlord to recover those costs—a year later, we're going to determine what the rent reduction may or may not be, whether the unit was occupied or vacant, and now the application process for determining the rent reduction would take place.

What we would suggest—we'd be happy to work with the government in this regard, and maybe we can do it through the regulations—is let's come up with a simple, straightforward formula where a landlord can say, "The meters are going in as of tomorrow. Your rent is getting reduced by $50 a month, and as of X date, you will take over paying your own electricity directly."

There are lots of studies that would give the government good information as to what average costs are, if it's done on a square-footage basis for units, maybe a one-bedroom, two-bedroom and three-bedroom are treated differently. This is a huge, cumbersome capital cost that just delays a process that I think would help the government meet its energy conservation goals in the multi-residential sector. We just think there something simpler and easier that you can do.

The Chair: Thank you. Mr. Hardeman. Sorry, I forgot to tell members, you've got about a minute and a half.

Mr. Hardeman: I did want to talk about the process of the metering system and the concerns I share with you. After you've had a year of figuring out individual units and how much they use, there's no guarantee that the same user will be in the apartment when it becomes part of the rent. It would seem to me much more applicable to just take the average of the rental units and say, "We're going to meter those and you're going to pay for it. We're going to deduct so much per month per unit off the bill." I think that would likely be more accurate.

The one I really wanted to question you on—your comments about the extra cost in the process that's being attributed through what is now going to be called the Landlord and Tenant Board. Have you got any estimation of how much cost that would be? Do you have any ideas or suggestions of where that money should come from?

Mr. Butt: Again, I don't have that, but if half the cases right now, let's assume, are not going to hearings, then it would at least double what it's costing the government right now to run the Ontario Rental Housing Tribunal. I suggest to you that it will be far more than double whatever it's costing on an annual basis to run the Ontario Rental Housing Tribunal, because you're forcing every single application, regardless of the grounds for it, whether the tenant disputes or doesn't dispute, you have to force—just like these committee hearings, everybody comes and speaks, there's a cost of doing that if everybody wants to show up.

So there's going to be that cost of forcing every application to go to a hearing. It's going to be a huge administrative cost. You're going to have to hire a ton of bureaucrats, you're going to have to hire a ton more adjudicators at the new Landlord and Tenant Board—I'm not sure what the complement is right now at the current ORHT, but it's going to have to be double or triple, because you'll never be able to deal on a timely basis with all of these hearings, whether or not the two parties show up to the hearing, if you force everything to a hearing. So the costs are going to be huge.

The Chair: Mr. Marchese.

Mr. Marchese: Thank you, Mr. Butt. I do want to agree with you with the issue of submetering. We pointed out in the debates around second reading that 70% of the units are bulk metered, and therefore it's an egregious waste of money to proceed with submetering. I think you might have some effect on them in that regard.

Can I ask, how important is vacancy decontrol to you?

Mr. Butt: Vacancy decontrol is a very important part of the current legislation. It clearly created the very favourable market conditions we have today. It's a very, very important part of the current Tenant Protection Act in providing a fair marketplace in which landlords can compete for business, in which rents are determined on what the market is. A lot of people say that vacancy decontrol is all about rents going up. Well, I've got news for you. Lately, vacancy decontrol is all about rents coming down because the marketplace has levelled out. A unit that turns over at $1,200 a month now might only re-rent for $1,000.

Mr. Marchese: So for you, that's a critical issue. And your argument is that all the other issues you've raised might slow down the development of rental apartments.

Mr. Butt: In terms of maintaining the market dynamics, I think the fact that the government has agreed to proceed with no changes to vacancy decontrol is positive. But section 82, which is going to force every single thing to a hearing—

Mr. Marchese: So people will stop building because of that?

Mr. Butt: —I think is a huge mistake in this bill.

The Chair: Thank you very much.

Our next delegation had called and said they couldn't be here, the Rexdale Legal Clinic/North Etobicoke Revitalization Project. Is anybody here for that delegation today? Okay. I'm going to reschedule them for our last day of hearings on June 5.

MINTOURBAN COMMUNITIES INC.

The Chair: Our following deputation is Minto Management Ltd.

Mr. Hardeman: Perhaps I can do this after the meeting, but I was wondering about the rescheduling.

