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Monday 23 August 2010

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Lundi 23 août 2010

**Standing Committee on
Social Policy**

Not-for-Profit
Corporations Act, 2010

**Comité permanent de
la politique sociale**

Loi de 2010 sur les organisations
sans but lucratif

Chair: Shafiq Qadri
Clerk: Katch Koch

Président : Shafiq Qadri
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Monday 23 August 2010

Lundi 23 août 2010

The committee met at 1000 in room 151.

SUBCOMMITTEE REPORT

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen, colleagues, I welcome you to the Standing Committee on Social Policy. As you know, we're here to have hearings on Bill 65, An Act to revise the law in respect of not-for-profit corporations. To begin our proceedings I would invite a member of the government to please read into the record the last subcommittee report, for which I'll call Mr. Johnson.

Mr. Rick Johnson: The Standing Committee on Social Policy summary of decisions made at the subcommittee on committee business:

Your subcommittee on committee business met on Monday, July 5, 2010, and Monday, August 9, 2010, to consider the method of proceeding on Bill 65, An Act to revise the law in respect of not-for-profit corporations, and recommends the following:

(1) That, pursuant to the order of the House dated June 1, 2010, the committee intends to hold public hearings on August 23, 24, 25 and 26, 2010, in Toronto, Kitchener, Sudbury and Kingston.

(2) That the use of videoconference and teleconference be considered should the number of requests received not warrant the committee to travel to any given location.

(3) That the committee clerk, with the authority of the Chair, post information regarding the committee's business for one day in the Toronto Star, the Globe and Mail, Le Droit, L'Express and in the daily or weekly publications in each of the locations, including ethnic newspapers where possible.

(4) That the committee clerk post a notice regarding the committee's business on the Ontario parliamentary channel and the committee's website.

(5) That interested people who wish to be considered to make an oral presentation on Bill 65 should contact the committee clerk by 12 noon, Monday, August 9, 2010.

(6) That the committee clerk provide the subcommittee members with an electronic list of all requests to appear on Monday, August 9, 2010.

(7) That if possible, the committee clerk, in consultation with the Chair, be authorized to accommodate any requests received after the deadline.

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

(9) That the deadline for written submissions be 5 p.m., Thursday, August 26, 2010.

(10) That the administrative deadline for filing amendments be 12 noon, Monday, August 30, 2010.

(11) That, pursuant to the order of the House dated June 1, 2010, clause-by-clause consideration of the bill is scheduled for August 31 and September 1, 2010.

(12) That the research officer provide the committee with a memo on simplified procedures and other ideas regarding not-for-profit incorporation in other jurisdictions.

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

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Are there any questions or queries regarding the subcommittee report? If not, may I move its adoption as read? Thank you; adopted as read.

NOT-FOR-PROFIT
CORPORATIONS ACT, 2010LOI DE 2010 SUR LES ORGANISATIONS
SANS BUT LUCRATIF

Consideration of Bill 65, An Act to revise the law in respect of not-for-profit corporations / Projet de loi 65, Loi modifiant des lois en ce qui concerne les organisations sans but lucratif.

SOCIAL PLANNING COUNCIL
OF SUDBURY

The Chair (Mr. Shafiq Qaadri): We'll now proceed to our presentations, beginning, I believe, with a teleconference from Sudbury: Ms. Gasparini, the executive director of the Social Planning Council of Sudbury. Are you online, Ms. Gasparini?

Ms. Janet Gasparini: I am.

The Chair (Mr. Shafiq Qaadri): Thank you. Just to remind you and others, you'll have 10 minutes in which to make your presentation, which will be enforced with military precision. If there's any time remaining within

that, it will be distributed evenly amongst the parties for questions. I'd invite you to please begin now.

Ms. Janet Gasparini: Thank you very much. First of all, thank you for accommodating me by telephone. We got your notices here in Sudbury. The Social Planning Council is often the convener of other organizations, so as I do often with these kinds of consultations, I contact a number of people in the sector. I want you to know that just because we couldn't get enough people organized to present doesn't mean that this issue doesn't have great interest and concern here in Sudbury. So I appreciate that I am able to talk to you by phone and sorry that you couldn't be here in person.

A number of agencies have looked at, particularly, the ONN brief and have supported me in saying to you that we want you to know that in the field this is a very important issue. That we couldn't get enough non-profit agencies to come to a hearing is not indicative of our lack of interest but is more indicative of the state of the non-profit sector, particularly over the summer months, as people try to get in some vacation, and the pressures that the non-profit sector is under, given the supposed recovery from the recession that we're experiencing. People are working full-out, and so in many organizations, particularly small ones, we just don't have the staff or the human resource power to participate in this kind of a proceeding. So I have been directed by many of my colleagues in Sudbury to speak on their behalf.

In Sudbury we have reviewed the ONN brief, which I think you have a copy of and which I know you're going to hear a great deal about today. We are very grateful to the Ontario Nonprofit Network. It has been a long time coming that we have an organization that engages and in some ways helps to speak for non-profit organizations, and so you will hear from a number of people engaged with that brief. We are very supportive of that brief here at the Social Planning Council and in the non-profit agencies in Sudbury.

In particular, I want to speak about the definition that you're talking about. I want to be clear: It really is important that if an agency is going to be acknowledged as something for public benefit, then that really has to be about public benefit. It's not related to whether or not you get government money, but what kind of work you're doing and who you're doing it for. The example I would use is that here in Sudbury we have a golf course, a golf club, that is a private golf club. They're registered as a non-profit and they serve their members well. However, they are not a public benefit organization. You'd have to have lots of money to be able to join that particular club. Their mandate and their mission is not to serve the public; it's to serve their members. We need a real distinction between non-profit organizations that are serving a membership and non-profit organizations that are truly serving the public, providing social services and/or other goods to people in need. That might, in fact, include Little League baseball. I'm not saying it's not about recreation or it's not about sports, but I think the definition has to be much clearer about the service that

you're actually providing. The reason I think that's important is that as we move ourselves forward in innovative fundraising capacities, which we have to do more and more, it's important for people to recognize the difference between an agency that serves public good and a private, for-their-own-membership non-profit, so we want to be able to make that distinction.

In terms of the value of this legislation as we move forward, more and more non-profit organizations are having to become very innovative around their own funding, and so we're exploring more and more the field of social enterprise, and there are many interesting and exciting opportunities coming our way. For example, here in Sudbury we're looking at geodesic domes that would allow us to expand the growing season from February to the end of November, and how we do that as a social enterprise so that all of the profits that would be made from that kind of an operation would go back into the operation to keep it going and perhaps spawn other kinds of organizations. There's a wealth of information out in the wide world about social enterprise. We are getting more and more engaged as non-profits in that field and look forward to becoming more and more self-sufficient.

I think this legislation is important in all of the ways it can support that work so that we are able to raise money through commercial enterprises, but knowing that those funds continually go back into feeding those not-for-profit organizations, which speaks to the point around assets and maintaining assets. So those assets have to be maintained in a non-profit forever, otherwise, you could set up this kind of a business, have it work for three years, make some money off of it, and then turn those assets over in some other way.

What I would hope from the legislation is that it offers support to the non-profit sector, to those of us in particular who do work that feeds the public, that is often deemed charitable work—if we have charitable status, it would follow along those lines—and that it would strengthen us.

I will stop there and take any questions. Again, I'm very pleased to have had a chance to—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Gasparini. We have about a minute or so per side, beginning with the PC caucus. Mr. Arnott.

Mr. Ted Arnott: Ms. Gasparini, thank you very much for offering the perspective from Sudbury on Bill 65. I would just ask, are you satisfied with the consultation process that the government has undertaken with respect to this bill?

Ms. Janet Gasparini: Yes. I certainly know you were willing to come to the north and to three other locations. Probably through no fault of your own—maybe a little bit later in the year, in September, we might have been able to get a few more people out. But I am satisfied and feel that, locally here, I've been able to garner information from enough of my colleagues that I feel quite comfortable speaking on their behalf.

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Mr. Ted Arnott: Would you say that you support the bill as it's currently constituted?

Ms. Janet Gasparini: I support the bill with the recommendations that the ONN is suggesting. I know that, overall, they have said that it's good legislation, and we think it is good legislation, but the changes that are being suggested are very, very important.

Mr. Ted Arnott: Thank you very much for your presentation.

Ms. Janet Gasparini: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott. Mr. Kormos.

Mr. Peter Kormos: Thank you, ma'am. We've got the ONN submission in front of us—I was reading through it while you were talking, connecting your comments with some of its submissions, particularly the "valuable" one. I'm interested in hearing, when we get to clause-by-clause, what the government says in response to the points you made.

Ms. Janet Gasparini: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. To the Liberal caucus: Mr. Johnson.

Mr. Rick Johnson: I just want to echo what Mr. Kormos said. I was looking through the presentation as well from the Ontario Nonprofit Network, and I look forward to getting through the whole thing that's before us today.

I thank you for taking the time to make your comments, and I appreciate what you've had to say.

Ms. Janet Gasparini: Thank you. I know you've got a room full of people with lots of expertise and knowledge, so know that they are well supported in the field.

Mr. Rick Johnson: Thank you.

Mr. Peter Kormos: You're surely not referring to the elected members.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson, and thanks to you, Ms. Gasparini, for your deputation on behalf of the Social Planning Council of Sudbury.

ONTARIO NONPROFIT NETWORK

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward: Ms. Eakin and Ms. Manwaring of the Ontario Nonprofit Network. Welcome, and please introduce yourselves.

Ms. Lynn Eakin: I'll raise it up so you can see me.

The Chair (Mr. Shafiq Qaadri): Sure. And I invite you to please begin now.

Ms. Lynn Eakin: Lynn Eakin—Susan Manwaring is not with me today. I'm speaking on behalf of the Ontario Nonprofit Network, which Janet Gasparini just referred to.

I want to start by really stressing to you the critical importance of the non-profit sector. Until very recently, we've been disparate sectors. We've had the arts sector, the environment sector, the social services sector, the social housing sector and the social justice sector. Under

ONN, what we've managed to do is bring all of those mission-driven sectors together to take a look at the infrastructure under which we all work.

The catalyst for that was indeed this bill. When the consultation papers first came out, we discovered that nobody was responding to them. Nobody was responding because it was nobody's business. Each sector was very focused on their particular mission, and that's the strength of our sector. The strength of our sector is that we are mission-driven. We're absolutely committed to the public good.

This bill is absolutely critical, and it's absolutely critical that we get it right. It's been over 50 years since it was revised. There's been a sea change in the working conditions out in the sector, so it's extremely important that we get the kinds of changes that we want to be able to move forward.

Social enterprise is a growing component of our sector. The ability to earn funds and to try and make our own way, as government funding decreases and as charitable donations stagnate, is critical, especially for the small and medium-sized organizations—that they be able to forge their enterprises in their local communities.

Just to give you a sense of the scope, we're talking about 46,000 different organizations coming—not all of them will be under this legislation; I think there's about 7,000 that are federally incorporated. Of those 46,000, we estimate that 40,000 exist to serve the public good. The public benefit corporation component of this bill is extremely important, because these are organizations that touch absolutely everybody in their communities. We aren't at the point yet where when you ask somebody, "When was the last time you benefited from a public benefit corporation?" they would say, "Well, I went to the theatre last night" or "My mother-in-law is getting home care" or whatever. It touches absolutely everybody.

That's who we are and that's what we've been doing. So what we do is we pull together people from across all those sectors and have them discuss what we need and where our common issues are. What we've discovered as we've consulted—our brief has gone not only to you, but it's gone out broadly across the sector, and we've held teleconferences to discuss with people what's happening. Janet's right: If it wasn't in the depth of summer, you would be travelling around the countryside.

We absolutely have to have a strengthened definition of "public benefit corporation." It is not all right to define us by where our money comes from, the fact that we get \$10,000—you don't do that with the Ford corporation; you don't do that with any other group. It's not all right to define us by where our money comes from. What defines us is what we do and what we do in communities every single day.

We really want an opt-in. There are organizations in this province that get no public money, that have no charitable money, that serve people who are vulnerable and work tirelessly in their communities, and they want to be public benefit corporations so that the people in their

community can know that they are there for them, for the public good.

Accompanying that, we have to have a permanent asset lock. The public trust is critical to us. If we don't have a permanent asset lock, then if people give money to us and we can last out three years and then flip it, that's not okay; that's not what we intend. The sector itself wants this permanent asset lock so that assets in—the charities already have it, and 60% of our membership are charities as well, but the other 40% are not charities and they want that kind of assurance for the public. The public, when they participate, when they contribute to a public benefit corporation, want to know that that money's going to be there for their grandkids and their grandkids' grandkids, that it's going to be in that community. We absolutely have to have a public asset lock.

The other thing that we really, really need is community bonds. The co-operative sector can issue a community bond; in Nova Scotia, they can issue community bonds. What that allows is—we want to be able to issue, because we have a tremendously supportive membership. There are people committed to our organizations throughout Ontario and they would love to be able to have a bond in their local community centre or their local social enterprise. We really want that ability in this act. We can use the same wording that's in the co-operative act. It works in the co-operative sector; it will work for us. If you staff up the existing regulatory review for the co-operative sector, they can do us as well. We've got the infrastructure there. We just want to be included. That, we think, is absolutely critical, because raising capital in this sector is extremely difficult and this is a way that we can do it reasonably. Moreover, we'll get the commitment of communities in that endeavour.

The other big piece—I won't go into it because a lot of speakers coming today will cover it, but the thing you need to understand about this sector is that it varies, from the little start-up of two people who have got a great idea to big, multi-million dollar organizations such as hospitals, the art gallery and those organizations, so one size does not fit all. What we need, and what we're going to be asking for today, is flexibility. Whenever you say we must have proxies, or no more than one third of directors can be officers, think about your local women's shelter. Typically, all officers in little organizations are directors. That means three: You've got a president, secretary, treasurer. That means you have to have a minimum board of nine. Well, in some of the littler communities and littler organizations, they'll work with a board of six. To have to have nine people on your board is extremely onerous. That's what we say: It isn't appropriate to—where possible, allow the individual organizations to set their own terms in their bylaws so that proxies can be flexible and whether officers can be on the board is flexible. We really need that kind of flexibility.

I think I'll stop there.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Eakin. Really, less than a minute or so per side, beginning with Mr. Kormos.

Mr. Peter Kormos: Thank you so much for giving a presentation that is honed down, precise and specific. Sometimes that doesn't happen here.

I find particularly interesting, in the written material that you provided the committee, the asset lock issue. Perhaps Mr. Fenson can help us in terms of identifying what happens in other jurisdictions with respect to that. Obviously, we'll expect, come clause-by-clause, the government to explain why it picked three years, where that model came from, and what it says in response to the argument that's being made with respect to it. Thank you, ma'am.

Ms. Lynn Eakin: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. Mr. Johnson?

1020

Mr. Rick Johnson: I just want to thank you for your presentation. You've raised a number of very good points and I look forward to investigating them further. The limit on the number of directors, a third of the officers, is an interesting point you raise there. Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Arnott.

Mr. Ted Arnott: Thank you very much for your presentation. We appreciate it very much.

I see that you've received the endorsement of the East Wellington Community Services organization; they sent in a written brief. They're from my riding. They do important work too.

You mentioned that in the province of Nova Scotia community bonds are issued in the non-profit sector. How long has that been the case? And is it a model upon which the province of Ontario could move forward?

Ms. Lynn Eakin: Oh, I think it would be excellent. I'm not sure how long it's been. I would say at least five years I've sort of known of it. It also has a tax advantage, so we love that. We just want that—that would be great.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott, and thanks to you, Ms. Eakin, for your deputation on behalf of the Ontario Nonprofit Network.

CANADIAN ALTERNATIVE INVESTMENT CO-OPERATIVE

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward, Ms. Coates of the Canadian Alternative Investment Co-operative. Welcome.

Ms. Beth Coates: Thank you, Chair and members.

The Chair (Mr. Shafiq Qaadri): Please begin.

Ms. Beth Coates: My name is Beth Coates, and I would like to speak specifically to the community bonds element, which has been presented in the ONN brief.

As I said, my name is Beth Coates, and I am the financial manager for an organization called the Canadian Alternative Investment Co-operative. This is a federally incorporated co-operative of registered charities, primarily religious communities, who pooled their resources together over 26 years ago. We have assets of over \$7 million to do exactly this kind of investing, because then

it was recognized that this sector didn't have the financial resources that it needs. Basically, by pooling their resources together they could have standard operating procedures, they could evaluate risk and they could manage their investments.

We have had a really great career. In 26 years I'd say about 70% of our investing is done here in Ontario. We've put over \$16 million out and we've had less than a 2% default rate. So we have been very successful in investing in this sector.

Primarily what we do is provide first and second mortgages to food banks, shelters and various types of housing—co-operative housing, affordable housing, transitional housing. In addition to that, we provide other loans for leasehold improvements, cash flow requirements and working capital loans, again to non-profits. We also, although not so much in Ontario, have been a big supporter of community loan funds.

What have we learned through these 26 years? Firstly, this sector needs money. The first question on our application is, "Have you been to a conventional lender and have you been turned down?" So they cannot come to us unless they have not been able to get financing through a conventional lender. A lot of our borrowers tell us that the banks have said, "Yes, we will do it, but your board of directors all have to sign personal guarantees." Now, here are people volunteering to have a non-profit exist in their community, and the last thing they should be asked to do is put their house on the line so that it can get financing. Or banks have a tendency to say, "Look, we are not interested in taking a mortgage on a non-profit because the blowback that would occur if we ever had to foreclose would not be pretty. You couldn't buy that kind of bad publicity." So they are very hesitant to get involved.

Secondly, what we have found is that it really strengthens the non-profits that have borrowed from us. I guess this is maybe my strongest message. By being able to have access to financing—as I say, in most of our cases we're talking about mortgage financing. It's just like a family that buys a house: Now they have equity in the house, they know what their occupancy costs are going to be and eventually they pay off the mortgage. When the groups pay off their mortgages—actually, CAIC primarily does 15-year term mortgages, so that's not forever—those resources that they would have used to pay rent and pay the mortgage then go right back into their mission. The other point is that when they start to build up equity, they can leverage that equity to get other components of their mission done. They can use the equity that they've built to perhaps get some more financing to do other things. This, then, allows them long-term planning and long-term stability that living on day-by-day, grant-by-grant, year-by-year sources of income doesn't allow them.

Thirdly—I think I alluded to it with the 2% loss rate—we have found this sector to be remarkably low-risk. By and large, that's because non-profits have multiple sources of income. Many of them do social services for a

fee. They have fundraising, they have donations and they have other sources of government grants. The other thing we have found is that the leadership in this sector—Lynn alluded to it as well—is remarkably committed and stable. You wouldn't be in the non-profit sector unless you were. What we find is, in looking at all of our investments over a long period of time, their financial results are remarkably consistent and predictable.

So what do we believe going forward? We believe that this sector could benefit by even more capital. There are probably three sources of capital that it now has, all of which have limitations. One is going out and getting donations, but many of them just need those donations for their programming, and it's difficult sometimes to get donors to give money for bricks and mortar, if you will. The second is conventional financing, which, for the reasons I discussed earlier, can be very difficult. Thirdly, although many of them get government grants, very little of that grant money is usually available for capital. It is usually program-directed and program-specific.

What we think would be the best thing to happen now is to create some kind of regulated market. This would allow the non-profits to understand what the investor's needs are and the tools that are the best way to talk to investors, and it would allow investors a standard format to understand and assess risk if they're going to invest in a non-profit.

We really feel that the community bond proposals in the ONN brief are exactly the answer to this. It would provide a new source of funding for the sector. It would allow large investors, such as pension funds, to get in, but more importantly, it would allow individuals—because community bonds could be structured so that it could be very small amounts of money—to invest in the non-profits that are in their communities.

What this would do is, by having a standard format, it would reduce the costs of going and getting capital. The prospectus would be set: Everyone would understand what the rules were and some expertise would be developed in completing and filing these prospectuses. The net result, in my view, is that the resources, which are scarce—these financial resources are scarce—would then be allocated to the most worthy, if you will, of the non-profits. We will make sure, to the extent that community members are willing to invest, that they're investing in the right non-profits, where we are going to get the best return for our dollar.

This sector is non-profit, but it's not non-results. I ask the committee to consider this proposal, because this is really the best way of strengthening it, building it and ensuring that there's a social dividend for all Ontarians. Thank you.

