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**Official Report
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(Hansard)**

Thursday 5 November 2015

**Journal
des débats
(Hansard)**

Jeudi 5 novembre 2015

**Standing Committee on
Finance and Economic Affairs**

Protecting Condominium
Owners Act, 2015

**Comité permanent des finances
et des affaires économiques**

Loi de 2015 sur la protection
des propriétaires
de condominiums

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
FINANCE AND ECONOMIC AFFAIRS**

**COMITÉ PERMANENT DES FINANCES
ET DES AFFAIRES ÉCONOMIQUES**

Thursday 5 November 2015

Jeudi 5 novembre 2015

The committee met at 0903 in room 151.

**PROTECTING CONDOMINIUM
OWNERS ACT, 2015
LOI DE 2015 SUR LA PROTECTION
DES PROPRIÉTAIRES
DE CONDOMINIUMS**

Consideration of the following bill:

Bill 106, An Act to amend the Condominium Act, 1998, to enact the Condominium Management Services Act, 2015 and to amend other Acts with respect to condominiums / Projet de loi 106, Loi modifiant la Loi de 1998 sur les condominiums, édictant la Loi de 2015 sur les services de gestion de condominiums et modifiant d'autres lois en ce qui concerne les condominiums.

The Vice-Chair (Mr. Peter Z. Milczyn): Good morning, everybody. The purpose of today's meeting is for clause-by-clause consideration of Bill 106, An Act to amend the Condominium Act, 1998, to enact the Condominium Management Services Act, 2015 and to amend other Acts with respect to condominiums.

Mr. Michael Wood is the legislative counsel who will be here to assist us with our work today.

As I'm sure all members are aware, the committee is authorized to sit today from 9 a.m. to 10:15 a.m. and from 2 p.m. to 6 p.m.

A copy of the renumbered amendments is on everybody's desk. You may refer to this copy as we go through the clause-by-clause review.

Do members of the committee have any questions before we begin? No?

As you've probably noticed, Bill 106 is comprised of only three sections which enact two schedules. In order to deal with the bill in an orderly fashion we should postpone the three sections in order to dispose of the schedules first. Are we agreed? We are agreed.

Are there any general comments or discussions about the bill before we go into section 1, schedule 1, of the bill? No? Very good.

So on schedule 1, section 1, some amendments have been tabled by the government. Mr. Ballard?

Mr. Chris Ballard: I move that subsection 1(4) of schedule 1 to the bill be struck out and the following substituted:

"(4) Subsection 1(1) of the act is amended by adding the following definition:

"“condominium authority” means the corporation that the Lieutenant Governor in Council has designated as such under clause 1.1(1)(a); (“autorité du secteur des condominiums”, “autorité”);”

"(4.1) Subsection 1(1) of the act is amended by adding the following definition:

"“condominium guide” means a guide that is described in subsection 71.1(1); (“guide sur les condominiums”);”

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment?

Mr. Chris Ballard: It's a technical issue.

The Vice-Chair (Mr. Peter Z. Milczyn): All right, so all in favour? Opposed? That is carried.

Mr. Chris Ballard: Well, that was easy.

The Vice-Chair (Mr. Peter Z. Milczyn): There is a—Mr. Ballard?

Mr. Chris Ballard: I move that subsection 1(6) of schedule 1 to the bill be struck out and the following substituted:

"(6) Subsection 1(1) of the act is amended by adding the following definition:

"“declarant affiliate” means a body corporate with or without share capital, whether or not this act applies to it, that is related to a declarant by reason of being deemed to be,

"(a) a subsidiary of the declarant under subsection 1(2) of the Business Corporations Act,

"(b) a holding body of the declarant under subsection 1(3) of the Business Corporations Act, or

"(c) affiliated with the declarant under subsection 1(4) of the Business Corporations Act; (“membre du même groupe que le déclarant”)

"(6.1) Subsection 1(1) of the act is amended by adding the following definition:

"“delegated provisions”, when used in connection with the condominium authority, means the provisions of this act and the regulations that the Lieutenant Governor in Council specifies under clause 1.1(1)(b) and of which the administration is delegated to the condominium authority under subsection 1.1(3); (“dispositions déléguées”)

"(6.2) Subsection 1(1) of the act is amended by adding the following definition:

"“improvement” means, in relation to a unit,

"(a) any part of a unit, where the part does not constitute a standard unit or part of a standard unit, or

“(b) any repair or modification to a standard unit that is done using materials that are higher in quality, as determined in accordance with current construction standards; (“amélioration”)”

Again, a technical requirement.

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment? None?

So we’ll vote on this amendment. All those in favour? Opposed? Carried.

Mr. Chris Ballard: I move that subsection 1(12) of schedule 1 to the bill be struck out and the following substituted:

“(12) Subsection 1(1) of the act is amended by adding the following definitions:

““Registrar” means the Condominium Registrar appointed under subsection 9.1(1); (“registrator”)

““regulations” means the regulations made under this act; (“règlements”)

“(12.1) Subsection 1(1) of the act is amended by adding the following definitions:

““repair” means to repair or replace after normal wear and tear, damage or failure; (“réparer”)

““reserve fund study provider” means a person who meets all prescribed requirements for the purpose of conducting a reserve fund study; (“fournisseur d’étude de fonds de réserve”)

“(12.2) Subsection 1(1) of the act is amended by adding the following definition:

““residential condominium conversion project” has the same meaning as in subsection 17.1(1) of the Ontario New Home Warranties Plan Act; (“projet de conversion en condominiums à usage d’habitation”)”

Again, that’s a technical amendment, Mr. Chair.

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment? We will vote on the amendment. All those in favour? Opposed? It’s carried.

0910

Shall schedule 1, section 1, as amended, carry? Debate and comment? We’ll vote. All in favour? Opposed? It is carried.

Now we move on to schedule 1, section 2. Mr. Vanthof.

Mr. John Vanthof: I move that section 1(1) of the Condominium Act, 1998, as set out in section 2 of schedule 1 of the bill, be amended by adding the following subsection:

“Oversight by Ombudsman

“(4) The Ombudsman appointed under the Ombudsman Act shall oversee the condominium authority and accordingly,

“(a) the Ombudsman is deemed to have all the powers necessary for the exercise of the oversight functions; and

“(b) the condominium authority shall co-operate with the Ombudsman fully in the exercise of his or her oversight functions.”

The Vice-Chair (Mr. Peter Z. Milczyn): Thank you, Mr. Vanthof. Committee members, I am ruling that this amendment is out of order, as it is, in my opinion, beyond the scope of this bill. Yes, Mr. McDonell?

Mr. Jim McDonell: Just an explanation: Why would that be outside the scope of the bill if it happened to fall under the Ombudsman?

The Vice-Chair (Mr. Peter Z. Milczyn): You cannot do something indirectly that you can’t do directly. My understanding is that it’s not within the Ombudsman’s legislation to have this particular oversight. You would have to amend the act that governs the Ombudsman.

Mr. Jim McDonell: So just to clarify, if you were to amend that act you wouldn’t have to go back and amend this act?

The Vice-Chair (Mr. Peter Z. Milczyn): I believe so.

Mr. Jim McDonell: Sure. Okay.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Vanthof, the next amendment.

Mr. John Vanthof: I move that section 1.1 of the Condominium Act, 1998, as set out in section 2 of schedule 1 to the bill, be amended by adding the following subsection:

“Oversight bodies

“(5) The Integrity Commissioner appointed under the Members’ Integrity Act, 1994 shall oversee the condominium authority and accordingly,

“(a) the Integrity Commissioner deemed to have all the powers necessary for the exercise of the oversight functions; and

“(b) the condominium authority shall co-operate with the Integrity Commissioner fully in the exercise of the oversight functions.”

The Vice-Chair (Mr. Peter Z. Milczyn): Committee members, I am ruling that this amendment is out of order as it is, in my opinion, beyond the scope of this bill. The rationale would be similar to the reasons for the previous ruling.

Mr. Vanthof.

Mr. John Vanthof: Thank you, Chair. I move that subsection 1.2(2) of the Condominium Act, 1998, as set out in section 2 of schedule 1 to the bill, be amended by adding the following paragraph:

“1.1 The objects and purposes of the authority, which shall include protecting owners, purchasers and residents with respect to the application of this act in the public interest.”

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment? Mr. Ballard.

Mr. Chris Ballard: I’m sorry; I didn’t know if Mr. Vanthof wanted to start off with any comments. I guess, Mr. Chair, I see this motion as requiring the administrative agreement between the minister and the authority to include explicit references to protecting owners, purchasers and residents in the objects and purposes. I have trouble with the amendment because the authority is primarily responsible for an independent, neutral tribunal. If it requires that the authority’s purpose include the protection of owners and purchasers, it would create an actual conflict of interest because the tribunal would resolve disputes between owners and corporations among other parties. For that reason, I can’t support this motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? No? We'll vote on this item. All those in favour? Opposed? The amendment does not carry.

Mr. Ballard.

Mr. Chris Ballard: Great. Thank you, Mr. Chair. With motion number 7, this is with regard to schedule 1 to the bill, section 2.

I move that section 1.4 of the Condominium Act, 1998, as set out in section 2 of schedule 1 to the bill, be amended by striking out "and the regulations" at the end and substituting "the regulations and other applicable law".

Again, it's a technical amendment, Mr. Chair.

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment? None? We'll vote on this amendment.

All those in favour? Opposed? The amendment is carried.

Mr. Ballard.

Mr. Chris Ballard: I move that section 1.6 of the Condominium Act, 1998, as set out in section 2 of schedule 1 to the bill, be amended by striking out "and" at the end of clause (a) and by adding the following clause:

"(c) the condominium authority's constating documents, bylaws and resolutions."

Again, a technical amendment.

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment? We'll vote on this amendment.

All those in favour? Opposed? The amendment carries.

Motion number 9, the official opposition. Motion number 9: It's an official opposition amendment.

Mr. Jim McDonell: I move that clause 1.9(1)(b) of the Condominium Act, 1998, as set out in section 2 of schedule 1 to the bill, be amended by striking out "the appointment or election process" and substituting "the election process".

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment? Mr. McDonell.

Mr. Jim McDonell: We believe the appointments to public boards should remain transparent. This amendment lays the groundwork to ensure the authority's members are either elected by stakeholders or appointed by order in council. If this doesn't pass, the board of the authority could not be composed of appointees who could be—the appointments can't be reviewed in the future.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Ballard.

Mr. Chris Ballard: Thank you, Mr. Chair. I have trouble with this amendment and will be voting against the motion. The intent of the bill is to add government oversight to the sector to protect the investments of condominium owners. It's our belief that removing the ability for the minister to make directives about the appointment practice would compromise the government's ability to add accountability in this area.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? We will vote on this amendment. All those in favour? Opposed? The amendment does not carry.

Motion number 10.

Mr. Jim McDonell: I move that section 1.10 of the Condominium Act, 1998, as set out in section 2 of schedule 1 to the bill, be amended by striking out "the minister" wherever it appears and substituting in each case "the Lieutenant Governor in Council".

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment?

Mr. Jim McDonell: Well, again, appointments that are made under the order in council are reviewable by government agencies. It ensures just that further degree of transparency that I'm sure the government and all parties here want to obtain.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Ballard.

Mr. Chris Ballard: Again, through you, Mr. Chair, I can't support this motion. It would remove the minister's power to appoint the minority of a board of a condo authority and instead give the power to the Lieutenant Governor in Council, which would require, of course, a cabinet decision and an order in council.

The motion really is inconsistent with established MGCS administrative authorities. Requiring a minister to appoint a minority of the board members and the chair ensures the condominium authority remains at arm's length from government while still allowing for close government oversight by the responsible ministry. Appointments would still be processed through the Public Appointments Secretariat.

If appointments were made by the Lieutenant Governor in Council, the process would require a cabinet decision and an order in council, as I stated previously. If appointments were made by the Lieutenant Governor in Council, the Standing Committee on Government Agencies would be able to scrutinize the appointment.

0920

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Barrett?

Mr. Toby Barrett: Just to follow up on that: Yes, that is a good thing, to have the standing committee review the authority. I just feel that that level of oversight is important if the need arises.

I think of the example of Ornge air ambulance, where there were a number of private companies that were spun off, and the Auditor General couldn't look into that. At the time, the Ministry of Health didn't seem to be providing the oversight. The other example is Tarion; the Auditor General has no oversight over Tarion. So I'm concerned that by voting against this amendment, we may be setting up a similar situation in the future.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. McDonell?

Mr. Jim McDonell: I'm somewhat surprised when they talk about the extra steps. Putting through an order in council in cabinet is something that—there are sometimes a dozen of these done each week. The Standing Committee on Government Agencies has the ability to call them for a review; probably about a quarter of the total nominees are called. It's not a huge delay issue, as you talk about. It's something put in place so that the members can be reviewed. As my colleague said, we've

seen examples where this hasn't happened. The Lieutenant Governor in Council works very well, and it just puts that extra step of oversight and transparency that we so much strive to achieve.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Ballard?

Mr. Chris Ballard: I just wanted to reiterate that, again, I would recommend voting against the motion. It would be inconsistent with other MGCS administrative authorities and would substantially, in our opinion, slow down the appointment process. The minister's ability to appoint up to 49% of the members supports an arm's-length relationship while allowing the appropriate level of government oversight. Appointments are already subject to appropriate oversight. The members' appointments would still be processed, as we said earlier, through the Public Appointments Secretariat process.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? So we will vote on this amendment. All those in favour? Opposed? The amendment does not carry.

Motion number 11: an official opposition motion.

Mr. Toby Barrett: I move that section 1.11 of the Condominium Act, 1998, as set out in section 2 of schedule 1 to the bill, be amended by striking out "the minister" at the beginning and substituting "the Lieutenant Governor in Council".

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment?

Mr. Jim McDonell: Again, the rationale is, it allows the appointees to be scrutinized by the standing committee. I would think the minister, being part of cabinet—I hesitate to think there's that much scrutiny when a recommendation of the minister goes before cabinet, that there's fear that these appointments will be turned down. If they are, it's probably for a good cause. We're only looking at that element of scrutiny that allows government agencies to then review the board in the future if there is an issue.

Again, as my colleague said, far too often these agencies go on where they don't have any requirement to come before any of the standing committees, and we see, in the case of Ornge, \$1 billion wasted before the newspapers pick it up. I think that's the last way we want the reviews to be done, so we'll be supporting this motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Ballard?

Mr. Chris Ballard: I have similar concerns that I raised with the last amendment and would recommend voting against this motion. First and foremost, it would be inconsistent with other Ministry of Government and Consumer Services administrative authorities.

Even if the minister increases or decreases the number of his or her appointments, the minister is still limited to appoint 49% of the members. Again, this supports the arm's-length relationship while supporting the appropriate level of government oversight. It's our belief that requiring the approval of the Lieutenant Governor in Council to increase the size of the board would slow down the process when it may be required.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. McDonell.

Mr. Jim McDonell: Just to make this very clear, this does not reduce the minister's ability at all. It leaves the decisions entirely within the cabinet. All this does is allow some oversight over the appointments. We have hundreds of agencies that are under the same scrutiny. It does not delay the system.

I think the arguments being put forth are frivolous, as we have a system that works well. I sat on Standing Committee on Government Agencies. The vast majority go through with agreement of all three parties. We have the ability to call somebody up to review. There are short time frames; they have to be done within a month. If we look at some of the appointments, they're years late before they're even suggested, so entering a couple of weeks of delay is not a huge issue.

Again, whether it's the minister or the cabinet that makes the decision, it's essentially the same group, so I don't see the problem.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comments? We're ready to vote on this amendment? All those in favour of the amendment? All those opposed? The amendment does not carry.

Motion number 12, from the third party: Mr. Vanthof.

Mr. John Vanthof: Thank you, Chair.

I move that part I.1 of the Condominium Act, 1998, as set out in section 2 of schedule 1 to the bill, be amended by adding the following section:

"Restriction

"1.11.1 No more than one member of the board of directors of the condominium authority may be a person who is employed to represent the interests of one or more home builders."

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comments? Mr. Vanthof.

Mr. John Vanthof: The basic premise of this is that the condo board should be set up to provide fair protection for all parties involved, but especially the condo buyers and the owners of the condo, who should represent a greater proportion of the board.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comments? Mr. Ballard.

Mr. Chris Ballard: Again, I have concerns with this motion. I think the motion creates a strong presumption in the act that the board will be a board composed of members who represent particular sectors or interests. This may make it difficult for the authority to have a competency-based board where members are appointed or elected based on the skills that they possess.

Further, the motion also implies that a seat on the board will be reserved for an individual who represents home builders. Home builders likely have a limited interest in the condominium authority because they cannot apply to the tribunal and they are not assessed fees by the authority. I think that for those two fundamental reasons, I would recommend voting against the motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? We're ready to vote on the amend-

ment? All those in favour? Opposed? The amendment does not carry.

Motion number 13: official opposition.

Mr. Jim McDonell: I move that section 1.12 of the Condominium Act, 1998, as set out in section 2 of schedule 1 to the bill, be amended by striking out “the minister” at the beginning and substituting “the Lieutenant Governor in Council”.

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comments? Mr. McDonell.

Mr. Jim McDonell: The same thing: It allows further scrutiny, as we’ve talked about before. It allows the ability of the board to be brought before government agencies for review, periodically, as we have for hundreds of other agencies. I think it’s just another element of good governance, where you have transparent boards that look after these fairly significant parts of the public population of Ontario.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comments? Mr. Ballard.

Mr. Chris Ballard: I have the same concerns with this motion that I had with the similar, earlier PC proposed amendments, and I would recommend that we vote against it for the same reasons. First and foremost, this would be inconsistent with other Ministry of Government and Consumer Services administrative authorities. It’s our belief that the minister’s ability to appoint up to 49% of the members supports an arm’s-length relationship, while supporting an appropriate level of government oversight. Appointments would still be processed through the Public Appointments Secretariat.

0930

It’s concerned about the speed at which this could be done. Having to go through cabinet or Lieutenant Governor in Council order etc. could significantly slow down the process.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. McDonell?

Mr. Jim McDonell: There are other agencies under consumer services that have this ability—so we don’t see it’s on a one-off. We believe that it’s good governance. I guess possibly those are made up at times when the government doesn’t have a majority. But I think it’s worthwhile to have this transparency and it’s the right thing to do.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Are we ready to vote on this amendment? All those in favour? All those opposed? The amendment does not carry.

Motion number 14: Mr. Ballard.

Mr. Chris Ballard: I move that section 1.13 of the Condominium Act, 1998, as set out in section 2 of schedule 1 to the bill, be amended by adding the following subsections:

“Access to compensation information

“(2) The condominium authority shall make available to the public the prescribed information relating to the compensation for members of its board of directors or officers or employees of the authority and relating to any

other payments that it makes or is required to make to them, and shall do so in the prescribed manner.

“Processes and procedures

“(3) The condominium authority shall follow the prescribed processes and procedures with respect to providing access to the public to records of the authority and with respect to managing personal information contained in those records.”

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment?

Mr. Chris Ballard: I’ll simply make a comment, Mr. Chair, that we’re drafting a change that clarifies the condominium authority’s obligations and does not alter the policy intent or the potential scope of the obligations.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Are we prepared to vote on this amendment? All those in favour? Opposed? The amendment is carried.

Motion number 15, from the official opposition.

Mr. Toby Barrett: I move that part I.1 of the Condominium Act, 1998, as set out in section 2 of schedule 1 to the bill, be amended by adding the following section:

“Condominium authority is a public sector body

“1.15.1 The condominium authority is a public sector body for the purposes of the Ombudsman Act.”

The Vice-Chair (Mr. Peter Z. Milczyn): Committee members, I’m ruling this amendment out of order, as it is beyond the scope of this bill, in my opinion. It is the same rationale as I gave earlier this morning.

Mr. Jim McDonell: I think it’s unfortunate we have—

The Vice-Chair (Mr. Peter Z. Milczyn): I don’t believe there are comments on the ruling of a Chair, Mr. McDonell.

Motion number 16.

Mr. Toby Barrett: I move that part I.1 of the Condominium Act, 1998, as set out in section 2 of schedule 1 to the bill, be amended by adding the following section:

“Condominium authority is an institution

“1.15.2 The condominium authority is an institution for the purposes of the Freedom of Information and Protection of Privacy Act.”

The Vice-Chair (Mr. Peter Z. Milczyn): Committee members, I’m ruling this amendment out of order as it is out of the scope of this bill, in my opinion. The rationale is the same as I’ve offered on earlier rulings.

Motion number 17.

Mr. Toby Barrett: I move that part I.1 of the Condominium Act, 1998, as set out in section 2 of schedule 1 to the bill, be amended by adding the following section:

“Condominium authority is an employer in the public sector

“1.15.3 The condominium authority is an employer in the public sector for the purposes of the Public Sector Salary Disclosure Act, 1996.”

The Vice-Chair (Mr. Peter Z. Milczyn): I’m ruling this amendment out of order as it is, in my opinion, out of the scope of this bill and for the same reasons as I’ve offered on earlier rulings.

Motion number 18.

Mr. Toby Barrett: I move that part I.1 of the Condominium Act, 1998, as set out in section 2 of schedule 1 to the bill, be amended by adding the following section:

“Disclosure of contracts

“1.22.1 The condominium authority shall disclose on its website any contract it enters into that exceeds a value of \$10,000.”

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment? Mr. McDonell.