The Chair: They called earlier. Because of the TTC, they said they were going to have difficulties. As I have authority as Chair, I'm rescheduling them for the last day of our hearings at the end.

Mr. Marchese: We have room?

The Chair: Yes, I think we do. I think we can squeeze 10 minutes in.

Mr. Hardeman: But we have other ones who applied who are not going to be heard.

The Chair: Why don't you just trust the Chair for now?

Mr. Marchese: Can we discuss that later?

The Chair: Yes.

Welcome. Thank you very much for being here today. If you'd been listening earlier, you know that you announce yourself and the group you speak for. You'll have 10 minutes. I'll give you a one-minute warning, and hopefully you'll have time left for us to ask questions.

Mr. John Stang: Good afternoon. My name is John Stang. I'm senior vice-president of operations for MintoUrban Communities Inc. Thank you for this opportunity to make this presentation today.

Minto owns and manages approximately 22,000 apartment units, all located in the province of Ontario. We are a family-owned business. We were established 51 years ago. Of the 22,000 rental units in our portfolio, we own approximately 8,000 of them. We manage, on behalf of a number of other large pension funds, the remaining 14,000 units.

With respect to Bill 109, we are glad to see that Bill 109 retains vacancy decontrol. Because of vacancy decontrol, we know tenants today now have more choice in rental accommodation than was the case prior to vacancy decontrol being in place. Minto has been committed to this industry in the past and is committed again. We are currently building rental accommodation in this province. We're building a 143-unit rental building in midtown Toronto. We're also building a town home rental project in the city of Ottawa. We've also committed to an additional $25 million in capital upgrades to our existing portfolio over the next two years' time. All this is due to the fact that vacancy decontrol is maintained.

I can unequivocally tell you that the three initiatives I've mentioned here would not have gone forward if indeed vacancy decontrol had been abolished. We would not be building this rental building in midtown Toronto, we would not be building a rental accommodation in Ottawa, and we would certainly not be going ahead and reinvesting an additional $25 million in upgrades to our existing portfolio.

As mentioned before, we are glad to see the retention of vacancy decontrol. We are very concerned with a number of other issues raised by Bill 109, but today we will focus on section 137, the smart meter issue.

Minto has been one of our industry's leading advocates of energy conservation. We have been acknowledged as such by a number of levels of government. We received the 2005 natural resources conservation award from the federal government. We received a 2005 award of excellence from the city of Toronto, which is part of the Green Toronto Awards initiative. We've received two certificates of recognition from the Ontario Power Authority for our efforts in energy conservation. We have received the 2006 Award of Excellence for their water conservation award for our efforts in water submetering. We have spent over $15 million over the last number of years in energy conservation measures that have reduced our natural resource consumption.

1740

On that note, I would like to introduce, to my left, Mr. Andrew Pride. Andrew is also with MintoUrban Communities. Andrew is the vice-president of energy management. He is the one person responsible for driving Minto's efforts in energy conservation. Andrew will speak to you about the smart meter issue.

Mr. Andrew Pride: Thanks, John, and thanks to the committee for having us here. The smart metering issue is a big issue. As the bill is written today, Minto would install zero meters. We do not support the way it's written right now. It's not in anyone's best interest. We are a strong supporter of metering. We've seen that in our new developments. In the 1980s, we invested a lot in individual metering so people paid for their own utility costs. It was quite effective and it's something that we strongly believe in, but in order for this to work the metering system has to be fair for everyone. The way the legislation is written today, it is not fair for everyone.

The government should see a benefit by reducing energy costs and reducing energy consumption across the province, the residents should see a benefit by allowing them to pay only for what they use and not for what their neighbours are using, the landlord should see a benefit by eliminating something they have no control over, and the environment should benefit because we're going to reduce greenhouse gases. That's what we should be focusing on when we have a smart meter policy written into an act. This act just does not provide the benefits, and I'll touch on a few of the reasons I say that.

We believe in promoting energy conservation and the culture of conservation, the same as the province. The act envisions that what we're going to do is install meters and then tell the tenant-resident that, "In 12 months' time we're going to reduce your rent by whatever you use in the next 12 months." In fact, that's not going to promote conservation. It may actually do worse, but it's not going

to promote conservation. We think we need to have an immediate impact by putting in the metering. What we want to do and the way it will be effective is to actually install the metering and say to the resident, "You're going to start paying for your electricity as of now, as of day one." That way, conservation is immediately achieved. Also, we want to see that people who conserve will get a benefit immediately from submetering.