The Chair (Mr. Shafiq Qadri): Thank you very much, Ms. Coates, for your presentation. We'll begin with the Liberal side—less than a minute. Mr. Johnson.

Mr. Rick Johnson: I just want to thank you for your presentation. You've raised some very interesting ideas here. Thank you for the work that you do of providing funding for the non-profit sector. I'm sure it's extremely

valuable. Thank you for the things that you proposed here.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Mr. Arnott.

Mr. Ted Arnott: Would you recommend that the income that's earned on these community bonds, if they were set up, be free from tax, similar to the situation in Nova Scotia, as we heard from an earlier presentation?

Ms. Beth Coates: That certainly would make them more attractive. Having them as RRSP-eligible might be another solution. But that's also money out of the government's coffers—right?—to the extent that you give a tax break. That's really a separate consideration, in my view.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott. Mr. Kormos.

Mr. Peter Kormos: Thank you, ma'am. I appreciate your participation.

Ms. Beth Coates: Our sector: What can we do to make this happen? That's sort of what I leave you with.

1030

Mr. Peter Kormos: It won't happen unless the Premier's office wants it to happen, and that's where you go.

Ms. Beth Coates: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos, and thanks to you, Ms. Coates, for your deputation on behalf of the Canadian Alternative Investment Co-operative.

PIVOTAL SERVICES OF LONDON

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Charles of Pivotal Services of London.

Welcome, Ms. Charles. I invite you to please begin now.

Ms. Katherine Charles: Thank you. I think the best reason I can say I'm here is because I'm actually quite an expert in non-profits running commercial activities. I currently run one that's self-sufficient, and in order for you to understand where I'm coming from in my support of the changes we're looking for in Bill 65, I'm just going to tell you a little bit about our history and how we became self-sufficient.

First off, we were incorporated as a non-profit back in 1994. We were completely dependent on government funding at that time, and our mandate was to assist people in obtaining sustainable employment. When we first started, I think the first commercial revenue we got was from car washes, and then I understand there was a store opened up in a hospital. Today, as I know the company, we do contract packaging and assembly work for manufacturers in London and the surrounding area, and we've been doing so under my leadership for the past six years.

Of course, in saying that we're self-sufficient, that means zero government-funding dollars and zero philanthropic dollars. The last non-commercial funds I saw for

our non-profit operations—still functioning under the same mandate, so still serving our membership community—were in 2003, when we won the Drucker award for innovation. That's the last time. That was under previous management. Since it's been under me—to tell you the truth, rather than chasing after \$10,000 worth of government funding, it's a lot easier for me to find \$10,000 worth of commercial sales.

The limitations of this bill, as it exists right now, would limit me to the fact that once a year I would have to stop everything to find \$10,000 worth of funding in order to comply with the act. I would argue that intent of the non-profit corporation, the public benefit corporation, is the necessary key and that we do not have to demand that they have a source of revenue that could otherwise go to other needy organizations. That would be my first point.

For the second point, I'm going to get further into the history. I ended up running the operations on a daily basis because we were close to bankruptcy. Previous management had the board bail and we were faced with a table of five creditors. As an employee, I came forward with a proposal to keep operations going, to keep assisting the 30 clients who were already in our care. Amazingly enough, we convinced the creditors to give us an opportunity to try. So we functioned for a full year before we found volunteers courageous enough to step forward onto a board of directors—a volunteer position—that was over \$500,000 in debt. Try asking your friends to do that; it's very difficult.

At the time, there were few resources for me to find out the extent of my liabilities. I presumed the worst: I presumed that if I didn't succeed in repaying the creditors, I potentially would lose all my assets, and probably my marriage in the process. It was a hard weight to carry, but we saw it through, and actually, I faced it one more time. I lost my board of directors again in 2009, and luckily have quickly put together a fabulous new board of directors that is fully supportive of this.

Now, why bring up the boards going defunct? Because there's very little guidance for the person in charge of operations in how to conduct themselves in moving forward. I did notice that in your section 29 you have that the main operator can be a director in the case that the board resigns or goes defunct. However, according to the act, you need three members. That's only one. So we need some more information there, some more instruction and guidance in regard to what we should be doing in relation to that.

You should also know that over the six years that I've been running it, I've had three commercial enterprises approach us about purchasing us. Non-profit would go out the window. Those social dollars that the government invested in us, once upon a time, would go into someone's pockets—all that hard work, all the tax dollars.

I honestly think it's due diligence on our part to ensure that public benefit corporations have to stay public benefit corporations, that if they're going to dissolve, those funds go into another public benefit corporation. If the

government and the taxpayers are going to fund start-up social enterprises, in regards to this, they're earmarking that money to go to a social purpose, and if we allow public benefit corporations to opt out at any point, those funds have been redirected and we have been misguided and we have not done our due diligence to ensure that we have dedicated those funds on a permanent basis. That would be another main issue.

I also want to voice my support for community bonds. What I find is that the only way I have an opportunity to obtain financing is based off of our receivables. I don't have any products; I don't have an asset; I don't own a building. I've got racking; I've got a pallet wrapper; I've got a forklift truck. Other than that, I have 30 clients who are existing in poverty and doing their best to get out. We have long-term cases, short-term cases; you name the gamut. We've got over 55 aboriginals, at-risk youth, people fresh from the penitentiary system. I've got abusers working beside abusees. And we're achieving a social purpose. They are coming together in supporting this.

So I'm very passionate on the four points I'm talking about. I'm just going to reiterate them and then, if you don't mind, we can open up some questions about maybe what you have heard or how you interpret this bill in regards to how the main operators should conduct themselves in relation to a board dissolving.

First off, the public benefit corporation: It is important that we remove the source-of-revenue stipulation and concentrate on the intent.

Community bond support is definitely a smart idea to look into; it's a great way for us to be able to raise funds that are much needed.

Being a public benefit and not able to switch: Once you decide to become a public benefit corporation, there's no going back. Trust me, there were nice carrots dangled in front of me by these commercial enterprises. Fortunately, I bumped into someone who had the integrity that—I promised to see the creditors repaid, and I have; we're in the black as of this year. So there is progress out there in relation to that.

So I guess what I would like to know from the panel here is, what do you understand the main operator should do in relation to a board becoming defunct? What is the proper procedure to follow? I think we might be able to relate this to, are employees allowed to sit on the board? That is quite a contentious issue. I have pros and cons against it. I do think, in all, that it should be allowed to be decided in the bylaws. Maybe put a maximum on it of one-third or two-thirds employee representation, and say for a time period. You know, I could easily have solved my board problems if I could have gone to my membership, which are our employees, and said, "I need three members," and I would have had those memberships before the previous board resigned.

So I've been caught in loopholes, and I've just been lucky that the government, in communicating with them, has been very supportive. But at the same time, I don't think we're all clear on what should be done when

directors resign without the due diligence of ensuring that the operation is either closing correctly or continuing operations correctly.

Thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Charles. We have 20 seconds per side. Mr. Arnott.

Mr. Ted Arnott: Thank you, Ms. Charles. You've raised some very important issues, and I would encourage the government members to take them back.

The Chair (Mr. Shafiq Qadri): Thank you. Mr. Kormos.

Mr. Peter Kormos: Mr. Johnson, you could have my 20 seconds.

The Chair (Mr. Shafiq Qadri): Mr. Johnson.

Mr. Rick Johnson: I appreciate the issues that you've raised; I've written them down here. The whole purpose of this is to provide some clarity on the new bill, and hopefully we'll be able to do that for you. Thank you.

Ms. Katherine Charles: Great.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Johnson, and thanks, Ms. Charles, for your deputation on behalf of Pivotal Services of London.

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SIKH SOCIAL AND EDUCATIONAL SOCIETY OF ONTARIO

The Chair (Mr. Shafiq Qadri): I'd now invite our next presenter to please come forward: Mr. Gurdev Singh Sangha, representative of the Sikh Social and Educational Society of Ontario.

Remarks in Punjabi.

The Chair (Mr. Shafiq Qadri): Mr. Sangha, I invite you to please begin now. You have 10 minutes.

Mr. Gurdev Singh Sangha: Good morning, ladies and gentlemen. First, I would like to thank you for allowing me to share my views regarding Bill 65 with you. My name is Gurdev Singh Sangha and I reside in Kitchener, Ontario. I hold a Ph.D. from the Punjabi University, Patiala, in Punjab, India. My thesis examined the concept and institution of gurdwara, rendering my scholarship rather relevant to the scope of this bill, and especially to the concerns that I will put forward today. My dissertation is currently written in Punjabi, but its English translation will be available by the year-end.

I am also the president of the Sikh Social and Educational Society of Ontario. The objective of our society is to make Sikhs and other communities more aware of Sikh heritage, culture, religion and history. The society is a pioneer in holding seminars and conferences and in leading community projects regarding these topics.

Gurdwara is an institution for learning the Sikh way of life as described in the teaching of Guru Granth Sahib, which is the Sikh scripture. Gurdwaras have historically played a significant role in nation-building among Sikhs, both in India and among diaspora communities. In fact, they remain the focal point of most Sikhs' religious, political and social lives. But the irony of modern gurdwaras is that many are becoming battlegrounds for

greedy, power-hungry individuals in the Sikh community whose sole aim is to keep government under their control by fair or foul means. They have no interest in the religious mandate of the gurdwara, but rather only in the power over others that its control can afford them. I personally have seen and experienced this type of power seizure and recall an abuse happening during my involvement with the gurdwara management and Sikh affairs in general over the past few decades.

The situation in many gurdwaras in Ontario is becoming ugly, out of control and violent. The increasing lack of accountable leadership is causing gurdwaras to lose focus of their original aims. Since Kuldip Samra's case in 1982, the Osgoode Hall shooting which resulted in the murders of two men, Oscar Fonseca and Bhupinder Singh Pannu, we have seen no change for the better. Recent events in the Sikh Lehar gurdwara and the Guru Nanak Sikh Center, both in Brampton, also provide good examples of the condemnable violence becoming, unfortunately, prevalent in the gurdwaras.

Many gurdwaras have their own bylaws for guidance, but once factions gain control over gurdwara management, they often wilfully disregard bylaws and any other regulations in place, because they are not held accountable to any other organizational body. Their own interpretation, or misinterpretation, of bylaws and regulations is held by them to be the only correct one, despite the protest or opinions of other members. Consequently, many irresolvable gurdwara disputes end up in Ontario courts of justice. Hence, millions of hard-earned dollars donated to gurdwaras by ordinary Sikhs for community development end up paying for legal fees instead, and valuable court time is wasted on disputes that could otherwise be avoided.

I am suggesting that the following three measures, if included in Bill 65, would increase accountability within the gurdwara management system, and thus help prevent the further creation of unnecessary litigation, corrupt gurdwara leadership, and undue violence:

(1) Restrict gurdwara membership fees to an upper threshold of \$15 or less to stop the exorbitant charges, upwards of \$2,000, that some gurdwaras are imposing.

(2) Hold directors accountable for not following bylaws or failing to discharge their fiduciary duties.

(3) Add a subsection (6) to section 51 of Bill 65 in respect of gurdwara governance only, dictating that conflicts arising with the gurdwara must first be taken to an arbitration board whose decisions shall be binding, since gurdwaras are operated under the provisions of the Corporations Act of Ontario.

We are asking you to give serious consideration to our plight.

Once again, I would like to sincerely thank you for your time today.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Kormos, one minute.

Mr. Peter Kormos: I'm fine, Chair. Thank you very much, sir.

The Chair (Mr. Shafiq Qaadri): To Mr. Johnson.

Mr. Rick Johnson: Thank you, as well, for your presentation.

The Chair (Mr. Shafiq Qaadri): Mr. Arnott.

Mr. Ted Arnott: I just want to thank you very much for your presentation. It was very insightful and very helpful to this committee.

The Chair (Mr. Shafiq Qaadri): Thank you for your deputation on behalf of the Sikh Social and Educational Society of Ontario.

SOCIAL PLANNING COUNCIL OF CAMBRIDGE AND NORTH DUMFRIES

CAMBRIDGE COMMUNITY INNOVATION CENTRE

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenters to please come forward: Ms. VanderGriendt and Ms. Ranney, on behalf of the Social Planning Council of Cambridge and North Dumfries. I understand you're speaking by teleconference.

Ms. Ranney and Ms. VanderGriendt, you're there?

Ms. Laura VanderGriendt: Yes, we are.

The Chair (Mr. Shafiq Qaadri): I'm Dr. Qaadri, in Toronto, Chair of social policy, as you know. We will give you 10 minutes for your presentation. The committee is anxiously awaiting your remarks. Please begin.

Ms. Laura VanderGriendt: I'm Laura VanderGriendt, social planner, representing the Social Planning Council of Cambridge and North Dumfries.

The Social Planning Council of Cambridge and North Dumfries endorses all elements of the ONN submission to the Standing Committee on Social Policy pertaining to Bill 65, dated August 12, 2010, including the recommended amendments.

We support the new designation of a public benefit corporation, with the proposed definition changes outlined in the ONN submission, as this new designation broadens the scope and clarifies the role and relevance of the sector.

We specifically wish to highlight how some of the amendments proposed in the ONN document are of particular importance to our organization.

Firstly, the issue of directors' liability: As an organization that relies on volunteer board members, we support the recommendation to include a liability shield for directors and officers of non-profit corporations in Bill 65. This would greatly improve the ability of non-profits to attract board members to the organization without fear of undue liability.

Secondly, I'd like to highlight the recommendation pertaining to the standard of financial review. For public benefit corporations with revenue under \$500,000, lowering the revenue level at which PBCs can dispense with an audit is an undue economic hardship for smaller organizations with relatively low levels of revenue. We support the ONN's recommendation that the level should remain at \$500,000, in line with the Canada Revenue

Agency recommendation as noted in the ONN submission.

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At this time, my colleague Pat Ranney will speak to a project that the social planning council has been involved with and the implications for this initiative.

Ms. Pat Ranney: I'm working on a specific project called the Cambridge Community Innovation Centre, and it is presently under development, in conjunction with the Cambridge social planning council and a committee within Cambridge which includes the mayor of Cambridge. Basically, the concept is a multi-tenant shared-services centre which is designed to facilitate and create a culture of innovation and new ideas among social entrepreneurs, directed at improving both our local and global community. The centre's goal and business model is to become a self-sustaining operation where any of the incremental profits generated go back into supporting the centre, the clients it serves and also the broader community within Cambridge. As you can appreciate, this type of centre requires significant amounts of upfront capital, and it requires tools to assist it in operating like a socially responsible business to be successful.

These areas in particular are why we strongly support many of the recommendations being put forth in Bill 65 and specifically those which the ONN has put forth in their presentation and submissions. I'd just like to take a minute to highlight a few that are of critical importance to our concept.

First, the designation of a public benefit corporation: We strongly agree with the ONN position that the definition of the PBC be amended to allow for a self-selection test and the removal of the \$10,000 government funding criteria. From our perspective as a social enterprise and an organization that would fall into this area, we feel that the defining criteria for what makes a public benefit corporation is the fact that we wish to serve the interests of the public community, and that is the most critical criteria which we should be measured upon. Also, this type of definition is in alignment with other countries such as the US and the UK, which have done much work in the area of these hybrid-type social enterprise organizations.

Secondly, on the matter of the asset lock: We fully support the need for a permanent asset lock for these types of organizations versus the temporary asset lock as stated in the bill presently, and we feel that all assets should be fully retained within the public domain. Again, this is consistent with the UK definition of these types of enterprises. It also enables the creation of a brand recognition and designation, where it becomes very clear to donors and members what the terms of all the assets are that are being owned and managed by these organizations.

Third, the ability to access community bonds: We fully support the ONN proposal for the enabling of this legislation for issuing community bonds similar to the Co-operative Corporations Act. Our organization is a perfect example of the type of entity that would like to

consider this type of option to help address larger capital financing where there is significant debt financing required. Also, we view it as being important that potential investors of such bonds know that there is appropriate governance and guidelines being followed so that they may be comfortable with the risk-versus-return equation, in addition to the giving nature of these types of investments. We would also like to encourage the government to consider and evaluate other options and creative ways to assist non-profit organizations which have significant capital financing, one example being such options as the small start-up flow-through tax incentive programs which have been in operation for many years in the oil, gas and mining sectors.

Last but not least, we want to fully endorse the ability of NFPs to engage in commercial revenue generation activities. Moving forward, this is critical to both the long-term and the short-term viability of many non-profits, that they have the opportunity to engage in social and commercial activities as long as the revenues and profits that they generate are used and reinvested to public good. For ourselves, specifically, we want to look at and become a self-sustaining, income-generating operation which can be of benefit to both the community we serve and to those who are within the broader community. To achieve this effectively and efficiently, we feel we need to have ongoing, well-managed and planned access to various revenue sources, including those that we create and manage responsibly ourselves.

On behalf of Laura and I, I would like to thank you for providing us with this opportunity to provide input into this very important bill.

The Chair (Mr. Shafiq Qaadri): Thank you very much. About a minute per side, beginning with Mr. Johnson.

Mr. Rick Johnson: I just want to thank you for raising the issues that you have. We're seeing a consistency here. Thank you for your presentation.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Mr. Arnott?

Mr. Ted Arnott: Thank you very much for your presentation. It is sincerely appreciated, and I would hope that—and encourage—the government members will get behind some of these ideas and bring them forward.

The Chair (Mr. Shafiq Qaadri): Mr. Kormos.

Mr. Peter Kormos: Mr. Johnson is very astutely noticing a theme, and perhaps even an agenda, and perhaps some coordination on the part of presenters, which is not a bad thing. I think they're points well made, and I'm hopeful that we'll see some amendments from the government come clause-by-clause, particularly with respect to the protection of assets.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos, and thanks to you, Ms. VanderGriendt and Ms. Ranney, for your deputation on behalf of the Social Planning Council of Cambridge and North Dumfries.

SIKHS OF CANADA

The Chair (Mr. Shafiq Qadri): I'd now invite our next presenter to please come forward: Mr. Manohar Singh, the executive director of the Sikhs of Canada, and colleagues.

Sat Sri Akal. Welcome, gentlemen. I'd invite you to please be seated. If any of you others will be speaking, please do identify yourselves to the committee. I'd invite you to please begin now.

Mr. Manohar Singh: Good morning. This is our submission to this special committee on social policy, Bill 65. On my right is Amitoj Singh; he is a youth volunteer with the Sikhs of Canada. And on my left is Govind Singh; he is also a youth volunteer with the Sikhs of Canada, but I will be the only one speaking.

Good morning, once again. The gurdwara, the Sikh place of worship, is a religious, political, cultural and social centre of the community. The first gurdwara in Ontario was established in 1970. In the last 40 years, the community has built gurdwaras in all major cities and towns but they have not built a single community centre. The simple reason, as I stated earlier, is that they consider the gurdwara as the centre of all their activities.

Almost each member of the community contributes in the building of the gurdwara, but each member does not have a say in the administration of the gurdwara. This is the root cause of incidences of large-scale violence in gurdwaras. In fact, all violence in the gurdwaras is directly related to the administrative structure of the gurdwara.

The present-day structure allows few individuals, groups or families to control this important institution. This does not fit well with the large segment of the community and, as a result, first, various groups or individuals discuss these issues, then they argue about these issues, and when nothing gets resolved, unfortunately, violence takes place.

A simple search on Google highlights all the violent incidents. This is just a sample. You see appendix A in our submission. As we speak, people are in jail because of violence in gurdwaras. Another write-up, appendix B, is entitled "Sikhs Kill Each Other at Toronto Gurdwara." All of this is very troubling and it tarnishes the image of our community.

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As you can see, we are a very visible community. Sikhs are very identifiable. This violence in the community affects each and every Sikh, but unfortunately, the community does not have a mechanism to discuss, develop or enforce any practical measures. They do not have any solution to any of these problems.

Today, the community is facing the same problem related to the administration of gurdwaras as they were facing 40 years ago. They have not found—or, let us say, they have been unable to solve their problems. So who can solve the problem? In a phrase, the government.

We enclose another write-up, appendix 3, dated May 14, 2010, which appeared in the *Globe and Mail*. The

title is "Sikh Gurdwara Management in Canada—Looking for Solutions." This article talks about, number one, "What are the loopholes in the current system governing gurdwaras that are leading to violence?" Number two, "What can the government do?" Number three, "What was the mood like at the conclave?" And the last one, "Looking ahead, what is your agenda?" The last sentence of the same article is, "We hope that the government will intervene to put in place an act which streamlines the functioning at Sikh shrines. The Sikhs don't want a repeat of what happened last month."

