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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 10 May 2006

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 10 mai 2006

The committee met at 1002 in room 1.

GOLDEN DREAMS HOME AND DECOR LTD. ACT, 2006

Consideration of Bill Pr19, An Act to revive Golden Dreams Home and Decor Ltd.

The Vice-Chair (Mr. Tony C. Wong): Good morning, ladies and gentlemen. This is the standing committee on regulations and private bills. I call the meeting to order.

The first order of business is Bill Pr19, An Act to revive Golden Dreams Home and Decor Ltd. The sponsor is MPP Shafiq Qaadri and the applicant is Helen Myrna Dales. Would the sponsor and the applicant please come forward? MPP Qaadri, would you like to make some comments?

Mr. Shafiq Qaadri (Etobicoke North): First of all, thank you for this opportunity to present this particular bill in front of the standing committee on regulations and private bills. It is Bill Pr19, An Act to revive Golden Dreams Home and Decor. I'm joined, as you can see, by fellow presenters Helen Myrna Dales and legal counsel David A. Stone, who will be the lead presenter.

The Vice-Chair: Welcome.

Mr. David Stone: Thank you. We're here to revive a corporation. What happened was that in 1994, Ms. Dales, looking to incorporate a company to buy and sell real estate, did that very thing, incorporated a company—

Interjection.

Mr. Stone: Sorry. In 1998, she incorporated Golden Dreams; I'll refer to it as Golden Dreams so I don't have to go through the whole name. Her intent was to buy and sell real estate. By 2004, its only asset was the home she lived in, 109 Lakeshore Drive. To make a long story short, she believed it was becoming too cumbersome to file tax returns for the corporation and for herself personally, so she decided on her own to file articles of dissolution at the company's branch in Toronto. The problem with filing articles of dissolution in her case was that if the corporation hadn't disposed of all its property prior to the articles being filed, any property, and in this case it was her home, would escheat to the crown. She wasn't aware of that. The only reason she did this was to make her life simple. Golden Dreams really did turn out to be a nightmare. She wasn't even aware of the problem

until she phoned my office and I advised her, "Yes, you have a problem with a forfeiture." Unfortunately, under the Ontario Business Corporations Act, the only remedy is to apply for a private bill to be passed. If there are any questions, I'd be happy to answer, or Ms. Dales as well.

The Vice-Chair: Thank you, Mr. Stone. Any comments or questions from members? The parliamentary assistant.

Mr. Mario Sergio (York West): I want to commend the applicant for bringing forth the position on the bill, and also compliment the minister and member for Etobicoke Centre, Donna Cansfield, as well as the member for Etobicoke North for being here in support of the applicant. The government has no problem with the content of the bill as presented, therefore I will support it.

The Vice Chair: Any further questions or comments from members? Are there any interested parties who would like to speak to this matter? Seeing none, are members ready to vote?

We will start with section 1. Shall section 1 carry? All in favour? Opposed, if any? That is carried.

Shall section 2 carry? All in favour? Opposed, if any? That's carried.

Shall section 3 carry? All in favour? Opposed, if any? That is carried.

Shall the preamble carry? All in favour? Opposed, if any? That is carried.

Shall the title carry? All in favour? Opposed, if any? That's carried.

Shall the bill carry? All in favour? Opposed, if any? That is carried.

Shall I report the bill to the House? All in favour? Opposed, if any? That is carried.

CITY OF LONDON ACT, 2006

Consideration of Bill Pr24, An Act respecting the City of London.

The Vice Chair: The next order of business is Bill Pr 24, An Act respecting the city of London. The sponsor is MPP Khalil Ramal and the applicant is James P. Barber, city solicitor. Please come forward. MPP Ramal, would you like to make comments?

Mr. Khalil Ramal (London–Fanshawe): Yes. First, I want to welcome the representatives of the city of London: Mr. Grant Hopcroft, responsible for inter-

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governmental affairs for the city of London, legal counsel James Barber, and Lisa Pasternak. Welcome to Queen's Park.