The current wording allows for rent rebates based on an individual user's consumption. We believe that the rent rebate should actually be on the building's energy use for all of the suites together, so a blended average of all the consumptions for all the suites. This way, when a rent reduction is applied, those who are already conserving energy and practising the culture of conservation will seen an immediate benefit. Those who are not will have a challenge and they have to bring their energy usage down to the norm, down to the average for that building. I think it's an important element to try and reward those who are actually doing well today. In the current wording, if you're already conserving energy and you're doing what you can, you won't see any benefit from submetering.

Thirdly, under the current wording of the act, a landlord will take on new liabilities. We heard earlier about the 12 months of utility history on a suite-by-suite basis. The wording actually says that a new resident coming in—the landlord has to get a report for 12 months of usage and say, "Here's what the unit resident used before." The culture of conservation doesn't work like that. Everyone uses their own consumption, so why would we produce a report generating how much someone else used before and give it to the resident, a new prospective tenant? It really doesn't make a lot of sense, and it's a lot of money that somebody's spending for no particular reason. What we could do, actually, if you think about it, is give the whole building average—say, "On average, here's how much everyone used"—so people get a scale in terms of what they're using as opposed to what the prior occupant used.

Last, I've got to mention that there's wording in here that adds a new liability to the landlord that says if energy efficiency standards are not met—whatever they might be; they're not currently defined—then the tenant has a right to get a rent abatement or seek other recourse. That's a new liability that we've never had before, even in our submetered buildings today. I'm not sure where the benefit is. If the benefit is to try and instill an idea of getting a better, more energy-efficient unit, market competition will do that. Once you start knowing your building average usage, then the landlord will say, "If I want to compete in the marketplace, I'd better change the refrigerator, I'd better put something decent in. I'd better make sure that the tenant has the ability to know how to control his own energy." Those are ways that will promote it. It won't be by going to make an application and getting a rent rebate.

Those are the things we're looking at. Today, this act does not work well for submetering, yet submetering and smart metering are so very important to this province. We need to find good wording to make it work.

I hope we've left some time for some questions.

The Chair: You've left just under a minute for each party to ask a question, beginning with Mr. Hardeman.

Mr. Hardeman: Thank you again for the presentation. Your presentation was primarily on energy conservation. When it comes to energy conservation, if you go to individual metering, how do we then encourage the landlord to practise energy conservation? What is their interest in conserving energy? Conversely, if you go to central metering, why would a tenant want to save energy? What's your suggestion on what we could do to make sure that everyone has an interest in conserving?

Mr. Pride: Market competition is a wonderful thing. If a prospective tenant is looking for a new place and one place is $100 and another place is $50 for their energy costs, they're going to go to go to the $50 one. So we're going to look at our buildings and say, "What's our average use? We're too high. We're not competitive. We'd better change the appliances. We'd better put compact fluorescent light bulbs in all the fixtures. We'd better make sure it's working right." Or we'd better educate and bring an awareness level to our residents to say, "Here are some great ways to try and save." By empowering them with being able to pay their own costs, that's going to work. So the smart metering works well; delivering it right makes a lot of sense, and then we as landlords will wind up sitting there making improvements to the suite to try to reduce consumption.

Mr. Marchese: Mr. Stang, I do agree with you that vacancy decontrol is a big issue. For me, it is the biggest issue of this bill. We disagree on why. We both know what vacancy decontrol means. As soon as someone moves out of a unit, you can charge whatever you think you can get. But you said that because of vacancy decontrol, tenants have more choice. I don't understand that.

Mr. Stang: Because of vacancy decontrol, there is an environment where indeed you do have landlords like us who are actually building rental accommodation. That was not the case before at all, for the last two or three decades. As a result, what happens is that once accommodation becomes available at a certain rental level, we obviously have to compete at that rental level. Tenants will move out of other accommodation into those particular buildings and so on.

Mr. Marchese: Now I understand your argument. Thank you.