In view of the above, we submit the following two major issues: Open membership in the gurdwaras and binding dispute resolution mechanisms are essential to solving the issue of gurdwara violence in our community. Every Sikh must be able to take membership without any artificial restrictions. Historically, this is how Sikhs have participated in the management of the gurdwaras.

A binding dispute resolution mechanism is urgent and important. This is the only way to stop ongoing and non-stop waste of charitable donations of the congregation. In the last 40 years, nearly \$10 million has been wasted on these litigations. To achieve the above stated, we recommend that a special committee be set up to examine these and other related issues and that regulations be developed under section 207 of this act to address these important issues affecting the Sikhs of Ontario.

In the end, let me add, if we do not address this issue, if we do not find solutions and if we fail to act, we, the community, and you, as elected representatives of this society, will be failing in our duty. To our young and coming generations, we will be passing on a history filled with bitterness and violence. Let us work together to build a progressive and peaceful Ontario.

All of this is respectfully submitted. Thank you.

The Chair (Mr. Shafiq Qadri): Thank you very much. We now invite Mr. Arnott to please begin the questioning.

Mr. Ted Arnott: Ms. Munro has a question.

The Chair (Mr. Shafiq Qadri): Ms. Munro. About a minute or so per side.

Mrs. Julia Munro: Yes, thank you very much.

In the package that you've provided, at the very end there's an excerpt there about the need for looking at solutions that obviously relate to the issues that you've raised. In your submission, you referenced section 207, and I'm just wondering if you have had an opportunity to look at very specific areas of sections 207. You referred to a committee being set up, but have you got any specific suggestions on section 207, on regulations, in the bill?

Mr. Manohar Singh: We have not gone to that stage to develop a full-fledged, proper regulation or a mechanism which we can submit, but we can work on it and submit to this committee. What we are proposing and what we're saying is that, in general—

The Chair (Mr. Shafiq Qadri): I need to intervene there. Thank you, Ms. Munro. Mr. Kormos.

Mr. Peter Kormos: I'm fine, thank you, Chair. Thank you, gentlemen. Mr. Johnson can have my time.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Johnson.

Mr. Rick Johnson: Thank you for your presentation. If you wanted to answer the question that Mrs. Munro had asked, continue.

Mr. Manohar Singh: I just want to add that membership is one-to-one selected or rejected. This is not how the community is going to be acceptable to the notion of membership. It has to be that each and every person should be able to participate in electing or appointing a committee to run the institution, and the only way that they should be able to participate is maybe by direct voting or direct show of hands or anything of that nature. That is what needs to be done.

Mrs. Julia Munro: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson, and thanks to you, Mr. Singh, for your deputation on behalf of the Sikhs of Canada.

GURSIKH SANGAT HAMILTON

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward, Mr. Manjit Singh Sahota of GurSikh Sangat Hamilton.

Remarks in Punjabi.

Mr. Peter Kormos: I've got to tell you, Chair, if I hear you take orders to lock and load, I'm out of here.

The Chair (Mr. Shafiq Qaadri): To?

Mr. Bob Delaney: It's okay, I'm following it.

Le Président (M. Shafiq Qaadri): Il y a beaucoup de langues en Ontario, mon ami.

Mr. Singh, please begin.

Mr. Manjit Singh Sahota: Thank you, and good morning. Just excuse my accent and my grammar, because it's a second language to me.

I, Manjit Singh Sahota, am presenting suggestions for Bill 65 on behalf of GurSikh Sangat Hamilton-Wentworth, 200 Old Guelph Road, Dundas, Ontario. The secretary, Mr. Jasbir Singh, is also present with me here.

The gurdwara, the Sikh place of worship, is an integral part of the Sikh community, and problems of gurdwaras have long-lasting effects on the Sikh community. About 99% of the community is against the persons who are controlling the gurdwaras by non-democratic and anti-Sikh means. To achieve absolute control of gurdwaras, they cancel existing memberships and use the restrictions on membership, keeping the membership fee very high and banning Sikhs from gurdwaras. After absolute control of gurdwaras, numerous times management insults Sikh worshippers who question their handling of money and anti-Sikh religious practices performed in the gurdwaras. Disputing parties also do not hesitate to fight and use weapons in and out of gurdwaras.

Gurdwara management disputes have very high consequences. In 1982, two persons were killed and another crippled for life in the Osgoode Hall courtroom shooting over management dispute of a gurdwara at Pape Avenue.

Since then, many times fighting has taken place. Millions of dollars from gurdwaras are spent in courts to keep absolute control of the gurdwara by a few dozen persons in Ontario. Management disputes have plagued 99.9% of gurdwaras in Ontario, and the majority of the time, conflict is about management's absolute control of gurdwaras.

Gurdwaras are built with the help of the Sikh community at large, and we believe the donors are entitled to question the management about the operations of the gurdwaras. We believe that integrating the following suggestions in some form in Bill 65 will help to resolve the above-mentioned problem of absolute control of gurdwaras:

(1) Membership should be open to all Sikhs in the vicinity of the gurdwara.

(2) Conflict resolution should be handled with a community-based arbitration body, whose decision should be binding to disputing parties. This mechanism of conflict resolution can save taxpayers money by saving the court's time and also that of the Sikh community.

(3) The membership fee should be nominal, so every Sikh who wants to can afford to become a member of a gurdwara in their vicinity.

(4) The "banning from gurdwara premises" clause should be defined better so it cannot be used by the management for their own personal interest of absolute control of the gurdwara.

(5) Cancellation of existing membership should not be allowed.

(6) The gurdwara should not be registered as a trust; it is public property.

We believe it is time to resolve the problems of gurdwara management in Ontario, which Sikhs have been facing for the last 28 years.

Thank you sincerely for allowing me to present here.

The Chair (Mr. Shafiq Qaadri): Thank you very much. You've left a generous amount of time, Mr. Sahota, for questions, beginning with the NDP—about two minutes per side.

1110

Mr. Peter Kormos: I'm fine, Chair. Thank you very much, gentlemen. Your comments are consistent with two of the other presenters around the very same issue. It's interesting.

Mr. Manjit Singh Sahota: I think the problem is the same: Every Sikh is feeling like us. You already have noticed that.

Mr. Peter Kormos: I wonder perhaps, Chair, if Mr. Fenson could tell us what specific things might be warranted to address the goals and grievances that are being expressed surrounding the Sikh community.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos; your comment is noted.

I'll begin with the Liberal side. Mr. Johnson?

Mr. Rick Johnson: Once again, thank you for presenting. I've been taking good notes here, and once again there is a consistency with the other presenters who have

come forward, so thank you for presenting your positions.

Mr. Manjit Singh Sahota: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Mr. Arnott or Ms. Munro?

Mrs. Julia Munro: Yes, I just wanted to echo the thanks for your presentation. Obviously, the consistency of the message by you and other presenters certainly gives this committee something to look at in terms of changes that might be offered and where specific ideas could come forward from your own community on recommendations.

Mr. Manjit Singh Sahota: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro, and thanks to you, Mr. Sahota, for your deputiation on behalf of the GurSikh Sangat Hamilton.

ONTARIO FUNERAL SERVICE ASSOCIATION

The Chair (Mr. Shafiq Qaadri): Now I invite our next presenter to please come forward: Mr. Parent of the Ontario Funeral Service Association.

Thank you, Mr. Parent. I invite you to please begin now.

Mr. Brian Parent: Thank you. Mr. Chair, honourable members, good day. My name is Brian Parent. I'm the co-chair of the legislative committee and past president of the Ontario Funeral Service Association. I've been in funeral service for 30 years. I'm a first-generation licensed funeral director. My wife and I opened a business in 1996 which today employs more than 50 team members, most of whom are full-time.

The OFSA, the Ontario Funeral Service Association, has represented funeral professionals since 1883, representing 235 funeral establishments. We employ thousands of Ontarians. We represent the for-profit, independently owned funeral home operators and individual funeral directors in Ontario. We have spent the better part of 10 years working with the government, industry stakeholders and regulators to find common ground on reforms in the statutes and regulations that oversee the delivery of bereavement goods and services in Ontario. The Ontario Funeral Service Association has been an active member in the process leading up to Bill 65 and has made submissions in response to your consultation papers regarding the modernization of the Ontario Corporations Act.

This act has significant impact on our business. We are concerned about the blurring of lines between not-for-profits and for-profits as it relates specifically to the bereavement sector and specifically funeral services. Unlike in the past, funeral homes and cemeteries will soon be permitted to operate in combination.

To explain further, the bereavement sector includes funeral homes and cemeteries. The problem that follows is that the cemetery industry is dominated by not-for-profits and charitable organizations. These cemetery operators are looking to increase their revenues by

entering into the commercial funeral service businesses. As operators under not-for-profit or charitable status, these entities have significant tax advantages over the for-profit funeral operators. We are concerned and we need you to be aware of the unintended consequences of this decision and this act.

When not-for-profit enterprises and for-profit enterprises compete, not-for-profit enterprises act more like for-profit enterprises. As stated earlier, the bereavement sector in Ontario is essentially divided into two: funeral homes, that being ourselves, and cemeteries, being the churches or not-for-profits. In Toronto, Catholic Cemeteries operates seven major cemeteries, 14 smaller cemeteries and a crematorium, serving 4,600 families a year. The Mount Pleasant Group operates 10 cemeteries, 14 mausoleums and five crematoria. Catholic Cemeteries operates under a charitable status, with the Mount Pleasant Group operating under a not-for-profit. These two operators dominate the market, competing against for-profits under a preferred tax status. In Hamilton and Ottawa, Catholic Cemeteries also operates under charitable status.

A heightened revenue focus and the new-found ability to sell funeral services have forced several not-for-profit cemeteries to adopt aggressive marketing practices. Most large charitable and non-profit cemeteries in Ontario now require all families to attend their cemetery offices in person in order to authorize prepaid opening of graves. Upon entering the cemetery offices, families are required to meet with family services counsellors, who are commissioned sales agents charged with the responsibility of selling, upselling and cross-selling families on cemetery properties, vaults, crypts, visitation services, urns, flowers and the like. Traditionally, these at-need cemetery arrangements were arranged by fax or by phone.

Further, the recent implementation of the HST has resulted in religious cemeteries with charitable status having a 13% advantage over their not-for-profit and for-profit competitors on cemetery services. This 13% advantage will spill over to funeral services when regulation permits these same cemeteries to enter into the funeral service industry.

Pricing at these cemeteries is in line with their for-profit competitors. However, they benefit from tax advantages—income tax, property tax and, in the case of charities, also HST. The cost savings from their preferred tax status is not passed on to consumers, but used for large-scale marketing campaigns. We've circulated some of those marketing materials. They also use billboards and so forth in many of the communities.

Clearly, if the not-for-profit and charitable cemetery service providers continue to enter the funeral service industry under an unfair taxation regime, a significant shift will occur in Ontario's funeral service industry within just a few years. Main Street funeral homes will not be able to compete.

I'd like to take a minute to talk about jobs and job creation. While we understand that the not-for-profit sector is growing and creating jobs, our sector does not

grow. Unlike other businesses, the funeral service market cannot be expanded by demand. There are only so many deaths in a year. In handing the funeral service industry over to the not-for-profit/charitable sector, you're going to see job migration, not job creation, and job migration will be over to the not-for-profits or charitable entities.

In summary, left unchecked, this business environment will force our members to be squeezed out of the business due to an unfair playing field, eliminate the opportunity for young entrepreneurs like myself to move into large communities, and force many of us to consolidate into large entities to use economies of scale to compete. The result will be a loss of competition and, in the case of funeral services, a loss of consumer choice.

Furthermore, this will create a situation where taxpayers involuntarily subsidize not-for-profit and charitable organizations through their preferred tax status. As well, the government will miss out on taxation revenue generated by for-profit funeral services.

Our recommendation for Bill 65 is that this act should contain a clear, non-commercial restraint. This should include:

- a requirement that the dominant purpose of a not-for-profit or charitable corporation be non-commercial;

- a requirement that the business activity of a not-for-profit or charitable corporation be exclusively limited to those business activities that are incidental or ancillary to its objective;

- any incidental or ancillary business activity should be subject to an express cap of \$500,000, in keeping with the audit requirements already set out in the act;

- revenue over and above the \$500,000 cap should be taxed on par with regular commercial income;

- all commercial activities, not incidental and ancillary to the dominant purpose of the not-for-profit or charitable corporation, should not receive beneficial tax treatment and should be subject to regulations appropriate to such activities. This could involve the mandatory use of subsidiary or affiliate corporations;

- a requirement of full public financial reporting in keeping with the public interest in the use and preservation of publicly subsidized assets.

In conclusion, the primary concern of OFSA is the unfair competitive advantage which not-for-profits and charitable entities are given when earning commercial business income. We believe that the act should aim to balance the interests of for-profit and non-profit entities, establish a fair and competitive arena in business, and proactively foster and protect the independence of community-rooted diversity in the not-for-profit sector without providing economical inefficiencies and indirect subsidies. We want to compete, but on a level playing field.

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As you consider this bill, we want you to consider the unintended consequences that are unique specifically to the bereavement industry.

I thank you for the opportunity to speak with you today.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Parent. There are 20 seconds per side. Mr. Johnson.

Mr. Rick Johnson: Thank you. You've raised some interesting points in this, and I appreciate your presentation.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Ms. Munro.

Mrs. Julia Munro: I just wanted to ask you one quick question. Is this more complex according to whether you are looking at major urban centres in the province in contrast to small, rural communities?

Mr. Brian Parent: Certainly in a rural setting there are less large cemeteries that are not-for-profit or charitable organizations.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro. Mr. Kormos.

Mr. Peter Kormos: There's some really cheesy stuff here: "If you make prearrangements with Catholic Cemeteries, we'll enter both of your names in a draw to receive a pilgrimage to Rome in 2010." That's really cheesy.

Mr. Brian Parent: That's a charitable organization making an advertisement.

Mr. Peter Kormos: And the upselling—that's pretty cheesy, too.

Mr. Brian Parent: And that's why we've supplied those advertisements.

Mr. Peter Kormos: The private sector does do it.

Mr. Brian Parent: The private sector does—

Mr. Peter Kormos: It's as cheesy when the private sector does it as the non-profits, isn't it?

Mr. Brian Parent: I would agree.

Mr. Peter Kormos: Okay, thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos, and thanks to you, Mr. Parent, for your deputation on behalf of the Ontario Funeral Service Association.

Also, Mr. Kormos, just to answer your implied query with the photographer, I believe that was from the PC caucus, so you may be asked for a release for a brochure coming to your side soon, I'm sure.

MR. FRED HOLMES

The Chair (Mr. Shafiq Qaadri): I now invite Mr. Fred Holmes to please come forward. He's coming to us in his capacity as a private individual. Mr. Holmes, welcome. We'll have that distributed for you. I invite you to (a) please be seated and (b) begin now.

Mr. Fred Holmes: Thank you, Mr. Chair. I am part of a unique group of newly retired senior corporate managers who, with one exception, now reside full-time in the twin villages of Britt and Byng Inlet, located in the unincorporated township of Wallbridge, district of Parry Sound, and one hour by car south of Sudbury.

I apologize for my lisp, but my bridge holding some of my front teeth fell out on vacation last week, so I'm seeing the dentist tomorrow.

Britt and Byng Inlet are surviving villages, created in 1868 as a sawmill camp. They have transitioned through coal to oil and now tourism. Most residents are elderly and on fixed income. The tax base is about 440 residences. We thank you for the opportunity to share some views with you on Bill 65.

These villages have a public benefit corporation that receives about \$14,000 each year through the Ministry of Northern Development, Mines and Forestry. Bill 65, in sections 211 to 240, recognizes corporations established under various government ministries. A notable omission, in our view, is local service boards established under the Northern Services Boards Act. LSBs are a PBC, as defined in Bill 65. We believe that all LSBs should be subject to Bill 65.

Taking extracts from correspondences with the Honourable Michael Gravelle, minister, his deputy minister, and assistant deputy minister, LSBs are incorporated under the Northern Services Boards Act, but the Corporations Act doesn't apply. The ministry has avoided answering our question as to what the legal status of LSBs is. Placing LSBs under Bill 65 would clarify their status.

In our local situation, we had to use a freedom-of-information request to receive the audited financial statements from which we established the bank position as of the latest fiscal year. Bill 65, in section 75(1)(b), allows a PBC with annual revenue of under \$100,000 to avoid an annual audit. Our PBC's annual budget is about \$80,000. Section 75(1)(b) would not allow us to know the bank balance. I should note that the local PBC receives questions and chooses not to provide answers of substance as a standard operating procedure.

The relevance of the bank position is simple:

—The PBC has a legislative mandate of finite services, through regulation 737, which has never changed since inception.

—Residents are assessed a tax to supplement the ministry's annual allotment to cover the PBC's annual budget.

—The PBC has no need to set aside reserves because of the nature of the finite services provided.

—The residents have a right to know that the current large surpluses of about 50% of annual spend are used to reduce their annual tax rate.

Bill 65, section 41, "Disclosure: Conflict of interest," has proven ineffective in our local PBC. The fire chief, himself a PBC director, continually drives through his annual economic demand through the PBC. He provides no paperwork to support his economic demand. Fire protection is one of the finite services of the PBC and is outsourced to a company controlled by the fire chief.

We suggest that Bill 65 is naive, expecting directors to act as real directors and boards to act in accordance with generally accepted practice. Certainly, our group found ourselves unpleasantly surprised after observing the local situation. Our request is that the committee consider some sort of government body where complaints can be

launched against boards that choose to avoid public scrutiny, transparency and financial accountability.

Lastly, we believe Bill 65's section 43, "Standard of care," should be strengthened. The prudent-man-rule language is dated. A newer version reflecting the current expectations of good corporate governance needs to be drafted. Monthly in the Globe and Mail are lists of the latest graduates from the MBA schools' governance courses. The standard today is already higher than the prudent-man rule. When I last served as a corporate director, the standard was well higher than the prudent-man rule, and that was a decade ago.

In conclusion, our request ultimately is for consistency in treatment of all corporations established under the legislation of the various Ontario government ministries. Folding LSBs under Bill 65 is consistent with that objective. With that, thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Holmes. Beginning with Mr. Arnott or Ms. Munro of the PC caucus. About a minute to chat per side.

Mr. Ted Arnott: It was a very interesting presentation. I think you've raised some extremely important issues that need to be considered by the government as Bill 65 makes its way through the Legislature. You've been very clear about the origin of the problem and you've been constructive in suggesting solutions, so thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott. Mr. Kormos.

Mr. Peter Kormos: Very interesting, sir. I'm wondering if ministry staff could put themselves in a position where they could basically respond to this and explain what would have to be done to give local service boards this status, or whether the act already contemplates it, because I really don't know.

Mr. Fred Holmes: Well, sir, we've had about 15 months of dialogue with Minister Gravelle and his staff, and after 15 months we still don't have demonstrable results.

Mr. Peter Kormos: I'm not surprised. Internet gaming has taken priority.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. To the Liberal side, Mr. Johnson.

Mr. Rick Johnson: I just want to thank you for your presentation. You've brought forward some issues that I'm sure will be looked at as we move through this process. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Thanks to you, Mr. Holmes, for your deputation and written submission.

ONTARIO ASSOCIATION OF ARCHITECTS

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter, Ms. Doyle of the Ontario Association of Architects, to please come forward. Welcome, and please begin.

Ms. Kristi Doyle: Good morning, Mr. Chair, and members of the committee. My name is Kristi Doyle and

I am the director of policy and deputy registrar for the Ontario Association of Architects. Joining me today is our legal counsel, Bernard LeBlanc.

Thank you for this opportunity to make this oral presentation regarding Bill 65. I have provided hard copies of our written submission, which are being distributed to you now. I would like to take a moment just to review this submission. The Ontario Association of Architects, which I will refer to as the OAA, is the regulatory body for the architectural profession in Ontario under the authority of the Architects Act. As you are likely aware, architecture is a self-regulating profession like lawyers, doctors, accountants and professional engineers.

The association is dedicated to establishing and maintaining the appropriate level of knowledge, skill and proficiency of the architectural profession in order that the public interest may be served and protected.

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Membership of the OAA includes 2,900 licensed architects, 1,300 intern architects, 750 associates, and there are currently 1,325 architectural practices in Ontario.