I'm honoured and privileged to be given the chance to sponsor the City of London Act, Bill Pr24. This is a very important bill for the city of London. I want to thank the city of London for giving me the chance to serve the city. The people of London are looking forward to seeing passage of the bill. It means a lot to the people of London, stability, specifying how many councillors for each ward.

I know that whatever we do in our lives, we're not going to satisfy all the people. So many people are frustrated by the way the OMB has dealt with the issue of the city of London for a long time. We have with us here today—we're going to hear from him—Dr. Andrew Sancton, who has voiced his concern many times through the media and to the city of London. In the end, we are hopefully not going to penalize the city of London for a mistake made by a certain body in the province.

I'm looking forward to your support. I ask legal counsel to speak, and Mr. Hopcroft, if he has any comments.

The Vice-Chair: Thank you, MPP Ramal. Would the applicant like to make comments?

Mr. James Barber: Yes. Thank you for hearing us this morning. The bill before you is proposed legislation which would provide for one councillor per ward in each of 14 wards for the 2006 municipal election in London, Ontario. The reason for the legislation is that Ontario regulation 561/93, which was part of general legislation—but an act that dealt only with the city of London provided for two councillors per ward. That was carried forward by a variety of pieces of legislation, including amendments to the Municipal Act, the new Municipal Act, and the Interpretation Act.

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The Ontario Municipal Board held a hearing and redivided the city into 14 wards from seven wards in 2005. It issued its order on December 30, 2005. Unfortunately, because of the timing of the issuance of that order, no change to the number of councillors per ward was possible. The city, in response to the OMB's decision, sought judicial intervention. The court, having considered the matter, determined that the board had not ordered a reduction in the number of councillors from two per ward to one per ward.

Without the legislation before you, London city council will increase in size in terms of the number of councillors from 14 to 28, and no one in the city of London wants that to occur. The legislation is necessary so that for the 2006 election, the number of councillors per ward is one. That's the reason for the legislation, at its simplest.

The Vice-Chair: Thank you, Mr. Barber. Before I invite the parliamentary assistant to speak, does any other member have comments or questions? If not, we go to the parliamentary assistant.

Mr. Sergio: The applicant has very clearly indicated the reasons they are here this morning and why the bill is

being sponsored by the local member from London– Fanshawe. I can see from the material that he has had some considerable input on the presentation of the bill.

We, as a government, don't have any concern with it. We understand that it's a necessity for the council of the city of London to conduct their business in a much more straightforward manner. We congratulate them and wish them well in their municipal election. We have no position to dispute.

The Vice-Chair: Thank you, Mr. Sergio. Do we have any other interested parties who would like to speak to this matter? Yes, sir. Please come forward. Please identify yourself.

Dr. Andrew Sancton: My name is Andrew Sancton. I'm a citizen and ratepayer of the city of London. It's important to know that during the OMB hearing that gave rise to this private bill, I acted as an expert witness on behalf of the city of London. However, my paid service for the city of London on this matter ended months ago, and I've consulted no one associated with the corporation of the city of London or anyone else about my decision to come here today and make this presentation.

Neither you nor I are concerned with the arguments made in the past about how many wards there are to be in the city of London. The problem is how many councillors are to be elected in each of the wards, as Mr. Barber explained.

I am here because I am outraged, really outraged—and the more I hear about this, the angrier I get—that the OMB has handled this issue so incompetently. I'm not willing to remain silent while the Ontario Legislature is asked to clean up such an inexcusable mess. Something must be done other than pretending that the OMB made some minor technical error that should be forgotten by quickly passing the bill that is before you.

Many people in London believe, despite clear statements to the contrary by Mr. Justice McDermott, that the OMB ordered that London is to have 14 wards, each represented by one councillor. That's the common view in London, that that's what the OMB decided. If this is the case—and I don't believe it is; I agree with Mr. Barber on that-then there is no reason to go through this charade of discussing this particular piece of legislation, because it would be redundant if that view were correct. In fact, of course, the OMB ordered that London is to have 14 wards and left it up to the council to decide how many councillors there were to be in each ward. The order, as Mr. Barber stated, was dated December 30, 2005. As of January 1, 2006, the city council, as I understand it-I'm not a lawyer-had no legal authority to change the number of councillors per ward. Therefore, as things stand now, there are to be 28 councillors elected in 2006. In the absence of legislation to the contrary, Londoners are supposed to elect these 28 councillors. Again, as Mr. Barber said, this is an outcome that nobody advocated. In my view, then, the OMB was acting just recklessly and irresponsibly in issuing the order they did at the time they did.