Mr. Duguid: I just want to talk a little bit about the energy efficiency aspects. You objected to the provision where a tenant could apply to the board if a landlord is not doing everything they should be doing in terms of energy efficiency. If we're going to go forward with a regime where there is submetering, we certainly have to have something in there to ensure that there's incentive for landlords to provide energy-efficient windows and appliances and the like. Would you not think it would probably be counter-productive for us not to have that provision in there?

Mr. Pride: The provision for energy-efficient appliances and good-quality buildings is going to have a dramatic impact on the electricity costs, no question. I think the market is going to drive that much more than saying it's a legislative issue. For instance, if you had a building with really old refrigerators, the rent reduction is going to compensate for those really old refrigerators. Therefore, it's already done; the resident is already going to see that benefit. To encourage more savings, when the landlord sees that their utility costs are making them uncompetitive in the industry, they're going to be forced to make a change in their appliances so they can reduce that overall consumption. It's a market-driven process, where they're going to say, "I should make sure I reduce the amount of energy used in this suite," rather than forcing a standard and then allowing the tenant to say, "I think I should have paid $51 instead of $50. I'm not going to pay my $850 rent." There's a discrepancy there. Putting that tie-in to rent isn't really there today for individually metered buildings. What we're seeing with individually metered buildings right now is that the majority have energy-efficient appliances, because that's part of the competition.

The Chair: Thank you very much.

1750

REALSTAR MANAGEMENT

The Chair: Our next delegation is Realstar Management. Welcome. Get yourself settled and make yourself comfortable. Thank you for being here today. We have 10 minutes for you. Once you announce yourself and the organization you speak for, you'll have 10 minutes. I'll give you a one-minute warning if you get close to the end.

Mr. Martin Zegray: Thank you, Madam Chair and members of the committee. I will start off today by providing a brief background on Realstar, and then I will tell you what I like about the proposed act—

The Chair: Can you start with your name and the organization before you begin, please.

Mr. Zegray: My name is Martin Zegray. I'm senior vice-president of Realstar Management.

Due to time limitations today, I will deal with just a few positives and a few negative aspects of the act. In fact, I'll focus on one positive and one negative.

Realstar was started in 1973, approximately 33 years ago. We are a property manager that oversees 25,000 suites across Canada from Victoria to Halifax. Over 16,000 suites are in the province of Ontario. We operate all over the province, from Brockville, Ottawa and Kingston in the east, to St. Catharines, Niagara Falls, Leamington and Windsor in the south, to Thunder Bay in the northwest. Our clients are quite diverse. We manage on behalf of several large public sector pension plans, financial institutions, families and individual investors.

Let me deal with the parts of the act that I like.

I applaud you for retaining vacancy decontrol. Though we believe in a fully market-based system, as exists in some provinces, we prefer vacancy decontrol over some alternatives that you considered. Vacancy decontrol allows a gradual movement in revenue streams to market. This is important for the pension plans and other investors we represent. They all need an appropriate return to make the investment in capital expenditures to maintain quality housing for the benefit of all of our residents.

The second thing I applaud is retaining the exemption on newly constructed properties. This helps achieve the same positive goal mentioned previously of encouraging new investment. Several of our clients are studying new rental construction and would need this exemption to provide that housing.

There are several problems with the proposed act. Let me start by dealing with smart metering, which has also been covered by other speakers today. Very briefly, I will point out two parts of my background that are of relevance to you. First, I am a mechanical engineer. An engineer deals with a lot of energy matters. Second, among other responsibilities at Realstar, I am in charge of energy conservation. Hence, I am knowledgeable about energy matters.

Reducing energy consumption in Ontario is very admirable and has been a goal of Realstar for several years. It offers economic, environmental and health benefits to all our residents and is consistent with the goals of the current government. As many of you may know, most Ontario buildings have a bulk meter for electricity, which the landlord pays, and electricity is one of the costs covered in the rent that the resident pays. Given that tenants do not pay the direct cost, they have no economic incentive to conserve. We have written letters to our tenants about conservation. In the letters, we have indicated the capital expenditures we are incurring and other actions we are taking regarding reduction in energy consumption and have asked them to work with us on reducing usage. The effect of these requests has not been measurable—in other words, a minimal impact on consumption. On the other hand, studies by the New York State Energy Research Development Authority indicate that consumption of electricity declines 15% to 30% with individual metering, because the resident has a financial incentive to conserve.