Following our careful review and consideration of Bill 65, we would like to submit that the OAA should be excluded from application of the Not-for-Profit Corporations Act, 2010, similarly to that which has been done for 23 other professional regulatory bodies. We believe that this amendment would be consistent with the current approach taken with non-profit corporations in the Architects Act and with the intent of the Architects Act itself.

Again, following our review, it would appear that our inclusion serves no public interest purpose and in fact, inclusion of the OAA in the Not-for-Profit Corporations Act, 2010, could adversely affect the OAA's regulatory activities.

I would like to take a moment to explain further our position. Unlike most non-profit corporations, the OAA is created by public statute. The Architects Act contains an elaborate series of checks and balances for its corporate structure and governance that addresses the OAA's unique regulatory role.

If you look at page 2 of our submission, we have provided a list of those very specific checks and balances. These include such items as specifying our public interest objects, creating a council that consists of both elected architects as well as publicly appointed laypersons, and also providing oversight of the council's activities by the Attorney General.

Historically, the issue of whether the OAA should be governed by a general corporate statute was considered in 1984, when the Architects Act was first enacted. At that time, through the Architects Act, the Legislature created its own special rules related to the corporate structure and governance of the OAA and excluded the Corporations Act from application to the OAA with, I will note, some specific listed exemptions. Those specific

exclusions are contained in section 54 of our act, and are presented in our written submission on page 3.

We continue to support the position that the OAA's public interest regulatory role is inconsistent with general corporate governance and that our existing checks and balances serve the intention of our self-regulatory nature. As a self-regulating profession, the rights of our members, who are regulated by the OAA, are different than the rights of members of a non-profit corporation. We feel that if Bill 65 is enacted without amendment, it will indeed apply to the OAA and as such, the OAA will be required to operate in accordance not only with its own statute, but also with the Not-for-Profit Corporations Act, resulting in what we believe would be unintended consequences.

We do understand that under section 5 of the Not-for-Profit Corporations Act, 2010, the Architects Act would take priority over any inconsistent provisions in the bill. However, the Not-for-Profit Corporations Act contains many additional duties and powers that may not be directly inconsistent with the Architects Act or may be silent on point, but will be inconsistent with the public interest role and regulatory mandate of the OAA. For example, subsection 26(1) of the Not-for-Profit Corporations Act states:

“Removal of directors

“26(1) The members of a corporation may remove any director or directors from office by ordinary resolution at a special meeting.”

This provision is not directly in conflict with any provision of our act and there is good argument to be made that it will apply to the OAA. However, providing such a power can cause a chill in a council debate over a measure that will protect the public interest but may be unpopular with the profession. Potentially, this power might even apply to public council members appointed by the Lieutenant Governor in Council. For this reason, the Architects Act provides for removal of elected council members only by council itself and publicly appointed council members by the Lieutenant Governor in Council.

In addition, section 5 of the Not-for-Profit Corporations Act only makes the Architects Act and regulations paramount over the not-for-profit corporations, not the OAA's bylaws. If any provisions of the OAA bylaws are inconsistent, the latter takes priority. For example, the provisions in Bill 65 about holding the meetings of membership take priority over the provisions we currently have in the OAA bylaws.

Our submission provides additional examples of sections of the Not-for-Profit Corporations Act which may result in unforeseen consequences. The theme of the Not-for-Profit Corporations Act of giving more power to members may be appropriate for many non-profits but would be inappropriate for the OAA, whose mandate is to regulate the members. The failure to exclude the OAA from the proposed act is in a way somewhat surprising to us as many other regulators and similar organizations have a provision excluding them from the new act.

In conclusion, the OAA respectfully submits that the Not-for-Profit Corporations Act be amended in order that the OAA be excluded from its application. Page 7 of our submission provides draft wording that we believe would achieve the desired and necessary exclusion by in fact amending the Architects Act to formalize that exclusion. I'm happy to review the details of the language, should the committee desire.

Once again, thank you for this opportunity to make this submission. We believe the proposed solution will address our concerns and allow the OAA to continue to regulate the architectural profession in the public interest.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Doyle. Mr. Kormos, less than a minute.

Mr. Peter Kormos: Thank you kindly. Surely you raised this with the ministry? Surely.

Ms. Kristi Doyle: Which ministry? With the Attorney General?

Mr. Peter Kormos: Well, you could have raised it with him or with the sponsor of the bill, Sophia Aggelonitis.

Ms. Kristi Doyle: It has been raised.

Mr. Peter Kormos: What happened, as a result of that?

Ms. Kristi Doyle: Nothing at this point.

Mr. Peter Kormos: What's the matter with them? Mr. Johnson, you take a crack at it.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. Mr. Johnson.

Mr. Rick Johnson: Thank you. You've raised a number of issues which I'm aware of and I appreciate you raising them again. I'm sure that they will be brought forward as we consider amendments moving forward.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Ms. Munro.

Mrs. Julia Munro: Yes, I would just like to echo the sentiments expressed. I would expect that the government would feel the urgency to have a look at this. It sounds very clear-cut, so I'd certainly expect that your voice would be heard.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro, and thanks to you, Ms. Doyle and Mr. LeBlanc, for your presentation on behalf of the Ontario Association of Architects.

LAW SOCIETY OF UPPER CANADA

The Chair (Mr. Shafiq Qaadri): We'll now invite our next presenter—I think we're still trying to connect with our 11:50 presenter—but in any case, Mr. Malcolm Heins of the Law Society of Upper Canada, if he's available.

Interjection.

The Chair (Mr. Shafiq Qaadri): Has not arrived yet.

Mr. Ted McMeekin: He's notoriously on time.

The Chair (Mr. Shafiq Qaadri): Is Ms. Hewitt from Social Innovation Generation here?

Mr. Ted McMeekin: Here he is.

The Chair (Mr. Shafiq Qaadri): Is this Mr. Heins? Welcome, and please be seated. We are ahead of schedule and we invite you to please come forward.

Mr. Heins is the CEO of the Law Society of Upper Canada. You have 10 minutes, Mr. Heins, as you know, in which to make your presentation, and I invite you to (a) collect your breath and (b) begin.

Mr. Malcolm Heins: Sorry; I'm glad I walked briskly.

Thank you for hearing from the law society. I'm the chief executive officer of the law society, and I have with me this morning, Elliot Spears, our general counsel, and Sophie Galipeau, our policy counsel.

We've been regulating lawyers now in Ontario for 213 years and paralegals since 2007. We have 40,000 lawyers under regulation and 2,700 paralegals at the moment.

We support the intent behind this legislation. Our concern really is its application to the law society and the Law Society Act. In fact, if you look at the provisions in this legislation, many are antithetical to our mandate. What you have to remember is that even though we are a not-for-profit, without share capital corporation, we are actually in the regulation business, so that our members are the people we regulate. So if our members have some of the authorities and powers which are granted under this new piece of legislation, in effect, what they can do is vote down some of the regulatory provisions we would pass with respect to them, which is really not the intent, I don't think, of the legislation, nor is it obviously good regulation. What we're asking is that we be exempted from the application of the legislation.

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We are currently subject to the Corporations Act, but we're exempt from certain provisions. Furthermore, if you look at the Law Society Act, there's a provision that expressly states that where there is a conflict between the two acts, the Law Society Act prevails.

At this juncture, we coexist quite happily with the Corporations Act. Under our legislation, as well, we have a bylaw-making authority, which we have to exercise in the public interest. Many of the provisions that you would expect that we need in terms of running our corporate affairs are contained within our bylaws and are passed pursuant to our bylaw-making authority. As a result, the provisions in the Corporations Act, over time, have come not to in fact govern the law society at all, but to supplement the Law Society Act and the bylaws in areas where the Law Society Act and the bylaws are silent. For instance, there are some sections in the act we've chosen not to re-legislate; for instance, you can't be a bankrupt and be a governor of the law society. In effect, that's pretty standard: Directors cannot be undischarged bankrupts. So we have simply assumed those provisions silently as part of our governance structure.

Bill 65 removes us from the Corporations Act and now places us under the Not-for-Profit Corporations Act, and while it contains many of the provisions within the Corporations Act, it also introduces new features that, as I said in my opening remarks, fit rather poorly with a

regulator such as the law society. In fact, some of those provisions would actually prevent us fulfilling our mandate to regulate lawyers and paralegals. In particular, as I point out at paragraph 9, there are areas where, as I said earlier, we have been silent with respect to governance. While Bill 65 has a conflict section in it, it would be open to interpretation, in the absence of direct legislation by the law society, either within our act or bylaws, as to which legislation would govern.

Let me give you a couple of examples. Section 17 of the bill requires members to confirm at an annual general meeting all bylaws made by the law society. This is inconsistent with the law society's mandate to regulate in the public interest, as members at the annual meeting could vote down bylaws that impose requirements on them. Again, when you look at that, it's just antithetical that we would do that. We're currently exempt from that current provision in the Corporations Act.

Section 26 of the bill permits members to remove directors by resolution. Again, you couldn't have regulated members of the law society removing governors based on the fact that they don't like how the governors are regulating or governing them.

Thirdly, an individual member can apply for an oppression remedy. Well, you can imagine the situation where we've disciplined a lawyer, who then goes to court and tries to get an oppression remedy with respect to that discipline. That, again, when you think about it, would not be good governance. Those are just some examples that we've pointed out in this particular paper.

So what we're suggesting is that, for the sake of clarity and transparency, a clear exemption from the provisions of Bill 65 be enacted within the Law Society Act. At paragraph 14, what we say directly is that the consequential amendment be made as soon as possible to section 6 of the Law Society Act to state that the Not-for-Profit Corporations Act does not apply to the law society. There's a similar section set out at section 217 of the bill with respect to the College of Early Childhood Educators.

Our submission is quite simple: that this act ought not to apply to the law society and that our Law Society Act should have an amendment made to it, consequential with the passage of this act.

Thank you for your attention, and I'll take any questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Heins. A minute per side. Mr. Johnson.

Mr. Rick Johnson: Thank you for your presentation. You've raised a number of very good issues that I know will be discussed. I thank you for your presentation.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. PC caucus: Ms. Munro.

Mrs. Julia Munro: Yes, thank you very much. It would seem from the previous presenter as well that this has been an oversight on the part of the government in terms of looking at those professional organizations such as yours. We'll certainly do our best to make sure that they come to grips with this omission.

Mr. Malcolm Heins: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro. Mr. Kormos.

Mr. Peter Kormos: Thank you for your submission. The Ontario Association of Architects was here just before you with some of the same concerns.

Interjection.

Mr. Peter Kormos: Secret regulations passed in the dark of the night in cabinet and then misleading the people of Ontario and even Toronto's police about where they can and can't arrest people around the G20 demonstration—remember that, Chair?

Mixed martial arts—the government seems to have gotten that one nailed down; Internet gambling—but they screw up something as simple as this. I'm hoping the government members will take your message to the minister. Who is the minister, by the way?

Interjection.

Mr. Peter Kormos: Gerretsen; that's right. Sophia got promoted. The eco tax—that's right. You guys nailed that one down good too.

Thank you, sir.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos, and thanks to you, Mr. Heins, for your deputiation on behalf of the Law Society of Upper Canada.

Mr. Malcolm Heins: Thank you for everybody's attention. Have a good summer, what's left of it.

MR. GILBERT GAGNON

Le Président (M. Shafiq Qaadri): Notre prochain présentateur est M. Gilbert Gagnon. Vous êtes là, mon ami?

Mr. Peter Kormos: How do you know he speaks French?

The Chair (Mr. Shafiq Qaadri): That was French, my friend, not Spanish.

Monsieur Gagnon?

Mr. Gilbert Gagnon: Yes. Hi.

Le Président (M. Shafiq Qaadri): Hi. En anglais ou en français?

Mr. Gilbert Gagnon: English.

The Chair (Mr. Shafiq Qaadri): Oh, there you go. I invite you to begin now. You have 10 minutes.

Mr. Gilbert Gagnon: Thank you very much and welcome, everyone. If I said I wasn't nervous I wouldn't be honest. I'm a little nervous.

I guess I'll just get down to it. About six months ago, Hansard was up here in North Bay. They were asking consumer survivors what they should do to improve the system and I did a 10-minute presentation up here in front of the ministry of economic affairs, their pre-budget consultation committee. So that was a little bit difficult, but what I wanted to talk about was quite serious because I want to put my input too into what had happened to me and how I feel things should be changed. I'm just going off of my memory here so I have no paperwork in front of me, as I just got in from out of town about five minutes ago, actually.

Anyway, some of the changes and recommendations that I would recommend are—first of all, I was diagnosed about five years ago with attention deficit hyperactivity disorder. I am borderline. I'm 44 years old and I'm from North Bay. I sat on a board for the National Network for Mental Health for five years. I was ready to go to my AGM and I received a letter in the mail that I wasn't welcome to go to the annual general meeting. They wished me well in my search for wellness, and I was quite upset. I knew there was something wrong so I phoned the 1-800 number. We used to do teleconferences as a board because we were national. In case you don't know, the purpose and mandate of the national network was to eradicate the stigma of mental illness, and I really highly believed in that function of eradicating the stigma, because lots of genius comes out of bipolar and other stuff like that.

So as I sat for five years—you become a family, as you know; after a while you trust each other and get to know one another. While they were out at the annual general meeting that I was entitled to—and I was entitled to notice of meetings and they didn't give me a notice—I phoned the 1-800 number and said to the individual doing the teleconference, the 1-800 number, that we had an argument about the invoice and if he could email me all the invoices. He e-mailed them, and right away I noticed there was no quorum. There were only three people out of 10 at the meeting where they decided to get rid of me. It was almost like a personal thing. So when they got back from the AGM, which was up in Ottawa, I phoned my ex, who sat on the board, and I asked her if she had the minutes. She said she had the minutes, and I said, "I'm going to come over and get them." She said, "You can't," and I said, "Why?" She said, "I scratched them out." So I knew right away that they rewrote the minutes, and I was quite upset.

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From there, I got the Ontario Human Rights Commission in. This is my most important point: that as we develop and we want to get to the bottom of what's wrong with the not-for-profit situation, the Ontario Human Rights Commission does not have—it's illegal to segregate or limit someone in an organization. With their code, it's okay to limit and segregate someone in an organization—first of all, 9(a), (b) and (c) of our Human Rights Code, which didn't apply to me even though I was with a national organization. They said, "You don't understand. It's just for international planes and trains, so you fall under the Ontario Human Rights Code." So the first thing to address is to try to put the code in the Ontario Human Rights Code, because right now it could happen to any one of you sitting there, anyone who sits on your city council or on any boards. This can happen to you.

The law states that you're entitled to notice of meetings, but you're not really entitled to notice of meetings, because if you go through what I went through, there is no protection. My whole point when I did the Hansard voice recording—if you have a chance to go back and

read that, it was done in February of this year in North Bay—I touched on how we need more volunteer protection.

Secondly, I must state that the law society states in their bylaws that it's illegal for a lawyer to leave his client in peril. What had happened to me was my lawyer got reprimanded. In the letter from the law society, one page says that if the lawyer's negligence is not dealt with at our level, then it will have an adverse affect on the way that law is dealt with in our society. The next page says that the law society does not have regulatory jurisdiction to deal with lawyer negligence. My case was dismissed because my lawyer, after I gave him over \$5,000 that I was paying high interest on—I was a volunteer. That got me into that mess in the first place, because it had a very bad effect on my reputation. I ended up going down to the commissioner's office at Osgoode Hall, to Mr. Clare Lewis, just to know at the end that it was all a blatant waste of time anyway because they had already made up their minds that they don't deal with lawyer negligence. I have 12 letters from all the lawyers up here that no other lawyer will take another lawyer to court.

This is the last conversation that I wasted. I lost five years of some enjoyment in life.

I also have to reiterate that at one point in time I brought indictable charges against those board members at our local courthouse, because it's a criminal offence to destroy documents of title. When the Ontario Human Rights Commission sent me the minutes—they went into the head office and got the minutes—sure enough, no one motioned me off the board. But our bylaw states everything is under Robert's Rules of Order, and the lawyer had told me that when I got the information from the Ontario Human Rights Commission to then retain him. So at that time, I obtained \$3,000 and I gave it to the lawyer. It all ended up being dismissed. The DA said, "No, you're just doing it to be vindictive. Something is going on there," and they dismissed that. So I ended up walking away with, I guess, a stalemate. I lost because I lost a lot of money.

Anyway, I need to go into what I also feel has to be done at Corporations Canada. I had complained about what I went through, and they didn't seem to be able to do anything. A page in their kit says that if people are publicly funded, then taxpayers' money is of serious concern. Later, in another letter, while I was communicating with Mike Ducharme down there and Jennifer Elliot, the senior management, they said, "Well, we didn't really mean that. That's old legislation. Public funds now are no big deal." What I would do in that situation is have lawyers, if someone reports something like what I went through, which I call kind of tragic—all Corporations Canada did was pump out two or three audits within a six-month period, but that didn't help me, so maybe pull out our lawyers.

There should be a contract made—remember, the national network I was sitting on is funded for \$1.23 million per year. It's earmarked for mental health within the Service Canada agreement. But the agreement

doesn't say that if you break the bylaws, you should be cut off or a lawyer should come on the side of the victim. So one of the main things that should be done—

The Chair (Mr. Shafiq Qaadri): You have about 30 seconds, Monsieur Gagnon.

Mr. Gilbert Gagnon: Thank you. Anyway—I may have covered it all. Any questions?

The Chair (Mr. Shafiq Qaadri): To the PC side, Ms. Munro—

Mr. Peter Kormos: You're up in North Bay. I suggest you get a hold of Monique Smith. She's your MPP. I think she'd find it very valuable if you gave her a thorough briefing on these matters.

Mr. Gilbert Gagnon: I've given her everything. Everything came up with a stalemate.

I just thought that I'd elaborate one more thing, and that's because of the name, National Network for Mental Health. There was a lot of false compassion, which was just compassion for the organization. Once again, false compassion is when we forget about the murdered and have pity on the murderer, and forget about the people who were—

The Chair (Mr. Shafiq Qaadri): I'll need to intervene there, Mr. Gagnon, and I'd like to just thank you on behalf of the committee for your deputation.

SOCIAL INNOVATION GENERATION

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward, Ms. Hewitt of Social Innovation Generation. Welcome, and please be seated. I invite you to please begin.

Ms. Allyson Hewitt: Thank you for the opportunity to address you this morning. My name is Allyson Hewitt, and I'm the director of social entrepreneurship at the MaRS Discovery District here in Toronto and also the director of SiG, which stands for Social Innovation Generation. At SiG, we do three things: We advise social entrepreneurs, we convene stakeholders interested in understanding and promoting social innovation, and we're trying to accelerate the uptake of social innovation in our province, often through the promotion of best practices internationally.

I do have handouts I would like to give to the clerk; there are quite a lot. One is a pamphlet on the services, and one is a couple of white papers, one on social venture finance and one on legislative innovation.

I'm here today, though, as a very proud adviser to the Ontario Nonprofit Network. I want to publicly acknowledge what I see as the tireless efforts of Lynn Eakin and her leadership in ensuring that the vast range of members of the Ontario Nonprofit Network had an opportunity to present to you on what is their daily experience on the front line. That is reflected in the submissions that you're hearing today. Of course, there was coordination, but I think what's even more astounding is that there's some form of consensus among the very diverse non-profit sector. So I want to recognize that. It's a tough sector to get on-side. It's incredibly diverse.

I've been leading non-profit organizations since the early 1980s, which somehow or other became 25 years ago. I don't know how that happened—obviously, out of the cradle—but I have moved through the sector, from working with homeless youth to initiating and implementing the 211 initiative, which some of you may be aware of, to working with legislators to legislate and advocate for children's rights, and now promoting the opportunity to find new ways of looking at these opportunities that we have that were traditionally thought of as challenges.

1200

Given that history, what I'd like to do is start with something that we've been dealing with for a really long time, which is what we call our sector. I'm very much in favour of the concept of public benefit. It's a trend that we see globally, and it's language that's much more positive than defining ourselves by what we don't do. "Not-for-profit" doesn't say what we do; it just says what we don't do.

In the two countries we often look to, the US and the UK, we are seeing that President Obama has a new Office of Social Innovation and Civic Participation, and Prime Minister Cameron, in the UK, has a new office that used to be called the Office of the Third Sector, now renamed the Office for Civil Society. The focus is clearly on what the sector is promoting—and encouraging impact—not on how it's funded. I would urge the committee to consider how amending the definition of a public benefit corporation would be better served by looking, not at the income source, but at what the focus of the sector is.