Mr. Jim McDonell: This amendment would encompass things such as consultation and any contracts entered into by the authority, which are not covered by Liberal amendment number 14, as that one only applies to board members, officers and employees of the authority as subject to compensation disclosure.

So if this amendment fails, the authority could bump its members’ pay and potentially otherwise waste money through consultants and contracts.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment?

Mr. Chris Ballard: I have concerns with this motion and I would recommend voting against the motion because it could create a costly administrative burden and may result in unintended consequences for the authority.

The government has committed to ensuring the tribunal is affordable for owners, and mandating a burdensome reporting requirement could compromise this commitment. Further, Mr. Chair, contract disclosures could be addressed in annual reports, as set out in the administrative agreement, or through prescribed disclosure requirements.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. McDonell.

Mr. Jim McDonell: Yes. We’re simply asking that contracts of a significant size—of course, everybody in the condominium has to cover the cost; it’s basically available to the members. I don’t think that’s too much in the way of administration. It doesn’t have to be. People having the access to know just what work is being done is always a good thing.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Are we ready to vote on this amendment? All those in favour? Opposed? The amendment does not carry.

Motion number 19.

Mr. Toby Barrett: Chair, before I move this motion, I just wanted to point out to the committee that in the typing, a mistake has been made on the very bottom line of this motion where it says “subsection (1).” It should also read “and (2) on its website.” So the very bottom line would read “subsections (1) and (2) on its website.”

The Vice-Chair (Mr. Peter Z. Milczyn): The Clerk will make that note. Mr. Barrett, please proceed with moving your motion.

Mr. Toby Barrett: With that correction—

The Vice-Chair (Mr. Peter Z. Milczyn): Is everybody in agreement with this amendment being made this way?

Ms. Ann Hoggarth: I just wondered if the Clerk agrees that it was just a typo.

The Clerk of the Committee (Mr. Katch Koch): I don’t know because I distributed the amendments the way I received them.

Mr. Toby Barrett: The mistake is on our part, yes.

The Clerk of the Committee (Mr. Katch Koch): If you wish, you can make an amendment, or we can have this amendment retyped.

The Vice-Chair (Mr. Peter Z. Milczyn): So the issue is, are members fine with hearing this verbally or do they wish it in writing?

Ms. Ann Hoggarth: Okay.

The Vice-Chair (Mr. Peter Z. Milczyn): Okay. Mr. Barrett, please proceed.

Mr. Toby Barrett: Yes. Thank you, committee.

I move that section 1.28 of the Condominium Act, 1998, as set out in section 2 of schedule 1 to the bill, be amended by adding the following subsection:

“Publication of advice or report

“(1.1) The condominium authority shall publish any advice or report it makes under subsections (1) and (2) on its website.”

I apologize for our mistake in typing that up.

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment? Mr. McDonell.

Mr. Jim McDonell: Yes. The reason for this is we just believe the public has a right to know whether or if the authority recommends a change to the minister.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Ballard.

0940

Mr. Chris Ballard: Everyone agrees that the public has a right to know. Our concern is that this proposed amendment would create a potentially costly administrative burden. Secondly, the policy intent could be addressed in other ways, such as through regulations prescribing disclosure requirements. For those two reasons, I would recommend that we vote against the motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. McDonell.

Mr. Jim McDonell: One of the benefits that we have with the Internet is that posting to a website is actually very inexpensive these days. As I say, the ability for the public to keep track of changes is very easy and cost-effective today. That’s only, of course, if the government is willing to share the information.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comments? We’re prepared to vote on this motion? All those in favour? All those opposed? The amendment does not carry.

Motion number 20: Mr. Barrett.

Mr. Toby Barrett: I move that section 1.29 of the Condominium Act, 1998, as set out in section 2 of schedule 1 to the bill, be amended by adding the following subsection:

“Requirements to set fee, cost or charge

“(2.1) Despite subsection (1), the condominium authority may not set a fee, cost or charge described in clause (1)(b) unless,

“(a) the proposed fee, cost or charge has been published on the condominium authority’s website for a minimum period of at least six months; and

“(b) the minister does not veto the proposed fee, cost or charge during the period referred to in clause (a).”

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment? Mr. McDonell.

Mr. Jim McDonell: I believe that the public has a right to know whether authority fees are set to increase. The minister must retain the ultimate veto power over fee increases in order to properly protect condo owners from authority overreach. We have similar issues with apartments where there are limits to what the increases can be, tied back to the consumer price index. It’s not doing this, but at least it allows members of the condo to understand if there are fees proposed to be increased and it allows them some time to react to them.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Ballard.

Mr. Chris Ballard: Again, I would recommend against the motion because allowing the veto power is inconsistent with other administrative agreements.

I know the MGCS body that does have Lieutenant Governor in Council appointments is in the process of being converted into a DAA with minister appointments. So the example that the third party uses is invalid. It’s the Board of Funeral Services that is becoming the Bereavement Authority of Ontario.

I just wanted to get that on the record and, also, remind us all that administrative authorities are self-funded, independent organizations and the government’s role is to provide oversight, rather than directly make operational decisions.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. McDonell.

Mr. Jim McDonell: I believe that when we talk about veto power, we’re just allowing for the possibility that the government may—it would not be a usual thing, I would hope, that they would have to exercise this, but it allows them the power to exercise some control over increases that they may see to be unreasonable.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? We are ready to vote on this amendment. All those in favour? All those opposed? The amendment does not carry.

We’ve completed the proposed amendments to this section. Shall schedule 1, section 2, as amended, carry? Debate—

Interjection: Carried.

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment?

Mr. Chris Ballard: We’re eager.

The Vice-Chair (Mr. Peter Z. Milczyn): I know you are.

Interjections.

The Vice-Chair (Mr. Peter Z. Milczyn): Is there debate and comment?

Mr. Chris Ballard: No.

The Vice-Chair (Mr. Peter Z. Milczyn): All those in favour? All those opposed? It is carried.

The next section is schedule 1, section 3. There are no proposed amendments. Is there debate and comment? No? Shall schedule 1, section 3 carry? All those in favour? Opposed? That carries.

The next section: schedule 1, section 4. There are no amendments proposed. Is there debate and comment? No? Shall schedule 1, section 4 carry? All those in favour? Opposed? That carries.

On to schedule 1, section 5. There are proposed amendments; motion number 21 from the official opposition. I just want to point out to the members of the committee that there was a typo where it says, “schedule 1 to the bill, section 2.” It’s supposed to say, “section 5.” That’s the section we’re on.

Mr. Toby Barrett: Thank you for pointing that out, Chair.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Barrett?

Mr. Toby Barrett: I move that subsection 1.32(2) of the Condominium Act, 1998, as set out in section 5 of schedule 1 to the bill, be struck out and the following substituted:

“Members

“(2) The Lieutenant Governor in Council may appoint members to the tribunal as part-time or full-time members for terms of up to four years.”

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment? Mr. McDonell?

Mr. Jim McDonell: Administrative tribunals in Ontario are appointed independently through orders in council, such as the Landlord and Tenant Board, the Assessment Review Board, the Social Benefits Tribunal and others. The condo tribunal should be appointed to the same standard. Again, OIC appointments are not cumbersome, and they’re very common.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Ballard?

Mr. Chris Ballard: The bill’s intent is to allow the tribunal to function as part of the condo authority as a way of improving dispute resolution from an arm’s-length organization. I would recommend we vote against this motion because the proposed amendment creates a serious consolidation risk in that an organization subject to government oversight may have to become part of government and therefore be paid for by government.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Barrett?

Mr. Toby Barrett: We know that Tarion, for example, is not paid for by government, but I just don’t think that’s a justification to give this amount of power to the condominium authority. I’m just concerned about what kind of an organization we are building here.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. McDonell?

Mr. Jim McDonell: I agree with Mr. Barrett. I think it’s dangerous when we set these up. We put it at arm’s length. It should always be reviewable by agencies such as the government agencies standing committee. I’m not sure why we would be worried about having that subject to review of a committee of the House.

We see many examples where things get out of hand where the government, for some reason, turns a blind eye, as they've done in Ornge and other arm's-length agencies of the province of Ontario. It has got us into serious trouble and wasted billions of dollars.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? No? We're ready to vote on this motion. All those in favour? All those opposed? The motion does not carry.

Motion number 22: official opposition. Mr. Barrett.

Mr. Toby Barrett: The committee will notice the correction changing section 2 to section 5.

I move that subsection 1.33(1) of the Condominium Act, 1998, as set out in section 5 of schedule 1 to the bill, be amended by striking out "The condominium authority" at the beginning and substituting "The Lieutenant Governor in Council".

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment?

Mr. Jim McDonell: Again, we believe that the make-up of the tribunal should be determined in a transparent manner through order-in-council appointments like other administrative tribunals in Ontario.

0950

In some ways, this is unique that we're making sure that we have no way of reviewing the appointments. This is certainly something we do with many other of the similar agencies that we've pointed out before. I'm not sure why the government would be against this change. It would add certainly a lot more transparency.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Ballard.

Mr. Chris Ballard: Thank you, Mr. Chair. As with the previous motion, I recommend that we vote against this motion. As I stated previously, the proposed amendment creates a serious consolidation risk in that an organization subject to government oversight may have to become part of government and therefore be paid for by government.

The bill's intent is to allow the tribunal to function as part of the condo authority as a way of improving dispute resolution from an arm's-length organization.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. McDonell.

Mr. Jim McDonell: As I say, we have many other tribunals in Ontario that work fine with this. I don't see the issue. I'm not quite sure of the rationale—why we would set this one up differently.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Are we prepared to vote on this item? All those in favour? All those opposed? The item does not carry.

Opposition motion 23: Again, please note the typographical error. It's section 5, not section 2.

Mr. Toby Barrett: I move that section 1.34 of the Condominium Act, 1998, as set out in section 5 of schedule 1 to the bill, be amended by striking out "The condominium authority" at the beginning and substituting "The Lieutenant Governor in Council".

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment? Mr. McDonell.

Mr. Jim McDonell: Again, it's our goal, as you see by many of our amendments, to try to make this tribunal work as well as possible. Public scrutiny should never be an issue. It seems to be, with the government over this bill—why are we setting up another board like Tarion, which I receive many, many complaints on? I guess we're just looking at that type of thing being set up on this one as well.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Ballard.

Mr. Chris Ballard: Thank you, Mr. Chair. My concern with this motion—again, I would recommend voting against it—is that it would remove the condominium authority's power to terminate appointments made to the Condominium Authority Tribunal.

Again, the proposed amendment creates that serious consolidation risk in that an organization that is subject to government oversight may have to become part of government and therefore be paid for by government. The bill's intent is to allow the tribunal to function as part of the condominium authority as a way of improving dispute resolution from an arm's-length organization.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. McDonell.

Mr. Jim McDonell: There are many, many boards and agencies in this province where the government actually, through an order in council, appoints people, and the costs are not covered by the government. So I'm not sure why that's being brought up. I suppose the government always has the potential—if they want to do that, they can. But they do also have the right to set the administration rules around this tribunal.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment. Mr. Ballard?

Mr. Chris Ballard: I just wanted to state again that in the Ministry of Government and Consumer Services, the only body that has a Lieutenant Governor in Council appointment is in the process of being converted to a DAA.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Then we'll put this to a vote. All those in favour? All those opposed? The motion does not carry.

There are no further amendments listed and there were no amendments adopted. So shall schedule 1, section 5 carry? Is there any debate or comment?

Mr. Jim McDonell: Just to say that we're disappointed that we couldn't put in any appointments that would allow us a little bit more oversight over this tribunal.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? No? We shall then vote. Shall schedule 1, section 5 carry? All those in favour? All those opposed? Carried.

We now move on to schedule 1, section 6. There are a number of amendments that have been tabled.

Motion number 24: Mr. Barrett.

Mr. Toby Barrett: Again, I'll point out a typo to the committee: Where it says "section 2"—it has been struck out. We are now, as we know, in section 6.

I move that subsection 1.36(1) of the Condominium Act, 1998, as set out in section 6 of schedule 1 to the bill, be amended by striking out “prescribed”.

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment? Mr. McDonell?

Mr. Jim McDonell: This amendment removes the limitation that a dispute must be permitted in regulation.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Ballard.

Mr. Chris Ballard: I have a problem with this motion and would recommend voting against it. The tribunal, Mr. Chair, was designed to provide fast, inexpensive dispute resolution. My fear is that this amendment compromises its objective by overburdening it.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? We’ll vote on this motion. All those in favour? All those opposed? The motion is lost.

Official opposition motion 25: Just to note, there’s a typographical error. It’s section 6, not section 2. Mr. Barrett.

Mr. Toby Barrett: I move that subsection 1.36(2) of the Condominium Act, 1998, as set out in section 6 of schedule 1 to the bill, be amended by striking out “prescribed”.

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment?

Mr. Jim McDonell: Same as the last one.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Ballard.

Mr. Chris Ballard: I’ll simply say what I said last time: The tribunal was designed to provide fast, inexpensive dispute resolution. My fear is that this amendment compromises its objective by overburdening it, and I would recommend that we vote against it.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? We’ll vote on this. All those in favour of the amendment? All those opposed? The amendment does not carry.

Motion number 26: Again, please note the typographical error. Mr. Barrett.

Mr. Toby Barrett: I move that section 1.36 of the Condominium Act, 1998, as set out in section 6 of schedule 1 to the bill, be amended by adding the following subsection:

“Same, by corporation

“(2.1) A corporation may apply to the tribunal for a resolution of a dispute with the condominium authority with respect to an assessment under section 1.30 within 90 days of the assessment.”

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment? Mr. McDonell.

Mr. Jim McDonell: Without this appeal power, the authority would have the final say on charges to corporations without the right to appeal. There must be a system of checks and balances. We try to retain the minister’s power to veto fee increases. This amendment ensures corporations can appeal against fees assessed to them by the condo authority and is an essential guarantee of justice.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Ballard.

Mr. Chris Ballard: Again, I can raise three points related to why I would recommend voting against the motion. I think it’s not appropriate for the tribunal to resolve disputes relating to fees assessed by the authority because the authority administers the tribunal. It may create an actual or perceived conflict of interest. The third is that condo corporations would have the ability to go to court to review a fee assessment.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? We’ll vote on this motion. All those in favour? All those opposed? The motion is lost.

Official opposition motion 27: Again, please note the typographical error. Mr. Barrett.

Mr. Toby Barrett: I move that subsection 1.36(3) of the Condominium Act, 1998, as set out in section 6 of schedule 1 to the bill, be amended by striking out “if the regulations so provide” at the beginning.

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I’m not batting very well. I haven’t had a motion accepted yet by the government, to my knowledge. Maybe there’s hope.

Mr. Chris Ballard: There are 121 or more, or something like that—

The Vice-Chair (Mr. Peter Z. Milczyn): Keep pitching them. Sunny days; sunny ways.

Debate and comment?

Mr. Jim McDonell: Subsection 55(3) governs the disclosure of key documents such as the declarations, the corporation’s financial situation, performance, audit results and reserve fund study results for a purchaser. These are key documents on which to base their investment decision. There must be an avenue to resolve disputes related to full and timely disclosure, and this amendment achieves good balance between a purchaser’s right and their status as a not yet full owner of a unit.

We just think that if you’re looking at purchasing a unit, you should have as much information as you can. This information should be available to them.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Ballard?

Mr. Chris Ballard: I just have one major issue why I would recommend voting against the motion. In our view, it would impair the phased implementation and create inconsistent rights with respect to access to records.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? All right, we’ll vote on the amendment. All those in favour? All those opposed? The motion does not carry.

NDP motion 28: Mr. Vanthof? Again, there’s a typographical error there.

Mr. John Vanthof: I would like to withdraw motion 28.

The Vice-Chair (Mr. Peter Z. Milczyn): All right. Mr. Vanthof withdraws motion 28.

NDP motion 29.

Mr. John Vanthof: Again, I’d like to ask the committee’s indulgence for a typographical error.

I move that section 1.36 of the Condominium Act, 1998, as set out in section 6 of schedule 1 to the bill, be amended by adding the following subsections:

“Residential tenants

“(4.1) An owner who is a landlord may not apply to the tribunal with respect to a dispute with a residential tenant of the owner. Where any other person applies to the tribunal with respect to a dispute with a residential tenant, no order of the tribunal may be made that will result in the eviction of the residential tenant.

“Notice where residential tenants involved

“(4.2) Where an application is made to the tribunal or the Superior Court with respect to a dispute with a residential tenant of a unit, notice must first be given to the owner of the unit.”

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment?

Mr. John Vanthof: Basically, this is to avoid a conflict with the Residential Tenancies Act. If it comes to an eviction, it should be done under that act and not under this legislation.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Ballard?

Mr. Chris Ballard: I understand exactly where the NDP are coming from. I would, however, recommend voting against the motion because we’ve already put government motions that propose a comprehensive set of amendments that clarify when and how occupiers, including residential tenants, can be permanently removed from the condominium property. So I hear you and I believe that’s in motion through one of our motions already.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? No? We’re prepared to vote on this motion? All those in favour?

Ms. Ann Hoggarth: I have a question.

The Vice-Chair (Mr. Peter Z. Milczyn): Ms. Hoggarth.

Ms. Ann Hoggarth: If we vote against this motion—
Interjection.

Ms. Ann Hoggarth: Okay. Never mind. I was just thinking.

The Vice-Chair (Mr. Peter Z. Milczyn): All right. So we’re about to vote. All those in favour of the motion? All those opposed? The motion does not carry.

NDP motion 30: There’s a typographical error. Mr. Vanthof?

Mr. John Vanthof: I move that subsection 1.36(6) of the Condominium Act, 1998, as set out in section 6 of schedule 1 to the bill, be amended by adding “unless a longer period is prescribed” at the end.

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment? Mr. Ballard.

Mr. Chris Ballard: I think that the two-year limitation period that’s proposed is consistent with other tribunals. As well, the tribunal has the ability to extend the limitation period for an additional year if it deems it appropriate.

I think that’s appropriate, and I would recommend voting against the motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. McDonell?

Mr. Jim McDonell: It can take more than two years to detect certain dispute matters such as defects and bad management practices. We support extending the statute of limitations for certain disputes and we trust the minister will prescribe those wisely.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? We’re prepared to vote on motion 30. All those in favour? All those opposed? The motion does not carry.

NDP motion 31: Please note the typographical error.

Mr. John Vanthof: I move that section 1.40 of the Condominium Act, 1998, as set out in section 6 of schedule 1 to the bill, be struck out.

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment? Mr. Ballard?

Mr. Chris Ballard: A concern I have is that removing the ability of the tribunal to direct parties to participate in an alternative dispute resolution as part of the tribunal’s proceedings would discourage the early resolution of disputes and may increase costs to both the tribunal and the parties. For that I would recommend that we vote against the motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? We’re ready to vote on motion 31. All those in favour? All those opposed? The motion does not carry.

Government motion number 32. Mr. Ballard.

Mr. Chris Ballard: This is obviously with regard to schedule 1, section 6. I move that subsection 1.44(1) of the Condominium Act, 1998, as set out in section 6 of schedule 1 to the bill, be amended by striking out the portion before paragraph 1 and substituting the following:

“Orders at end of proceeding

“(1) Subject to subsection 4, in all proceeding before the tribunal, the tribunal may make any of the following orders:”

Interjection.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Ballard, the Clerk is pointing out that you didn’t read it as it’s written. It says “in a proceeding.”

Mr. Chris Ballard: Sorry, whereabouts? Let me do that again, then. Shall I?

The Vice-Chair (Mr. Peter Z. Milczyn): For the record, please.

Mr. Chris Ballard: For the record. I move that subsection 1.44(1) of the Condominium Act, 1998, as set out in section 6 of schedule 1 to the bill, be amended by striking out the portion before paragraph 1 and substituting the following:

“Orders at end of proceeding

“(1) Subject to subsection 4, in a proceeding before the tribunal, the tribunal may make any of the following orders:”

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment. Mr. Ballard?

Mr. Chris Ballard: The reason that this is being put forward is that it addresses potential for conflict between the tribunal’s jurisdiction and the Residential Tenancies

Act and it's consistent with a concern brought forward by the NDP.

It adds consistency to existing policy in Bill 106 to exclude from the tribunal's jurisdiction disputes regarding serious non-compliance that leads to damage, illness or injury. It helps ensure that the extraordinary remedy of permanent removal can be pursued only in the courts, or if the dispute is between a landlord and a resident tenant under the RTA. It supports related proposed amendments that intended to reduce the potential for conflict between the Condominium Act and the RTA, and clarifies when and how courts may order the permanent removal of a person, including a tenant, from a condominium property.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? We're ready to vote on motion 32. All those in favour? Opposed? The motion is carried.

Opposition motion number 33. Please note the typographical error again.

1010

Mr. Toby Barrett: Yes. Also, Chair, with respect to amendment number 33, amendment 26 was defeated, and my understanding is that this amendment, 33, would be out of order, so we would withdraw. If I can confirm that.

The Vice-Chair (Mr. Peter Z. Milczyn): Yes, it would be out of order, Mr. Barrett, so yes, it's withdrawn.

Government motion number 34.

Mr. Chris Ballard: Again with regard to schedule 1, section 6, I move that section 1.44 of the Condominium Act, 1998, as set out in section 6 of schedule 1 to the bill, be amended by adding the following subsection:

"No order for permanent removal of person

"(4) The tribunal shall not make an order requiring a person to vacate a property permanently."