The smart metering provisions in the act will prevent landlords from pursuing individual metering and hence conservation. The problems are as follows: First, though the act does not detail the rent reduction at conversion, ministry staff have indicated that the rent reduction to tenants would include the new individual administration and the meter hardware charge. This means that landlords will in effect pay for the cost of the program. The benefits will flow to the tenants and to the government. The tenants will get a rent reduction, plus they will get the financial benefit of lower utility costs when they lower their consumption. The government will benefit by having lower electricity demand in the province.

If that was not bad enough, landlords will also face new electricity conservation obligations detailed in subsection 137(7). Further, problem tenants will, under section 137(8), have a new way to harass and delay land-

lords. Additionally, the landlord must install the individual meters at least 12 months before the conversion and before the calculation of the rent reduction, thereby giving tenants an economic incentive to game the system during the 12-month period. In summary, section 137 should be modified substantially if it is to provide benefit to Ontarians or, alternately, it should be removed from the act.

I have similar comments on section 138, which deals with apportionment of utility costs. If section 138 is improved as I have suggested for section 137, then to help in conservation, it should apply to all buildings, not just those under six units. This would make it consistent with the application of smart metering.

Problem number two: The guideline for rent increase is set at Ontario's CPI. Most of the costs that landlords have—labour, electricity, gas, water, property taxes and capital costs—are rising at well above CPI, some as high as 10 times the CPI, which is the case with natural gas over the last few years. Unfortunately for landlords, we do not buy many goods or services that are declining in price due to being traded in global markets, things such as electronics. We do not import much from China, India or other low-cost locations. These are the items that are keeping CPI low. I notice personally, as you probably do, that many of my personal costs rise faster than the 2% or so recorded for CPI. Hence, the low guideline means landlords will not recover their cost increases, which over time will lead to underinvestment in Ontario housing stock. One solution is to use CPI plus l% to try to adjust for the above-CPI costs. In previous legislation, a 2% factor was in the guideline formula to adjust for capital costs and rapidly rising operating costs.

The final issue: In reading through the act and talking to our staff and consultants, the belief is that the act as a whole will lead to a slower and more cumbersome process rather than the fair and more streamlined process stakeholders, including the government, would prefer. In that regard, I would ask that you pay attention to the comments provided previously and separately by FRPO.

I thank you for allowing me to present my thoughts to you today.

The Chair: Thank you. You left about a minute for each party to ask a question, beginning with Mr. Marchese.

Mr. Marchese: Is it fair to say that a whole lot of tenants move every year?

Mr. Zegray: Yes, it would be approximately 25% of tenants each year.

Mr. Marchese: Is it also fair to say that you take advantage of that by increasing rents to a lot of those tenants because of vacancy decontrol?

Mr. Zegray: I would say that in the last four years there have been negligible increases. If you look at CMHC numbers, and certainly our own numbers as well, you'll see that the average change when a tenant has turned over has been less than 1%.

Mr. Marchese: So why is it important to you?

Mr. Zegray: It's important in the long run because it leads to a better market-based economy.

Mr. Marchese: And you're happy the Liberals broke their promise to end vacancy decontrol. Is that correct?

Mr. Zegray: I'm happy that vacancy decontrol remains in this act.

Mr. Duguid: Your comments regarding smart metering seem to be in common with a few of the other landlord presentations made to us today, and I'm trying to figure out where you're all coming from. I haven't had a chance to really chat with anybody specifically about it. Recognize that tenants will have the opportunity, through conservation, to find savings. Recognize as well that conservation is a good thing for the public and the government as a whole. But I'm trying to figure out what the downside for landlords is, and I haven't seen it in the presentations. My understanding as we've gone through this is that the costs of installation would probably be covered by the utilities or providers themselves. But I could be wrong. Tell me if I am.

Mr. Zegray: That will be defined in the rules and regulations. All I've seen to date is the act, and it's unclear how the costs will be borne. Clearly, there's a capital cost, but ultimately someone has to pay for that capital cost, be it the government of Ontario, the resident or the landlord. The utility consumer may fund that cost, but in the end it has to be amortized and paid for by someone else. The question is, who is the appropriate person to bear that cost?