Secondly, from my point of view, which is dealing with social entrepreneurs and social innovators, the legislation needs to reflect the reality of the sector, which is that a significant portion of the income comes from earned revenue, more than both government income and private philanthropy. We cannot ignore the reality that, again, if I look to the UK—someone referenced this earlier on—there is something called CICs, or community interest companies, in the UK; there is L3C legislation in the US. What this really shows is that the sector is very keen at revenue generating. If you go to an arts show, if you go to a theatre, it's run by a non-profit; you're paying for a ticket. If you have a membership at the YMCA for fitness, you're paying for it. There's a lot of income that's generated this way.

In the UK they've looked at something called a "destination test." The money that a non-profit makes: Where does that money go? It's redirected into the mission, into the social purpose. That's what I think the focus could be and what I'd urge us to consider in refining section 8(c), the definition of that social purpose, and in looking at the commercial activities.

I just wanted to correct something one of our colleagues from the funeral services said. Non-profits have to charge HST. They will get some of it back, but as far as the consumer is concerned, they're actually charging

it, so there isn't that 13% differential that he referred to in terms of competition.

I also just wanted to spend a second saying what social enterprise looks like in this country, in this province. A-Way courier provides real jobs to survivors of mental health challenges to provide same-day courier service using the TTC. You've got a triple bottom-line there: You have an economic outcome, you have the social outcome, and you have the environmental outcome, because they're not in cars and they're not even on bikes; they're actually using the TTC. Jump Math helps students unlock their academic potential through focus on academic success. They sell workbooks, both teacher manuals and workbooks for students. John Mighton, who is the founder of Jump Math, was recently a recipient of the Order of Canada. Social entrepreneurs are making a huge impact in our country, in our province, in our city. Eva's Phoenix is a print shop training and employing homeless youth. ReStore is the retail arm of Habitat for Humanity.

This is a reality, and we need enabling legislation that recognizes that reality. They're all facing challenges getting their missions met, but financing them in a way that is beyond the traditional charity model, one that recognizes the real values they bring in both economic and social terms.

At MaRS we are meeting folks interested in completely blending their social purpose and revenue-generating models. It is clear we need an enabling environment to make this happen.

I have given you two white papers. One speaks to those legislative innovations, talks about these L3Cs and CICs and looks at giving you a bit of a fuller context about what that's all about.

While completely supporting the promotion of revenue-generation options, it's also our contention that in order to enable scale, we need to think about how we finance social purpose work more fully. The community bond is one thing that you've heard about. It's one way we can begin to enable people to support social purpose work out of both pockets, i.e., through charitable donations and through some form of investments. We've talked about it being RRSP-eligible.

We have worked with a variety of groups, including the co-op sector, and we have an adviser at ONN who is deeply engaged in that sector. They certainly have a clear process in place to enable the process of community bonds, and we would like to work with that sector to leverage their expertise.

The final paper I have is Social Venture Finance. It's basically a primer on what I would call social finance in this province. We also have a website called socialfinance.ca and many other tools and resources, including the establishment of a blue ribbon panel called the Social Finance Task Force, based on the UK task force that was implemented 10 years ago. We absolutely need to find new ways to finance social-purpose work in our province and, therefore, from a legislative point of view, systems to enable that. There are real social chal-

lenges that we need to address collectively, bringing the expertise of various sectors to bear on these challenges.

At MaRS, it is our premise that innovation happens anywhere but accelerates in the margins between unusual stakeholders who don't normally work together. So in order to ensure that our non-profit sector is enabled to contribute to the best of their ability, we need a supportive and enabling environment. This legislation is a solid step in that direction, and with the amendments that you've heard about, I think we can position Ontario as a leader in our efforts to promote social purpose work and inclusion to all our citizens.

Thank you very much for your time.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Hewitt.

There's about 45 seconds per side. Mr. Kormos?

Mr. Peter Kormos: Thank you, Chair. Thank you very much for your material.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. Mr. Johnson?

Mr. Rick Johnson: This is very interesting documentation here. Thank you for your presentation and for the ideas that you've brought forward.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. Munro?

Mrs. Julia Munro: Yes, I wanted to ask you whether or not you felt that you had had sufficient consultation in the preparation of this legislation that would help to reflect the direction in which you see your organization and this process developing.

Ms. Allyson Hewitt: Thank you. I think it's absolutely a work in progress. There was a meeting that I went to—gosh—at the YMCA. It was well over a year ago. I don't have a copy, but there was a pretty substantial document. Things were floated out there, and we were able to contribute on that and coalesce the sector around that. Then the ONN, which has got a very close working relationship with the various ministries that are involved in social purpose work, has been able to mobilize the sector and pull a group of experts together.

So I feel there has been some good opportunity for consultation, but you know, sometimes the people who are writing the documentation are privy to things that we're not—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro. I'll have to intervene there, and thanks to you, Ms. Hewitt, for your deputation on behalf of Social Innovation Generation and your activities with the MaRS group.

COLLEGE OF VETERINARIANS OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Carlyle of the College of Veterinarians of Ontario and colleagues. Welcome, Ms. Carlyle and your colleague. I'd invite you to please begin now.

Ms. Susan Carlyle: Thank you very much. My name—good morning, first. My name is Susan Carlyle, and I'm the registrar of the College of Veterinarians of Ontario. I'm assisted today by our counsel, Bernard LeBlanc.

Mr. Bernard LeBlanc: Good morning.

Ms. Susan Carlyle: Just to paint a picture, the College of Veterinarians of Ontario is the licensing and governing body for veterinarians in Ontario. It is specifically mandated to regulate the practice of veterinary medicine and to govern its members in the interests of the public. I am here to ask for the college's exclusion from the Not-for-Profit Corporations Act in the same way as the human health colleges and a number of other professions have been excluded.

I believe you're going to find that much of my presentation is going to mirror the principles and practicalities of both the Ontario Association of Architects and the law society. This, of course, is in the context of the veterinarians, but they really are the same principles.

In our submission, inclusion of the college is not in the public interest and would adversely affect the college's regulatory processes. Actually, we do believe that it may have been a mere oversight to not exclude this particular college, as it seems that the act, in our context, would serve no public purpose. We submit that an amendment to exclude us would be consistent with the current approach taken regarding non-profit corporations, as in the other acts and also the Veterinarians Act; the current Corporations Act and its limited application does appear in the Veterinarians Act.

Just to give you an idea of the situation now with veterinarians, the current regulatory scheme provides for a council as our board of directors, which has overall responsibility for all of the actions of the college. Eligibility for membership on the council, its composition, terms of office, authorities and responsibilities are set out in our act, along with a provision for up to 15 elected professional members and up to five appointed specifically by the Lieutenant Governor in Council to protect the public interest. Members of council then sit on our various statutory committees to carry out the regulatory responsibilities of the college, such as accreditation of veterinary facilities, registration of members, investigation of complaints and discipline hearings.

Our legislation, specific to the governing of veterinarians, provides mandatory oversight of the council by our ministry, which is the Ministry of Agriculture, Food and Rural Affairs, and also provides for review oversight of various committees' decisions by the Health Professions Appeal and Review Board. This ensures that the college itself and our members are appropriately directed and expected to be fair, open and accountable to the government, to each other and, most of all, to the members of the public.

You may be interested to know that, as with the architects, the Legislature, when it first enacted the Veterinarians Act, considered whether or not this kind of governance ought to be assumed in a general corporate

statute. It decided that this was not appropriate and instead created its own special rules related to the corporate structure and governance of the college. It excluded both the Corporations Information Act and the Corporations Act from application to the college, with a few noted exceptions.

We submit that this reflects the viewpoint that the college's public interest regulatory role was inconsistent with general corporate governance. The mandate the college has to regulate its members in the public interest places the members, as the law society pointed out, in a completely different relationship to its members than those a charity or a club would have with its organizations.

We have some concerns that if the new act does apply, we'll be required to operate in accordance with two separate pieces of legislation. Undoubtedly, there will be unintended consequences.

I have distributed to you a slightly longer version of this talk so that I won't go into the examples of how this would happen. There are examples in that document.

It is impossible to anticipate all of the potential unintended consequences. Given that the corporate structure and governance of the college is specifically addressed in the Veterinarians Act, it is difficult to see why it's being included in the Not-for-Profit Corporations Act.

Therefore, the college respectfully submits that the new act be amended by adding a subsection to section 47 of our act which would specifically say, "The Not-for-Profit Corporations Act, 2010, does not apply to the college." This amendment, we also submit, would simply maintain the status quo, as we understand that the Corporations Act will continue to exist. Therefore, no amendment to the rest of section 47 is necessary.

I thank you very much for allowing me to come and speak with you today, and I welcome any questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Carlyle.

There's about a minute or so per side. Mr. Johnson.

Mr. Rick Johnson: Just a comment: We are aware of the concerns on the government side and are speaking with OMAFRA to identify any potential solutions. This is also the case with the law society and the architects; we are speaking with the appropriate ministries on the issues that have been raised. We are aware of your concerns.

Ms. Susan Carlyle: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Ms. Munro?

Mrs. Julia Munro: Speaking for this part of this side of the House, we will continue to make sure that they follow through on their research to be able to look at what you have raised today.

Ms. Susan Carlyle: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro. Mr. Kormos.

Mr. Peter Kormos: I am just so genetically loath to acknowledge that the government might have made a

mere oversight, but I'll cut them some slack on this one—okay? Because again, I'm designed, I'm programmed to rail at them and attack them at every opportunity. But for the life of me, we've got a problem now.

The clerk may be able to help us over the course of the next week. Would an amendment to the Veterinarians Act be in order with respect to amending this Bill 65, as compared to simply adding to section 216(1), which lists the number of corporations? That's maybe a little bit of a difficulty here. You're going to be hard-pressed to get this stuff rushed through, if you have to present new bills, if it's not in order to amend this bill—although I would agree or urge the Chair to find that that would be in order. Of course, if the Chair's hands are bound, his hands are bound.

Mrs. Julia Munro: I think it's political will.

Mr. Peter Kormos: Yes.

So thank you very much—interesting stuff. How the heck did this happen, Mr. Johnson? Please.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos, and thanks to you, Ms. Carlyle, for your deputation on behalf of the College of Veterinarians of Ontario.

The committee is recessed until 1:30.

The committee recessed from 1214 to 1332.

SOCIAL PLANNING TORONTO

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues, and ladies and gentlemen. We will begin our afternoon presentations. I would invite Mr. Jerry Leonard to please come forward.

If not, is Mr. Campey available? Please come forward. Thank you, Mr. Campey. We'll give you the priority position for your deputation on behalf of Social Planning Toronto.

As you've seen the drill, you have 10 minutes in which to make your presentation and any time remaining will be evenly distributed amongst the parties for questions. I invite you to please begin now.

Mr. John Campey: Thank you very much. I very much appreciate the opportunity to speak to you this afternoon on this bill.

First of all, to give you just a little bit of background on Social Planning Toronto: We're a non-profit community organization. We are primarily funded by the United Way and the city of Toronto, and our work is research, policy and how it assists community development and civic engagement. Our focus and our goal is improving the quality of life of all Toronto residents. Our work focuses on poverty reduction with an emphasis on income security, good jobs, affordable housing and strong public education.

Social Planning Toronto would first like to commend the Ontario government on its leadership in introducing this important bill and its ongoing commitment in supporting the work of the non-profit sector.

Bill 65 is a much-welcomed and long-overdue piece of legislation that will enable us and the 46,000 other non-profit organizations in Ontario to strengthen our work in our respective communities and provide us with the appropriate tools and legal framework to carry our work forward in the years to come.

This bill recognizes the unique and crucial function we play as a sector, independent from the private for-profit world. Furthermore, it acknowledges the social and economic contributions made by non-profits and addresses the many challenges we face in regards to incorporation, governance, members' rights and finance.

As an organization with currently over 150 organizational members—and just to elaborate a little bit, those 150 organizations in the city of Toronto include a very diverse group, from very large organizations, such as the YMCA, the YWCA, Family Service Toronto, right down to very small organizations which are entirely volunteer operated and led. So it runs the entire gamut. Among our functions is coordinating the city-wide agency network which incorporates the 20 largest non-profits in the city. Also, we work very closely with Toronto Neighbourhood Centres, which are the 35 local multi-service agencies located across Toronto. So it's a very diverse cross-section of the non-profit sector that we represent. As an organization with that broad representation, we know this bill will have a broadly positive impact, but only if a few critical changes are made to the bill as it is now drafted.

Overall, we enthusiastically support the contents of the bill; however, we strongly encourage the government to incorporate the amendments provided in the submission developed by our colleagues from the Ontario Nonprofit Network. We've been very pleased to have the opportunity to work with them on the development of their presentation and strongly support all of the elements that they have raised. They've gone into significantly greater detail than we do in the course of this presentation, but we do want to go on record in support of the positions that they've taken. The key changes that they're suggesting will greatly assist the sector in its work and maximize the effectiveness of the bill.

Some of the changes include developing a clear and precise definition of a public benefit corporation, whereupon a non-profit can opt into being a public benefit corporation regardless of whether it receives government funding. There are many of the smaller organizations with which we work that do not receive government funding, and to exclude them from this opportunity would seem not to be either appropriate or particularly fair.

We also support ensuring a permanent asset lock on a public benefit corporation's assets, as opposed to the proposed three-year temporary lock, to ensure that assets remain in the public domain. It shouldn't be possible to go back and forth between being a public-benefit corporation and not being a public-benefit corporation. There seems to be a number of real challenges with that position being accessible.

Finally, we also support providing non-profit corporations with the ability to issue community bonds, as Ontario co-operatives currently do, in order to raise capital in their communities. One of the real challenges many non-profits face is raising capital. To have this opportunity would be one that is very much in keeping with community development objectives as well as providing non-profits with that capacity and that opportunity to raise capital.

There are two amendments to the bill highlighted by the Ontario Nonprofit Network which we would particularly like to support. As the bill currently stands, there are no provisions for a liability shield for directors and officers of non-profit corporations. With the vast majority of directors being volunteers, the absence of any liability protection will further discourage highly skilled and qualified individuals from participating on boards of non-profit corporations, contributing to high board turnover and increased organizational instability.

As the option for insurance will be feasible for only a small number of non-profits falling under this legislation and those few able to afford it due to increased costs, it's imperative that the government acts to protect directors and officers who are dedicating their time and efforts for the benefit of their communities. We therefore call on the inclusion of a subsection to subsection 46 of Bill 65 to limit the liability directors and officers are vulnerable to. We recommend modelling such an addition on section 112.1 of the Saskatchewan Non-profit Corporations Act from 1995.

Finally, we would ask that the government review its position that not more than one third of directors may be officers or employees of a public benefit corporation. For many smaller non-profits, which typically have entirely volunteer boards of directors, this change will cause increased financial strain, as they would be required to hire outside officers to fill these positions, since recruiting volunteer treasurers who are not on the board, who do not have that kind of direct responsibility and accountability, will be extraordinarily difficult. We support the recommendation that subsection 23(4) be removed in its entirety.

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Just to elaborate on that a little bit, many of the organizations we work with have small boards of directors—just five or six people—and under the current provisions, only two of those would be able to be officers. That means you could possibly have your president and secretary or secretary and treasurer as board members, but not president, secretary and treasurer unless you had a board of nine individuals. That creates a real problem, and I don't think that is the intent of what was being considered, but it is the way it stands right now.

An amendment to exclude that provision where volunteers who are board members cannot fill those positions is a challenge. I know my own board has 15 members, so it's not specifically a problem for us, but the message being sent out that board members should not also be officers of the organization is a slightly confusing one. In

the case of the many smaller organizations, it creates a real challenge and, in some cases, a real hardship for them. Often it's a challenge to come up with six board members to support a really small non-profit, so to add this burden to groups that are trying to get together to address an issue or meet a need creates a real challenge.

On that note, I'd like to thank you for considering these recommendations for amendments to Bill 65 and hope that they will be implemented to help create an even stronger and more vibrant non-profit sector in the province. Thank you very much for your time.

The Chair (Mr. Shafiq Qadri): Thank you very much. About 30 seconds or so, to Mr. Arnott.

Mr. Ted Arnott: Thank you very much for your presentation. It was very interesting.

I just want to ask a question about the permanent asset lock request. Right now, the bill provides for a three-year asset lock. Why do you suppose the government limited it to three years and didn't understand the importance of making it permanent?

Mr. John Campey: I would not want to venture on why the government would do something. Our concern is that because it is such a short term, it does create opportunities for public assets, in the sense of charitable assets, not to remain in the public realm and for public benefit.

Mr. Ted Arnott: Would one of the government members care to offer an explanation?

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Arnott. Mr. Kormos.

Mr. Peter Kormos: Thank you very much. You're obviously echoing some of the stuff we've already heard. That's good, though, because it might make a bigger impression.

Mr. John Campey: Exactly. Again, the non-profit sector is very, very diverse. I think the Ontario Nonprofit Network has done a very good job of bringing together those diverse sectors, giving us all a chance to reflect our own unique concerns into a comprehensive set of recommendations, which is one of the reasons why I hope the committee and the government will treat them very seriously. They do represent broadly diverse sectors.

The Chair (Mr. Shafiq Qadri): Mr. Johnson.

Mr. Rick Johnson: I appreciate your presentation. You've raised some good questions, which I will ask when we get into the amendments. I appreciate what you've brought forward and the support that you obviously have for the intent of the bill. We still have some details to work out.

The Chair (Mr. Shafiq Qadri): Thanks to you, Mr. Campey, for your deputation on behalf of Social Planning Toronto.

Is Mr. Jerry Leonard present? Going once.

UNITED WAY TORONTO

The Chair (Mr. Shafiq Qadri): I now invite our next presenters to please come forward: Mr. Alexander and Ms. Mason, of United Way Toronto. Welcome.

You've seen the drill: You have 10 minutes. Please begin.

Mr. Peter Alexander: I'm just here by myself. Ms. Mason is not able to attend today. I have copies of my brief for the clerk. I'll proceed and allow you the opportunity to ask me some questions, should you wish to do so. Thanks for this opportunity to make a presentation to this committee regarding Bill 65, the Not-for-Profit Corporations Act.

United Way Toronto would like to congratulate the government and all members of the Legislature who have supported this bill so far for the recognition of the need to update the regulatory framework for not-for-profit corporations. We expect that this legislation, if passed with a number of small but important amendments, will make it easier for community non-profit organizations to flourish, to operate in an open and accountable way and to better serve their members' interests, as well as the broader public interest.

Over the course of more than 50 years of building community, United Way Toronto has seen the powerful impact that effective local non-profit organizations can have on meeting urgent social needs. For example, we note with great interest the decision of the government of Ontario to develop and implement a poverty reduction strategy. We support this goal wholeheartedly and wish to point out that community non-profit organizations in various forms have been on the front lines of poverty reduction in Ontario for many decades, many of them long before United Way came into existence. These organizations are worth supporting in their own right and also to help Ontario meet broad social and economic goals, such as poverty reduction.

We are pleased to note the all-party support in the unanimous vote in favour of Bill 65 at second reading. We are here today to add our voice to that of our partners in the community non-profit sector and show our support for this bill. United Way Toronto has worked closely with the Ontario Nonprofit Network, including participating in the ONN working group on legislation that prepared the ONN's brief to this committee. We encourage the committee and all members of the Legislature to take careful note of the ONN brief on Bill 65. The Ontario Nonprofit Network has done a very good job at something that we know can be quite challenging: finding a common voice and policy advocacy position supported by so many organizations across our diverse sector.

We also wish to acknowledge the effort made by the government of Ontario to promote a good public discussion about the non-profit sector's regulatory framework. United Way Toronto has been involved since 2007 in consultations on several discussion papers published by the Ministry of Government and Consumer Services regarding the current Corporations Act, and this included United Way Toronto staff representation on the ministry's online reference group, which provided advice to ministry staff.

There are two features of the bill that we support in particular. One is the designation of a public benefit corporation. We support this new designation of a public benefit corporation, or PBC. As a charity, United Way Toronto and any other charity would meet the designation. We see merit in allowing this designation for non-profits that may choose not to register as charities but still wish to assure potential partners and investors that their work advances the public good. The key is that a PBC would retain its assets for the public good and could not distribute its assets and property to its members upon dissolution.