The Vice-Chair (Mr. Peter Z. Milczyn): Debate and comment?

Mr. Chris Ballard: If I could just make a comment: This amendment addresses potential for conflict between the tribunal's jurisdiction and the Residential Tenancies Act. It adds that consistency to existing policy in Bill 106 to exclude from the tribunal's jurisdiction disputes regarding serious non-compliance that leads to damage, illness or injury. It helps ensure that the extraordinary remedy of permanent removal can be pursued only in the courts or if the dispute is between a landlord and a residential tenant under the RTA and it supports related proposed amendments that are intended to reduce the potential for conflict between the Condominium Act and the RTA, and clarify when and how courts may order the permanent removal of a person, including a tenant, from a condominium property.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? We're prepared to vote on this amendment? All those in favour? All those opposed? The motion is carried.

Official opposition motion 35.

Mr. Toby Barrett: This is on two pages. It's on the back of this page as well.

I move that section 1.47 of the Condominium Act, 1998, as set out in section 6 of schedule 1 to the bill, be struck out and the following substituted:

"Settlement or arbitration

"1.47(1) If the parties to a proceeding that is the subject of an application agree to a settlement in writing and sign the settlement or agree to a binding arbitration, the settlement or arbitration is binding on the parties.

"Consent order

"(2) The tribunal may, on the joint motion of the parties to a settlement or arbitration described in subsection (1), make an order requiring compliance with the settlement or arbitration or any part of the settlement or arbitration.

"Application where contravention

"(3) A party to a settlement or arbitration described in subsection (1) who believes that another party has contravened the settlement or arbitration may make an application to the tribunal for an order under subsection (6),

"(a) within six months after the contravention to which the application relates; or

"(b) after the expiry of the time limit described in clause (a) if the tribunal is satisfied that the delay in applying was incurred in good faith and no substantial prejudice will result to any person affected by the delay.

"Form of application

"(4) An application under subsection (3) shall be in the form the tribunal approves.

"Parties

"(5) Subject to the rules of the tribunal, the parties to the proceeding that is the subject of the application are the parties to the settlement or arbitration and any other person that the tribunal adds as a party.

"Order

"(6) If, on an application under subsection (3), the tribunal determines that a party has contravened the settlement or arbitration, the tribunal may make an order that it considers appropriate to remedy the contravention."

The Vice-Chair (Mr. Peter Z. Milczyn): Debate or comment? Mr. McDonell.

Mr. Jim McDonell: There is already an option for the tribunal to order parties to go to ADR. This amendment makes sure that the parties can opt for that.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Ballard.

Mr. Chris Ballard: I think this motion would be a substantial new use of the tribunal that would require more analysis and consultation. The tribunal was not intended to allow parties to contract out matters within its scope and proceed by private arbitration. I think for those two points, I would recommend we vote against it.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? We're prepared to vote on the motion? All those in favour? All those opposed? The motion is not carried.

We've completed—

Ms. Ann Hoggarth: Chair?

The Vice-Chair (Mr. Peter Z. Milczyn): Ms. Hoggarth?

Ms. Ann Hoggarth: Would it be all right—with the other side, too—if we bundle the schedule 1 section?

The Vice-Chair (Mr. Peter Z. Milczyn): No, Ms. Hoggarth. We're not quite there yet.

Ms. Ann Hoggarth: I'm sorry.

The Vice-Chair (Mr. Peter Z. Milczyn): We've completed the proposed amendments to schedule 1, section 6. Is there further debate and comment? Shall schedule 1, section 6, as amended—Mr. McDonell?

Mr. Jim McDonell: Yes, I just think we've added some amendments that we think would strengthen the bill and be worthwhile. The bill is important to put through; it's very timely. Anyway, we're just disappointed that some of our amendments didn't carry. That's all.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? No? Shall schedule 1, section 6, as amended, carry? All those in favour? All those opposed? That is carried.

Ms. Hoggarth, I know where you wanted to go, but looking at the clock, I will recess until 2 p.m. this afternoon.

The committee recessed from 1015 to 1402.

The Vice-Chair (Mr. Peter Z. Milczyn): Good afternoon, members. I'll call the meeting back to order. We're doing quite well. This morning, we were moving along quite well. We got through to motion 35, and our last vote was on schedule 1, section 6, as amended.

There are no amendments proposed to the next three sections of schedule 1—sections 7, 8 and 9—and I would suggest to the committee that we might speed things along by voting on them in a block, but it's up to the members of the committee. Any objections?

Mr. Jagmeet Singh: No objection on the part of the NDP.

The Vice-Chair (Mr. Peter Z. Milczyn): Any comment or debate on those sections? No. I'll take a vote on the adoption of schedule 1, section 7; schedule 1, section 8; and schedule 1, section 9. All those in favour? Opposed? Those sections are carried.

Next is motion number 36 from the official opposition.

Mr. Jim McDonell: I move that subsection 10(9) of schedule 1 to the bill be struck out.

The Vice-Chair (Mr. Peter Z. Milczyn): Comment and debate? Mr. Singh.

Mr. Jagmeet Singh: I'm just wondering what the rationale is for that portion.

Mr. Jim McDonell: We see no reason to amend the current form of subsection 7(5) of the Condominium Act with a provision that a declaration need not be reasonable. The provisions of the Condominium Act ensure that declarations comply with Ontario law—no exceptions—so the amendment preserves the provision that is already in place today.

Mr. Jagmeet Singh: Okay.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Mr. Ballard?

Mr. Chris Ballard: I would argue against the motion. I think that subsection 10(9) of schedule 1 is consistent with the existing case law. The subsection allows purchasers to choose a declaration without being subject to a

reasonableness standard, and if owners do not support their declaration, they don't have to buy. Purchasers want certainty that rules and restrictions they commit to will not be subject to an objective reasonableness standard. For those three points, I would ask us to recommend against voting for the motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? We'll vote on motion number 36. All those in favour? All those opposed? The motion does not carry.

There are no further amendments to this section.

Is there any further comment or debate on schedule 1, section 10? We'll move on to vote. Shall schedule 1, section 10 carry? All those in favour? Opposed? That carries.

The next two sections of schedule 1, section 11 and section 12: There are no amendments proposed. I'd recommend that we vote on them as a block. Is there any objection?

Mr. Jagmeet Singh: No objection.

The Vice-Chair (Mr. Peter Z. Milczyn): Any debate or comment? Shall schedule 1, sections 11 and section 12 be carried? All in favour? Opposed? They are carried.

Motion number 37, from the official opposition: Mr. Barrett.

Mr. Toby Barrett: I move that subsections 11(7) and (8) of the Condominium Act, 1998, as set out in subsection 13(2) of schedule 1 to the bill, be struck out.

The Vice-Chair (Mr. Peter Z. Milczyn): Comment and debate? Mr. McDonell?

Mr. Jim McDonell: The rationale is, we do not see why a condo board should be able to ignore a regulation made under this act. The amendment assures that if a regulation is made regarding—what constitutes a unit or the common elements the condo industry applies.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment? Mr. Ballard.

Mr. Chris Ballard: I look at this amendment as removing sections that enable condo corporations' ability to carry out matters to change assets—amend the declarations, sell properties or part of common elements. The rationale for the motion—to me, it's not apparent, so I would move that we recommend that we vote against the motion. It potentially limits the ability of condo corporations to manage themselves effectively.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? We'll go to voting on motion number 37. All those in favour? All those opposed? The motion does not carry.

There are no further amendments to section 13 of schedule 1. Is there any debate or comment on the section? I will proceed to voting. Shall schedule 1, section 13, carry? All those in favour? Opposed? That carries.

The next two sections of the bill, sections 14 and 15: There are no amendments proposed. Again, I recommend we vote on them together. Is there any objection to that? Any comment or debate on those sections? Shall schedule 1, section 14 and section 15, be carried? All in favour? Opposed? Those sections are carried.

On schedule 1, section 16, there is a proposed amendment from the official opposition: motion number 38. Mr. Barrett.

Mr. Toby Barrett: I move that subsection 19(2) of the Condominium Act, 1998, as set out in section 16 of schedule 1 to the bill, be struck out and the following substituted:

“Same, no notice

“(2) Subject to any conditions or restrictions in the regulations, the corporation or a person authorized by the corporation may enter the unit or part of the common elements of which the owner has exclusive use without prior notice to the owner in the event of an emergency or other event or circumstance as is prescribed.”

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The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. McDonell?

Mr. Jim McDonell: Stakeholders have asked us to remove the emergency access provisions from declarations or bylaws because it takes significant time and effort to amend. Regulation is a fast and flexible way to respond to consumers and industry needs in this situation.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Ballard?

Mr. Chris Ballard: My belief is that the current bill improves the law related to right of entry while allowing maximum flexibility for corporations across the province. Provision does not prevent the right of entry in an emergency, but improves on the current act by allowing corporations to identify additional situations where entry without notice might be allowed. For the few corporations that do not have a bylaw or declaration that already addresses the issue, the right of entry can be addressed through standard bylaw or declaration provisions as permitted under the regulations. I think it's covered well under the proposed legislation, and I would recommend us voting against this motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? None? Then we shall vote. Shall motion number 38 be carried? All those in favour? All those opposed? That does not carry.

There are no further amendments to this section. Is there any further debate or comment on schedule 1, section 16? No? Then shall schedule 1, section 16 carry? All those in favour? Opposed? It's carried.

There are no amendments proposed to schedule 1, section 17. Is there any debate or comment? All right. Shall schedule 1, section 17 carry? All those in favour? Opposed? That is carried.

Schedule 1, section 18: There is NDP motion number 39. Mr. Singh?

Mr. Jagmeet Singh: I move that section 21.1 of the Condominium Act, 1998, as set out in section 18 of schedule 1 to the bill, be amended by adding the following subsections:

“When joint bylaw effective

“(4.1) A joint bylaw is not effective until,

“(a) the majority of the owners of the units of each corporation vote in favour of confirming it, with or without amendment; and

“(b) each corporation registers a copy of it in accordance with the prescribed procedures.

“Joint meeting

“(4.2) The vote of the owners under clause (4.1)(a) may be at a joint meeting of the corporations duly called for that purpose.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate?

Mr. Jagmeet Singh: This is an issue that's been brought up by stakeholders. This would allow for greater participation for the owners and give them a stronger voice.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Mr. Ballard?

Mr. Chris Ballard: I agree. This has been raised by stakeholders; however, shared facility bylaws are, in our opinion, best addressed in regulations, after further consultation with stakeholders. The bill proposes to address this in regulations to take into account the wide array of possible shared facility arrangements.

We have heard stakeholders, and it would be the intent to address this in regulations after further consultations. So I don't see a need for us to vote in favour of this amendment.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. McDonell?

Mr. Jim McDonell: I'm just a bit surprised. In this case here, regulation is a better way of handling it, but it hasn't been in the regulation before. As we said before, stakeholders have asked for this, and we were hoping to put that one in regulation. Anyway, that's just a comment.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Singh?

Mr. Jagmeet Singh: Through you, Chair, Mr. Ballard, I appreciate you acknowledging that this is an issue that's been brought up. I appreciate that.

I'll just make this comment now; it might come up again and again. In general, I find that, too often, we rely on regulations to address issues that can be dealt with by legislation. Legislation offers an opportunity for us to debate it, for members to have a voice in it. Regulation doesn't have that same ability for member participation. Certain issues which are well acknowledged and well established as concerns should be addressed in legislation; instead, we see a growing trend towards increasingly shifting the responsibility of legislating into regulation, as opposed to the actual bill. So, it's a comment in general, but in specific with respect to this bill.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Seeing none, shall motion number 39 be carried? All those in favour? Those opposed? The motion is not carried.

There are no further amendments to schedule 1, section 18. Any further comment or debate?

Mr. Jagmeet Singh: No.

The Vice-Chair (Mr. Peter Z. Milczyn): Shall schedule 1, section 18 be carried? All those in favour? Those opposed? That carries.

There are no amendments proposed to schedule 1, sections 19 through 22. Is there any objection to voting on those as a block? Any further comment or debate? No?

Shall schedule 1, sections 19, 20, 21 and 22 be carried? All those in favour? All those opposed? Those sections are carried.

In schedule 1, section 23, we have an amendment from the official opposition, number 40. Mr. McDonell.

Mr. Jim McDonell: We're wondering if we could stand this motion down until just before motion number 42. Because of a technicality, if we put it in now, motions number 41.1 and 41.2—it's looking at deleting, so—

The Vice-Chair (Mr. Peter Z. Milczyn): Is there any objection? No? All right. We'll stand that one down until number 42.

The next motion is government motion number 41. Mr. Ballard.

Mr. Chris Ballard: I move that sections 26.2 and 26.3 of the Condominium Act, 1998, as set out in section 23 of schedule 1 to the bill, be struck out.

The Vice-Chair (Mr. Peter Z. Milczyn): Comment and debate?

Mr. Jim McDonell: Is there more to that or—

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Ballard.

Mr. Chris Ballard: Well, we do have motions number 41.1, 41.2 and 42. Would you like me to go through 41.1 and 41.2, or can we vote on them one at a time?

The Vice-Chair (Mr. Peter Z. Milczyn): No, we have to do them separately.

Mr. Chris Ballard: That's what I figured. So, we're on 41.

The Vice-Chair (Mr. Peter Z. Milczyn): Comment and debate?

Mr. Jagmeet Singh: If I understand this correctly, you're striking it down in 41 and then replacing it with 41.1 and 41.2?

Mr. Chris Ballard: Yes.

Mr. Jagmeet Singh: If you could briefly summarize the purpose for—not the procedure; I understand procedurally why you need to strike it out first before suggesting it. But what is the purpose, I guess, of 41.1 and 41.2?

Mr. Chris Ballard: We're amending the following sections 26.2, looking at existing remedies and boards affected—I can go through 41.1. I can read the amendment to you, enter the amendments into the record; 41.2, for example—

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Ballard, I think that legislative counsel wants to comment.

Mr. Michael Wood: I believe that I could assist the committee here.

Mr. Chris Ballard: Thank you.

Mr. Michael Wood: The package of motions actually doesn't change the text of sections 26.1, 26.2 and 26.3 of the act. What the motions do is that they split those up into three separate portions so that they can be proclaimed in force at different times if the government so chooses, assuming that the bill, as amended, passes.

Mr. Jagmeet Singh: I see.

1420

The Vice-Chair (Mr. Peter Z. Milczyn): Thank you for that clarification. So, further comments and debates on motion number 41? No? I'll put the vote. Shall motion number 41 be carried? All those in favour? Opposed? That is carried.

The next one: schedule 1, section 23.1, government motion 41.1.

Mr. Chris Ballard: I move that schedule 1 to the bill be amended by adding the following section:

“23.1 The act is amended by adding the following section:

“Existing remedies

“26.2(1) Unless the regulations provide otherwise, nothing in a declaration, a bylaw, an agreement or an instrument affects any remedy that the corporation may have at law against a declarant or a declarant affiliate until a board of the corporation described in subsection (2) decides otherwise.

“Board affected

“(2) A board of a corporation mentioned in subsection (1) is a new board elected at a turnover meeting held under section 43 or a subsequent board, but does not include,

“(a) a new board elected pursuant to subsection 152(6); or

“(b) a board if a majority of the directors on it are those who were elected at any time when the declarant or a declarant affiliate, individually or jointly, owned a majority of the units in the corporation.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. Singh?

Mr. Jagmeet Singh: This is an amendment to the original bill. Again, what I was asking before: How does this improve protection for the condominium owner, or how does it provide enhanced—

Mr. Chris Ballard: I think, very briefly, that what these changes allow for is phased implementation by allowing the proposed new section in Bill 106, section 23, to be proclaimed into force at different times. Let's get the ball rolling sooner rather than later.

Mr. Jagmeet Singh: Sounds good.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Then we'll proceed to voting on motion 41.1. Shall motion 41.1 be carried? All those in favour? Opposed? That is carried.

There are no further amendments to this section. Shall schedule 1—

Mr. Chris Ballard: We have 41.2.

The Vice-Chair (Mr. Peter Z. Milczyn): Okay, all right. So government motion 41.2.

Mr. Chris Ballard: I move that schedule 1 to the bill be amended by adding the following section:

“23.2 The act is amended by adding the following section:

“Information certificate to owners

“26.3 A corporation shall send to the owners,

“(a) at least once every three months or at such other time periods as are prescribed, a certificate that is pre-

pared in accordance with the regulations and that contains the statements described in clauses 76(1)(d), (e) and (h), the certificate or memorandum described in clause 76(1)(p) and all other information relating to the corporation as is prescribed; and

“(b) at the prescribed times, a certificate that is prepared in accordance with the regulations and that includes all other prescribed information relating to the corporation.”

The Vice-Chair (Mr. Peter Z. Milczyn): Question and comment? Being none, we’ll move to a vote. Shall motion 41.2 be carried? All those in favour? Opposed? That carries.

Now, Mr. McDonell or Mr. Barrett, we’ll go back to motion number 40.

Mr. Toby Barrett: Yes; we thank the committee for permitting that deferral.

I move that section 26.3 of the Condominium Act, 1998, as set out in section 23 of schedule 1 to the bill, be amended by adding the following subsection:

“Method of delivery

“(2) The certificates and information referred to in subsection (1) may be sent by regular mail, electronic mail or any other prescribed delivery method.”

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. McDonell?

Mr. Jim McDonell: Stakeholders have said that the amount of paper and resources needed to send these documents by mail is rather high—regular mail. Our amendment allows the delivery of these documents by email or other prescribed means.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Ballard.

Mr. Chris Ballard: I see this proposed amendment as being redundant because it’s already addressed in paragraph 8.1 of subsection 177(1), which deals with delivery of materials. I don’t see any need to move this motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. McDonell.

Mr. Jim McDonell: Just to clarify, I guess the method of delivery put in place today just mentions regular mail in this section. Is that right?

Mr. Chris Ballard: Sorry, I missed the—

Mr. Jim McDonell: I’m just checking. In this section we have, as it’s written today, it talks about regular mail. We’re just adding in this section as well the electronic mail side of it, for clarification.

Mr. Chris Ballard: Were you looking for a comment? You were making a comment.

Mr. Jim McDonell: Yes.

Mr. Chris Ballard: Okay, thank you.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? No? We shall proceed to voting on motion number 40. Shall it be carried? All those in favour? Opposed? That motion does not carry.

We’ve completed schedule 1, section 23. Is there further comment or debate on schedule 1, section 23, as amended? No? Shall schedule 1, section 23, as amended, be carried? All those in favour? All those opposed? That is carried.

We now move on to schedule 1, section 24. Government motion number 42.

Mr. Chris Ballard: Schedule 1 to the bill, section 24—this is motion 42.

I move that section 24 of schedule 1 to the bill be struck out and the following substituted:

“24(1) Subsection 28(2) of the act is repealed and the following substituted:

“Notice of candidates

“(2) The notice of a meeting to elect one or more directors shall include the name and address of each individual who, for the purpose of clause 45.1(1)(a), has notified the board in writing and in accordance with the regulations, if any, of the intention to be a candidate in the election by the date specified in the preliminary notice that the board is required to send under subsection 45.1(1).’

“(2) Subsection 28(3) of the act is repealed and the following substituted:

“Notice of non-leased voting position

“(3) If, under subsection 51(6), one position on the board is reserved for voting by owners of non-leased voting units, the notice of meeting shall include,

“(a) a statement that one position on the board is reserved for voting by owners of non-leased voting units; and

“(b) a statement indicating the name and address of each individual who, for the purpose of subclause 45.1(1)(a.1)(iv), has notified the board in writing of an intention to be a candidate for the position on the board reserved for voting by owners of non-leased voting units.”

The Vice-Chair (Mr. Peter Z. Milczyn): Statements or comment? Mr. Singh.

Mr. Jagmeet Singh: It wasn’t immediately apparent to me, but I don’t see what the difference is—there may be a difference, but I couldn’t read it when I was following along—with the existing and what you’re proposing, in terms of the substance of it. Is it just the addition of the notice of a non-leased voting position only? In that substance, it seemed to be the same, unless I’m missing something, and I could very well be not reading along very well.

Mr. Chris Ballard: At a very general level, without answering your specifics—maybe counsel can give us some input—it’s necessary, I understand, to support the technical amendments to section 37 of the bill in motion 11. Motion 11 supports phased implementation by allowing the proposed new subsection in Bill 106, section 37 to be proclaimed into force at different times. It’s my understanding that this supports that.

1430

Mr. Jagmeet Singh: Maybe legislative counsel—just out of curiosity, it seemed to be almost the same wording. Am I missing something?

Mr. Michael Wood: Yes, you are correct that the wording of subsection 28(2) of the act, as set out in the motion, is the same as the wording that is set out in the bill. But what this does is that it allows that particular new subsection 28(2) to be proclaimed in force at a different time from the new subsection 28(3).

Mr. Jagmeet Singh: Thank you.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? No? Shall motion number 42 be carried? All those in favour? Opposed? That is carried.

There are no further amendments to section 24. Is there further comment or debate to schedule 1, section 24? No? Then shall schedule 1, section 24, as amended, be carried? All those in favour? Opposed? That is carried.

Schedule 1, section 25: There is a motion from the official opposition.

Mr. Toby Barrett: I move that subsection 29(1) of the Condominium Act, 1998, as set out in section 25 of schedule 1 to the bill, be amended by adding the following clause:

“(c.1) the person has been convicted of a contravention of this act within the previous 10 years;”

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. McDonell?