If you believe, as I do, that the OMB has completely botched this process, then I believe you should turn this 10 MAI 2006

matter over to the Minister of Municipal Affairs so he can decide what to do. One obvious option for him is to introduce government legislation to ensure that Ontario's fifth-largest city—we're talking about at least 350,000 residents of this city; it's not very private, in my view so the minister can look at the council membership and so the government of Ontario can take actions that are appropriate in these very complex circumstances. But even before doing that, in my view, the government should determine what went wrong at the OMB and take steps to ensure that it will not happen again.

If the kind of action I propose is not possible, then ultimately, I believe you should approve this bill. But this outrageous action of the OMB, in my view, cannot go unnoticed. Even tenured university professors such as myself get called to account by someone if they make major mistakes or if they do something that everybody considers to be wrong. We have a case here where the OMB acted wrongly, in the sense that it did something that nobody wanted, but apparently they did not act illegally.

You are being asked to fix this. I would say that in a relatively quiet, straightforward kind of way, you're being asked to fix this. What will the OMB learn from this? The lesson they will learn is that it's okay to leave a mess because private legislation can always fix it. If that's the message you want to send to the OMB, then okay, go ahead and vote for this bill. But I think there's a better course of action, and that is to turn it over to the Minister of Municipal Affairs to sort out.

The Vice-Chair: Thank you, Mr. Sancton. Any questions or comments for Mr. Sancton from members?

Mr. Ramal: I want to thank Dr. Sancton for his presentation. I understand his frustrations. I had several dialogues with him about this issue. Hopefully, you agree with me that the city of London cannot absorb, cannot handle 28 councillors versus 14, which is normal procedure in the city of London.

We understand and share his frustrations. We acknowledge the mistake made by the OMB in the past, not specifying how many councillors for each ward. But we cannot penalize the city of London and the taxpayers of London for the mistake or for something done by the OMB. That's why we are here today trying to fix whatever was not fixed in the past. I was talking to the minister yesterday about this issue, about bringing in a ministerial bill versus a private bill, and he assured me that there's no difference. A bill passed by this committee will have the same weight as a bill passed by the minister.

Therefore, I think there is no need for a ministerial bill, which, as the Chair and the committee know very well, takes a long time. The city of London and other cities across the province are going to an election very soon. It's very important for the people of London, the city councillors and the candidates to know how many councillors per ward as soon as possible in order for clarification and to give them a chance to prepare for the election. I share the concern, but hopefully Dr. Sancton will agree with us that we cannot penalize the taxpayers of London for something that happened beyond their capacity and that wasn't intended.

The Vice-Chair: Any response, Mr. Sancton?

Dr. Sancton: I appreciate the goodwill of Mr. Ramal. Indeed we did have a conversation about this a while ago, and I certainly believe he is doing everything he can to act in the best interests of the city of London, as he sees it. I think we're all doing that. We all actually have the same objective, which is not to have a 28-member council.

I'm certainly heartened by Mr. Ramal's statement that the minister says that the OMB made a mistake. I would be much more reassured if we could have some formal statement from the minister to that effect. As I said, most of the people in London who follow this—and it's a difficult issue to follow—believe that the OMB did their thing and that there might have been a little minor error here. But it's not properly understood, what I believe to be a very serious mistake. We have the OMB to sort these matters out, not to make them more complicated. **1020**

If the minister could undertake to do that and make sure that the people of London understand that the Minister of Municipal Affairs says that that's what the OMB ruling was, that the city of London's solicitor is not being overcautious in asking for this bill, and that he has supported this because he thinks it's the only way to get London out of this mess, then I think that would be a step in the right direction.