We are very supportive of this legislation's clear recognition of the right of non-profit organizations to engage in commercial activities, provided that revenues are used to forward public benefit objectives. So long as commercial profits are subject to robust non-distribution constraint to prevent the personal enrichment of directors, members or staff, this provision can be very helpful. It can allow for innovative and entrepreneurial activity such as social enterprise, allowing people and organizations that may face social and economic challenges to create and pursue their own opportunities for prosperity and stronger community.

There are also three features of the bill that we believe require amendment to strengthen this legislation, and I will describe them now.

With respect to the definition of a public benefit corporation, first of all, Bill 65 defines a PBC based on whether a non-profit receives more than \$10,000 in grants, gifts or donations. However, we do not believe that the funding source is the relevant criterion. Rather, any registered charity should automatically be considered a PBC regardless of the level or source of its funding. Furthermore, any non-profit that chooses to do so should be able to self-designate as a PBC and accept the attendant responsibilities, such as a lock on the distribution of assets and more stringent audit provisions.

Secondly, the bill, as written, includes a three-year lock on the assets of the PBC. This temporary lock is inadequate, and the bill should instead be amended to make it permanent. This will avoid the potential of an organization to solicit gifts, grants or donations for supposed public benefit and then subsequently use those funds to personally enrich its members upon dissolution. A public benefit corporation should, however, be able to make a gift of its assets upon dissolution to another public benefit corporation.

Thirdly, with respect to community bonds, we see merit in the suggestion of the Ontario Nonprofit Network to include provisions for non-profits to issue community bonds, similar to the provisions in the Co-operative Corporations Act. This would allow non-profits to issue offering statements to potential bond purchasers that will increase public confidence in the risk assessment associated with their investment decision.

In conclusion, we support the broad intent of this legislation and encourage members of this committee to note the recommendations for three amendments to

strengthen it. Thank you for the opportunity to make this submission.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Alexander. To the NDP. Mr. Kormos, about one and a half minutes.

Mr. Peter Kormos: Thank you, sir. This whole business of a public benefit corporation: You take a look at the definitions, and it is a little whacky because it's circular. A charitable corporation is defined in the bill not by being a registered charity, but the bill creates a new definition of what a charitable organization is.

1350

I'm thinking—I'm trying to put this in context—of the Croatian National Home down on Broadway in Welland. I'm wondering whether they would be entitled to avail themselves of Bill 65, because it's not a public purpose, it's not fully charitable and it's not fully educational. I'm hearing what you're saying, and I'm interested perhaps in getting some help from policy people or government people about how the Croatian National Home, for instance, would be able to use Bill 65 for its corporate structure. Would there be any bars there?

What sorts of examples are you thinking of? You made me think of the Croatian National Home. What were you thinking?

Mr. Peter Alexander: I wouldn't want to comment on the specifics of that particular organization—

Mr. Peter Kormos: No. You made me think of it. Who are you thinking of?

Mr. Peter Alexander: Well, for example, I recall comments made at one of the first public meetings, an opportunity for discussion on one of the government's discussion papers, where a gentleman commented that people in his community—and it might be any community with an ethnocultural focus or a different focus—would perhaps not be able to encourage traditional investors to support their projects. Maybe the banks for some reason decide that they're not creditworthy to their standards. They'd like to be able to create a non-profit structure into which people could put money so that other members of the community could have start-up funds for a business or some such, but for—

The Chair (Mr. Shafiq Qaadri): I need to intervene there, Mr. Kormos. To the Liberal side, Mr. Johnson.

Mr. Rick Johnson: I just want to thank you for taking the time to come in today and for being involved; as you said in your notes, you've been involved with the consultations since 2007. You've raised some very good points throughout your presentation and I appreciate the time and effort that you've put into this. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Ms. Munro.

Mrs. Julia Munro: Thank you very much. I would like to go to page 2 of your submission, where you're talking about the right to engage in commercial activities. I know that there have been examples for years and years of people who have been able to have these side by side with the not-for-profit activity.

This wording: Do you see any problem with the wording in terms of how it might be interpreted by people who are in the private sector or people who are in the not-for-profit sector? I guess what I'm asking you is, do you think it's clear enough?

Mr. Peter Alexander: I believe it's an improvement on what the status quo represents, so in that sense, yes.

What I've heard from lawyers in the non-profit sector with more expertise than me, frankly, is that it's very likely currently permitted, so this is merely clarifying current provisions. We believe it's always helpful if people don't need to go and consult, necessarily, at considerable expense with lawyers, but can read in the legislation that it's okay. So for that—to the extent to which it's broadly understood in the public, then there may be more communications work, to take a dry statute and explain what the options are for non-profit organizations, but we believe it's sufficiently clear for the statute and an improvement on the status quo.

Mrs. Julia Munro: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro, and thanks to you, Mr. Alexander, for your deputation on behalf of United Way Toronto.

SPORT4ONTARIO

The Chair (Mr. Shafiq Qaadri): I now invite Ms. Emin for Sport4Ontario. Please come forward.

Welcome, and I invite you to please be seated. We'll distribute that for you.

Ms. Margaret Emin: We ran out of paper, so it's a little short, but I think there's one for everyone here.

The Chair (Mr. Shafiq Qaadri): Great. Please begin.

Ms. Margaret Emin: As you said, I'm Margaret Emin. I'm the volunteer chair of Sport4Ontario, a non-profit organization that aims to build capacity within sport organizations within the province of Ontario. Of course, we applaud the government of Ontario for taking the lead to modernize the legal framework governing Ontario's non-profit organizations. Sport4Ontario was pleased to submit written responses to all three consultation papers.

In Canada, sport organizations exist at the national, provincial, regional and the community or grassroots levels. Although the majority of the media attention focuses on our national athletes on the world competitive stage—for example, the 2010 Vancouver Winter Olympics and Paralympics and the upcoming 2015 Pan/Parapan American Games—sport happens, for the most part, at the community level. Regardless of the level, sport is organized, supported and enabled largely by volunteers and non-profit organizations.

I'd like to just give you a very brief snapshot of the sport and recreation sector in Ontario. There are approximately 7,500 sport and recreation organizations in Ontario. This represents about 16% and is the second-largest component of the non-profit sector. Seventy per cent of sport organizations serve a single neighbourhood, city, town or rural municipality; 46% serve children and

youth; and 71% have been in operation for over 20 years. Financial resources are typically modest: 72% of sport organizations report annual revenues of less than \$100,000. Volunteers are key, clearly, but there are challenges in recruiting volunteers, especially board members. The sector employs about 44,000 employees, with 46% employed on a part-time basis, and 75% of sport organizations have no staff. The list goes on.

I hope this brief overview gives you a greater understanding of the sector—our numbers, our scope, our reach and our significant volunteer support—and hopefully establishes the context for my comments.

Is Bill 65 important to the sports sector? Absolutely. Any attempt to modernize and streamline the legislation with respect to incorporation and governance of non-profits is most welcome, and we support the essence of this legislation. But is Bill 65 all that it can be? It's so close but not quite, and that's why we're here. This is a pivotal moment for Ontario's non-profit sports sector.

Our submission speaks to the legislation, so I would just like to point out a few key sections. Please note: We absolutely endorse and support the submission of the Ontario Nonprofit Network.

First, public benefit corporations: We support the new designation, but Bill 65 proposes that to qualify as a public benefit corporation certain criteria must be met. We would submit that based on the current criteria, the majority of sport and recreation organizations in this province would not qualify because the majority are not in receipt of \$10,000 of government funding, donations and/or grants. We submit that sport and recreation organizations are public benefit corporations, and we further submit that the need for and/or dependency on government funding our donations for sustainability in no way should determine an organization's public benefit designation. Our recommendation: The receipt of government funding and/or gifts has no place in this definition. The intent to serve and benefit the public should be the defining criterion.

The second would be standard of financial review. We recognize the increasing public scrutiny of not-for-profit organizations coupled with revised and strengthened audit standards that have resulted in costly and more complex annual audits. While we support this call for increased transparency and accountability, we submit that the accountability must be reasonable and commensurate with the risk. The \$100,000 threshold would create an unnecessary and excessive administrative and financial burden for a significant percentage of sport organizations in this province. We believe that public benefit corporations and non-public benefit corporations with annual revenues of under \$500,000 should both be permitted to dispense with an audit in favour of financial review or financial statement review engagement.

Non-voting members: When I read this section of Bill 65, I thought of the four-year-old going off to their first swimming, hockey or skating lesson. They were at that point, by virtue of probably their program fee, a member of a provincial or local organization. Based on Bill 65

and the rights of a non-voting member in certain instances, we'd be sending off a notice of an annual general meeting to all the four-, five- and six-year-olds in this province, and in certain circumstances a parent or guardian would be voting on their behalf. We feel that unless the member has an economic interest within the organization, there is no policy rationale for conferring voting rights to non-voting members.

1400

Use of proxies: We recognize and we acknowledge that proxies play a very important role for some organizations, but others deem it not essential or not appropriate for their organization. Our recommendation is that you amend Bill 65 to recognize that proxy voting is mandatory unless otherwise provided for in the articles or bylaws of the organization.

Directors' liability: very key for the sport and recreation sector. We are very reliant on volunteers. I believe the number is 1.1 million in this province, for a total of 122 million volunteer hours per year. In today's increasingly litigious environment, it is one of the many reasons, but not the only reason, that it is often difficult to recruit and retain volunteers to serve as board members. Bill 65 makes no provisions for a liability shield for directors and officers of non-profit organizations. We recommend that you insert such a clause into this legislation similar to that of Saskatchewan's Non-profit Corporations Act, which is, in our opinion, at this stage the most progressive provincial legislation dealing with director and officer indemnification and limited liability to date.

And of course, finally, understanding that on occasion the appointment of a new minister can delay the process, such as this, we urge you to maintain the current momentum and work with the non-profit sector to fine-tune and pass expeditiously this new piece of legislation that meets both the Ontario government's goals and the non-profit sector's needs.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Emin. We have 20 seconds per side. Mr. Johnson.

Mr. Rick Johnson: Thank you for your very thorough presentation here. You've raised a lot of issues which we've been hearing throughout the day, and I appreciate the effort that you've put into—

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Johnson. Mr. Arnott or Ms. Munro?

Mrs. Julia Munro: I'd just thank you for a very thorough presentation that we'll be able to review.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Munro. Mr. Kormos.

Mr. Peter Kormos: I join my colleagues in thanking you.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Kormos, and thanks to you, Ms. Emin, for your deputiation on behalf of Sport4Ontario.

We have another telephone conference. Do we have our participants online?

INSTITUTE OF CHARTERED
ACCOUNTANTS OF ONTARIO

The Chair (Mr. Shafiq Qadri): We'll move to our next presenter, Mr. Warner of the Institute of Chartered Accountants of Ontario, if you're present. Please come forward. You have the floor. Welcome. Please be seated. You've seen the drill and I know you know your way around here, so please begin.

Mr. Tom Warner: Thank you. Good afternoon. My name is Tom Warner, and I am vice-president and registrar of the Institute of Chartered Accountants of Ontario.

Ms. Elizabeth Cowie: And I'm Elizabeth Cowie, the director of legal and regulatory affairs for the institute.

Mr. Tom Warner: The institute is pleased to speak on behalf of Ontario's 34,000 chartered accountants with respect to Bill 65, the Non-for-Profit Corporations Act.

I'd like to frame our remarks around the necessary distinction between what we see as the intent of the bill and its likely effect. Bill 65 aims to ensure that the public interest and the interests of the members of not-for-profit corporations are well served in the management of organizations such as service clubs, community organizations and sports clubs, so of course we support the intent of Bill 65. Our concern is that Bill 65 would also apply to regulatory bodies like the institute that are established by other legislation to protect the public interest and be publicly accountable.

In our case, the Chartered Accountants Act, 2010, updated our regulatory authority, including strengthening our investigative and disciplinary processes. It permits the institute to adopt bylaws to carry out these regulatory responsibilities. The bylaws that our members vote to adopt would, in many instances, be in conflict with Bill 65. The result would be significant impairment of the institute's ability to regulate our profession and the members who practise it.

Our public interest mandate is also governed by the Public Accounting Act, 2004, the Statutory Powers Procedure Act, the Fair Access to Regulated Professions Act, trade rules, external audit requirements, the Canadian Public Accountability Board and the SEC requirements in the US.

The other area of concern is that Bill 65 would enable the minister to make regulations governing the report to be made by auditors on the financial statements of not-for-profit organizations, including prescribing the standards of an accounting body. These would create confusion over the authority granted to the Public Accountants Council by the Public Accounting Act, 2004. Specifically, that authority enables the PAC to adopt standards for the qualification and regulation of public accountants that all accounting bodies' practitioners must ensure their licences comply with.

It could also lead to a conflict between the standards that auditors of not-for-profits are directed to follow by the minister under Bill 65 and those they are required to follow under the Public Accounting Act.

Both the institute and the Public Accountants Council are very concerned about the risk of causing a conflict with already legislated standards, particularly in the areas of professional judgment and skepticism, both of which are essential tools for a professional accountant.

Ms. Elizabeth Cowie: We are a regulatory body. Frankly, if our members are happy with what we're doing, we're not doing our job. There are a number of provisions in the bill that are problematic for a regulator in this regard.

Bill 65 provides for disciplining members of a not-for-profit. This assumes the corporation is not in the business of disciplining members, yet disciplining members is an essential part of our mandate and one for which we have sophisticated processes, including those required by the Statutory Powers Procedure Act. But because the specific requirements in the bill are not addressed in the Chartered Accountants Act, 2010, they would apply to our discipline process and hamper our ability to deal effectively with professional misconduct.

For example, Bill 65 permits a member to apply to the court for a rectification of records. Expelled members could thereby regain the right to practise without meeting any of the requirements for competence and integrity.

Bill 65 would also give members the ability to apply to the court for an investigation of the corporation. The powers of an investigator are broad; the requirements to co-operate, equally sweeping. A disgruntled member could seriously impede our mandate by an intrusive investigation, including compelled production of documents, testimony under oath, public reports and court orders. This conflicts with the confidentiality necessary to regulation and it presupposes that the member has no other recourse, such as judicial review. This is not the case.

The act also permits a member to bring, intervene in, discontinue or defend an action in the name of the corporation. Such a power could easily be abused by a vindictive party and is unnecessary, given the objects and oversight of the institute.

Bill 65 does state that in the event of a conflict with another act to which the entity is subject, that other act prevails. Yet while our legislation is more specific than its predecessor, several critical matters were deliberately left up to us to manage through bylaws. This allows us to adopt measures appropriate to our role and to ensure that our regulatory processes reflect changes in the law and jurisprudence. But we cannot, by the use of bylaws, override Bill 65, so we'd be forced into processes contrary to the intent of our own governing act.

Given the legislation to which we're already subject, and our regulatory mandate, Bill 65 does nothing to protect either the public interest or the legitimate concerns of our members. Instead, it would strangle our ability to act in the public interest in a flexible, timely and effective manner.

Mr. Tom Warner: To conclude, we know the government has recognized some of the potential drawbacks of Bill 65, notwithstanding its honourable intent, most

notably by exempting the health professions. We would therefore submit that there is an equally compelling case for explicitly exempting from Bill 65 the Institute of Chartered Accountants of Ontario and other regulatory bodies established by a general or special act of the Legislature as well.

In that regard, the institute has been requested, by the Public Accountants Council, to advise this committee that they share the concerns we have expressed about the potential confusion and conflicts over public accounting standards that could arise from Bill 65 in its current form. The Public Accountants Council also requests that it be exempted from Bill 65.

Thank you, and we'd be pleased to take any questions that you may have.

The Chair (Mr. Shafiq Qadri): Thank you. A minute per side; Mr. Arnott or Ms. Munro.

Mr. Ted Arnott: Thank you very much for your presentation. It is most sincerely appreciated by our side.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Arnott. Mr. Kormos?

Mr. Peter Kormos: You're making a point that several other presenters did today as well. It's an interesting oversight on the part of the government. A new minister won't make a difference. They don't write this stuff; they just get handed the speeches and this will move along as quickly as the government wants it to. Thank you very much.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Kormos. Liberal side, Mr. Johnson.

Mr. Rick Johnson: Thank you for your presentation. I said earlier, at the end of the morning procedures, that there are a number of ministries that are involved in a number of these amendments as they come forward, and we recognize that there are discussions that have to take place between the ministries. I appreciate your presentation and look forward to—

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Johnson, and thanks to you, Mr. Warner and Ms. Cowie, for your deputation on behalf of the Institute of Chartered Accountants of Ontario.

We're still trying to connect with our teleconference, but do we have Mr. Frampton of the Canadian CED Network/Learning Enrichment Foundation? Mr. Frampton?

Interjection: He's on his way.

The Chair (Mr. Shafiq Qadri): Is Ms. Fair, of St. Christopher House, here?

Mr. Dunn, of the Foster Care Council of Canada, was also a teleconference.

Mr. McNamara?

All right. We're going to take a 10-minute recess to regroup here.

The committee recessed from 1411 to 1421.

ST. CHRISTOPHER HOUSE

The Chair (Mr. Shafiq Qadri): We'll reconvene. Is Mr. Frampton of the Canadian CED Network present? Mr. Frampton?

If not, I'll invite Ms. Fair of St. Christopher House to please come forward. You've seen the drill. Please be seated, and I invite you to begin now.

Ms. Maureen Fair: My name is Maureen Fair. I'm the executive director of St. Christopher House. It's a not-for-profit charitable organization in downtown west Toronto with almost 100 years' history. We're a large-sized organization, almost \$9 million.

Some of the parts of this bill don't affect us directly, but we work in partnership with many smaller organizations, so we had some observations to share. Generally, we support the detailed recommendations of the Ontario Nonprofit Network, of which we're a member. I'm only going to note a few sections today that we have some particular interest in.

Overall, we really support the designation of the public benefit corporation. That's a very helpful distinction because we believe there's significant confusion amongst many decision-makers and the public about what's a not-for-profit, what's an NGO and what's a charity. I think this will go some ways to clarifying that.

I also think we would recommend the legislation be followed up with public education about these changes. We share ONN's concern about using source of income as a defining factor and instead recommend that the public benefit corporation designation be self-selected as we do with charities.

We also believe very strongly that the assets of a PBC should remain permanently for the public good. The assets were probably required under the assumption that they would be used for the public good. I believe this recommended change to Bill 65 is particularly timely and important for preserving social housing as a public good permanently, but it also applies if mergers happen between not-for-profits and businesses and in other possible scenarios.

I believe you've heard already today about some of the confusion about the part of the legislation that dictates that no more than a third of directors of a board may be officers or employees of the corporation. It does make sense to me that employees are captured by that, but the rationale for restricting the proportion of officers such as the board chair or board president—the logic escapes me. I just might be missing something there. We do note that if the minimum size of the board is three directors, which is a bare minimum, and all three are officers, which is good board governance, why compel the board to have to increase to nine members? This section either should be clarified or deleted.

I also want to note proxy votes probably also need to remain as an option for organizations. Our organization explicitly prohibits them in our bylaws. They can be misused—there have been abuses in the past—and I think

it's up to organizations and their membership to determine that.

As I say, we work in partnership with many smaller organizations, many of whom don't have the resources to be fully prepared to take on full examination of Bill 65. So at the risk of speaking for them, we support increasing the threshold that requires an audit for them. There needs to be a proportion, a sense of balance between the amount of resources a small organization has, the level of accountability required of them and the costs of that accountability. It's particularly the high and rising costs of audits that we want to flag for you today.

We further support the work in this legislation to limit the liability faced by individual members of boards of directors. We strongly urge you to include some shield there for volunteers on our boards. We are finding as we recruit for St. Christopher House, a fairly stable, well-established agency, that knowledgeable volunteers raise this repeatedly as a concern. It may have some detrimental effect on recruiting good board members in the future.

These items and the ONN's more detailed recommendations specify changes that we see as proper for good implementation of Bill 65. Overall, I want to reiterate that St. Christopher House appreciates and supports the intent of Bill 65. We see it as an important opportunity for clarifying the roles of not-for-profits in Ontario with both the government and the public.

The Chair (Mr. Shafiq Qaadri): Thank you. About a minute and a half or so per side, perhaps more. Mr. Kormos.

Mr. Peter Kormos: I'm fine, Chair. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Colle.

Mr. Mike Colle: I just wanted to thank St. Christopher House for the presentation, being a former recipient of the good services of St. Christopher House when you used to be in Kensington Market, long before you were born. But I know the great work you do at Dundas and Ossington and I know how much you help, as you said, the smaller fledgling organizations that don't have the resources, and it's important to speak for them too. So thank you very much and I thank the good people at St. Christopher House.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle. Ms. Munro.