Mr. Jim McDonell: Yes, we believe that actions should have consequences. If someone has been found to have broken the Condominium Act in the past 10 years, they should not be a director on the condo board.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Ballard.

Mr. Chris Ballard: Thank you, Mr. Chair. I think that if this motion were to include minor contraventions, it would potentially make the provision overly punitive. It’s my belief that the existing act includes certain requirements for directors. We would address fraud and mismanagement by strengthening accountability and transparency on condominium boards. I would urge us not to support this.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Mr. McDonell.

Mr. Jim McDonell: We’d be willing to put in a prescribed contravention and handle that through regulation. We just think that there should be, at least—as Mr. Ballard said, if they wanted it to apply to everything but minor issues, that’s fine, but right now, it’s wide open. What we’re hearing from stakeholders is that there are some major issues being played, and we’d like to add that extra protection for them.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Do you wish to amend your amendment?

Mr. Jim McDonell: We would, yes.

The Vice-Chair (Mr. Peter Z. Milczyn): Do you want to stand this down or are you prepared to do it right away?

Mr. Jim McDonell: We could do it verbally. Would that work out? This is a minor change.

The Vice-Chair (Mr. Peter Z. Milczyn): No, we do need it in writing.

Mr. Jim McDonell: Okay, we can set it down.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. McDonell, are you prepared to work with legislative counsel on drafting it now?

Mr. Jim McDonell: Sure.

The Vice-Chair (Mr. Peter Z. Milczyn): Could we recess for no more than 10 minutes? All right, we’re recessed for 10 minutes.

The committee recessed from 1435 to 1443.

The Vice-Chair (Mr. Peter Z. Milczyn): The committee is back in session. Mr. Barrett, have you sorted out what you want to do?

Mr. Toby Barrett: Yes. Thank you for that recess, Chair. With the permission of the committee, I’ll withdraw that motion.

I wish to read in a motion with what we feel is the appropriate word changed. I’ll hand this to the Clerk.

The Vice-Chair (Mr. Peter Z. Milczyn): No objections from committee?

Mr. Toby Barrett: I move that subsection 29(1) of the Condominium Act, 1998, as set out in section 25 of schedule 1 to the bill, be amended by adding the following clause:

“(c.1) the person has been convicted of an offence under this act within the previous 10 years;”

I’ll hand this to the Clerk.

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. McDonell?

Mr. Jim McDonell: If you go to page 99, the bill lists a number of offences under this act that are subject to fines of no more than \$50,000 or \$25,000. We feel that if somebody is convicted of at least one of these offences that’s named in the act, they also lose their spot on the board.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Ballard?

Mr. Chris Ballard: I appreciate the amendment and the clarification around the amendment. I thank the official opposition for that. I have some concerns. I appreciate the change to “an offence” rather than what it was before, “a contravention” of the act.

I think this is a very good direction but at the end of the day, what we need to see is that we need further consultation about this because it could open up a lot of issues for people in terms of definitions of a fence, or whatever. Although it’s a good idea, I think we need further thought, further consultation. In keeping with how we’re moving this legislation ahead, this is a good idea, but I think it needs that thought, that further consultation, and needs to be enshrined in regulation rather than in legislation. So it’s a good idea but I think maybe it’s at the wrong place.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment? Mr. McDonell.

Mr. Jim McDonell: Yes. I’m disappointed about section 137, which, of course, is a comprehensive list of different offences under this act that the government chose to make offences, listed here, and put in place significant fines. If someone is contravening the act—that’s subject to fines up to \$50,000—one would think he would also lose his spot at the board because these offences are to do with the condo act. Obviously it’s a significant offence and he’s not representing his people, I would think, in a proper manner, or the offence wouldn’t stick. Anyway, that was our take on it. We think that there has been a lot of messaging from the stakeholders about the goings-on in these boards, and we want to make sure that they’re set up in an orderly fashion. How you could justify some-

body who is charged and convicted on an offence—for 10 years, a reasonable time frame.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comments? Mr. Ballard.

Mr. Chris Ballard: Just a really brief debate: As I said earlier, I think it's a good idea. I like the direction this is going in. I think it's just a matter of where it gets addressed. No one is saying that someone who has violated the act should get away without any repercussion, but this should be in regulation rather than at the legislative stage. We need more thought and more consultation on that.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate?

Seeing none, we will go to a vote on motion 43, as revised and read into the record. All those in favour? Those opposed? The motion does not carry.

There are no further proposed amendments to schedule 1, section 25. Is there any further comment or debate on schedule 1, section 25? Then shall schedule 1, section 25 be carried? All in favour? Opposed? That is carried.

There are no proposed amendments to schedule 1, sections 26 through section 29, inclusive. If there's no objection, we'll vote on those as a block. Is there any comment or debate on schedule 1, section 26 through section 29, inclusive? No? Shall schedule 1, sections 26 through 29, inclusive, be carried? All those in favour? Opposed? That is carried.

In schedule 1, section 30, there is a motion from the official opposition: motion number 44. Mr. Barrett.

Mr. Toby Barrett: I move that subsection 35(5) of the Condominium Act, 1998, as set out in section 30 of schedule 1 to the bill, be amended by striking out “if all directors of the corporation consent to the means used for holding the meeting” at the end.

The Vice-Chair (Mr. Peter Z. Milczyn): Comment and debate? Mr. McDonell?

Mr. Jim McDonell: Stakeholders have highlighted that one holdout director could prevent the board from meeting by teleconference. Our amendment ensures that a board can meet by teleconference, regardless.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Mr. Ballard?

Mr. Chris Ballard: I think, overall, Bill 106 improves how condominiums are run. I can give you at least one example that, if passed, the condo boards would no longer have to pass a bylaw to hold a meeting through conference calls or using similar off-site meeting technologies. Directors should be engaged in the process, and eliminating their engagement could cause disputes about the methods of communication. Those are just the three issues that come to my mind and it's why I recommend voting against the motion.

1450

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment? Mr. McDonell.

Mr. Jim McDonell: I think that the door is open for it, but from what we're hearing, stakeholders are saying there is a need to be able to hold these boards by teleconference, especially at certain times of the year when a

lot of people who are owners like to travel. It allows them to be a board member.

And you've got to remember, it still takes a majority of the board to allow for it. We're just saying that one cannot really harpoon the initiative.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Seeing none, then shall motion number 44 be carried? All those in favour? All those opposed? The motion does not carry.

There are no further amendments proposed to schedule 1, section 30. Is there any further comment and debate? No?

Shall schedule 1, section 30, be carried? All those in favour? Opposed? That carries.

Schedule 1, section 31: There are no amendments proposed to this. Is there any comment or debate? No? Shall schedule 1, section 31, be carried? All those in favour? Opposed? That's carried.

Schedule 1, section 31.1, official opposition motion number 45: Mr. Barrett.

Mr. Toby Barrett: I move that schedule 1 to the bill be amended by adding the following section:

“31.1 The act is amended by adding the following section:

““Compliance with code of ethics

“37.1 Every director or officer of a corporation shall comply with the code of ethics established by the minister.””

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. McDonell.

Mr. Jim McDonell: We've heard from stakeholders requesting that board members have a code of ethics. We fully support the proposal, and our amendment ensures directors comply.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Ballard?

Mr. Chris Ballard: We know that there's already a standard of care for directors in the act. Current condo law allows corporations to address codes of ethics for directors in their bylaws, and regulations could clarify the ability of a corporation to create a code of ethics in its bylaws. I think it's covered off, quite frankly. I don't see the need for the motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Seeing none, shall motion number 45 be carried? All those in favour? Those opposed? That motion does not carry.

Next, schedule 1, section 32, there are no proposed amendments. Is there any comment or debate? Seeing none, shall schedule 1, section 32, be carried? All those in favour? Opposed? That is carried.

Schedule 1, section 32.1, official opposition motion number 46: Mr. Barrett.

Mr. Toby Barrett: I move that schedule 1 to the bill be amended by adding the following section:

“32.1 The act is amended by adding the following section before the heading ‘Transfer of Control by Declarant’:

““Disclosure to owners

“41.1 When a director or officer of a corporation becomes aware that he or she has, directly or indirectly,

an interest in a contract or transaction to which the corporation is a party or a proposed contract or transaction to which the corporation will be a party, he or she shall disclose the interest in writing to the corporation's owners in the prescribed manner as soon as possible.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. McDonell.

Mr. Jim McDonell: This amendment is essential in order to maintain transparency for the procurement process and owners' confidence. We see this essentially now in municipal governments. If there's a conflict of interest, people need not only to declare but to stand down.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Ballard.

Mr. Chris Ballard: Thank you, Mr. Chair. I can see this being addressed through regulations that fall under 26.3. It's better to address disclosure, from my perspective, of conflicts to owners through procedures set up in the existing bill, including the proposed section 26.3, as well as subsections 45 and 55(3) of the act. Requiring directors to personally disclose to owners creates an unnecessary burden.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 46 be carried? All those in favour? All those opposed? The motion does not carry.

The next two sections, schedule 1, section 33 and section 34: There are no proposed amendments. If there is no objection, we'll vote on them together. Is there any comment or debate on those two sections? No? Shall schedule 1, section 33 and section 34 be carried? All those in favour? Opposed? Those sections are carried.

Schedule 1, section 35: There are official opposition motions here. The first one is number 47: Mr. Barrett.

Mr. Toby Barrett: I move that subsection 44(2) of the Condominium Act, 1998, as set out in subsection 35(1) of schedule 1 to the bill, be struck out and the following substituted:

“Times for audits

“(2) A performance audit shall be conducted,

“(a) before the first, second and seventh anniversaries of the date of registration of the declaration and description for the corporation;

“(b) as soon as possible after a request to perform a performance audit is approved by a majority of the votes cast at a meeting of owners; and

“(c) at any other prescribed time period following the registration of the declaration and description.”

The Vice-Chair (Mr. Peter Z. Milczyn): Debate or comment? Mr. McDonell.

Mr. Jim McDonell: Yes. Performance audits relate to the structure of the building. The Tarion warranty deadlines for certain components are one, two, and seven years from construction. Our amendment makes performance audits mandatory before these deadlines so a corporation can file a claim to Tarion if needed.

It's important to point out that if they fail to do so, of course they lose their right under the current law to have their items that should be under warranty covered.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment? Mr. Ballard.

Mr. Chris Ballard: Thank you, Mr. Chair. The proposed bill makes it clear that a performance audit after the first year of registration be performed. That's in line with the existing act. I have troubles with the proposed motion. It would be more appropriate in our perspective to address the timing for performance audits in the regulations because times for warranty claims are set out in regulations under the Ontario New Home Warranties Plan Act, and may change.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 47 be carried? All those in favour? Opposed? The motion does not carry.

Official opposition motion number 48: Mr. Barrett.

Mr. Toby Barrett: I just have a question, Chair, about pronunciation. I see in this motion numbers and letters, and then I see brackets. An “i” with a dot on top: How do you pronounce that?

The Vice-Chair (Mr. Peter Z. Milczyn): Double “i”: “i-i.”

Mr. Toby Barrett: Is that right: “i, double i, triple i”?

Interjections.

Interjection: Aye, aye, captain.

The Vice-Chair (Mr. Peter Z. Milczyn): Aye, ayes to the captain are directed to the Chair.

Mr. Toby Barrett: I move—with your permission, Chair—that subsection 35(6) of the bill be struck out and the following substituted:

“(6) Subclauses 44(5)(d)(i) and (ii) of the act are repealed and the following substituted:

“(i) damage to the units that may have been caused by defects in the common elements and the real property that is the subject of the audit,

“(ii) defects in the common elements and the real property that is the subject of the audit, which defects may cause damage to the units,

“(iii) defects in the common elements and the real property that is the subject of the audit, where those common elements and that real property are adjacent to the units, as determined by the regulations, if any; and

“(iiii) any other matter related to the performance audit that the person deems professionally necessary.”

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The Vice-Chair (Mr. Peter Z. Milczyn): Question or comment? Mr. McDonell.

Mr. Jim McDonell: Our rationale is that a person doing a performance audit is a qualified professional and they should be able to interview owners regarding any issues they deem relevant to the performance audit. This amendment keeps the government's section intact and adds a clause at the bottom.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Ballard—oh, I'm sorry. Mr. Singh.

Mr. Jagmeet Singh: It's fine. I have a very burning question. While I wholeheartedly supported (ii) and (iii), I'm concerned with (iiii); I would rather have (iv).

Mr. Toby Barrett: Is this about pronunciation?

Mr. Jagmeet Singh: I'm just joking: "(iv)."

The Vice-Chair (Mr. Peter Z. Milczyn): Roman numeral number 4.

Mr. Toby Barrett: How about "cinco i"? I know Spanish.

Interjections.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Ballard.

Mr. Chris Ballard: Thank you, Chair. While I get the intent of what the amendment is setting out to do, I have a concern that the requirements would be too vague and open-ended and do not give the performance auditor clear direction on the requirements that they have to meet. It may even increase the liability for people who conduct performance audits. I think we need more consultation around this, frankly, with those who conduct performance audits. I can't support the motion at this time because of that need for more consultation with those in the business.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Singh.

Mr. Jagmeet Singh: I'm just curious. I think that the amendment, as proposed, makes sense. I'm just concerned about—perhaps if you have anything in response to that. Have there been consultations with performance auditors who've said, "No, this is going to be helpful," or, "It's not going to pose a problem to us at all"?

Mr. Jim McDonell: Of course, we believe that if the auditor deems something to be important, he should be allowed to pursue it. Really, that's all it does. He is a qualified individual, and if he sees something that he deems to be a concern that should be looked at—because he is signing off on it—it gives him that option.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 48 be carried? All those in favour? All those opposed? The motion does not carry.

Official opposition motion number 49: Mr. Barrett.

Mr. Toby Barrett: I move that subsection 35(7) of schedule 1 to the bill be struck out and the following substituted:

"(7) Subsection 44(9) of the act is amended by striking out the portion before clause (a) and substituting the following:

"Submission of report

"(9) After a person conducts a performance audit, he or she shall,"

The Vice-Chair (Mr. Peter Z. Milczyn): Question or comment? Mr. McDonell.

Mr. Jim McDonell: We find that this amendment is consequential to amendment 47, which didn't pass, so I guess we have to withdraw it.

The Vice-Chair (Mr. Peter Z. Milczyn): Motion number 49 is being withdrawn.

There are no further amendments to section 35. Is there further question or comment on schedule 1, section 35? Seeing none, shall schedule 1, section 35 be carried? All those in favour? All those opposed? The section is carried.

Schedule 1, section 36: There are no amendments proposed. Is there any question or comment? Seeing none—yes, Mr. Ballard?

Mr. Chris Ballard: Oh, it's okay. Thank you.

The Vice-Chair (Mr. Peter Z. Milczyn): You were just stretching.

Mr. Chris Ballard: Just stretching.

The Vice-Chair (Mr. Peter Z. Milczyn): Shall schedule 1, section 36 be carried? All those in favour? All those opposed? Schedule 1, section 36 is carried.

Schedule 1, section 37: There is government motion number 50. Mr. Ballard.

Mr. Chris Ballard: I move that section 37 of schedule 1 to the bill be struck out and the following substituted:

"37.(1) The act is amended by adding the following section:

"Procedure for board calling a meeting

"45.1(1) Before the board sends out a notice to call a meeting of owners, it shall send a preliminary notice to the owners that is prepared in accordance with the regulations and that contains,

"(a) if the meeting is to elect one or more directors, a request that each individual who intends to be a candidate for election to the board notify the board in writing, by a date that is specified in the notice and that is determined in accordance with the regulations, of the individual's intention, name and address;

"(b) a request that any owner who wishes that the board include any material in the notice calling the meeting provide the material to the board by a date that is specified in the notice and that is determined in accordance with the regulations; and

"(c) all other materials, if any, that are prescribed.

"Material to include in notice of meeting

"(2) The board is not required to include in the notice calling a meeting of owners any material mentioned in clause (1)(b) or (c) unless the regulations provide otherwise."

"(2) Clause 45.1(1)(a) of the act, as enacted by subsection (1), is amended by adding 'subject to clause (a.1)' at the beginning.

"(3) Subsection 45.1(1) of the act, as enacted by subsection (1), is amended by adding the following clause:

"(a.1) if there is a vacancy in a position on the board described in subsection 51(6) or if such a vacancy will arise by the time of the meeting under clause 31(2)(b) or in the circumstances specified in the regulations, if any,

"(i) a copy of the text of the definition of "non-leased voting unit" in subsection 1(1) and the text of subsections 51(5) and (6),

"(ii) a statement of the date of the last day of the 15-day period mentioned in subsection 51(5),

"(iii) a request for a statement, that complies with the regulations, if any, from each owner of a non-leased voting unit stating that the owner is the owner of a non-leased voting unit, and

"(iv) a request that each individual who intends to be a candidate, for the position on the board reserved for

voting by owners of non-leased voting units, notify the board in writing, by a date that is specified in the notice and that is determined in accordance with the regulations, of the individual's intention, name and address;”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment, Mr. Ballard?

Mr. Chris Ballard: I think, really, this is in alignment with what we have proposed in other motions, Mr. Chair, in that it supports phased implementation by allowing the proposed new subsection in Bill 106, section 37 specifically, to be proclaimed into force at different times.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 50 be carried? All those in favour? Opposed? The motion is carried.

There are no further amendments proposed to section 37.

Is there further comment or debate on schedule 1, section 37? Seeing none, shall schedule 1, section 37, as amended, be carried? All those in favour? Opposed? Carried.

Schedule 1, section 38: There is a motion number 51 from the NDP. Mr. Singh.

Mr. Jagmeet Singh: I move that section 38 of schedule 1 to the bill be amended by adding the following subsection:

“(2) Subsection (1) may not be proclaimed into force until such time as the minister is of the opinion that the Condominium Authority Tribunal is able to hear disputes concerning non-compliance with section 46 of the act.”

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Ballard.

Mr. Chris Ballard: I guess my concern is that the motion would prevent section 46 dealing with the requisition for a meeting from being proclaimed into force before a minister is of the opinion that the condo authority is able to hear the dispute regarding non-compliance with section 46. I think the policy intent can be dealt with through a combination of regulation and proclamation.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Singh.

Mr. Jagmeet Singh: The concern is this, Mr. Chair: We want to ensure that the protections that would flow from the Condominium Authority Tribunal would be available and actually accessible. If they're not actually available and not accessible, then we're not really ensuring that that protection is afforded to the individual. That's the purpose of the amendment.

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The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 51 be carried? All those in favour? Opposed? The motion does not carry.

Official opposition motion number 52: Mr. Barrett.

Mr. Toby Barrett: I move that subsection 46(4) of the Condominium Act, 1998, as set out in section 38 of schedule 1 to the bill, be amended by adding the following paragraph:

“2.1 A request for a performance audit.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. McDonell.

Mr. Jim McDonell: We believe the owners have the right to request a performance audit of their building at any time, despite the mandatory audits already prescribed. Sometimes consumers are best served through encoding this right in law rather than leaving it to the regulations.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Ballard.

Mr. Chris Ballard: My sense is that this is already captured by proposed paragraphs 1 and 3 of subsection 46(4) of the act. Again, as we've said with some of the previous comments around conduct performance, this will require more consultation with those who conduct performance audits, so I'd recommend against the motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Singh.

Mr. Jagmeet Singh: In general, however, requiring a performance audit, broadly speaking: Is that something that the government's chair would be amenable to? Just to understand the concern, is it that consultation is needed to ensure whether or not performance audits are even useful, or is it that you acknowledge their use, or you want to just understand if it can be done?

Mr. Chris Ballard: My sense, Mr. Singh, is that performance audits are required. As we said in the previous motion that came forward, many times it's around timing. It's why we didn't want to enshrine that in legislation: because it ties in with the Ontario New Home Warranties Plan Act, which may change. So yes, they're needed. It's a matter of timing and in this case, it's a requirement for more consultation.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 52 be carried? All those in favour? Opposed? The motion does not carry.

Official opposition motion number 53: Mr. Barrett.

Mr. Toby Barrett: I move that subsection 46(4) of the Condominium Act, 1998, as set out in section 38 of schedule 1 to the bill, be amended by adding the following paragraph:

“2.2 Entering into a contract with or terminating the contract of a condominium manager or condominium management provider.”

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. McDonell.

Mr. Jim McDonell: Sure. Again, we believe consumers are best protected when their right to requisition a meeting to deal with such an important issue is guaranteed by law rather than through regulation.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Ballard.

Mr. Chris Ballard: If I might, in the Condominium Act the owners have the ultimate democratic right to elect or remove the board of directors. The elected board of directors manages the affairs of the corporation on behalf of the owners, including the affairs of the managers.

The act also allows management of the property to be the subject matter of a bylaw. Given that the majority of

the owners must approve the bylaws, the owners are entitled to make decisions regarding the management of the property through the bylaw that the CMSA is going to introduce, as you know—a new licensing regime to govern condo managers. This motion would expand the purposes for which the requisition meeting might be called, but I think the proposed legislation covers that adequately.

I don't see a need for the motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 53 be carried? All those in favour? All those opposed? The motion does not carry.

There are no further amendments proposed to schedule 1, section 38. Is there further comment or debate on this section? Seeing none, shall schedule 1, section 38, be carried? All those in favour? Opposed? That is carried.

There are no amendments proposed for schedule 1, sections 39 through 43, inclusive. If there are no objections, I think that we can deal with them as a group. Is there any comment or debate on these sections?