Mr. Gerry Martiniuk (Cambridge): I don't believe it's the jurisdiction of this committee to assess blame; we're not concerned with that. We have a bill before us that corrects a regrettable error that was made in the past. My caucus certainly supports the bill that's before us. I'm not in a position to assess blame.

The Vice-Chair: Any further comments or questions? Mr. Gilles Bisson (Timmins–James Bay): No, it's pretty straightforward.

The Vice-Chair: Thank you, Mr. Sancton.

Are members ready to vote? Shall section 1 carry?

Mr. Bisson: Recorded vote, please.

The Vice-Chair: Okay, a recorded vote.

Ayes

Bisson, Levac, Martiniuk, Ramal, Sergio.

The Vice-Chair: That is carried unanimously. Shall section 2 carry?

Ayes

Levac, Martiniuk, Ramal, Sergio.

The Vice-Chair: That is carried. Shall section 3 carry?

Ayes

Levac, Martiniuk, Ramal, Sergio.

The Vice-Chair: That is carried. Shall section 4 carry?

Ayes

Levac, Martiniuk, Ramal, Sergio.

The Vice-Chair: That is carried. Shall the preamble carry?

Ayes

Levac, Martiniuk, Ramal, Sergio.

The Vice-Chair: That is carried. Shall the title carry?

Ayes

Levac, Martiniuk, Ramal, Sergio.

The Vice-Chair: That is carried. Shall the bill carry?

Ayes

Levac, Martiniuk, Ramal, Sergio.

The Vice-Chair: Shall I report the bill to the House? All in favour? Opposed? That is carried.

SISTERS OF ST. JOSEPH OF HAMILTON ACT, 2006

Consideration of Bill Pr25, An Act respecting The Sisters of St. Joseph of Hamilton.

The Vice-Chair: The next order of business is Bill Pr25, An Act respecting The Sisters of St. Joseph of Hamilton. The sponsor is MPP Dave Levac and the applicants are Sister Anderson and Russell G. Gibson, legal counsel. Welcome. MPP Levac, would you like to make comments?

Mr. Dave Levac (Brant): For the sake of clarity, on my immediate right is Russell, and then Sister Anne.

I'm very pleased and honoured to sponsor the bill. The bill is necessary to consolidate various acts that have been given to the Sisters of St. Joseph. I believe the last revision was 1938. We definitely need to consolidate legally what is already being provided by the good sisters now. This bill is basically housekeeping that provides us with an opportunity to have the good works of the sisters legal, on the technical side. I suggest to the committee that by passing this legislation, it provides us with an opportunity probably equal to about 17 novenas and we're all going to be very blessed as a result.

Anyway, I'll take this moment to pass it over to Russell. Thank you very much, Mr. Chairman.

The Vice-Chair: Thank you. Would the applicant like to make comments?

Mr. Russell Gibson: Good morning, and thank you for this opportunity.

Before I speak about the rationale of the bill, I'd like to first give you a little background. I think it's important to know that the Sisters of St. Joseph is a Roman Catholic religious congregation. It was founded at Le Puy, France, around 1650 by Father Jean-Pierre Medaille and six women who wished to bring the love of God to people in need. In 1836, several sisters responded to a request of the bishop of St. Louis, Missouri, and came to North America. The first sisters in Canada came to Toronto from Philadelphia in 1851, and by April 1852, three sisters from this group went to Hamilton and began working in schools, caring for the sick, the aged and orphans.

The corporation known as the Sisters of St. Joseph of Hamilton was incorporated on December 30, 1879. Other statutes were enacted in 1880, 1901, 1932 and 1938.

In 1890, the Sisters of St. Joseph of Hamilton established St. Joseph's Hospital to respond to the needs of immigrants, orphans, the poor and the dispossessed of the Hamilton-Wentworth area. They are still involved today in its governance and administration.

Today, the sisters are engaged in the ministries of healing, education and pastoral services and are recognized as a registered charity. The sisters also assist in the operation of St. Joseph's Health System, which was established in 1991. Its goal is to meet the challenges of the changing environment for the delivery of health and social services and is today one of the largest corporations in Canada devoted to health care. Its member organizations are known for genuine compassion and caring. The St. Joseph's Health System takes pride in a system-wide commitment to caring for the whole person: body, mind and spirit.