Mrs. Julia Munro: Thank you very much for coming forward with these comments. I wondered if you would just give us a sense of whether or not the bill, as it stands right now, around the issue of limiting liability—is that clear enough for people or would you be looking for further explanation, if you like, or direction?

Ms. Maureen Fair: I think it should be very specific and much more clear and I think, again, there's probably a need for some public education about this after the legislation is implemented.

Mrs. Julia Munro: I guess I'm looking for any wording that you might recommend that would help clarify,

because I agree with you that it is an area about which people have a great deal of reservation.

Ms. Maureen Fair: I don't have any ready here, but we can consult—our colleagues at Ontario Nonprofit Network may have.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro, and thanks to you, Ms. Fair, for your deputation on behalf of St. Christopher House.

FOSTER CARE COUNCIL OF CANADA

The Chair (Mr. Shafiq Qaadri): Is Mr. Frampton present? If not, we have on teleconference Mr. Dunn of Foster Care Council of Canada. Are you there, Mr. Dunn?

Mr. Peter Kormos: Maybe he's French-speaking.

The Chair (Mr. Shafiq Qaadri): At least someone is, Peter.

Thank you, Mr. Dunn, for Foster Care Council of Canada. You have 10 minutes in which to make your presentation. Committee is on standby. Please begin.

Mr. John Dunn: Okay, hello. I just want to make sure audio is good. Does everything sound good? I can't hear anybody, so I hope I can be heard well.

The Chair (Mr. Shafiq Qaadri): Yes, we're fine. Go ahead, Mr. Dunn.

Mr. John Dunn: Okay, great.

The reason I'm calling is as the executive director of the Foster Care Council of Canada. We advocate for transparency and accountability in child welfare. Specifically, there are two parts of the act I want to speak to. This will be pretty brief.

The part that I'm going to speak to is the section with regard to members. Currently, the Corporations Act that's in existence today—it's sections 306 and 307—allows members under 306 and non-members under 307 to request the list of existing members for advocating for policy changes, bylaw changes, things like that. You request a list of the members and then you write a letter to the members asking them to requisition the board for a meeting to discuss the issue or policy that you want to be changed. Under section 295, that's where the process gets done.

1430

Under the new bill, Bill 65, it proposes to remove external input, so now it will be members only who can request a list of members. In many non-profit circumstances that might be okay and completely fine, because who else should have concerns? In the case of children's aid societies, they are non-profit corporations that are mandated into people's lives, so you have people who have their lives seriously affected by them and have no choice other than, at many times, to advocate for changes to policies through membership requests for a list of members. This will remove that ability for them, because the corporation of the CAS often does not allow people who are involved with CAS to become members. This is a common thing I'm hearing across the province.

With the lack of Ombudsman oversight of children's aid societies, with the Child and Family Services Review Board, which is a complaint body that actually has no power, because it's exempted from the powers and procedures act that most tribunals have—as you know and as many people are aware, the tribunal only has administrative power; it doesn't deal with a lot of the issues that are seriously affecting lives. So I'm hoping that there is an additional section similar to 307(1), (2), (3), (4), (5) and (6) of the Corporations Act that exists today that could be added for non-members to request lists.

Charges have been brought against Sudbury children's aid before. I'm currently involved in charges against the Ottawa CAS, prosecuting for failing to furnish a list of their members. So there are issues that need to be addressed by non-members, because if they exclude people who are advocating for changes simply because of that fact, then it's yet another level of accountability that's not available.

That's my presentation for today, and I'm open to any questions.

The Chair (Mr. Shafiq Qaadri): Thank you very much. Are you finished with your presentation, Mr. Dunn?

Mr. John Dunn: Oh, just subsequent to that—sorry, yes, but I have one last thing. Part of the act, I believe, talks about the different types of non-profits, and I think that maybe you could create another type—for example, children's aid—where citizens' lives are forcefully affected by a certain type of non-profit. Subsequent to this, maybe we could talk about it at another time or through questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dunn. We'll now move to the Liberal side. Mr. Johnson.

Mr. Rick Johnson: I just want to thank you for your presentation. You've raised some interesting situations and points. Thank you.

The Chair (Mr. Shafiq Qaadri): Thanks, Mr. Johnson. The PC side: Mr. Arnott or Ms. Munro, as you wish?

Mr. Ted Arnott: Thank you very much for your presentation. It's sincerely appreciated.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott. Mr. Kormos.

Mr. Peter Kormos: Thank you, Mr. Dunn. There is some hope, because you'll recall the government's enthusiastic reappointment of Ombudsman André Marin. Mr. Marin, as Ombudsman, has strongly advocated for Ombudsman oversight of children's aid societies. The government's dragged its heels on that one, but if Mr. Marin keeps up the pressure, I suspect that Mr. McGuinty would be pleased to accept his recommendations in that regard.

Children's aid societies are, in my view, a bit of an anachronism. I'm an advocate of the abolition of children's aid societies, of putting that service under direct government control. That's where it belongs and that's where there's political and individual accountability and responsibility. So keep up with your advocacy, please.

Mr. John Dunn: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos, and thank you, Mr. Dunn, for your deputation on behalf of the Foster Care Council of Canada.

Mr. Kormos, just in reply to your query about French, nos présentations sont interprétées par M. Couto.

Mr. Peter Kormos: Of course.

The Chair (Mr. Shafiq Qaadri): They're simultaneously translated in French.

LEARNING ENRICHMENT FOUNDATION

CANADIAN CED NETWORK

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter, Mr. Frampton. Welcome, Mr. Frampton. You've seen the drill: You have 10 minutes in which to make your presentation. I'd invite you to please begin now.

Mr. Peter Frampton: Thank you very much. I appreciate this opportunity. I'm Peter Frampton, the executive director of the Learning Enrichment Foundation. We're a charity in the northwest corner of the city, formerly known as the old city of York. We serve Ontario's second-poorest riding, York South-Weston. Our mission is to enable individuals and their families to become full participants in their communities' economic and social development, and we do that by providing child care services, settlement services, language training and skills training that is targeted to local jobs and job placement services.

As a founding member of the Canadian Community Economic Development Network, I'm also, at their request, speaking on their behalf today.

The proposed legislative changes are an exciting movement forward for the sector, and both LEF and the Canadian CED Network are supportive of the recommendations in the brief that has been given to you by the Ontario Nonprofit Network. I'd like to call your attention to a few issues that I hope are not forgotten during your line-by-line review of the proposed legislation.

First and foremost, public benefit corporations should be assumed to be involved in commercial activity. Just as today child care is offered both by for-profit and non-profit organizations, that right must be clearly enshrined. At LEF, our kitchen competes with the private sector, but it also acts as a training ground that enables over 50 students a year to find employment in their field, and it feeds every day over 500 homeless in partnership with Second Harvest. Maintaining our ability to work in both realms simultaneously is essential to our being able to meet community needs in a highly efficient and effective manner.

Secondly, public benefit corporations must be allowed to issue community bonds. As we look to the upcoming changes in child care that have been brought about by the introduction of all-day learning, one of the solutions for us is to issue community bonds that will enable us to make the investments we must to transition our service

delivery model and remain a support that is desperately needed in our local community.

That's but one example, and I'm assuming that you've heard many examples over the course of today and that you'll hear many more. Suffice it to say, without the means to attract investment and act within the marketplace, public benefit corporations will not be able to meet the unique needs of local communities, leaving local concerns solely in the hands of government to solve.

Finally, accountability is a must. The current three-year asset lock being suggested is not stringent enough. We enjoy a high degree of community trust and believe quite strongly that the asset lock needs to be permanent. Anything less is not representative of our values or the expectations of our stakeholders. We ask that the recommendations made by the Ontario Nonprofit Network be taken into consideration and that the significant time spent by the community in assisting you in making suggestions for your clause-by-clause review be adopted.

Thank you for your leadership and for moving things forward in creating a legislative paradigm that we believe reflects the emerging realities of the communities these corporations serve. Thank you very much.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Frampton. To Mr. Arnott or Ms. Munro, two minutes per side.

Mrs. Julia Munro: I think people have seen over time the relationship with a not-for-profit being able to undertake certain entrepreneurial activities. How do you envision that this legislation will strengthen or alter what has traditionally been available? The first example I think of is the gift shop in a hospital. Where are we moving to, in your view?

Mr. Peter Frampton: I think it's the clarity around it that is so important. Just having that mentioned, having it talked about, is the bit that's missing.

Mrs. Julia Munro: Can I ask one other question?

The Chair (Mr. Shafiq Qadri): Please. You have two minutes. Go ahead.

Mrs. Julia Munro: With that, do you think there would be organizations that are small—we know that there are many that are quite small. Would that become difficult for them from the point of view of record-keeping and things like that? I mean, is there going to be with it a new transparency that would be challenging?

Mr. Peter Frampton: From what I've read, the type of documentation and the audits and whatnot that is being suggested is prudent. There's benefit to being a charity, there's benefit to being a public benefit corporation, and there are obligations that go with that. I don't see those recommendations as being overly burdensome.

Mrs. Julia Munro: Thank you very much.

The Chair (Mr. Shafiq Qadri): Mr. Kormos.

Mr. Peter Kormos: Thank you kindly. You called the legislation exciting. You're the first person to do that in years.

Mr. Peter Frampton: I've spent too long doing social enterprise.

Mr. Peter Kormos: You could end up on a government billboard: "Frampton says 'Exciting!'" But good for you. I appreciate your interest. You're obviously saying some of the same things that other people are saying. I don't know about the three-year rule; I don't know what the rationale was for that. We'll get a chance, I suppose, when we get into clause-by-clause to discuss it, if the government doesn't bring an amendment already.

The interesting observation—other people have made it too—about the non-profit and the for-profit sectors: They compete with each other. They do. I come from small-town Ontario, right? I get complaints from the tavern owner about the Legion, because the Legion has good beer prices. Ted Arnott's a member of the Legion—I've seen his membership card—and he could tell you about the beer prices. So the tavern owner, who's struggling, complains about some of the little ethnic clubs. It's all volunteer workers in those places. It's an interesting tension. I don't know how it gets resolved but I do appreciate your comments.

1440

Mr. Peter Frampton: In my mind, the only difference, really, in the activity is: Who's the shareholder? And in a public benefit corporation, the shareholder is the community, and so it's how one maintains the assets.

Mr. Peter Kormos: But this morning we had somebody from the funeral industry in here complaining about—I'm not going to take on the Catholic church—Catholic Cemeteries, and them low-balling cemetery costs.

Interjection.

Mr. Peter Kormos: So there you go. Are you going to take on the bishop, Mike?

Interjections.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Kormos.

To the government side, Mr. Colle.

Mr. Mike Colle: I won't talk about altar girls and altar boys. I tried that one time.

Anyway, Peter, thanks very much for coming. I know the great work that LEF does. I wonder what Donald Macdonald would say about this legislation. No, but I don't want to go there.

Just in terms of the interesting thing that you do, I know that you train kitchen staff, chefs and preparers, and then you sell some of that food product out to the private sector, right?

Mr. Peter Frampton: Well, we sell to our child care centres and we do catering as well and whatnot.

Mr. Mike Colle: In competition with the—and then the point that you made about how this legislation might pertain to that activity that you engage in; I wasn't quite sure.

Mr. Peter Frampton: Because we're involved in that commercial activity, we're also able to work in partnership with Second Harvest and feed over 500 homeless people a day. So, as a non-profit, you bring together many motivations within that economic activity. That

type of leverage is something that I would hope could be clearly enshrined.

Mr. Mike Colle: Okay. Thanks, Peter.

The Chair (Mr. Shafiq Qadri): Thanks, Mr. Colle, and thanks to you, Mr. Frampton, for your deputation on behalf of the Learning Enrichment Foundation.

SOCIAL PLANNING COUNCIL
OF KITCHENER-WATERLOO

COMMUNITY INFORMATION CENTRE
OF WATERLOO REGION

The Chair (Mr. Shafiq Qadri): We'll now move to Ms. Beaulne, the executive director of Social Planning Council of Kitchener-Waterloo, who I understand we have online. Are you there, Ms. Beaulne? Ms. Trudy Beaulne, are you there?

Ms. Trudy Beaulne: Yes. Can you hear me?

The Chair (Mr. Shafiq Qadri): This is Dr. Qadri, chair of the social policy committee. You have 10 minutes in which to make your presentation. The committee is on standby. I invite you to begin now, please.

Ms. Trudy Beaulne: Okay. Can I close my door and put you on speaker or do I need to keep you on a handset?

The Chair (Mr. Shafiq Qadri): You may do whatever you wish.

Ms. Trudy Beaulne: Okay. I will do that. Give me, maybe, 30 seconds.

Can you hear me?

The Chair (Mr. Shafiq Qadri): Yes. Please go ahead.

Ms. Trudy Beaulne: Wonderful. Thank you for this opportunity to speak to you today. Bill 65, the proposed Not-For-Profit Corporations Act, is an excellent start to well-needed legislation. As the complexity of the non-profit environment increases and rapid social change is taking place, non-profit, voluntary and community-based organizations need all the help we can get to do our jobs well. The expectation we have for this legislation is greater clarity around what we should be doing, what our expectations and guidelines are to make it easier for organizations to fulfill our mandates in a responsible way. This is especially so for small and medium-sized organizations that do not have the resources to devote to professional support to help them interpret and navigate requirements. In short, we want to be transparent and appropriately accountable to our various stakeholders. To this end, I'm speaking today to support the recommendations that the Ontario Nonprofit Network has put forward, both in their brief and in their presentation earlier today.

In addition, I want to emphasize some features that I, in my own organization, believe to be highly important. First, we applaud defining a public benefit corporation designation and we welcome having this designation differentiated from non-profits. However, the basis for defining a public benefit corporation should be the man-

date of the organization, not its funding levels or funding sources. Please allow for organizations to self-define their mandate, and then provide the guidelines to ensure we are effective and accountable.

Public benefit corporations should have assets locked permanently and there should be no option to distribute these assets except for a public benefit, as we have now with charitable organizations. Public benefit corporations should not distribute assets to directors, officers or members unless those members are similarly defined as public benefit or charitable corporations. Directors and officers should not receive remuneration except to reimburse for out-of-pocket expenses. Furthermore, clear conflict of interest should be expected and maintained to keep a separation between the leadership of an organization and the fund allocation. Anything that starts to blur that line can introduce all sorts of issues and problems, which is not the direction that we'd want to go in.

Staff should never be voting directors in a non-profit organization and certainly not a public benefit corporation, nor should senior management staff be able to become a director in the event of all directors leaving. This is a dangerous direction for small organizations that often struggle to maintain boards.

We welcome clearer differentiation regarding membership so that public benefit corporations with membership are clear on the requirements, which likely should differ from a member association that exists to benefit their membership only. Reducing ambiguity around this would be helpful in setting parameters on the expectations and benefits of membership generally, either in the realm of public benefit or membership benefits.

Finally, public benefit corporations should not be permitted to change their designations. Once it has been established as a public benefit corporation, we can't shift because we want to become something else. This could be an invitation for abuse if assets are not locked and an organization can change its legislated accountability. It should be kept simple: If an organization ceases to be a public benefit organization as it had incorporated, it should cease operations, wind down, and then if the leadership of that previous organization chooses to start a new organization, they just start the incorporation process for that purpose.

As stated at the outset of my presentation here, draft Bill 65 is a good first step. Ensuring this legislation helps to clearly distinguish between types of non-profits and between our accountability to our various types of membership. This will go a long way to make it a useful tool to set up and govern our community organizations.

Thank you, and if you have any questions, I'd be happy to respond.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Beaulne. A minute and a half per side; Mr. Kormos.

Mr. Peter Kormos: No thank you, Chair. Thank you very much, ma'am.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Kormos. Mr. Johnson.

Mr. Rick Johnson: Thank you for your presentation. It's very informative.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Ms. Munro.

Mrs. Julia Munro: I would just like to echo the comments of thanks, and particularly suggest to you how clearly you have identified specific areas that you think we should make special note of. I appreciate that very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro, and thanks to you, Ms. Beaulne, for your deputiation on behalf of the Social Planning Council of Kitchener-Waterloo.

Ms. Trudy Beaulne: Thank you and good luck.

The Chair (Mr. Shafiq Qaadri): We will now move to our next presenter, Mr. John McNamara.

Is Mr. Steve Farlow here of Capacity Waterloo Region?

Ms. Cullingworth, Skills for Change?

Second regroup now in force. Recess for 10 minutes.

The committee recessed from 1448 to 1458.

MR. JOHN MCNAMARA

The Chair (Mr. Shafiq Qaadri): Members of the committee, I would now invite Mr. John McNamara to please come forward and begin his presentation. You'll have 10 minutes in which to make your presentation. We've already received, I think, your written submission.

Mr. John McNamara: Yes, this is the new one. It's just a few words. I should have much more, but—

The Chair (Mr. Shafiq Qaadri): That's great. Thank you. We'll make sure that gets to where it needs to go. Please be seated and please begin.

Mr. John McNamara: Thank you. I am honoured and humbled to be addressing you today on Bill 65, which, in my opinion, is most satisfactory and should be passed with only a few changes regarding several minor parts.

In part II, a change from the Corporations Act: provincial or federal? What are the fees?

In part III: Why 60 days after being incorporated? One hundred and twenty or 90 days should be the better term.

Parts IV and V: what qualifications directors or members must have to be acceptable to you, the Ontario government.

Parts IV, V, VI, VII and IX are acceptable even to me and, God willing, to those that I may choose in any new society or corporation or present ones.

Certain amendments should be made to Bill 65 that clearly define the needs of any society or its chosen roles and corporations.

Finally, I must request that you enter on file special government grants to people, persons handicapped in many ways, in many classes or sects, be they politicians, doctors, nurses, religious leaders, supporters etc.

As a resident of Homes First Society for the past 22 years, may I say prudently it is a 75%-plus fundamentally sound organization, but, as most across Canada, has its

shelters or its homes infected with bedbugs, mice, cockroaches etc., and requires special funding. I had to give them \$500 of my old age pension monies to clean up my room and unit.

As a 70-year-old Aquarian male, I beg you all to make Bill 65—society's laws of civil rights and freedom of expression. My Gains, my old age pension, my CPP and health care should be increased—as do others in need.

As a long-time Liberal, I pray to God for your success, goodwill and artful leadership—and also to our possible new mayor of Toronto, George Smitherman, whom I know quite well.

Thank you. God bless. I'll answer questions.

The Chair (Mr. Shafiq Qaadri): Thank you. I would invite the Liberal side to begin. Mr. Johnson, we have about two minutes per side.

Mr. Rick Johnson: I would just like to thank you for your presentation and for your support and encouragement over the years.

The Chair (Mr. Shafiq Qaadri): Mr. Arnott.

Mr. Ted Arnott: Thank you for your presentation this afternoon. We appreciate your participation in this committee today.

The Chair (Mr. Shafiq Qaadri): Mr. Kormos.

Mr. Peter Kormos: It's nice to see you here, sir. I don't know how George is going to do against Reefer Rob. Do you figure that marijuana cigarette—it was all a scheme just to get the marijuana smokers' vote, do you think?

Mr. John McNamara: I quit smoking four years ago, and I don't take marijuana.

In Tampa Bay, when I was the food director for the Salvation Army, there was a lot of marijuana and I had to deal with it. Then when I had my resort hotel in Jamaica, the marijuana blew in my trees.

Mr. Peter Kormos: So you may have met Rob Ford down there.

Mr. John McNamara: Yes.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. It sounds like you're about to convene your own committee.

Thank you, Mr. McNamara, for your presentation and your written submission.

CAPACITY WATERLOO REGION

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Mr. Farlow of Capacity Waterloo Region.

Gentlemen, welcome. You have 10 minutes in which to make your presentation. Please identify yourselves, and I'd invite you to begin now.

Mr. Steve Farlow: My name is Steve Farlow. My day job is that I work at a centre for entrepreneurship at Wilfrid Laurier University. Some of you know that it's almost as good a job as yours, working with bright young people all day creating enterprises.

My colleague is Andrew Wilding, and together we work as part of an organization called Capacity Waterloo

Region. Would I be right that some of you may know a little bit about that organization?

Mr. Ted McMeekin: I'm a Wilfrid Laurier grad, so I follow that.

Mr. Steve Farlow: It's a terrific initiative to bring innovation into the not-for-profit sector, to take programs and examples that have worked so effectively in Waterloo region in the technology community, bringing innovation to the technology community—to try to take our learning there and bring it to the not-for-profit sector, first in the Waterloo region and, we hope, perhaps cloned into different parts of the province.