Mr. Jagmeet Singh: Yes, Mr. Chair. I just missed what you said. Did you say till 43?

The Vice-Chair (Mr. Peter Z. Milczyn): Yes.

Mr. Jagmeet Singh: Up until 43; right?

The Vice-Chair (Mr. Peter Z. Milczyn): Pardon?

Mr. Jagmeet Singh: You said “up until 43.”

The Vice-Chair (Mr. Peter Z. Milczyn): Yes, 39 through 43, inclusive.

Mr. Jagmeet Singh: That's it.

The Vice-Chair (Mr. Peter Z. Milczyn): We're fine?

Mr. Jagmeet Singh: Yes.

The Vice-Chair (Mr. Peter Z. Milczyn): All right. No further comment or debate? Shall schedule 1, sections 39 through 43, inclusive, be carried? All those in favour? Opposed? These sections are carried.

Schedule 1, section 44, government motion number 54: Mr. Ballard.

Mr. Chris Ballard: I move that subsection 51(6) of the Condominium Act, 1998, as set out in subsection 44(2) of schedule 1 to the bill, be amended by striking out “clause 45.1(1)(b)” in the portion before clause (a) and substituting “clause 45.1(1)”—

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Ballard, just a moment. What you said is slightly different than what is written.

Mr. Chris Ballard: Shall I start again, Mr. Chair?

The Vice-Chair (Mr. Peter Z. Milczyn): If you could, please, for clarity and for the record.

Mr. Chris Ballard: I'll start again.

I move that subsection 51(6) of the Condominium Act, 1998—

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Ballard, it says number 5 on the paper and you said number 6.

Mr. Chris Ballard: I'm sorry. My version here has number 6. I may not have an up-to-date—

Ms. Daiene Vernile: Mine says (6), also.

Interjections.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Ballard, I think you're reading motion 55. We're at motion 54.

Mr. Chris Ballard: Okay, here we are. Thank you.

I move that subsection 51(5) of the Condominium Act, 1998, as set out in subsection 44(2) of schedule 1 to the bill, be amended by,

(a) striking out “clause 45.1(1)(b)” in the portion before clause (a) and substituting “clause 45.1(1)(a.1)”;

(b) striking out “subclause 45.1(1)(b)(iii)” in clause (a) and substituting “subclause 45.1(1)(a.1)(iii)”;

(c) striking out “clause 45.1(1)(b)” in clause (b) and substituting “clause 45.1(1)(a.1)”.

The Vice-Chair (Mr. Peter Z. Milczyn): Comment and debate? Mr. Ballard.

Mr. Chris Ballard: I think these are technical adjustments, Mr. Chair, and I'll leave it there.

The Vice-Chair (Mr. Peter Z. Milczyn): Any further comment or debate? Seeing none, shall motion number 54 be carried? All those in favour? Opposed? The motion is carried.

Government motion number 55: Mr. Ballard.

Mr. Chris Ballard: Motion 55: Here we go.

I move that subsection 51(6) of the Condominium Act, 1998, as set out in subsection 44(2) of schedule 1 to the bill, be amended by striking out “clause 45.1(1)(b)” in the portion before clause (a) and substituting “clause 45.1(1)(a.1)”.

The Vice-Chair (Mr. Peter Z. Milczyn): Comment and debate?

Mr. Chris Ballard: It's obvious to me, Mr. Chair, that it allows for the length of the first fiscal year to be amended by regulation.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 55 be carried? All those in favour? Opposed? The motion is carried.

There are no further amendments proposed to schedule 1, section 44. Is there any further comment or debate on schedule 1, section 44? Seeing none, shall schedule 1, section 44, as amended, be carried? All those in favour? Opposed? The section is carried.

1520

Schedule 1, section 45: There are no proposed amendments. Is there any comment or debate? Seeing none, shall schedule 1, section 44 be carried? All those in favour—

Interjection: Section 45.

The Vice-Chair (Mr. Peter Z. Milczyn): My apologies. Shall schedule 1, section 45 be carried? All those in favour? Opposed? That is carried.

Schedule 1, section 46: There is NDP motion number 56. Mr. Singh.

Mr. Jagmeet Singh: I move that section 52 of the Condominium Act, 1998, as amended by subsection 46(1) of schedule 1 to the bill, be amended by adding the following subsection:

“Secret ballot

“(1.01) Despite subsection (1), under the prescribed circumstances, a person entitled to vote at a meeting may require that voting be conducted by secret ballot, cast in the prescribed manner.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment and debate? Mr. Ballard?

Mr. Chris Ballard: I think this is, again, one of those issues that can be dealt with through bylaws and regulations, so I don't see a need for it.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Mr. McDonell?

Mr. Jim McDonell: We think that people should always be able to do something or vote by secret ballot. We would like to see the prescribed circumstances. If they're entitled to a secret ballot, they should be allowed to have one.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Singh?

Mr. Jagmeet Singh: If you follow along the bill, the bill puts in something as simple as a show of hands. It allows for the showing of hands. It allows for a recorded vote and mentions marking a ballot, using an instrument, or indicating by telephonic or electronic means, if the by-law permits. This would just add one additional component. It's not particularly complex. It just says to add the option to allow a secret ballot. It is really all that it's doing. It's not any more nuanced than allowing for a show of hands. I don't think adding that in is something that would, in any way, unduly burden anyone. It just creates another option.

In some circumstances, we've seen that voting openly might cause some rift in a particular board and you might benefit from having a secret ballot to ensure that the board can continue to work together if it's a contentious issue. Sometimes, in those circumstances, we want to ensure that boards are able to work effectively together. There might be a time when you don't want to have your vote be known, and I think having that is a good option. We in the House vote for a Speaker, and that's done through secret ballot. I think it's a good amendment. I don't think there's any issue with it.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Ballard?

Mr. Chris Ballard: Both Mr. McDonell and Mr. Singh make, in my mind, very valid comments with regard to the requirement for secret ballots, but it doesn't preclude me from saying that that can be dealt with through bylaws and regulations.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 56 be carried? All those in favour? Opposed? That does not carry.

Official opposition motion number 57: Mr. Barrett.

Mr. Toby Barrett: I move that section 46 of the bill be amended by adding the following subsection:

“(2.1) Section 52 of the act is amended by adding the following subsection:

“Request for secret ballot

“(2.1) Before a vote on an item scheduled for a vote at a meeting of owners, a person entitled to vote at the meeting may request that a secret ballot be conducted and,

“(a) despite subsection (1), votes for the item may only be,

“(i) marked on a ballot cast personally or by proxy,

“(ii) marked on an instrument appointing a proxy, or

“(iii) indicated by telephonic or electronic means, if the bylaws so permit; and

“(b) no votes will be recorded, despite any request made under subsection (2).”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment and debate? Mr. McDonell?

Mr. Jim McDonell: We believe that owners should be able to cast their votes in secret, especially in the election. For a removal of a board member, it goes without saying that secret ballots are not recorded.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Singh?

Mr. Jagmeet Singh: We'll be supporting this motion. It effectively does what we were hoping to do in a previous motion so it's something we support. I think it's straightforward; it makes sense. We should have this option.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Mr. Baker?

Mr. Yvan Baker: I recommend voting against the motion. The motion is overly broad, I would argue. It takes away the flexibility for corporations across the province to choose whether ballots should be secret or not. Currently, the act refers to a vote by a show of hands or by a recorded vote. The bill does not change that policy but clarifies the manner in which a vote can be made by a show of hands or a recorded vote.

The definition of a recorded vote can be determined in regulations, so I recommend voting against it.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Seeing none, shall motion number 57 be carried? All those in favour? All those opposed? The motion does not carry.

Official opposition number 58.

Mr. Toby Barrett: I move that section 46 of the bill be amended by adding the following subsection:

“(2.2) Section 52 of the act is amended by adding the following subsection:

“Same

“(3.1) A proxy shall not be,

“(a) a condominium management provider or a condominium manager or an employee or agent of such a person;

“(b) a candidate in the election of the corporation's board of directors;

“(c) a director of the corporation; or

“(d) a spouse, sibling, parent or child of a person described in clause (a), (b) or (c).”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. McDonell.

Mr. Jim McDonell: This amendment brings greater transparency to the proxy appointment process by barring those with a large stake in an owners' meeting outcome from being a proxy.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Mr. Baker?

Mr. Yvan Baker: Thanks, Chair. I recommend voting against the motion. The motion is, again, very broad. It

takes away flexibility for corporations across Ontario to choose who cannot be a proxy.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Seeing none, shall motion number 58 be carried? All those in favour? All those opposed? The motion does not carry.

Official opposition motion number 59.

Mr. Toby Barrett: I move that subsection 52(4) of the Condominium Act, 1998, as set out in subsection 46(3) of schedule 1 to the bill, be struck out and the following substituted:

“Appointment of proxy

“(4) A proxy shall,

“(a) be in writing under the hand of the appointer or the appointer’s attorney;

“(b) be for one or more particular meetings of owners;

“(c) be signed by a witness who is not a director of the corporation or a manager under an agreement for the management of the property; and

“(d) comply with the regulations and be in the prescribed form.

“Proxy to be delivered before meeting

“(5) An instrument appointing a proxy must be delivered to”—I trust this could just be considered a grammatical mistake; there’s an “a” in there—“the president or secretary of the board or deposited at the address for service of the corporation at least 24 hours before a meeting to which it applies.”

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. McDonnell?

Mr. Jim McDonnell: We heard from stakeholders that it was fairer for owners than meeting the chair with a flood of last-minute proxies that are handed in and need to be reviewed. The amendment adds a subsection that a proxy instrument must be witnessed and must be delivered to a designated set of people beyond 24 hours of the meeting. Adding a witness to the proxies ensures the proxy appointment process is transparent and makes proxies more difficult to forge.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment, Mr. Baker?

Mr. Yvan Baker: In my view, details regarding the proper execution of a proxy are something that would be the purview of regulation, especially given how technical the issue can be and how it can apply to different condominiums across the province. I recommend voting against the motion for that reason.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 59 be carried? All those in favour? All those opposed? The motion does not carry.

There are no further amendments to schedule 1, section 46. Is there any further comment or debate on this section? Seeing none, shall schedule 1, section 46 be carried? All those in favour? All those opposed? Carried.

1530

Members, schedule 1, sections 47 through 58, inclusive, have no proposed amendments. I recommend we deal with them as a block, if there’s no objection. Is there any debate

or comment on schedule 1, sections 47 through 58, inclusive? Mr. Singh?

Mr. Jagmeet Singh: It’s a good sign in this case that there are no amendments. Perhaps in this case these sections were well written.

The Vice-Chair (Mr. Peter Z. Milczyn): Thank you. I think we can move on to a vote. Shall schedule 1, sections 47 through 58, inclusive, be carried? All those in favour? Opposed? These sections are carried.

Schedule 1, section 59: There is an NDP motion, number 60. Mr. Singh?

Mr. Jagmeet Singh: I move that subsection 71.1(1) of the Condominium Act, 1998, as set out in section 59 of schedule 1 to the bill, be amended by adding the following clause:

“(a.1) prescribed information about the rights of purchasers and the duties of declarants;”

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Baker?

Mr. Yvan Baker: I recommend voting against the motion because the motion is redundant, in my view. The bill already contemplates that the condominium guide will contain information for purchasers under clause 71.1(1)(a), which would include information about their rights and the obligations of developers.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Singh?

Mr. Jagmeet Singh: This motion seeks to clarify some of the rights of the purchasers, along with providing information around the duties of the declarant. It adds an additional level of protection, specifically, if you notice the difference: One is information for purchasers in the existing act. The amendment really focuses on: What are the rights of the purchasers and what are the duties? This specific distinction adds increased protection.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 60 be carried? All those in favour? Opposed? The motion does not carry.

There are no further amendments proposed to schedule 1, section 59. Is there any further comment or debate on this section? Seeing none, shall schedule 1, section 59 be carried? All those in favour? Opposed? The section is carried.

Congratulations, members; you’ve dealt with half of the proposed amendments.

Schedule 1, section 60: official opposition motion number 61. Mr. Barrett?

Mr. Toby Barrett: I just want to make sure that all members of the committee received—

Interjection.

Mr. Toby Barrett: What I’m trying to explain is that we did withdraw this motion and we submitted another motion to the Clerk.

The Vice-Chair (Mr. Peter Z. Milczyn): Withdraw it now.

Mr. Toby Barrett: I do so wish to withdraw it.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Barrett is withdrawing official opposition motion 61, and you want to replace it with something?

Mr. Toby Barrett: Yes. The new motion is being delivered. I'll wait until it's gone around the horn.

Great. This is the motion that we're putting before the committee. I move that section 60 of schedule 1 to the bill be amended by adding the following subsection:

“(4.1) Subsection 72(3) of the act is amended by adding the following clause:

“(d.1) a list of any elements of the common elements or of the unit or proposed unit, as the case may be, that are not part of the agreement of purchase and sale and in respect of which an additional charge will be levied against the corporation or the owners;”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. McDonell.

Mr. Jim McDonell: Consumers have the right to know if any components of the units or the buildings are not the property of either the owners or the corporation, and must therefore be paid for separately. We asked that the amendment be changed to read, “I move that clause 72 (3)(f.1) of the Condominium Act, 1998, as set out in subsection 60(5) of schedule 1 to the bill, be amended by adding the following subclause.”

This was being done so that it includes both types, conversion and new. Our amendment would apply to—as it is, our motion would have only applied to conversion projects, so we wanted it to apply it to both.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? No further comment and debate? Shall the new motion 61 be carried? All those in favour? Opposed? That does not carry.

NDP motion number 62.

Mr. Jagmeet Singh: I move that clause 72(3)(f.1) of the Condominium Act, 1998, as set out in subsection 60(5) of schedule 1 to the bill, be amended by adding the following subclause:

“(iv.1) a statement that the unit complies with the sound transmission standards under the Ontario Building Code, as demonstrated and documented using the prescribed processes and forms, if any,”

The purpose for this bill—if anyone has gone to a condominium, particularly new ones, you know that there's often the sense that those walls are like pieces of paper, and sound travels through them as if there was no wall. Ensuring that there's sufficient material in between the units, you ensure sound is not flowing through like water. This is an amendment to ensure that there is adequate protection.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Mr. Ballard.

Mr. Chris Ballard: I understand the intent of the proposed amendment but I find it problematic. I think that, at the time when a developer provides a disclosure statement to a purchaser, the unit would likely not have been constructed, even in a residential condominium conversion project.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate?

Mr. Jagmeet Singh: The compliance could be in the fact that there are sufficient plans in place to ensure that this would happen, and that those plans are in compliance so to provide the purchaser with some confidence that the unit will comply with the sound transmission standards: “These are the plans that we have laid out and because of these plans, it will comply, or we anticipate that it would comply.”

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Seeing none, shall motion number 62 be carried? All those in favour? Opposed? The motion does not carry.

Official opposition motion number 63: Mr. Barrett.

Mr. Toby Barrett: I move that section 60 of schedule 1 to the bill be amended by adding the following subsection:

“(8.1) Section 72 of the act is amended by adding the following subsection:

“Insurance

“(3.1) The declarant shall obtain insurance against its liability resulting from a failure to provide an accurate disclosure statement and shall maintain the insurance for a period of five years from the date a copy of the disclosure statement was provided.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comments and debates? Mr. McDonell.

Mr. Jim McDonell: Builders have an incentive to understate the maintenance and annual costs of the corporation, as it results in a smaller transfer from the builder to the corporation. This amendment makes it easier to recover any outstanding money that would have been owed by the builder if they had disclosed the costs correctly.

1540

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Ballard.

Mr. Chris Ballard: Again, I'm trying to understand the intent of the proposal, but I think the motion is drafted in a way that's unclear to me and possibly out of order as we move along. So I can't support it.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Mr. McDonell.

Mr. Jim McDonell: We heard many complaints from people who are moving in, and the maintenance fees are much higher than were specified. This is a protection. If the owner is aware of some issues, we have to make sure that people buying these units are protected in some form of being able to forecast future costs.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Seeing none, shall motion number 63 be carried? All those in favour? Opposed? The motion does not carry.

There are no further amendments to schedule 1, section 60. Is there further comment or debate on this section? Seeing none, shall schedule 1, section 60 be carried? All those in favour? Opposed? It is carried.

There are no amendments proposed to schedule 1, sections 61 through 68, inclusive. If there are no objections, I recommend we deal with them as a block. Is there any debate or comment on schedule 1, sections 61 through 68, inclusive? Seeing none, shall schedule 1, sections 61

through 68, inclusive, be carried? All those in favour? Opposed? These sections are carried.

Schedule 1, section 69, NDP motion number 64: Mr. Singh.

Mr. Jagmeet Singh: I move that subsection 80(5) of the Condominium Act, 1998, as set out in subsection 69(2) of schedule 1 to the bill, be struck out and the following substituted:

“Reserve fund contribution

“(5) If the declarant charges the purchaser a monthly occupancy fee for interim occupancy of a proposed unit of a prescribed class for any period or for a period that is prescribed and if the monthly occupancy fee includes a projected contribution to the reserve fund of the corporation, then, with respect to the occupancy fee for each month or such other period that is prescribed, the declarant shall hold in trust and remit to the corporation upon registering the declaration and” description of the portion—sorry; “description the portion of the monthly occupancy fee that represents the projected contribution to the reserve fund in accordance with the regulations, if any.”

Also, for the record, I did not write that.

The Vice-Chair (Mr. Peter Z. Milczyn): Any further comment or debate? Mr. Ballard.

Mr. Chris Ballard: Well, again, I think I understand the intent of the proposed amendment, but the motion could have a significant impact on the building industry. I think it requires consultation with industry that would best be dealt with as we move forward with regulations. Bill 106 allows for the six months to be altered by regulation.

The Vice-Chair (Mr. Peter Z. Milczyn): Any further comment or debate? Mr. Singh.

Mr. Jagmeet Singh: While I was just jesting about the actual writing, the amendment, the motion is well done. Thank you to legislative counsel. I appreciate all of the great work. Never bite the hand that feeds you, as they say.

But I have to say, it’s an important issue. Reserve funds have come up time and time again as one of the major issues of concern when it comes to condominium owners. There is certainly a period of time, when you’re transitioning from the occupancy to a fully registered and legal residence, what happens with this reserve fund how it’s dealt with is a major issue, so we are trying to address that issue here. It’s something that many people have complained about, and I think that many of the concerns we have seen that have hit the news have to do with reserve funds and the way those funds are collected, the contributions. So this is one way to address a concern that is a major concern.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 64 be carried? All those in favour? Opposed? The motion does not carry.

There are no further amendments proposed to schedule 1, section 69. Is there any further comment or debate? Seeing none, shall schedule 1, section 69, be carried? All those in favour? Opposed? That carries.

Do members of the committee wish to have a very brief recess? Is there a desire for that, for five minutes?

Interjection.

The Vice-Chair (Mr. Peter Z. Milczyn): I’m just asking.

Mr. Jagmeet Singh: Yes, please.

The Vice-Chair (Mr. Peter Z. Milczyn): We shall recess for five minutes.

The committee recessed from 1546 to 1556.

The Vice-Chair (Mr. Peter Z. Milczyn): I’ll call the meeting back to order. We left off by voting for schedule 1, section 69.

Schedule 1, sections 70 through 73, inclusive: There are no proposed amendments. If there are no objections, I would suggest we deal with those as a block. Are there any comments or debate on schedule 1, section 70 through section 73, inclusive? Seeing none, shall schedule 1, sections 70 through 73, inclusive, be carried? All those in favour? Opposed? Those sections are carried.

Schedule 1, section 74: government motion number 65. Mr. Ballard.

Mr. Chris Ballard: I move that clause 83.1(2)(a) of the Condominium Act, 1998, as set out in section 74 of schedule 1 to the bill, be amended by adding “or such other day as is prescribed” after “takes place”.

The Vice-Chair (Mr. Peter Z. Milczyn): Comments or debate?

Mr. Chris Ballard: The rationale, I think, is fairly straightforward. It allows for the length of the fiscal year to be amended by regulation, and it supports consistency with the Income Tax Act.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 65 be carried? All those in favour? Opposed? That is carried.

There are no further amendments proposed to schedule 1, section 74. Is there any further comment or debate on this section? Seeing none, shall schedule 1, section 74, as amended, be carried? All those in favour? Opposed? That is carried.

Schedule 1, section 75: NDP motion number 66. Mr. Singh.

Mr. Jagmeet Singh: I move that section 75 of schedule 1 to the bill be amended by adding the following subsection:

“(1) Subsection 84(2) of the act is repealed and the following substituted:

“Common surplus

“(2) A common surplus in a corporation shall be applied against the following year’s common expenses, paid into the reserve fund or paid for other prescribed purposes, and except on termination, shall not be distributed to the owners or mortgagees of the units.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Ms. Vernile.

Ms. Daiene Vernile: I recommend voting against this motion because it seems very unclear as to what the motion is trying to address.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. McDonell.

Mr. Jim McDonell: It seems fairly straightforward. I think we’re just looking at moving money that’s not spent into the following year. If it is a surplus, it’s a good

way of just disbursing it and having it available to the owners in the following year.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Singh?

Mr. Jagmeet Singh: I want to thank Mr. McDonell for that explanation. Exactly: It's very straightforward. This is again along the same lines where people are concerned with reserve funds in general and people are concerned with what happens to the common surplus. This prescribes a clear path to provide a detailed avenue to take that common surplus and what should happen with it, what should be done with it. It provides a clear solution. It would address concerns that have been raised by stakeholders with respect to this issue and deal with them a very fair manner. That's why the motion was presented. Thank you very much.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 66 be carried? All those in favour? Opposed? The motion does not carry.