The way I understand it from discussions that have been held by other parties with ministry staff, the expectation is that that cost will be borne by landlords by providing it as a further rent reduction to the resident at the conversion. If that's the case, then the landlord is bearing that cost and the other potential costs: capital costs, conservation costs and costs borne by changes to the rules and regulations as well.

1800

Mr. Hardeman: I guess I'm having a little trouble with where the parliamentary assistant is coming from. It seems quite clear to me that you said that the costs to the landlord would be to install it and the administration. There is nothing in the bill that would include the compensation for the landlord going through that exercise. Is that correct?

Mr. Zegray: That's correct. I believe the way the bill is currently worded, because of that, landlords will not proceed with smart metering.

Mr. Hardeman: Okay. The other part I was a little concerned with in your presentation—

The Chair: It's going to have to be a really short question. There are 20 seconds left.

Mr. Hardeman: —is the issue of the consumer price index increases. It would seem to me that those issues that you spoke to in the presentation are in fact what the consumer price index is made up of. How is it that they are exempt and go up faster than the consumer price index?

Mr. Zegray: They're not exempt from the consumer price index, but they form a much smaller percentage of the consumer price index than they do of actual landlords' costs. For landlords, property taxes are probably

20% of their costs; utilities would be another 20% of their costs. Those are costs that are going up quite rapidly. Because of that, they're under-represented in the CPI.

The Chair: Thank you.

NEIGHBOURHOOD LEGAL SERVICES

The Chair: Our last delegation today is Neighbourhood Legal Services, Toronto. Thank you for being here today.

Mr. Jack de Klerk: Thank you for having me.

The Chair: As you get yourself settled, if you could announce your name and the group that you speak for before you begin. You'll have 10 minutes. I'll try to give you a one-minute warning if you get close to the end.

Mr. de Klerk: Thank you. My name's Jack de Klerk, and I'm the director of legal services at Neighbourhood Legal Services. Neighbourhood Legal Services is a community legal clinic funded by Ontario legal aid. We serve the area on the east side of downtown Toronto: east of Yonge Street, west of the Don River and south of Bloor Street. It's an area that, if you're familiar with the city, has one of the highest proportions of public housing. It probably has the highest levels of shelters and services for homeless people. The social housing component of the community is by far the densest in the city.

Our practice is almost completely restricted to serving tenants who are poor, who are on social assistance of one form or another and who have low incomes; they may be part of the working poor. That's pretty much what we're doing on a day-to-day basis. Obviously, their housing is very critical for their well-being, and they have great difficulty meeting the housing challenges that are thrown their way.

It's from that context that I want to speak to you today. On behalf of many of our clients, we have very serious concerns about several aspects of Bill 109. According to the comments of the minister, Mr. Gerretsen, in the Legislature, he said that he wanted to improve tenant protection by improving the legal processes around evictions. We're concerned that it actually makes the most vulnerable people even more vulnerable.

There are really three issues that I want to bring to your attention today. The first is the purpose of the legislation, the second is the prohibition against considering the Social Housing Reform Act and, finally, lack of a provision for tenants to set aside a default order—that's an order from a hearing that they did not attend.

People have been talking about the legislation throughout the consultations, and we're concerned about the particular importance of these issues to low-income tenants living in subsidized housing, those who have difficulty accessing traditional bureaucracies and those who are disabled or disadvantaged due to their mental health, their physical health or their cultural limitations. Those are obviously the people the legislation should be trying to protect, and we're concerned that in fact it's making it more difficult.

I'm just going to give you one example of how that works. It brings the purpose of the legislation together with the restriction on not considering the Social Housing Reform Act. In section 1, it says the purpose of the legislation is to protect tenants from unlawful rent increases. But if a tenant whose rent is determined under the Social Housing Reform Act has a question about that rent increase, it's too bad, because that's not an issue that can be raised before the landlord and tenant tribunal. So, once again, the most vulnerable people in our community—those who are on social assistance, those who are living in subsidized housing—do not have access to the same justice that other people have.

Our concern with the purpose of the legislation is that it seems to undermine the legal principles that have been established in the past under previous legislation, including the Tenant Protection Act. This legislation is remedial, it's supposed to be working for tenants, to protect people, to keep them in their housing, and we're concerned that because of the language here, that purpose is in fact going to be undermined.