In a nutshell, we've learned so much in the technology community. We thought if we could bring leadership to the not-for-profit sector in terms of improving the effectiveness of board governance; bring programs of mentorship and leadership to the not-for-profit community; bring peer-to-peer learning and create examples where not-for-profit organizations can work in networks and learn from each other—we feel very confident that we can improve the capacity and capability of the not-for-profit sector, first in the Waterloo region, but I hope we can learn things that can be cloned across the province.

Andrew and I work together at this with some of our colleagues, as well: a small advisory board, and in particular an executive director in residence who brings mentorship and support to the not-for-profit community.

We'll be succinct and brief here today. We're pleased just to say a few words about Bill 65 and speak in favour of it. Within Capacity Waterloo, we're very laser-beam-focused on really trying to create jobs and increase prosperity in our region; to enhance the competitiveness, as we say, of the not-for-profit community; to, most importantly, improve the quality and effectiveness of leadership within the sector. Very interestingly, we're working hard to help the not-for-profit community in our region improve its use of technology. Finally, it's very important that all of this has a social entrepreneurship component to it as well.

In that context, we're pleased to speak briefly to you today about Bill 65. Like many of the delegations you've had come and speak to you, we feel the time is terrific to make advancements to the Not-for-Profit Corporations Act. Just a few of the comments that Andrew and I would make really support and mirror the Ontario Nonprofit Network submission that has been already made to you. We're part of that network, and we thought it was a succinct and effective overview.

We believe that Bill 65 will make a significant difference in helping not-for-profits become more innovative and entrepreneurial. In Waterloo region, like other parts of the province, we have more than 1,000 registered charities doing vital work, from small arts groups to large organizations like Habitat for Humanity, the YMCA, and a very vibrant social change organization called Lutherwood. All of these are models that we learn so much from.

Again, in support of the Ontario Nonprofit Network submission, there are just a few points we'd like to make to you today. We see the following provisions of Bill 65 to be so important—and I know you're on top of this: one, that the new designation “public benefit corporation” with this act is much more relevant to the charitable sector and makes a clear separation from member benefit corporations. We think you're very wise with this. It allows not-for-profits to engage in commercial activities as long as revenues are used to forward public benefit objectives. This change will encourage organizations to move toward more social innovation and entrepreneurship. Finally, the act is giving more power to organizations to self-regulate through their own bylaws. So we very much commend the work you've done with Bill 65.

Here are just a few of our recommended enhancements—again, not unlike the Ontario Nonprofit Network.

One, a very important issue concerning public bonds: We feel strongly that the public benefit corporations should have access to community bonds to enable them to solicit investments from the public or foundations for initiatives such as capital projects that generate community benefits. We would recommend the adoption of the provisions in the Co-operative Corporations Act that enable the issuings of community bonds and make the necessary changes to allow foundations or philanthropists to invest in non-profit organizations.

Allowing investment in non-profit organizations is completely consistent with legislative changes being made by governments around the world. These approaches to investment and funding share the focus of stimulating positive social and environmental returns for investors and our community as a whole. That's an important point.

Secondly, the audit provision: Bill 65 is lowering the financial audit requirement threshold from \$500,000 in revenues to \$100,000. We—and I think others, too—recommend that you consider keeping the threshold at \$500,000 and require those organizations to provide financial statements. A \$100,000 limit would just be too onerous and costly for so many organizations.

On the issue of directors' liability, there are currently no provisions for a liability shield for directors and officers in non-profit corporations in Bill 65. We would like to recommend that a statutory limitation on liability be included in these legislative changes. As you're no doubt aware, the Saskatchewan Non-profit Corporations Act has this provision right now.

Touching on the use of proxies, Bill 65 would allow every member of non-profit organizations the ability to vote with proxy. This should be left for the organization to decide by having provisions in their bylaws. There is potential for abuse of this provision through existing proxies to individuals that are not members, for example.

But, as I say, we would particularly like to thank again—and there are some representatives here today—the Ontario Nonprofit Network for their submission and

the Wellesley Institute for their good work in reviewing this legislation and making recommended changes.

I would just like to conclude by thanking the government of Ontario for this very positive legislation and for considering these positive amendments. We sincerely hope that you consider our recommendations to Bill 65 and we thank you for your time today. We really appreciate the opportunity to speak to you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Farlow. There are 30 seconds per side. Ms. Munro?

Mrs. Julia Munro: Thank you very much. I appreciate the comments that you've made.

Earlier today we had a presentation that laid out some concerns in terms of the private sector and the kinds of opportunities the not-for-profits have over the for-profit sector. Have you encountered any of those kinds of conversations in your own community?

Mr. Steve Farlow: Thanks; it's a good question. In our own community, we're finding that one of the most innovative and creative aspects of the work we're doing now has been the collaboration of the two sectors, for-profit and not-for-profit, and we're finding many—

The Chair (Mr. Shafiq Qaadri): I need to intervene there, Ms. Munro. Mr. Kormos?

Mr. Peter Kormos: Use my 30 seconds to wrap up your answer.

Mr. Steve Farlow: Oh, sorry; I only had 30 seconds.

Mr. Peter Kormos: Go ahead, finish it.

Mr. Steve Farlow: It's working so effectively to bring them together, and we're learning from each other very effectively.

I'll remember the 30-second rule.

Mr. Peter Kormos: No, sometimes it just depends on how much of the 10 minutes you used up. It's okay. Thank you very much, gentlemen; I appreciate it.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. Mr. Johnson?

Mr. Rick Johnson: I appreciate your presentation and the comments you've made. I'm taking notes, so it's much appreciated.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Thanks to you, Mr. Farlow and Mr. Wilding, for your deputation on behalf of Capacity Waterloo Region.

I'll now invite Ms. Cullingworth, Skills for Change, executive director. Are you present, Ms. Cullingworth?

Is Ms. Davidson here, of the Ontario Hospital Association?

We'll recess for 10 minutes.

The committee recessed from 1514 to 1526.

SKILLS FOR CHANGE

The Chair (Mr. Shafiq Qaadri): We'll reconvene. I now invite Ms. Cullingworth, the executive director of Skills for Change. Ms. Cullingworth, you'll note that you have 10 minutes exactly in which to make your presentation. I invite you to please begin now.

Ms. Jane Cullingworth: Hi, everyone. My name is Jane Cullingworth. I'm the executive director of Skills for Change.

Skills for Change is a community-based charitable organization that has been working with immigrants and refugees for the past 28 years. We serve approximately 14,000 clients a year across the GTA, and we provide language training, skills upgrading and employment preparation programs.

We really appreciate the opportunity to give input into Bill 65, An Act to revise the law in respect of not-for-profit corporations.

Bill 65 marks considerable progress in the legislative framework of not-for-profit corporations in Ontario and reflects how the role of the not-for-profit sector in our society has evolved. Our submission focuses on the areas that we believe are most significant to our organization and the sector, and identifies a number of areas that we believe need to be strengthened in order for the bill to work most effectively.

There are three key changes that the bill results in that are being applauded by our sector. One is the creation of a new corporate designation, the public benefit corporation; second is the allowing of commercial activities as long as the revenues are used to forward public benefit purposes; and the third is the removal of the ultra vires doctrine. I'll now speak to the benefits of these three changes.

In terms of the public benefit corporation, this will help to differentiate between non-profit organizations that are designed to serve the public versus non-profits that are membership, benefit-based organizations. These two different types of corporations function quite differently, particularly with regard to the distribution of assets and property upon dissolution. The act further identifies accountability measures for the public benefit corporation such as audit requirements. We believe these provisions will provide greater clarity and confidence to the public.

The second area is commercial activities. The ability to engage in commercial activities is essential for community-based organizations to survive. Not-for-profit organizations have been selling goods and services from their earliest inception—and I think probably the best example is Girl Guides selling cookies. The regulatory murkiness of whether profit was allowed for organizations, defined by the fact that they are actually not-for-profit, has been a source of great concern and risk for the sector. While as a sector we'll continue to advocate to be known for what we do, which is creating community, rather than what we do not do, which is make profit, the clarification that we can engage in commercial activities that advance our purposes is a welcome development.

Community organizations cannot and do not want to survive on government funding alone. Most organizations strive to diversify their funding base, engaging in commercial and entrepreneurial activity—so really, a key consideration for not-for-profits. The specific permission to engage in commercial activities will open up many

doors for the sector and has the potential to unleash the kind of spirited innovation that the sector is best known for.

The third area is the ultra vires doctrine. We welcome the removal of this doctrine, as we understand that not-for-profits will no longer be limited to the objects set out in the corporation's letters patent. While we will continue to be required to set out our purposes in our articles of incorporation, we will be permitted to have any purpose that is within the province's legislative authority. This flexibility is critical for organizations, as it allows our work to evolve with the needs of our community. Organizations will no longer be boxed into the objects that were originally developed at the time of inception. This flexibility, similar to allowing commercial activity, opens up many opportunities for not-for-profits to be responsive and creative.

There are a number of changes that we would recommend and there are six areas, the first of which is specific details with respect to the public benefit corporation. Currently, the definition for a public benefit corporation is based on the amount and source of funding that an organization receives. Consequently, a not-for-profit organization that receives over \$10,000 in funding will automatically become a PBC, a public benefit corporation, and those that receive no funding or funding less than \$10,000 cannot be considered a PBC. We support the position of the Ontario Nonprofit Network in regard that the issue is a problem of definition. The bill, as currently written, will complicate the status of membership-based not-for-profits and exclude organizations that would like to be considered a public benefit corporation.

We support the ONN's recommendation that a self-selection test be available so that not-for-profits can choose to become PBCs. This provides organizations with the right to opt into this status and also allows membership-based not-for-profits to remain outside of the definition of a public benefit corporation.

The second area in which we would recommend change, or some additions, is preserving assets for the public good. We are concerned that the bill, as it is currently drafted, proposes a three-year asset lock on a public benefit corporation's assets. By definition, a PBC is of benefit to the public and not just its membership. We believe strongly that this bill needs to be amended to ensure a permanent asset lock on a public benefit corporation's assets. The assets of a PBC need to stay within the public domain. Again, we support the ONN's position on this issue: that assets, upon dissolution, should go to registered charities, another PBC or the government, with the proviso that the government will distribute the assets back into the community.

The third area where we would like to see some change is the ability to access community bonds with oversight. Currently, there's no provision in the bill for not-for-profits to use community bonds as a tool for the public to invest in initiatives, such as capital projects, that generate community benefit. We support the ONN's

suggestion that the bill be amended to enable not-for-profits to access community bonds, building on the framework that currently exists through the Ontario Co-operative Corporations Act.

The sector is really at a crossroads. Government support is increasingly limited because of cutbacks. Public support through donations and capital campaigns is also weak in the current climate, yet the services and supports that we provide are needed now more than ever. The sector needs to have creative strategies for raising funds, and community bonds are one such tool.

The fourth area is around directors' liability. This is an issue of great concern for our board of directors because of the liability that they expose themselves to as directors and officers of the organization. While the bill does include provisions for due diligence and good-faith defences, we believe that a stronger statutory limitation of liability is needed.

It is critical for our sector that we attract qualified and responsive directors to provide appropriate governance. The current risk exposure of a director can be a strong deterrent to community volunteers. We recommend that Bill 65 be amended to limit the liability of directors and officers.

The fifth area—these are sort of smaller issues—relates to bylaw changes. Section 17(3) allows directors to make changes to bylaws without ratification by the membership. We believe that bylaw changes should not come into effect until reviewed and approved by the membership. This is a critical check and balance for the membership of an organization.

Finally, the area of financial records: Clause 91(1)(i) calls for the financial records of a corporation to be available "to enable the directors to ascertain the financial position of the corporation ... on a quarterly basis." Our board of directors is concerned about the limitation of records to a quarterly basis. Currently, the corporation is provided with monthly reports. Given the high degree of liability the directors and officers take on in their role, their right to access the financial records should not be limited.

In conclusion, I would like to again express our support for Bill 65. With the changes that we have recommended, we believe the bill will mark a turning point for the legislation of the not-for-profit sector. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Cullingworth. About 20 seconds; Mr. Kormos.

Mr. Peter Kormos: No, thank you, Chair. Thank you, ma'am.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. Mr. Johnson.

Mr. Rick Johnson: Thank you for your presentation.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Ms. Munro.

Mrs. Julia Munro: I would just like to compliment you on how well organized your presentation was.

Ms. Jane Cullingworth: Thank you. I appreciate that. I'm actually very jetlagged. I just got back from England

last night. I appreciate that it was organized despite my jetlag.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro, and thanks to you, Ms. Cullingworth, for your deputation on behalf of Skills for Change.

I understand that our final presenter of the day is not with us yet. Ms. Davidson? No.

We shall recess once more for 10 minutes.

The committee recessed from 1535 to 1539.

ONTARIO HOSPITAL ASSOCIATION

The Chair (Mr. Shafiq Qaadri): We'll reconvene from our recess somewhat earlier because our final presenter of the day is now available: Ms. Davidson, president and chief executive officer of the Ontario Hospital Association. Ms. Davidson, you have 10 minutes in which to make your presentation, and I would invite you to please begin now.

Ms. Janet Davidson: Thank you, Mr. Chairman, and good afternoon, everyone. My name is Janet Davidson. I'm a board member of the Ontario Hospital Association and in my real life I'm president and CEO of Trillium Health Centre.

As has been noted, Bill 65, the Not-for-Profit Corporations Act, 2010, would modernize the legal framework that Ontario's 46,000 not-for-profit corporations operate within and, by doing so, strengthen governance within this very important sector.

Every Ontario hospital is a not-for-profit corporation and virtually all are also registered charities. In fact, Ontario is the only province in Canada where all the hospitals operate within a voluntary governance model. We believe that skills-based voluntary governance makes our hospitals stronger and better able to understand and respond to the unique needs of their communities.

The OHA and Ontario's hospitals are leaders in not-for-profit governance. The OHA, through its Governance Centre of Excellence, offers extensive training for hospital trustees based on annual needs assessments. It has also published multiple versions of the Guide to Good Governance, which has been recognized by experts as the gold standard in not-for-profit governance.

In short, we are committed to strong open governance and to continuous improvement. For that reason, we are concerned that certain provisions currently included in Bill 65, which might make eminent sense for many not-for-profit organizations, could inadvertently undermine the Public Hospitals Act and other purpose-built mechanisms through which hospitals operate and by which they are held accountable by the Ministry of Health and Long-Term Care and the taxpayers of this province.

Our primary concern is that Bill 65 would expand the rights that members of a hospital have in ways that we believe are inappropriate for a charitable organization that already has multiple accountabilities, is publicly funded and has a broad public purpose, specifically providing health care to millions of Ontarians.

As you may know, some Ontario hospitals sell memberships in their organization to members of the communities they serve. The community membership model is in large part a relic of the past when memberships were sold in order to raise money or were bestowed to honour individuals who had rendered long service to hospitals. Some hospitals use community membership sales as an outreach mechanism as well.

But unlike shareholders in a private sector firm, members of a hospital do not have any rights of ownership with respect to the organization or any responsibility to act in the organization's best interests or in the best interests of the public. Only a hospital's directors have fiduciary responsibilities to the organization. Further, hospitals' primary responsibilities are to the Ministry of Health and Long-Term Care as per the provision of the Public Hospitals Act of Ontario. Put another way, while hospital directors are responsible to act in the interests of their hospitals and hospitals are responsible to the ministry, hospital members are not responsible to anyone.

Indeed, there currently is nothing to stop a group of people, well-meaning or otherwise, and united by a specific issue or agenda, from purchasing hospital memberships and, within limits, promoting the agenda without regard for the best interests of the hospital, the community it serves or the stated policies of the government. A situation like that could create confusion at the hospital and within the community regarding the direction of the hospital and undermine public confidence in it.

We believe that certain provisions included in Bill 65 could strengthen the hand of those individuals and groups. For example, while section 21 of Bill 65 provides that directors of an organization "shall manage or supervise the management of the activities and affairs," it also proposes to give new, very broad powers to members. It specifies areas where hospital members would be able to propose changes to the hospital's articles of incorporation for any matter that requires member approval, including adding, changing or removing restrictions on its activities, changing the condition required for being a member of the hospital, changing the purposes of the corporation, and changing the rights of other members of the corporation. The net result is that some members could use this broad proposal-making power to involve themselves in areas that are properly the responsibility of a hospital's directors and managers.

Bill 65 would also allow members to nominate a director if they're supported by 5% of those entitled to vote. This is a new right that does not appear in the Corporations Act and would have implications for hospitals' ability to adopt a skills-based governance model.

Leading governance practices hold that skills-based boards of directors peopled with independent experts are best positioned to provide the kind of oversight over publicly funded organizations that taxpayers would expect. The alternative is a board made up of people who are not selected on the basis of skills but because they represent specific interest groups, professional groups or

political constituencies. For example, individuals like municipal politicians are in a conflict of interest between their representational mandate and their fiduciary responsibility to the hospital as a member of its board.

In the opinion of the OHA, skills-based boards are the most appropriate governance model within publicly funded public purpose organizations like hospitals. As such, we have counselled our members to adopt this model.

I should note that the Ontario Auditor General highlighted this issue in his 2008 annual report and recommended that hospitals continue towards skills-based boards. Recently, the Ministry of Health and Long-Term Care acknowledged the desirability of a skills-based board by amending regulation 965 of the hospitals act to remove voting rights from executive and clinical staff who sit on their organization's board.

The OHA is supportive of these changes. For these reasons, the OHA does not support the proposal in Bill 65 that would move hospitals away from skills-based governance.

Finally, Bill 65 would allow members to request an investigation into or bring a derivative action against the hospital and its board. The authority to appoint hospital investigators or supervisors was given deliberately to the Ministry of Health and Long-Term Care through the Public Hospitals Act. We do not believe that it should be duplicated at the local level through legislation that was not written with the unique needs of the hospitals sector in mind or given to individuals who do not have a fiduciary responsibility to the hospital or a duty to act in the public interest.

Ontario's hospitals are among the most efficient, transparent and accountable anywhere, in part because they operate for Ontario's 12 million citizens within legal, regulatory, funding and policy frameworks that are quite clear. As we work through this era of sometimes difficult change made necessary by evolving models of care and tight budgets, maintaining these strong, clear frameworks and acting in accordance with broad public interest will be more important than ever.

We believe that this could be accomplished in a variety of ways; one would be to amend Bill 65 to recognize the primacy of the existing purpose-built legislative and regulatory frameworks that hospitals operate under currently.

The OHA will be submitting detailed written proposals to this committee in the days ahead, and I would encourage all members of this committee to consider them.

I'll close the way I began: Ontario's hospitals recognize that we have special duties to operate openly and transparently, and we believe that voluntary governance is a unique strength of our hospital system. Our goal is to ensure that voluntary governance of hospitals remains as strong and effective as possible.

I'd just like to thank you for this opportunity to present to you today. Thank you, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Davidson. To the Liberal side, 20 seconds. Mr. Johnson.

Mr. Rick Johnson: I just want to thank you for your presentation. It was very informative.

The Chair (Mr. Shafiq Qaadri): Ms. Munro.

Mrs. Julia Munro: Thank you very much for your presentation. I would encourage you to send those amendments that you're contemplating with all possible haste. We're on a very short timeline.

Ms. Janet Davidson: We will. Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Kormos.

Mr. Peter Kormos: Thank you very much. I appreciate your contribution.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Davidson, for your deputation to us on behalf of the Ontario Hospital Association.

I'll just alert fellow committee members that we'll be adjourned till Tuesday, August 31, for clause-by-clause at 10 a.m. The administrative deadline for filing amendments is Monday, August 30, at 12 noon.

If there is no further business—yes, Ms. Munro?

Mrs. Julia Munro: There was some conversation about 9 a.m.

Mr. Peter Kormos: At 9, 9:30, 10, whatever people want.

Mr. Rick Johnson: I'm in anyway, so 9 o'clock—I don't know where everybody else is.

Mr. Peter Kormos: I should indicate my goal is to get the clause-by-clause done on Tuesday.

Mrs. Julia Munro: Right. Mine is, too.

Mr. Peter Kormos: Yes. And I'm here at 9 o'clock—

The Chair (Mr. Shafiq Qaadri): Fine, 9 a.m., Tuesday, August 31. Thank you.

Committee adjourned.

The committee adjourned at 1550.

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