The reason for the bill is due to the fact that the statutes I referred to earlier restrict the powers of the corporation to an extent that is not relevant to modern corporations incorporated without share capital, and it is advisable to have these restrictions that have been placed upon the corporation removed. These amendments would also avoid any uncertainty in the future about the powers of the corporation and clarify that any amendments to the corporation would no longer need to be done by private bill.

The preamble to the bill provides an historical summary, referring to the date of incorporation, as well as the date that the corporation changed its name.

The members of the corporation, as proposed, would be determined in accordance with its bylaws. The Mother Superior would be a member of the corporation.

The objects are to establish, equip, maintain and operate a religious institution in the Roman Catholic diocese of Hamilton and elsewhere for the relief of the poor, the sick and other persons in need and to construct, equip, maintain and operate facilities for the institution to carry on its educational, hospital and other charitable works. The bill also provides for the objects not to be changed by supplementary letters patent unless the board of directors obtains a prior written consent of the Mother Superior. The corporation shall have the rights of a natural person, which subsumes all the particular corporate powers that were listed in the predecessor acts.

With respect to the board of directors, the affairs of the corporation, it is proposed, would be conducted and managed by its board of directors. The board would be composed of the Mother Superior and other persons as specified by the bylaws. The Mother Superior, it is proposed, shall be the president of the corporation.

In summary, I urge the committee and the Legislature to support this private bill to modernize the charter of the Sisters of St. Joseph of Hamilton. It will allow the corporation to better adapt and respond to the changing realities of their charitable work. Thank you very much. **1030**

The Vice-Chair: Thank you. Are there any interested parties who would like to speak to this matter? Seeing none, I would now like to invite members of the committee to make comments or ask questions.

Mr. Sergio: Some concern was expressed about the drafting of the bill by some of the agencies and the Ministry of Government Services, mainly with the clarity of the bill as drafted. You have in front of you a number of amendments into which the member for Brant, Mr. Levac, apparently had considerable input in improving the content of the bill and clarifying some of the concerns that various agencies and the ministry had. Therefore, if the committee wishes to support the various amendments, we have no problem in recommending approval of the bill.

I would invite the member from Brant to propose to the committee the various amendments that, with the applicants, were produced.

The Vice-Chair: Before we proceed with the individual sections, I want to ask members if there are any further questions or comments.

Mr. Martiniuk: I need some assistance. I've looked at the proposed amendments, in particular the amendment that section 2 shall be stricken out. If you take out section 2, I really can't see any explicit instructions in the bill that deem this to be a corporation without share capital. By inference, in section 3, it says the corporation is composed of its members. That could be construed that there is an inference that it's non-share capital, but it doesn't say that specifically, and I don't know whether it should. There's nothing in this act without section 2 that says "This corporation is deemed to exist." It's all by inference. It certainly doesn't refer in any section to the Corporations Act any longer, I believe, because the only reference was in section 2, and I don't know whether there are other powers in the Corporations Act that may-I'm trying to be of assistance. I'm not looking for fault. My concern is that with the loss of section 2 of the proposed Bill Pr25, by the first amendment, we may have difficulty in the proper construction of this corporation and the powers you would want. Perhaps you could address that.

Mr. Gibson: I think it would be preferable to, somewhere in the bill, have it clarified that the corporation is an existing corporation under the Corporations Act. It was created under a predecessor statute and is currently subsumed under the Corporations Act. I guess that is the reason it doesn't refer to it being a corporation per se, because it already is a corporation under the statute. In terms of changing that, we're not asking to have that status changed. We're simply asking that the statutes that amended the corporation in 1880, 1901, 1932 and 1938, which had the effect of restricting to some extent the powers of the corporation, be repealed and that, going forward, the corporation, which is by this bill assumed to continue to have the status of a corporation under the Corporations Act, will simply continue as such.

Mr. Martiniuk: I understand that. Then why is section 2 being removed? That, in effect, says exactly that, that it's going to be continued, but they're taking this section out. I want to know the reason for that.