The Social Housing Reform Act determines how much rent people who live in subsidized housing will pay and what subsidies they're going to be eligible for. The legislation, in section 203, specifically prohibits the board from considering challenges to rent determinations made under the SHRA. In other words, if a social housing landlord makes an arrears application to the board, the board has to accept what the landlord says the rent is. This is the equivalent, I would suggest, of a judge in a criminal proceeding having to accept, by law, the version of the facts given by the police. There is no opportunity for the tenants to say, "I'm sorry, they say that's what my rent is, but it shouldn't be that high."

Although the Social Housing Reform Act includes a process by which rents and subsidies are determined for individual tenants, that process is not transparent and does not have any legal safeguards. In many cases to date, our experience is that the denial of subsidies has been arbitrary or, at times, in our view, contrary to a person's rights under the Human Rights Code. Many of us have been pressing the Ontario Rental Housing Tribunal to consider these issues when they are relevant to an eviction application it is considering. There are presently several cases we're aware of in which this issue is on appeal before the Divisional Court.

Social housing landlords are mandated to provide housing to low-income people. Of course, these same people are amongst the most vulnerable in our communities. Many of them, in addition to their poverty, are further disadvantaged by race, disability, especially mental illness, cultural experience and/or language. The process under the SHRA, especially given the possible consequence of the loss of housing, is unfair and inappropriate for them. Those making decisions are not trained to consider these issues of due process or procedural fairness, nor are they required to consider them. Opportunities for representation are virtually nonexistent, hearings do not take place, and there is no right of appeal.

When a landlord, including a landlord that is subject to the Social Housing Reform Act, applies to evict a tenant for arrears of rent, the person making the decision—the Landlord and Tenant Board—must come to the conclusion that there is rent legally owing. It is therefore essential, if the tenant is to have a fair hearing, that any issue that raises legitimate challenges to the landlord's claim for rent be thoroughly considered by the decision-maker. The decision-maker must be satisfied that the tenant's rent has been determined according to law, including issues of accommodation under the Human Rights Code, failing which, I trust you would agree, the tenant should not be evicted.

Finally, I want to explain our concerns with respect to the lack of set-aside provisions in the Residential Tenancies Act. In eliminating the default eviction process, the government has recognized the importance of ensuring that a tenant should not be evicted without first having a hearing before the Landlord and Tenant Board. I believe that this is a significant change and that the government should be commended for eliminating the default eviction process that has been the backbone of the Tenant Protection Act and the Ontario Rental Housing Tribunal. The Residential Tenancies Act is short-sighted, however, in that it does not provide a mechanism to set aside an order at a hearing at which the tenant failed to attend. It is a serious failing of the new legislation to not anticipate that there will be legitimate and important circumstances that will result in a tenant not attending the hearing. Situations such as illness or when a tenant is on vacation or when a tenant has not been served by the landlord with the requisite hearing documents are perhaps the most obvious reasons why a tenant will not attend at the board for his or her hearing.

The Chair: You have one minute left.

Mr. de Klerk: There are also innumerable other circumstances, including mental illness or lack of understanding of the process, which may cause a tenant not to attend their hearing or even contact the board beforehand to let them know they won't be present. In such situations where a tenant's non-attendance at the hearing is not an abandonment of their interests, the Residential Tenancies Act contains no provision to allow the tenant to apply to the board to set aside the order made in their absence. In all other tribunals in the province, not to mention the courts, there is some process to set aside an order that's made in their absence, provided the tenant can show good cause or explanation for their non-attendance at the hearing. A set-aside process is fundamental to a tenant's access to justice. As presently drafted, there's no provision in the Residential Tenancies Act for that sort of thing.

In closing, I would urge the committee to press for changes that would address the concerns I have raised. Thank you for your attention. I'd be pleased to answer any questions.

The Chair: I'm sorry, we've exhausted our time, but thank you very much. We have your presentation. We appreciate your being here today.

I'd like to thank all of our witnesses, the members and the committee staff for their participation in the hearings. The committee now stands adjourned until 4 p.m. on Wednesday, May 31, 2006.

The committee adjourned at 1811.

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CONTENTS

Monday 29 May 2006