There are no further amendments proposed to schedule 1, section 75. Is there any further comment or debate? Seeing none, shall schedule 1, section 75 be carried? All those in favour? Opposed? Carried.

There are no amendments proposed to schedule 1, sections 76 through 83, inclusive. If there are no objections, I recommend we deal with them as a package. Are there any further comments or debate on schedule 1, sections 76 through 83, inclusive? Seeing none, shall schedule 1, sections 76 through 83, inclusive, be carried? All those in favour? Opposed? These sections are carried.

Schedule 1, section 84, official opposition motion number 67: Mr. McDonell.

Mr. Jim McDonell: I move that subsection 84(2) of schedule 1 to the bill be struck out and the following substituted:

“(2) Subsection 95(2) of the act is repealed and the following substituted:

““Board's use

“(2) Subject to the regulations, the board does not require the consent of the owners to make an expenditure out of a reserve fund that does not exceed 10 per cent of the current reserve fund balance.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. McDonell.

Mr. Jim McDonell: The rationale is that the amendment preserves the government's amendment that adds the “subject to the regulations” part and enhances owner protection by ensuring any large expense out of the reserve fund is approved by the owners.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Singh.

Mr. Jagmeet Singh: I understand what the motive of this motion is. However, I'm concerned any time the owners aren't consulted on expenses. I think that's a complaint that has come up time and time again, that owners aren't consulted with respect to board decisions and expenditures. I understand, though, with this cap, it's saying that for less expensive expenditures, perhaps in those cases it's okay.

I'm just concerned; I'm thinking about large projects which have big reserve funds. It could still be a considerable amount of money that's spent, even if it's just 10%. That's my only concern, though in general, I do support the idea that, for expediency, there might be times where, for very minor expenses, there should be flexibility for the board.

In this case, because of my lack of certainty around the size—10% could be a large sum. That's why I will be opposing this motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Ms. Albanese.

Mrs. Laura Albanese: I believe that the intent is probably to allow for greater flexibility. However, I think that further consultation is needed to determine the amount or the circumstances when owner consent should be sought. Given that reserve fund balances can fluctuate, there's really no basis for the 10%.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. McDonell.

Mr. Jim McDonell: I think what we're doing here is that we're actually limiting—if they're over 10%, they must be approved by the owners. So that's a restriction on the current legislation.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Singh.

Mr. Jagmeet Singh: Sorry, maybe I didn't understand that. As it reads or as it currently stands—are you suggesting, Mr. McDonell, that this would allow for a requirement for greater—

Mr. Jim McDonell: Greater control.

Mr. Jagmeet Singh: Or more opportunities for having to obtain the consent of the owners?

Mr. Jim McDonell: Yes.

Mr. Jagmeet Singh: I see.

Mr. Jim McDonell: By putting in a 10% limit on it.

Mr. Jagmeet Singh: Sorry, through the Chair: You're saying that normally—

Mr. Jim McDonell: We're adding the 10% restriction. If it's more than 10%, it has to go through the board.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 67 be adopted? All those in favour? Opposed? The motion does not carry.

There are no further amendments proposed to schedule 1, section 84. Is there any further debate or comment? Seeing none, shall schedule 1, section 84 be carried? All those in favour? Opposed? The section is carried.

Schedule 1, section 85: There are no amendments proposed. Is there any debate or comment? Seeing none, shall schedule 1, section 85 be carried? All those in favour? Opposed? The section is carried.

Schedule 1, section 86, NDP motion number 68: Mr. Singh.

Mr. Jagmeet Singh: I move that subclause 97(9)(a)(ii) of the Condominium Act, 1998, as set out in section 86 of schedule 1 to the bill, be struck out and the following substituted:

“(ii) \$75,000 or a prescribed amount; or”.

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate?

Mr. Chris Ballard: Sorry, this is 68?

Mr. Jagmeet Singh: NDP motion 68.

The Vice-Chair (Mr. Peter Z. Milczyn): Yes, 68, schedule 1, section 86.

Mr. Chris Ballard: Okay. Thank you. I think the provisions dealing with modifications must be approved by the owners of 66 and two thirds per cent of the units. My concern is that the change would be unnecessarily cumbersome for large corporations with large budgets, for example over \$1 million, if they wish to carry out modifications that cost more than \$75,000.

Again, I think this is something that would be best addressed by the regulations, Mr. Chair. The provision of the act which Bill 106 maintains already allows regulations to prescribe a threshold amount, so I would recommend voting against the motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Mr. Singh.

Mr. Jagmeet Singh: This is the same issue that was raised previously: that 10% of a reserve fund may fluctuate very greatly. Similarly, 10% of the annual budgeted common expenses—there might be fluctuations in those common budget expenses if one year you have significant expenses that are incurred and another year you have less. That budgeted expense can fluctuate. This creates a very clear amount that—most people would look at \$75,000 as fairly significant. That would ensure that at least if that amount is one of the conditions—there might be other ones. It says, “the prescribed amount, if any.” So the prescribed amount can be left to regulation. There are other components that can be left to regulation, but this just provides a clear amount that would be required. I think that’s providing more protection.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Ballard.

Mr. Chris Ballard: I think I understand the intent of where you’re going and I certainly appreciate it. I think, again, we’re at odds with: Do we put this into legislation, which is difficult and cumbersome to change down the road, or do we prescribe this through regulations that allow government a little more flexibility to meet a changing marketplace, etc.?

Again, I think my sense would be that Bill 106 allows regulations to prescribe a threshold amount, and my sense is that’s where we want it: in regulation.

The Vice-Chair (Mr. Peter Z. Milczyn): Other comments and debate? Seeing none, shall motion number 68 be adopted? All those in favour? Opposed? The motion does not carry.

There are no further amendments proposed to schedule 1, section 86. Is there any further comment or debate? Seeing none, shall schedule 1, section 86 be adopted? All in favour? Opposed? It’s carried.

1610

There are no amendments proposed to schedule 1, section 87 and section 88. So without objection, I would suggest that we deal with them together. Any comment or debate on these two sections? No? Then shall schedule 1,

section 87 and section 88 be adopted? All those in favour? Opposed? These sections are adopted.

Schedule 1, section 89, government motion 69: Mr. Ballard?

Mr. Chris Ballard: I move that section 105.1 of the Condominium Act, 1998, as set out in section 89 of schedule 1 to the bill, be struck out.

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate?

Mr. Chris Ballard: This supports implementation by allowing the proposed new sections in section 89 of the bill to be proclaimed into force at different times.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 69 be adopted? All those in favour? Opposed? The motion is carried.

There are no further amendments to section 89. Further comment or debate? Seeing none, shall schedule 1, section 89, as amended, be carried? All those in favour? Opposed? Carried.

Schedule 1, section 89.1, government motion number 70: Mr. Ballard?

Mr. Chris Ballard: I move that schedule 1 to the bill be amended by adding the following section:

“89.1 The act is amended by adding the following section:

“Information to owners

“105.1 Subject to the regulations, the board shall provide the owners, in accordance with the regulations, with a notice containing information relating to the insurance mentioned in each of sections 39, 99, 102 and 105 and the regulations, if any.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Seeing none, shall motion number 70 be adopted? All those in favour? Opposed? The motion is carried.

There are no further amendments to schedule 1, section 89.1. Further comment or debate?

Interjection.

The Vice-Chair (Mr. Peter Z. Milczyn): It’s a new section, so that motion carried it.

There are no amendments proposed to schedule 1, sections 90 through 93, inclusive. If there are no objections, I suggest we deal with them as a block. Seeing no objections, is there any comment or debate on schedule 1, sections 90 through 93, inclusive? Seeing none, shall schedule 1, sections 90 to 93, inclusive be carried? All those in favour? Opposed? These sections are carried.

Schedule 1, section 94: official opposition motion number 71.

Mr. Toby Barrett: I move that section 94 of schedule 1 to the bill be amended by adding the following subsection:

“(1.1) Section 111 of the act is amended by adding the following subsection:

“Resolution at a meeting of owners

“(1.1) The board shall take action to terminate an agreement for the management of the property in accordance with this section if a resolution to terminate the agreement is passed at a meeting of the owners.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. McDonell?

Mr. Jim McDonell: The rationale is that the owners of a condominium, as shareholders of the corporation, should have the right to order the corporation to hire or dismiss a manager. That's a request that, if passed, makes it mandatory for the board to act on it.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Ms. Vernile?

Ms. Daiene Vernile: Since the majority of owners must approve bylaws, owners are entitled to make decisions regarding property management through a bylaw, so I recommend voting against this motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Mr. McDonell.

Mr. Jim McDonell: Chair, just some clarification: Are we saying that the owners have the right to a bylaw and that must be followed? I'm just wondering. Our point of this is, if there's a resolution put on the floor by the owners and it's carried—in this case here, it's to dismiss a manager—that it would be followed by the board. We think the owners, under a properly conducted majority vote—their order should be followed.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Ms. Vernile.

Ms. Daiene Vernile: Owners already have the democratic right, though, to elect or remove their board of directors.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Seeing none, shall motion number 71 be adopted? All those in favour? Opposed? The motion is not carried.

There are no further amendments proposed to section 94. Is there further comment or debate? Seeing none, shall schedule 1, section 94 be adopted? All in favour? Opposed? The motion is carried.

There are no amendments proposed to schedule 1, sections 95 through 98, inclusive, so if there is no objection, we'll deal with these as a block. Seeing no objection, is there any comment or debate on these sections? Seeing none, shall schedule 1, section 95 to section 98, inclusive, be carried? All in favour? Opposed? These sections are carried.

Schedule 1, section 99: official opposition motion number 72. Mr. Barrett.

Mr. Toby Barrett: Yes, Chair. I move that section 117 of the Condominium Act, 1998, as set out in section 99 of schedule 1 to the bill, be amended by adding the following subsection:

“Same

“(3) No corporation or employee or agent of a corporation shall prevent a candidate for a position on the board of directors of the corporation from canvassing the property.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. McDonell.

Mr. Jim McDonell: Yes, we heard from stakeholders that corporation managers have prevented owners from canvassing their building in order to promote their candidate for a board position, or to collect signatures for a

requisition. Despite this, political canvassers are protected by section 118, which does not cover owners canvassing for the board or for a requisition.

We can't amend section 118 because it is not touched by Bill 106. Our amendment guarantees that candidates to the board and requisitioners have the same protections as political candidates when canvassing condos.

If you don't allow this, it takes away a big part of the election process. That's why we do it in provincial and federal elections.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Singh.

Mr. Jagmeet Singh: Thank you very much, Mr. Chair. Mr. Chair, through you, I support this motion—I support this motion as well as the emotion behind the motion. It's getting late; it's a long day.

The reason is, we have protections included in the Election Act that allow for political canvassing to occur, but there isn't actually any protection that allows for people who want to represent their own condominium corporation to get the necessary signatures, to get the necessary votes so they can become a participating member of their own condominium. The fact that that protection isn't present is a big problem.

I think this is a good motion. It allows for that protection and it ensures that people can go out and canvass their own neighbours, to ensure that they have the support to get involved. We've heard from stakeholders who said they weren't able to do this. This is an issue that they raised, and I think we should provide a solution to this problem.

The Vice-Chair (Mr. Peter Z. Milczyn): Ms. Vernile.

Ms. Daiene Vernile: Chair, we see that this particular motion is placed incorrectly. It might be better suited in section 28, and it could be addressed as a regulation.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Mr. McDonell.

Mr. Jim McDonell: I think we require a recorded vote on this.

The Vice-Chair (Mr. Peter Z. Milczyn): Recorded vote. Okay. Mr. Singh, did you want to add some comment or debate?

Mr. Jagmeet Singh: Yes, one final comment: There are certain things that I understand the government talks about: flexibility. Regulations do provide flexibility, but this isn't something that we want to provide flexibility with. We want to provide it in black and white, very clear, that, “You are allowed to canvass your own property.” This is not something that we want to leave to regulation.

Regulations are things that can be modified, and I can understand, where it comes to costs, that putting in a prescribed fee after time, you might say that \$75,000 is very minimal after 20 years or maybe 30 years of inflation, and then we want to increase the amount. So I understand, with monetary fees, leaving flexibility in the hands of a regulation, but we don't want to leave in the hands of regulations something like protecting your ability to participate in the democratic process of your own condominium corporation. That is not something

that should be left to regulation; that's something that should be enshrined clearly in the legislation.

1620

Just to make that distinction: I think there are some points where we can say, "Yes, regulation. You can make the argument for it," but there is no argument that would suggest, in any way, that ensuring that there's protection for people to be involved in the process should be left to regulation. That argument does not hold any water in this particular case. Whether or not it's in the wrong section—I'm sure our colleague Mr. McDonell would be willing in the section that the government would propose. But I think this is something that we should certainly address. Thank you, Mr. Chair.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. McDonell.

Mr. Jim McDonell: Yes, we are unable to put it in the proper section because of the regulations that we're following. But again, as Mr. Singh said, this is very important and we don't think it should be left to regulation. It's a basic right.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. McDonell has asked for a recorded vote.

Ayes

Barrett, McDonell, Singh.

Nays

Albanese, Baker, Ballard, Hoggarth, Vernile.

The Vice-Chair (Mr. Peter Z. Milczyn): The motion does not carry.

Official opposition motion number 73: Mr. Barrett.

Mr. Toby Barrett: I move that section 117 of the Condominium Act, 1998, as set out in section 99 of schedule 1 to the bill, be amended by adding the following subsection:

"Same

"(4) No corporation or employee or agent of a corporation shall prevent an owner from canvassing the property for the purpose of collecting signatures to requisition a meeting in accordance with section 46."

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. McDonell.

Mr. Jim McDonell: On the same line, this amendment grants owners collecting signatures to requisition an owners' meeting the same protection as canvassers.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Ballard.

Mr. Chris Ballard: I certainly understand the need for people to be able to talk to their neighbours and other condominium owners in order to put their names forward or those of their friends or supporters, but I have similar problems with motion 73 that I had with motion 72, in that I believe that it's placed incorrectly and should be within section 28. And again, I think it can be dealt with within regulations.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. McDonell.

Mr. Jim McDonell: I guess our concern is that the government had the opportunity to do this with this bill and they didn't. We have no ability to force that, other than putting it in areas where we're allowed to do that. Again, the bill is making some important changes. It allows people to exercise their democratic rights—in this case, in condominiums—so we wouldn't want anything to diminish those. Of course, as we know, we've taken those steps when it comes to elections in this country, and we think that's important. This is a similar type of right.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Singh.

Mr. Jagmeet Singh: I'd ask for a recorded vote on this as well.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, a recorded vote has been requested.

Ayes

Barrett, McDonell, Singh.

Nays

Albanese, Baker, Ballard, Hoggarth, Vernile.

The Vice-Chair (Mr. Peter Z. Milczyn): The motion does not carry.

There are no further amendments proposed to schedule 1, section 99. Is there any further debate or comment on this section? Seeing none, shall schedule 1, section 99 be carried? All those in favour? Opposed? The section is carried.

I note that there are no amendments proposed to schedule 1, sections 100 through 110, inclusive. If there is no objection, I recommend that we deal with them as a block. Seeing no objections, is there any comment or debate on schedule 1, sections 100 through 110, inclusive? Seeing none, shall schedule 1, sections 100 through 110, inclusive, be carried? All those in favour? Opposed? These sections are carried.

Schedule 1, section 111: government motion number 74. Mr. Ballard.

Mr. Chris Ballard: I move that section 111 of schedule 1 to the bill be amended by adding the following subsections:

"(0.1) Subsection 132(1) of the act is amended by adding 'Subject to subsection (4.1)' at the beginning and by adding 'including any question of law or equity' after 'with respect to the agreement' in the portion before clause (a).

"(2.1) Subsection 132(3) of the act is amended by adding 'including any question of law or equity' after 'section 75'.

"(2.2) Subsection 132(4) of the act is amended by adding 'Subject to subsection (4.1)' at the beginning and by adding 'including a disagreement with respect to any question of law or equity' after 'rules'.

“(2.3) Section 132 of the act is amended by adding the following subsections:

“Non-application

“(4.1) Subsections (1) and (4) do not apply to any matter in dispute for which a person may apply for resolution under section 1.36 to the Condominium Authority Tribunal established under part I.2 if the tribunal has been established under that part.

“No order for permanent removal of person

“(8) If a disagreement is submitted to arbitration under this section, the arbitral tribunal shall not make an award requiring a person to vacate a property permanently.

“Copy of arbitration award

“(9) If a matter is submitted to arbitration under this section, the arbitral tribunal that makes an award as part of the arbitration shall ensure that a copy of the award is delivered to the following person or body within the prescribed time period and in accordance with the regulations.

“1. The board of the condominium authority, if the authority exists.

“2. The minister, if there is no condominium authority.

“Same, copy for public

“(10) Upon receiving a copy described in subsection (9), the board of the condominium authority or the minister, as the case may be, shall make it available to the public in the prescribed manner.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. Ballard.

Mr. Chris Ballard: Really, these amendments support phased implementation by allowing the proposed new subsection in section 111 of the bill to be proclaimed into force at different times. It also prevents potential conflict between an arbiter’s jurisdiction and the Residential Tenancies Act, and I guess, finally, it helps ensure that the extraordinary remedy of permanent removal can be pursued only in the courts or if the dispute is between a landlord and residential tenant under the RTA.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. McDonell.

Mr. Jim McDonell: I wonder: Is the intention that number 75 will be going on and in that motion they will be striking out these subsections that were just amended?

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Ballard.

Mr. Chris Ballard: Could you repeat yourself, please?

Mr. Jim McDonell: Well, I believe if you look at the next motion, you’re actually striking out those subsections. It might be your intention to pull the next amendment, or is it in the wrong order?

The Vice-Chair (Mr. Peter Z. Milczyn): Legislative counsel will provide some clarification.

Mr. Michael Wood: There are two different things going on here. One is the phenomenon that Mr. Ballard explained of allowing for phased proclamation of the various amendments, but also the new subsection 8 that is set out is new. It is not presently in the bill. As a result of that, what is in the bill as subsection 8 and subsection 9 is renumbered.

Interruption.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Wood, I’ll cut you off there. We will recess the committee until the vote is done, so everybody should proceed back down after the vote.

The committee recessed from 1629 to 1644.

The Vice-Chair (Mr. Peter Z. Milczyn): The committee is back in session. I’d just like to point out to members of the committee that we are among the most privileged members of this Legislature because we still get to work while the others go off and do whatever it is that they do.

When we left off, Mr. Wood was giving an explanation about government motion number 74. Mr. Wood.

Mr. Michael Wood: There are two different things going on in government motion number 74. The first thing is to allow for two phases of proclamations. In the first phase, the government could proclaim in force new subsections (0.1), (2.1), (2.2) and (2.3), as they relate to section 132 of the act. Then the second phase will be dealt with in future, subsequent motions.

Government motion number 74 also does a second thing: It adds a new subsection (8) to section 132 of the act that wasn’t there before. As a result of adding that new subsection (8), it becomes necessary to renumber what are presently the new 132(8) and (9), as set out in the bill, as 132(9) and (10). That’s in the first phase.

In the second phase, the government could proclaim in force subsections 111(1), (2) and (3) of the bill. Then there are some subsequent motions to deal with the situation that the government does indeed want to keep what is presently set out as subsection 132(10) in the bill. That is renumbered as subsection 132(11). That is done by government motion number 76.

Since at that time, we would already have what is presently set out as 132(8) and (9) in the bill—we would have them as the new 132(9) and (10). That is why it is necessary to strike out what in the bill are shown as 132(8), (9) and (10).

Mr. Jim McDonell: Thank you for that.

Laughter.

Mr. Chris Ballard: I couldn’t have said it plainer myself.

Mr. Michael Wood: I recognize that it’s very complicated. We took a lot of time to figure that out in our office, but we recognize that it does work to allow for selective proclamation.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Seeing none, shall motion number 74 be adopted? All those in favour? Opposed? The motion is carried.

Government motion number 75: Mr. Ballard.

Mr. Chris Ballard: I move that subsections 132(8), (9) and (10) of the Condominium Act, 1998, as set out in subsection 111(3) of schedule 1 to the bill, be struck out.

The Vice-Chair (Mr. Peter Z. Milczyn): Comment and debate?

Mr. Jim McDonell: Do we need another explanation?

Laughter.

The Vice-Chair (Mr. Peter Z. Milczyn): We're only here until 6.

Mr. Ballard.

Mr. Chris Ballard: Some high-level rationale: This again supports phased implementation by allowing the proposed new subsections in section 111 of the bill to be proclaimed into force at different times. It prevents potential for conflict between an arbitrator's jurisdiction and the RTA and it helps ensure that the extraordinary remedy of permanent removal can be pursued only in the courts or if the dispute is between a landlord and a residential tenant under the RTA.

1650

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Seeing none, shall motion number 75 be adopted? All those in favour? Opposed? The motion is carried.

Government motion number 76: Mr. Ballard.