Mr. Gibson: I can tell you that the applicant proposed that section for clarity, and it was suggested by one of the ministries that it be removed, essentially because it was redundant.

The Vice-Chair: Our legal counsel would like to speak.

Ms. Laura Hopkins: The bill doesn't change the nature or status of the corporation. Section 2 is not necessary in law. The corporation is and remains a non-share capital corporation. It's now governed by the Corporations Act and will continue to be governed by the Corporations Act. The Ministry of Government Services considered that section 2 was redundant, and Ontario's legislative drafting conventions suggest that bills should not contain redundant provisions. That's the reason that the amendment is being recommended. If section 2 is removed from the bill, the corporation will continue to be a non-share capital corporation and will continue to be governed by the Corporations Act.

Mr. Martiniuk: You're saying that it's in effect a recital of existing facts and is unnecessary.

Ms. Hopkins: Yes.

The Vice-Chair: Members, I've been advised by the clerk that the right procedure to deal with this is not to accept the amendment but to vote against section 2 when it comes forward. Before I start with the voting, do we have any further comments or questions? Okay.

Shall section 1 carry? All in favour? Opposed, if any? That is carried.

Shall section 2 carry? Mr. Levac.

Mr. Levac: Mr. Chair, I move that section 2 of the bill be struck out, but if it is out of order, I ask that the members vote the section down.

The Vice-Chair: Any further comments? Shall section 2 carry? All in favour? Opposed? That is defeated. Section 2 does not carry.

Shall section 3 carry? All in favour? Opposed, if any? That is carried.

Section 4: Mr. Levac.

Mr. Levac: I move that paragraph 1 of the bill be amended by striking out "for the reception and instruction of orphans and".

The Vice-Chair: Any comments or questions on the amendment? Shall the amendment carry? All in favour? Opposed, if any? That is carried.

Mr. Martiniuk: Mr. Chair, I have a question. What happens to the numbering in the bill? Perhaps I could direct it to legal counsel.

Ms. Hopkins: When the bill is reprinted, the numbering will be corrected editorially.

Mr. Martiniuk: Thank you.

The Vice-Chair: Shall section 4, as amended, carry? **Mr. Levac:** Just a minute.

The Vice-Chair: Do you have another amendment?

Mr. Levac: Yes. I move that paragraphs 2 and 4 of the bill be struck out.

The Vice-Chair: Any questions or comments? Shall the amendment carry? All in favour? Opposed, if any? That is carried.

Mr. Levac: Another amendment: I move that section 4 of the bill be amended by adding the following subsection:

"Prerequisite to changes

"(2) The objects of the corporation cannot be changed by supplementary letters patent unless the board of directors obtains the prior written consent of the Mother Superior to the changes."

The Vice-Chair: Any questions or comments? Shall the amendment carry? All in favour? Opposed, if any? That is carried.

Shall section 4, as amended, carry? All in favour? Opposed, if any? That is carried.

Shall section 5 carry? All in favour? Opposed, if any? That is carried.

Shall section 6 carry? All in favour? Opposed, if any? That is carried.

Shall section 7 carry? All in favour? Opposed, if any? That is carried.

Shall section 8 carry? All in favour? Opposed, if any? That is carried.

Shall section 9 carry? All in favour? Opposed, if any? That is carried.

Shall the preamble carry? All in favour? Opposed, if any? That is carried.

Shall the title carry? All in favour? Opposed, if any? That is carried.

Shall the bill, as amended, carry? All in favour? Opposed, if any? That is carried.

Interjection.

The Vice-Chair: My apologies. There is also a section 10. Shall section 10 carry? All in favour? Opposed, if any? That is carried.

Shall the preamble carry? All in favour? Opposed, if any? That is carried.

Shall the bill, as amended, carry? All in favour? Opposed, if any? That is carried.

Shall I report the bill, as amended, to the House? All in favour? Opposed, if any? That is carried.

Thank you very much, members of the public and members of committee.

Mr. Levac: We've just done a novena.

The Vice-Chair: Congratulations. The meeting is adjourned.

The committee adjourned at 1041.

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