Mr. Chris Ballard: I move that section 111 of schedule 1 to the bill be amended by adding the following subsection:

“(4) Section 132 of the act is amended by adding the following subsection:

“Payment of award on disagreements between corporation and owners

“(11) If a disagreement on a matter described in subsection (5) is submitted to arbitration under this section and an arbitral tribunal under the arbitration makes an order for compensation or costs, then, unless the corporation and the owner who is a party to the arbitration agree in writing otherwise,

“(a) the party against whom the tribunal makes the order shall pay the amount of the order within 30 days, unless the order specifies another time limit;

“(b) if the order requires the owner to pay compensation or costs to the corporation, the corporation may add the amount of the order to the contribution to the common expenses payable for the owner's unit; and

“(c) if the order requires the corporation to pay compensation or costs to the owner and the corporation does not pay the amount of the order within the time limit mentioned in clause (a), the owner may set off the amount against the contribution to the common expenses payable for the owner's unit.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment and debate?

Mr. Chris Ballard: If I may, Mr. Chair, just by way of a bit of explanation, I think together these amendments would reduce the potential for conflict between the Condominium Act and the RTA and clarify when and how courts may order the permanent removal of a person, including a tenant, from a condominium property.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment and debate? Seeing none, shall motion number 76 be adopted? All those in favour? Opposed? The motion is carried.

There are no further amendments proposed to schedule 1, section 111. Is there any further comment or debate? Seeing none, shall schedule 1, section 111, as amended,

be carried? All those in favour? Opposed? The section is carried.

Schedule 1, section 112: There are no amendments proposed. Is there any comment or debate? Seeing none, shall schedule 1, section 112, be carried? All those in favour? Opposed? The section is carried.

Schedule 1, section 113: government motion number 77.

Interjection.

The Vice-Chair (Mr. Peter Z. Milczyn): The Clerk advises me that we should deal with 78 first, before we deal with 77—obviously something to do with the pertinence of one section to the other.

Mr. Baker, motion 78.

Mr. Yvan Baker: I move that subsection 113(3) of schedule 1 to the bill be struck out and the following substituted:

“(3) Section 134 of the act is amended by adding the following subsections:

“Notice to owner

“(2.1) Subject to subsections (2.2) and (2.3), a person is not entitled to apply for an order requiring an occupier of an owner's unit or any or all of the invitees, agents and employees of the owner or occupier to vacate a property permanently unless the applicant gives reasonable notice of the application to the owner.

“Service of notice

“(2.2) Despite subsection 47(4), if the applicant is not the corporation, the applicant shall give the notice in the prescribed manner.

“Exception, no notice

“(2.3) An applicant is not required to give the notice described in subsection (2.1) in the event of the circumstances that are prescribed, which may include an emergency or other event.

“Non-application

“(2.4) This section does not apply to any matter in dispute for which a person may apply for resolution under section 1.36 to the Condominium Authority Tribunal established under part I.2, if the tribunal has been established under that part.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate?

Mr. Yvan Baker: I'll just say that this amendment would give the unit owner-landlords an opportunity to take appropriate action against their residential tenants under the RTA, except in emergencies, before an application by a condo corporation or others entitled to make the application is made for the permanent removal of that tenant. It would also reduce the potential for conflict between the Condominium Act and the RTA, and clarify when and how courts may order the permanent removal of a person, including a tenant, from a condominium property.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 78 be adopted? All those in favour? Opposed? It's carried.

Back to motion number 77: Mr. Baker.

Mr. Yvan Baker: I move that subsection 134(1) of the Condominium Act, 1998, as set out in subsection 113(1) of schedule 1 to the bill, be amended by striking out

“subsections (2) and (2.1)” in the portion before clause (a) and substituting “subsections (2), (2.1) and (2.4)”.

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. Baker.

Mr. Yvan Baker: This supports related proposed amendments that are intended to reduce the potential for conflict between the Condominium Act and the RTA, and clarify when and how courts may order the permanent removal of a person, including a tenant, from a condominium property.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 77 be adopted? All those in favour? Opposed? The motion is carried.

Government motion number 79.

Mr. Jagmeet Singh: Motion 79?

The Vice-Chair (Mr. Peter Z. Milczyn): Motion 79.

Mr. Jagmeet Singh: That would be an NDP motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Is it my mistake? It says “government”—

Interjection.

The Vice-Chair (Mr. Peter Z. Milczyn): My apologies, Mr. Singh.

Mr. Jagmeet Singh: Thank you very much, Mr. Chair. I move that subsection 113(4) of schedule 1 to the bill be struck out.

And that is it: Strike it out.

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. Baker?

Mr. Yvan Baker: Could I just ask for the rationale?

Mr. Jagmeet Singh: That’s a great question. Give me one moment, please, Mr. Chair, and I will provide you that rationale.

Well, as I’m usually verbose and would be able to provide you with very eloquent explanations to all of our motions up to date, on this motion in particular I have to say I am unable to provide very detailed reasons. But I can say this: The purpose for all our amendments is to ensure that there’s greater protection for condominium owners.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Wood can offer an explanation as to the result.

Mr. Michael Wood: By way of a question to Mr. Singh, it looks to me as if what he is proposing with his motion number 81 is really dealing with what the government was trying to do in subsection 113(4) of the bill. So it looks to me as if Mr. Singh prefers his motion number 81 to subsection 113(4) of the government bill.

Mr. Jagmeet Singh: Right. I can now provide some more explanation. Decisions around when someone should be removed or when a tenant should no longer be in a particular place should go through a due process. I mean, everyone is entitled to due process, and there’s currently a process for that; that’s through the landlord and tenant tribunal.

Instead of having a separate process by which to remove someone, there’s existing jurisprudence, existing process, existing due process; and for greater fairness, transparency and accountability with respect to how to remove someone, the rights that already exist in the land-

lord and tenant tribunal are the better vehicle to provide that security or that sense of due process.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Baker?

Mr. Yvan Baker: I would recommend voting against the motion. I think government motions that are comprehensive already address potential conflicts within the Residential Tenancies Act.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 79 be adopted? All those in favour? Opposed? The motion is not carried.

Official opposition motion number 80.

1700

Mr. Toby Barrett: Thank you, Chair. I move that section 134 of the Condominium Act, 1998, as set out in subsection 113(4) of schedule 1 to the bill, be amended by adding the following subsection:

“Time for payment

“(3.0.1) An order under subsection (3) that awards damages or costs specify that the damages or costs are payable within 90 days.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. McDonell?

Mr. Jim McDonell: The rationale is that if an owner has to pay, they have to pay straight away or face severe consequences. When a corporation has to pay, the owner does not have a guaranteed timeline for payment. A large award could take years to recoup if it’s just set off against common expenses. This amendment creates a fair framework where anyone who has to pay an award must do so within 90 days. This gives the corporation enough time to authorize the payment, and the owner enough time to arrange the payment, if needed.

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. Ballard?

Mr. Chris Ballard: This motion addresses the time for payment of monetary awards in the Ontario Superior Court of Justice. The deadline for the payment of a monetary award in an order of the Ontario Superior Court of Justice is the proper subject matter of the applicable rules of the court and the discretion of a judge making the order. I would recommend voting against this motion because it risks taking away from the discretion and the authority of the court.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none—

Interjection.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. McDonell?

Mr. Jim McDonell: I guess I’ll say that it protects the rights of the owners in a case like this, especially if they’re looking at moving out. They’re getting rid of their common expenses, and it creates a problem.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Shall motion number 80 be adopted? All those in favour? Opposed? The motion is not carried.

NDP motion number 81: Mr. Singh?

Mr. Jagmeet Singh: I move that section 113 of schedule 1 to the bill be amended by adding the following subsection:

“(4.1) Subsection 134(4) of the act is repealed and the following substituted:

““Order terminating lease

“(4) The court shall not, under subsection (3), grant an order terminating a lease of a unit for residential purposes.””

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. Ballard?

Mr. Chris Ballard: I’m just wondering if Mr. Singh can give us a little more rationale.

Mr. Jagmeet Singh: That’s a great question. I appreciate that.

Interjections.

Mr. Jagmeet Singh: Again, thank you so much for that question. It’s a great opportunity to share my rationale.

In general, the same rationale applies. In matters that relate to disputes with respect to landlords and tenants there is an existing process that’s available. That process is preferred to creating a new process through the condominium authority. The previous amendment as well as this amendment are all providing for guidance with respect to that in saying that we should give the landlord tribunal process—it should be superior to creating a new tribunal process. That protection that exists already should continue, and creating another forum for that is not appropriate, given that we already have an existing system which does a good job of protecting tenant rights.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Ballard?

Mr. Chris Ballard: Thank you for the clarification. In my reading of this motion, it would prohibit courts from terminating residential leases under the Condominium Act. This is already accomplished by government motions that propose a comprehensive set of amendments that clarify when and how occupiers—including residential tenants, Chair—can be permanently removed from the condominium property, and that address potential conflicts between the Condominium Act and the Residential Tenancies Act.

In summary, I would recommend against the motion because I believe that there are comprehensive government motions contained that already address the potential conflicts with the Residential Tenancies Act.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Singh?

Mr. Jagmeet Singh: Just to make it a bit more clear, not only does the current tribunal protect tenant rights, but it also provides a great avenue for landlords. If there was a suggestion to improve the existing tribunal to provide better mechanisms, to streamline certain things—I know that tenants sometimes complain about certain processes and I know, certainly, landlords complain about certain problems with the existing tribunal system, but that system would be superior to a brand new system that’s created. The government motions go through and list how to remove someone or, if there’s dispute, how to resolve it, but coming up with a brand new system rather

than amending an existing system that largely does work is not the way to go. That’s the rationale behind it.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 81 be adopted? All those in favour? Opposed? The motion does not carry.

Government motion number 82: Mr. Ballard.

Mr. Chris Ballard: It’s my turn. I move that subsections 113(4) and (5) of schedule 1 to the bill be struck out and the following substituted:

“(4) Subsection 134(3) of the act is amended by striking out ‘subject to subsection (4)’ in the portion before clause (a).

“(5) Subsections 134(4) and (5) of the act are repealed.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate?

Mr. Chris Ballard: Really, these are proposed technical amendments that work in conjunction with other amendments to reduce the risk for conflicts between the Condominium Act and the RTA. More specifically, it would repeal a subsection of the Condominium Act to address a conflict between it and the RTA that allows courts to terminate residential leases. A tenancy may only be terminated in accordance with the Residential Tenancies Act.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. McDonell.

Mr. Jim McDonell: We oppose this. The amendment appears to take away the limitation that the court can’t order a tenant to vacate the property, as well as removing the corporation’s right to set an award against an owner’s common expenses. We support the common expenses, but we can’t support an erosion of the tenant’s right to have their tenancy dealt with by the Landlord and Tenant Board.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Mr. Ballard.

Mr. Chris Ballard: Just a final comment that I wanted to get on the record: The condo corporations also retain remedies to enforce compliance against tenants and other occupiers short of removal, including the right to seek an order for compliance through the courts or the proposed new tribunal and to recover the costs of obtaining the order from the occupier or the unit owner.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 82 be adopted? All those in favour? Opposed? The motion is carried.

There are no further amendments proposed to schedule 1, section 113. Is there any further debate or comment on this section? Seeing none, shall schedule 1, section 113, as amended, be carried? All those in favour? Opposed? The section is carried, as amended.

Schedule 1, section 114, government motion number 83: Mr. Ballard.

Mr. Chris Ballard: I move that subsection 134.1(1) of the Condominium Act, 1998, as set out in section 114 of schedule 1 to the bill, be amended by striking out

“subsection 132(8)” and substituting “subsection 132(9)”.

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. Ballard.

Mr. Chris Ballard: Again, I can just say that the proposed response and rationale for this motion are that, together, these amendments reduce that potential for conflict between the Condominium Act and the RTA and clarify when and how courts may order the permanent removal of a person, including a tenant, from a condominium property.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 83 be adopted? All those in favour? Opposed? It's carried.

There are no further amendments to section 114. Is there further debate or comment? Seeing none, shall schedule 1, section 114, as amended, be carried? All those in favour? Opposed? The schedule is carried.

Schedule 1, section 114.1, government motion number 84: Mr. Ballard.

1710

Mr. Chris Ballard: I move that schedule 1 to the bill be amended by adding the following section:

“114.1 The act is amended by adding the following sections:

“Order for permanent removal of person

“135.1(1) Despite subsections 134(3) and 135(3), the court shall not, under either of those subsections, make an order that requires a person to vacate a property permanently unless the court is satisfied that,

“(a) the person is in contravention of subsection 117(1) and poses a serious risk,

“(i) to the health and safety of an individual, or

“(ii) of damage to the property or the assets, if any, of the corporation;

“(b) in respect of an order under subsection 134(3), on the basis of the person's acts of non-compliance,

“(i) the person is unsuited for the communal occupation of the property or the communal use of the property, and

“(ii) no other order will be adequate to enforce compliance; or

“(c) in respect of an order under subsection 135(3), on the basis of the person's conduct,

“(i) the person is unsuited for the communal occupation of the property or the communal use of the property, and

“(ii) no other order will be adequate to prohibit the conduct.

“Exception

“(2) A person is not entitled to apply for an order described in subsection (1) against a tenant of a unit if the person is a landlord, within the meaning of the Residential Tenancies Act, 2006, in respect of the unit.

“Addition to common expenses

“(3) If a corporation obtains an award of damages, compensation or costs against an owner or occupier of a unit in an order made under subsection 134(3) or 135(3), the damages, compensation or costs, together with any additional actual costs to the corporation in obtaining the

order, shall be added to the contribution to the common expenses payable for the unit.

“Additional costs of owner

“(4) If an owner of a unit obtains an award of damages, compensation or costs against a corporation in an order made under subsection 134(3) or 135(3), the owner is entitled to recover from the corporation the amount of the award, together with any additional actual costs to the owner in obtaining the order.

“Set-off against common expenses

“(5) If the corporation does not pay the amount an owner is entitled to under subsection (4) within the prescribed time, the owner may set off the amount against the contribution to the common expenses payable for the owner's unit.

“No termination of tenancy

“135.2(1) Nothing in this act permits the termination of a tenancy governed by subsection 37(1) of the Residential Tenancies Act, 2006.

“Same

“(2) An order described in subsection 135.1(1) is not an order for the termination of a tenancy described in subsection (1).”

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate?

Mr. Chris Ballard: I have several pages but, if I may, Mr. Chair, the motion works together with other motions to reduce the potential for conflict between the Condominium Act and the RTA, and clarifies when and how courts may order the permanent removal of a person, including a tenant, from a condominium property in extreme cases by prohibiting condo corporations, owners or others from using the Condominium Act to seek an order to terminate a tenancy that is governed by the RTA.

This ensures that condo corporations and unit owners maintain the right to seek permanent removal of persons, including tenants, from the condominium property in extraordinary cases of non-compliance or oppressive conduct, except for unit owner-landlords against their own tenants.

Thirdly, adopting the common law test currently being used by the courts under the Condominium Act to order the permanent removal of a person, including a tenant, from a condominium property where that person poses a serious risk to the health and safety of a person or a serious risk of damage to the condominium property, or the person's non-compliance or oppressive conduct makes them unsuited to the communal occupation or the communal use of the property: No order other than permanent removal would be an adequate remedy. I'll leave it there for now.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. McDonell.

Mr. Jim McDonell: Yes, Chair. This amendment specifies the reasons for which a tenant in a condo can be evicted by court order, and we firmly are on the side of the tenant's right to be heard by the Landlord and Tenant Board. The same issues: danger to health and safety, danger of damage, and suited for communal occupation, etc., can be addressed by the Landlord and Tenant Board.

The next section created by the government, 135.2, states that although the court may order a person removed, that order is not a termination of tenancy; it's just an eviction by another name.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Singh.

Mr. Jagmeet Singh: We're kind of going on the same issue. The Condominium Act, before the government opened it up through this new bill, had an existing tension or conflict where elements of the Condominium Act conflicted with the Residential Tenancies Act already. This is something that we knew about. This is something that was in existence. It seems to be a very inelegant solution to a problem.

This is something that we've heard about. Proper consultation would have avoided the fact that a bill was crafted and then an amendment had to be brought forward to correct a problem. This is something that should have been dealt with much earlier as this is a long-standing problem: the fact that the Condominium Act and the Residential Tenancies Act have this conflicting situation. Our goal was to remove that conflict altogether and to say, "Let's take it out of the Condominium Act and leave it in the Residential Tenancies Act." Leave it with the existing tribunal; leave it with the existing structures that are in place for landlords and tenants. That would be a more simple solution and, I would suggest, an even more elegant solution than having these two competing acts that are trying to do the same thing. Instead of having the condominium have this authority separate from the existing board, the existing tribunal and the existing landlord-tenant structure, it would make sense that the condominium would just flow through that system—use the existing system—instead of having two parallel systems. That has been the problem.

I would have hoped that the government would have had the consultations, heard this issue, because it's not something new; it's something that we've known about for a long time. Instead of continuing and entrenching this inconsistency, having two parallel ways of dealing with this, just go with one. That's largely what the concern is.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Mr. Ballard.

Mr. Chris Ballard: Just a very quick comment, Mr. Chair. My reading of this is that this actually resolves that conflict between the Condominium Act and the RTA by more clearly delineating what the condominium board can do and what the relationship vis-à-vis a landlord and tenant is.

It would ultimately give owner-landlords the opportunity to take action against their residential tenants under the RTA and it would ensure that condo corporations are able to permanently remove a person, including a tenant in severe cases, through a legislated process. But my reading of this is that the condominium board would not be able to interfere in that contract between tenant and owner of the unit.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Seeing none, shall motion number 84 be adopted? All those in favour? Those opposed? The

motion is carried. There are no further amendments to this section.

The next section, schedule 1, section 115: official opposition motion number 85. Mr. Barrett.

Mr. Toby Barrett: Thank you, Chair. I move that section 136.1 of the Condominium Act, 1998, as set out in section 115 of schedule 1 to the bill, be amended by adding the following subsection:

"Ineligibility

"(5) A person convicted of an offence under subsection (2) or (3) is not eligible to hold any position on the board of any public agency, board or commission for a period of 10 years from the date of conviction."

1720

The Vice-Chair (Mr. Peter Z. Milczyn): Debate or comment? Mr. McDonell.

Mr. Jim McDonell: Yes. People who are appointed to or are employed by the condominium authorities are trustees of good public service. We believe that if one has contravened the law while holding such office, they should be ineligible for a public appointment for at least 10 years.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Ballard?

Mr. Chris Ballard: Thank you, Chair. My read on motion 85 is that it's normally dealt with in a parent statute establishing the agency, board or commission or by a Management Board directive. So I think frankly that the proposed motion is irrelevant to the subject matter. It's really beyond the scope of the Condominium Act.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Seeing none, shall motion number 85 be adopted? All those in favour? Opposed? That is not carried.

There are no further amendments proposed to section 115. Is there any further debate or comment? Seeing none, shall schedule 1, section 115 be carried? All those in favour? Opposed? This section is carried.

There are no amendments proposed to schedule 1, section 116. Is there any debate or comment? Seeing none, shall schedule 1, section 116 be carried? All those in favour? Opposed? The section is carried.

Schedule 1, section 117: official opposition motion 86. Mr. Barrett.

Mr. Toby Barrett: Thank you, Chair. I move that subsection 137(1) of the Condominium Act, 1998, as set out in section 117 of schedule 1 to the bill, be amended by striking out "55(1) or 72(1), section 72.1 or 81" and substituting "55(1), (3), (6) or 72(1), section 72.1, subsection 76(3) or section 81".

The Vice-Chair (Mr. Peter Z. Milczyn): Debate or comment? Mr. McDonell.

Mr. Jim McDonell: Yes. The rationale is, the amendment makes it an offence to fail to make a timely disclosure of key documents and a failure to provide a status certificate in a timely manner.

Stakeholders have highlighted how some condos delay these disclosures, frustrating owners and purchasers. Again, these are documents that should be released, and we think that it's only proper.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Ms. Vernile.

Ms. Daiene Vernile: Chair, I recommend voting against this motion. There are already adequate deterrents in the act, I believe, and it would be excessive to make a contravention of these subsections an offence under the act as it is now.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Mr. McDonell.

Mr. Jim McDonell: Yes, I just wonder where somebody would be forced to disclose documents in a timely manner. I don't see that in the bill. We have stakeholders that say that it is an issue now. If documents should be released before a certain meeting or whatever the event is, they should be available to the owners.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Singh?

Mr. Jagmeet Singh: Thank you very much, Mr. Chair. I've also heard the same concerns from stakeholders: that disclosure of these key documents has certainly frustrated condominium owners. Ensuring that there is some remedy or some way to ensure that these documents are released: If we don't have an offence, what other avenue is there to ensure that these documents are actually produced in a timely manner? Without having some sort of ability or punitive measure to discourage those who purposefully—I guess maybe not purposefully—frustrate the condominium owners by not providing these documents, doesn't really provide the protection that our stakeholders are looking for and that condominium owners are looking for. That's why I will support this motion. I think it's important. It's an issue that has come up. Disclosure of documents is very crucial in the purchase of a unit.

The Vice-Chair (Mr. Peter Z. Milczyn): Ms. Vernile?

Ms. Daiene Vernile: I would direct you to section 55 of the Condominium Act, under penalty.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Seeing none, shall—

Mr. Jagmeet Singh: Perhaps just a quick second to confirm that.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Singh?

Mr. Jagmeet Singh: I'd just like to double-check. If it is there, then maybe that changes my opinion. Just a quick second to see if it's—I think the member indicated that it was in section 55.

Interjection.

Mr. Jagmeet Singh: Sorry—not in motion 55, but an existing component of the Condominium Act, as it stands. Because as it stands, I don't see it there.

Ms. Daiene Vernile: I'm happy to read this to you. Section 55:

“Penalty for non-compliance

“(8) A corporation that without reasonable excuse does not permit an owner, a purchaser or a mortgagee of a unit or an agent of one of them duly authorized in writing to examine or to obtain copies of records under this section shall pay a sum determined in accordance with the regulations to the owner, purchaser or mortgagee on receiving a written request for payment from that person.”

The Vice-Chair (Mr. Peter Z. Milczyn): Just for clarity: Ms. Vernile, I believe, is reading from the Condominium Act. What's before us today is An Act to amend the Condominium Act, so you would not see it in the bill that's before us today.

Mr. Jagmeet Singh: Thank you.

The Vice-Chair (Mr. Peter Z. Milczyn): Any further debate or comment? Seeing none, motion 86: Will it be adopted? All those in favour? Opposed? That does not carry.

Official opposition motion number 87: Mr. Barrett.

Mr. Toby Barrett: I move that subsection 137(5) of the Condominium Act, 1998, as set out in section 117 of schedule 1 to the bill, be amended by striking out “after the second anniversary of the day” and substituting “after the fifth anniversary of the day”.

The Vice-Chair (Mr. Peter Z. Milczyn): Comment or debate? Mr. McDonell.

Mr. Jim McDonell: We believe that people should have the right to seek recourse against offending condominiums for five years rather than two.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Ms. Vernile.

Ms. Daiene Vernile: Chair, I would submit that this could discourage timely prosecutions and it's inconsistent with the limitation period in MGCS statutes. Two years is a typical limitation time.

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Seeing none, shall motion number 87 be adopted? All those in favour? Those opposed? The motion does not carry.

There are no further amendments to schedule 1, section 117. Is there any further debate or comment? Seeing none, shall schedule 1, section 117, be carried? All those in favour? Opposed? This section is carried.

I've noticed that there are no amendments proposed to schedule 1, section 118 through section 139, inclusive. If there are no objections, I will deal with this as one item.

Is there any debate or comment on schedule 1, sections 118 through 139, inclusive? Seeing none, shall schedule 1, sections 118 through 139, inclusive, be carried? All those in favour? Opposed? These sections are adopted.

Schedule 1, section 140: government motion number 88. Mr. Ballard.

Mr. Chris Ballard: I move that paragraphs 0.2 and 0.3 of subsection 177(1) of the Condominium Act, 1998, as set out in subsection 140(1) of schedule 1 to the bill, be struck out.

The Vice-Chair (Mr. Peter Z. Milczyn): Debate or comment?

Mr. Chris Ballard: Just for rationale, Mr. Chair: This amendment resolves an apparent conflict between the Condominium Act and the RTA. It ensures that condo corporations are able to permanently remove a person, including a tenant in severe cases, through a clear legislated process, and it applies the same standard of permanent removal to all persons, including owners and tenants. It gives unit owners an opportunity to take ap-

appropriate action against their occupiers before an application by a condo corporation or another owner is made for the permanent removal of the occupier. This would give owner-landlords the opportunity to take action against their residential tenants under the RTA.

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The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Seeing none, shall motion number 88 be adopted? All those in favour? Opposed? The motion is carried.

Government motion number 89: Mr. Ballard.

Mr. Chris Ballard: I move that paragraph 6.4 of subsection 177(1) of the Condominium Act, 1998, as set out in subsection 140(3) of schedule 1 to the bill, be struck out.

The Vice-Chair (Mr. Peter Z. Milczyn): Debate or comment?

Mr. Chris Ballard: Very simply, Chair, it's necessary to support phased implementation.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Seeing none, shall motion number 89 be adopted? All those in favour? Those opposed? The motion is carried.

Government motion number 90: Mr. Ballard.

Mr. Chris Ballard: I move that section 140 of schedule 1 to the bill be amended by adding the following subsection:

“(3.1) Subsection 177(1) of the act is amended by adding the following paragraph:

“6.4 governing the quorum required for the transaction of business at a meeting of owners to which clause 45.1(1)(a.1) applies;”

The Vice-Chair (Mr. Peter Z. Milczyn): Debate or comment? Mr. Ballard?

Mr. Chris Ballard: Again, Chair, this is necessary to support phased implementation. It's a technical amendment.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Seeing none, shall motion number 90 be adopted? All those in favour? Opposed? It's carried.

Government motion number 91: Mr. Ballard.

Mr. Chris Ballard: I move that subsection 140(7) of schedule 1 to the bill be struck out and the following substituted:

“(7) Paragraph 13 of subsection 177(1) of the act is repealed.

“(7.1) Paragraph 14 of subsection 177(1) of the act is repealed.

“(7.2) Subsection 177(1) of the act is amended by adding the following paragraph:

“13. governing the manner in which the current fiscal year mentioned in clause 97(5)(c) or 97(9)(a) is to be determined;”

“(7.3) Subsection 177(1) of the act is amended by adding the following paragraph:

“14. governing what constitutes a condition or activity mentioned in section 117;”

The Vice-Chair (Mr. Peter Z. Milczyn): Debate or comment? Mr. Ballard?

Mr. Chris Ballard: Once again, it's a technical amendment that supports implementation by allowing the

proposed new regulation, making the authority of the bill to be proclaimed into force at different times.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Seeing none, shall motion number 91 be adopted? All those in favour? Opposed? Carried.

Government motion number 92: Mr. Ballard.

Mr. Chris Ballard: I move that paragraph 15.4 of subsection 177(1) of the act, as set out in subsection 140(8) of schedule 1 to the bill, be amended by striking out “subsections 134(5) and (6)” and substituting “subsections 135.1(3) and (4)”.

The Vice-Chair (Mr. Peter Z. Milczyn): Debate or comment? Mr. Ballard?

Mr. Chris Ballard: There, again, the amendment is supporting the new section of 114.1 of the bill, and making it consistent with that new section.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Seeing none, shall motion number 92 be adopted? All those in favour? Opposed? Carried.

Official opposition motion number 93: Mr. Barrett.

Mr. Toby Barrett: Chair, my understanding is that we would withdraw this motion because amendment number 45 did not pass.

The Vice-Chair (Mr. Peter Z. Milczyn): Withdrawn?

Mr. Toby Barrett: Yes.

The Vice-Chair (Mr. Peter Z. Milczyn): There are no further amendments proposed to schedule 1, section 140. Is there any further debate or comment? Seeing none, shall schedule 1, section 140, as amended, be carried? All those in favour? Opposed? Carried.

There are no amendments proposed to schedule 1, section 141 and section 142. Therefore I recommend, if there's no objection, we deal with them together. Seeing no objection, is there any debate or comment? Shall schedule 1, section 141 and section 142, be carried? All those in favour? Opposed? These two sections are carried.

Schedule 1, section 142.1, NDP motion number 94: Mr. Singh.

Mr. Jagmeet Singh: I move that schedule 1 of the bill be amended by adding the following section:

“142.1 The act is amended by adding the following section:

“Review

“183.1 The minister shall ensure that a review of this act is undertaken within 10 years of the coming into force of this section, and within every 10-year period thereafter.”

The Vice-Chair (Mr. Peter Z. Milczyn): Debate or comment?

Mr. Jagmeet Singh: Yes. I'll just quickly explain. We have seen a big gap in review when it comes to the Condominium Act, and it's only now that the government is finally opening up this act and reviewing and making some changes. In order to address issues that may arise in the future, without having to bring forward another bill, if we prescribe that this act is reviewed in 10 years, and every 10 years, it will provide some regularity by which people who own condominiums can have some sense of security that there will be a review of the act in case there are issues that need to be addressed on an ongoing basis.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Ms. Vernile.

Ms. Daiene Vernile: I recommend that we actually vote against this motion because the act already has flexibility to address new and emerging issues over time, through the regulations. This motion is going to create an unnecessary burden for government. It's going to restrict the flexibility of the government to review the act when it considers it necessary.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Mr. McDonell.

Mr. Jim McDonell: I think we see the growth in the condominium market. I think it's a reasonable approach to review the act every 10 years. It's been a long time since it's been done, and we look at the issues that we have been—it's almost a daily occurrence where we have people coming in asking for help in their condominium contracts. So we support this motion.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Singh.

Mr. Jagmeet Singh: Just one clarification: There is nothing that would preclude the government from doing a review any earlier. This simply states that at least it should be done every 10 years, and every 10 years thereafter, but it doesn't stop the government from doing one sooner, if the government decided to do one sooner. Unless legislative counsel disagrees with me, I think there would be no preclusion to do it any time the government sees fit to do so. It doesn't impede flexibility in the sense of allowing the government to do it sooner. It just ensures that it happens at least every 10 years.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Ms. Vernile.

Ms. Daiene Vernile: Chair, a typical time period for review is within every five years.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment?

Mr. Jagmeet Singh: I'd be happy to amend it to make it five years.

The Vice-Chair (Mr. Peter Z. Milczyn): Is that your intention, Mr. Singh?

Mr. Jagmeet Singh: If I were to get the support, I'd be happy to do so.

The Vice-Chair (Mr. Peter Z. Milczyn): Either you want to amend it or you don't.

Mr. Jagmeet Singh: You know what? Why not? Mix things up a bit. Sure. I want to amend it.

The Vice-Chair (Mr. Peter Z. Milczyn): That can be done verbally. The members are okay with the amendment being done verbally?

Ms. Daiene Vernile: Chair, we don't want to create these kinds of boundaries, though. We want to have flexibility.

The Vice-Chair (Mr. Peter Z. Milczyn): It sounds like you're not going to be getting the support.

Mr. Jagmeet Singh: We might as well just do it for the sake of it. Can I do a verbal amendment to make it every five years, and then we'll vote on it?

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Singh, withdraw this amendment and enter your new amendment verbally.

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Mr. Jagmeet Singh: Yes, I will withdraw this amendment and I will read in, verbally, the amended version. Withdrawn, and I'm now reading in the amended version.

I move that schedule 1 of the bill be amended by adding the following section:

"142.1 The act is amended by adding the following section:

"Review

"183.1 The minister shall ensure that a review of this act is undertaken within five years of the coming into force of this section, and within every five-year period thereafter."

The Vice-Chair (Mr. Peter Z. Milczyn): Further comment or debate? Yes, Ms. Hoggarth.

Ms. Ann Hoggarth: My opinion on this is that perhaps in three years the government may need to do this. If you put in "five years," they'd have to go to the extra expense of doing it again. I really don't think that you should tie their hands in that regard. I do believe that it will be reviewed, probably, within every five years, if it's needed.

Mr. Jagmeet Singh: Mr. Chair, through you to Ms. Hoggarth: I think, indeed, there would be some times when we would like to tie the hands of the government, certainly. I'll ask for a recorded vote, and we can proceed to vote when everyone is ready.

The Vice-Chair (Mr. Peter Z. Milczyn): Any further debate or comment? Mr. Singh has asked for a recorded vote on this.

Ayes

Barrett, McDonell, Singh.

Nays

Albanese, Baker, Ballard, Hoggarth, Vernile.

The Vice-Chair (Mr. Peter Z. Milczyn): The motion is not carried.

NDP motion number 95: Mr. Singh.

Mr. Jagmeet Singh: I move that schedule 1 of the bill be amended by adding the following section:

"142.1 The act is amended by adding the following section:

"Review

"183.2(1) Any two persons who believe that an existing policy, regulation or instrument created under the act should be amended, repealed or revoked in order to protect the public interest may apply to the minister for a review of the policy, regulation or instrument.

"Form

"(2) Where a form has been prescribed, the application shall be in the prescribed form.

"Mandatory information

“(3) The application shall include,

“(a) the names and addresses of the applicants;

“(b) the policy, regulation or instrument for which a review is being sought;

“(c) an explanation as to why the review should be undertaken in order to protect the public interest; and

“(d) a summary of evidence supporting the applicants’ belief that a review is necessary in order to protect the public interest.

“Acknowledgement of receipt

“(4) The minister shall acknowledge receipt of an application to the applicants within 20 days of the receipt.

“Preliminary review

“(5) The minister shall consider each application for review in a preliminary way to determine whether the review is warranted.

“If review warranted

“(6) If the minister determines that the review is warranted in order to protect the public interest, the minister shall conduct the review within a reasonable time.

“Notice, etc.

“(7) Within 60 days of receiving an application for review, the minister shall give notice of his or her decision whether to conduct a review, together with a brief statement of the reasons for the decision, to the applicants and to anyone else with a direct interest in the outcome of the review.

“Outcome, etc.

“(8) Within 30 days of completing a review, the minister shall give notice of the outcome of the review to the applicants and anyone else with a direct interest in the outcome of the review, and this notice shall state what actions, if any, the minister has taken or proposes to take as a result of the review.

“No personal information

“(9) No notice given by the minister under this section shall disclose any personal information about the applicants.”

The Vice-Chair (Mr. Peter Z. Milczyn): Debate or comment?

Mr. Jagmeet Singh: Yes, indeed—unless someone else does, but I will. Long story short: This creates a manner by which the public can initiate a review. There are times when the government may say that there’s a review necessary. Maybe there’s a rash of complaints that have come up, and the government decides, “Okay, we need to conduct a review.”

This would then create a right to request a review so that the public can initiate this request. It is a great democratic forum. It creates an ability to petition the government, essentially, to review the act. It’s something that I’m sure we would have received lots of petitions to review the act—and the big gap that we’ve seen between the first implementation of the Condominium Act and the present day.

This would provide a creative, new solution to people who are frustrated with an existing act and have no way to encourage it being reviewed, and allow for it to be reviewed.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Ms. Vernile?

Ms. Daïene Vernile: Chair, the ministry already has procedures in place to address people who have questions or concerns regarding existing policies. So this would be a duplication.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Seeing none, shall motion number 95 be adopted? All those in favour? Opposed? The motion does not carry.

There are no amendments proposed to schedule 1, sections 143 to 149, inclusive. If there are no objections, I will deal with these as a block. Is there any debate or comment? Seeing none, shall schedule 1, sections 143 to 149, inclusive, be carried? All those in favour? Opposed? These sections are carried.

Schedule 1, section 150: official opposition motion number 96. Mr. Barrett.

Mr. Toby Barrett: I move that section 150 of schedule 1 to the bill be amended by adding the following subsection:

“(4.1) Section 2 of the act is amended by adding the following subsection:

“Corporation is a public sector body

“(4) The corporation is a public sector body for the purposes of the Ombudsman Act.”

The Vice-Chair (Mr. Peter Z. Milczyn): Committee members, I’m going to rule that this amendment is out of order as, in my opinion, it’s beyond the scope of the bill. Similar to earlier rulings, you can’t do indirectly what you can’t do directly. So motion number 96 is ruled out of order.

NDP motion number 97: Mr. Singh.

Mr. Jagmeet Singh: Just a point of clarification: If a motion is ruled out of order then there’s no debate on it?

The Vice-Chair (Mr. Peter Z. Milczyn): No, the Chair’s ruling is not debatable.

Mr. Jagmeet Singh: No, no; not your ruling. But then you can’t make any comments with respect to the motion?

The Vice-Chair (Mr. Peter Z. Milczyn): No, because the amendment is no longer before the committee.

Mr. Jagmeet Singh: Right. Okay: 97. I move that section 22.1 of the Ontario New Home Warranties Plan Act, as set out in subsection 150(13) of schedule 1 to the bill, be amended by adding the following clauses:

“(d) the disclosure and contents of the report made under section 5;

“(e) requirements with respect to any action the tribunal may take under subsection 16(3);

“(f) standards, requirements and other criteria with respect to any by-law made under section 23.”

The Vice-Chair (Mr. Peter Z. Milczyn): Comments or debate?

Mr. Jagmeet Singh: Yes.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. Singh.

Mr. Jagmeet Singh: Thank you, Mr. Chair. As it stands, there would be many more amendments that we would have brought forward as the NDP with respect to Tarion but, Chair, as you ruled earlier, we’re limited by what we’re able to bring in—what motions we’re able to bring in—due to what has been opened up by the bill.

However, in this particular case we are able to bring this motion forward. The purpose of this is, there are a number of concerns around Tarion. One of the major concerns—a number of them can be addressed through this amendment. One is that this amendment would allow the Lieutenant Governor in Council to make regulations governing the contents of Tarion's annual report. As it stands, Tarion can release an annual report and put whatever they want, or not put whatever they don't want to include. That shouldn't be the case; it should be something that's set by the government.

Secondly, this would take away the ability for Tarion to regulate how the Licence Appeal Tribunal might rule on Tarion decisions. The existing manner by which this happens is a far over-reach of the powers that Tarion should have. They should not have the ability to regulate the Licence Appeal Tribunal and their decisions. This is something that needs to be rectified, and it would be a great improvement if we were able to do so.

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Finally, the bylaws that are set by Tarion are set by Tarion itself. This amendment would allow the Lieutenant Governor in Council to set the requirements for Tarion bylaws. This is the only home warranty option for new home owners and if the bylaws of Tarion are set by Tarion itself, it clearly sets up a situation which is open to abuse.

One example to provide a reason why this is so important an amendment to pass is that Tarion is essentially the only route if you have a new building or a new condominium or a home that's made and your concern is that the developer didn't do a good job—there was some shoddy work—and you're upset with the developer, and the developer is not going to fix this problem, then you go through Tarion. Tarion is supposed to provide a resolution to this problem.

The first bylaw—bylaw number 1 of Tarion—indicates that half of the board of Tarion has to be made up of home builders. Your concern is that your home is shoddily built and the developer is not willing to fix it. So you go to your Tarion warranty to say, "Let's fix this problem," and the board of this agency, which is supposed to protect you, is made up of the same people; half of them, by bylaw, are not actually addressing your concern.

So inherently this system is flawed. This would allow for at least one way for us to change those bylaws to ensure there is far more protection for consumers. This would benefit condominium owners, certainly, but this would actually benefit all new-home owners in the province of Ontario.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate and comment? Mr. Ballard.

Mr. Chris Ballard: I appreciate Mr. Singh's comments about Tarion, and the deficiencies that he believes it contains, but speaking to his amendment, my sense is that it is out of order because it indirectly amends sections—or attempts to amend sections—of the Ontario New Home Warranties Plan Act that are not open for amendments. I read it that the motion is beyond the scope

of condo conversions and offences under the Ontario new home warranty program and is frankly irrelevant to the subject matter of the bill, which is about condominiums.

On top of that, I would add that the government is announcing, and in fact has announced this morning, a review of the Ontario new home warranty program legislation, so we'll be most likely looking at a number of these issues. But I think it's outside of the scope of this bill.

The Vice-Chair (Mr. Peter Z. Milczyn): Mr. McDonell?

Mr. Jim McDonell: I think we heard numerous times this morning that this ministry would not consider oversight by either the Auditor General or the Ombudsman. Clearly the announcement is different than that, but that was the reason given on five or 10 different amendments this morning that we looked at, that it was not something that the ministry would entertain.

Clearly, while we were down here, the ministry was announcing formally that yes, they are considering extending provincial Auditor General and Ombudsman oversight to Tarion, as an example.

There's a corporation that is very much in people's news. We hear from people every day about the problems with Tarion, the new warranty, and of course—I just wonder, which is it? We hear from the committee here that it's not a possibility; the minister says different.

That was the basis for many decisions made this morning on why we should just move on and not talk about it, because for some reason the government thought oversight over any agency in this ministry was wrong, and I don't think that's the answer the people of Ontario would like to hear.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Mr. Singh?

Mr. Jagmeet Singh: I just wanted to indicate that I would like a recorded vote on this.

The Vice-Chair (Mr. Peter Z. Milczyn): Very well.

Just as a point of clarification: We don't debate rulings of the Chair, but my rulings on those matters were not value judgments; they were simply that they were out of the scope of this bill—that you could not do indirectly what you can't do directly.

Further comment or debate? Mr. Singh has asked for a recorded vote on motion number 97.

Ayes

Barrett, McDonell, Singh.

Nays

Albanese, Baker, Ballard, Hoggarth, Vernile.

The Vice-Chair (Mr. Peter Z. Milczyn): That does not carry.

Shall schedule 1, section 150 carry? All those in favour? Opposed? That is carried.

There are no amendments proposed to schedule 1, sections 151 through 155, inclusive, so unless there's any objection, I recommend that we deal with them as a block. Seeing no objections, are there any comments or

debate on schedule 1, sections 151 through 155? Seeing no comments, shall schedule 1, sections 151 through 155, inclusive, carry? All those in favour? Opposed? These sections are carried.

That is the entirety of schedule 1. Is there any further debate or comment on schedule 1? Mr. McDonell?

Mr. Jim McDonell: We've gone through a good portion of this bill. To my accounting, there's not been one amendment by either the official opposition or the third party approved. I think that that's a loss for many of the stakeholders who approached us and asked for these changes.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Mr. Singh?

Mr. Jagmeet Singh: I'll just echo Mr. McDonell in that there was a number of amendments brought forward that were reasonable, that were supportable and that were, indeed, requested by stakeholders, and they were not supported. It certainly is a loss for the province.

The Vice-Chair (Mr. Peter Z. Milczyn): Further debate or comment? Seeing none, shall schedule 1, as amended, carry? All those in favour? Opposed? That is carried.

Looking at the time, I would suggest that this is a logical place to stop for the day. I thank the members of the committee and staff for their hard work today.

We will adjourn until Thursday, November 19 at 9 a.m.

The committee adjourned at 1759.

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