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Official Report of Debates (Hansard)

Tuesday 28 February 2017

Journal des débats (Hansard)

Mardi 28 février 2017

**Standing Committee on
Social Policy**

Putting Consumers First Act
(Consumer Protection Statute
Law Amendment), 2017

**Comité permanent de
la politique sociale**

Loi de 2017 donnant la priorité
aux consommateurs (modifiant
des lois en ce qui concerne
la protection du consommateur)

Chair: Peter Tabuns
Clerk: Katch Koch

Président : Peter Tabuns
Greffier : Katch Koch

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
SOCIAL POLICY**

**COMITÉ PERMANENT DE
LA POLITIQUE SOCIALE**

Tuesday 28 February 2017

Mardi 28 février 2017

The committee met at 1600 in room 151.

**PUTTING CONSUMERS FIRST ACT
(CONSUMER PROTECTION STATUTE
LAW AMENDMENT), 2017**

**LOI DE 2017 DONNANT LA PRIORITÉ
AUX CONSOMMATEURS (MODIFIANT
DES LOIS EN CE QUI CONCERNE
LA PROTECTION DU CONSOMMATEUR)**

Consideration of the following bill:

Bill 59, An Act to enact a new Act with respect to home inspections and to amend various Acts with respect to financial services and consumer protection / Projet de loi 59, Loi édictant une nouvelle loi concernant les inspections immobilières et modifiant diverses lois concernant les services financiers et la protection du consommateur.

The Chair (Mr. Peter Tabuns): Good afternoon, committee members. I'm calling this meeting to order to resume consideration of Bill 59, An Act to enact a new Act with respect to home inspections and to amend various Acts with respect to financial services and consumer protection.

CARSON DUNLOP

The Chair (Mr. Peter Tabuns): Our first witnesses are from Carson Dunlop: Alan Carson and Tom Hamza. Gentlemen, if you'd have a seat. You have up to five minutes to present, and then we have up to five minutes of questions from each party. If you'd start by giving your name for Hansard.

Please proceed.

Mr. Alan Carson: Absolutely. Thank you. My name is Alan Carson, and I'm here with Tom Hamza, also from Carson Dunlop. Thank you for allowing us to speak to the committee.

Carson Dunlop is a consulting engineering firm that has been devoted to home inspection since 1978. Our businesses include home inspection, commercial inspection, home inspection training and education and report-writing software, again for home inspectors. I'm a past president of the American Society of Home Inspectors and the Ontario Association of Home Inspectors. I was also a member of the technical committee that worked on

the CSA standard for home inspection that was published in 2016.

We absolutely support Bill 59 and believe strong, effective licensing will help protect consumers. Home inspection consultants help home buyers, sellers and owners make informed decisions that will affect their financial well-being for years to come. An estimated 95% of home inspections are performed on resale homes rather than new construction, so our business is old homes.

Unfortunately, we've seen a lot of legislation both in Canada and the US which hasn't worked very well on the home inspection side. Much of the licensing claims to protect the consumer, but the bar is set so low as to be almost meaningless and not provide a lot of protection. We're hoping that Ontario can set a good, high bar. The new CSA standard, I think, will also help with that.

With respect to education, there is a 10-semester home inspection education program that's offered through 18 of the 24 community colleges in Ontario. It's also offered through the Ontario Association of Home Inspectors and Carson Dunlop, which is a private career college. The program includes technical skills focused on the home inspection process as well as professional practice and report writing. We believe that a solid educational foundation is the basis for competent performance as a home inspection consultant. Many of these college programs have been in place for more than 10 years and are proven to be successful.

The existing programs make a consistent, cost-effective and sensible minimum standard for licensing. Colleges Ontario is in full agreement in recommending that these programs be adopted as the minimum education requirement. The courses are available as both distance education and classroom, so they are accessible all across the province.

We believe a strong designated administrative authority with a balanced reputation should regulate the industry. Many home inspectors are concerned about the cost of licensing and what it will mean to them. If the cost of operating a home inspection business is too high, I have some concern that practitioners will leave, and it may be difficult to attract new people to the profession. Our hope is that the DAA will be both efficient and cost-effective.

With respect to insurance, we absolutely agree that home inspectors should carry appropriate insurance,

including professional liability, but are not so sure that the type and amounts of insurance should be in an inspection contract. The bill, as written, would require inspectors to disclose all types of insurance and the amounts of each on their contract, and that would include automobile, office contents, life insurance and so on. I'm not sure that's the intent. Consumers will be well protected, I think, as long as the law requires appropriate insurance coverage for licensees.

The risk of highlighting insurance in a contract is that frivolous insurance claims will drive up the cost of insurance, making it unaffordable for inspectors and perhaps driving up the cost of home inspections, which would not be great for consumers.

Energy audits and home inspectors: Home inspectors and energy auditors have a significant crossover in their skill sets; their work is very similar. It makes good sense, I think, to combine these activities for the benefit of consumers. Including an energy audit with a home inspection might be something to look forward to. Energy auditor education can be incorporated into home inspection education programs to incrementally enhance the skill set of the practitioners.

The Chair (Mr. Peter Tabuns): Mr. Carson, I'm sorry to say that you're out of time.

We'll go first to the official opposition. Ms. Martow.

Mrs. Gila Martow: Thanks. We've heard from a couple of people at this committee about supporting professional liability insurance, but that it shouldn't be on the contract. I'm kind of racking my brain on why not. I'm wondering if you could explain why not and whether it's because you think that if people think that there's \$1 million in insurance then they're going to sue for \$1 million.

Mr. Alan Carson: Yes, that's kind of the point and kind of our worry. It was a bit of a surprise to us when we read the bill, because I'm not familiar with other professional practices where that is done. It seemed new to us, and that absolutely is the concern. Is there going to be a group of lawyers who specialize in going after home inspectors because it's so obvious and so patent? I don't know.

Mrs. Gila Martow: You're worried that they're more likely to go after the ones with higher insurance.

I'm from the medical field, and I'm trying to imagine a doctor having patients sign that they understand the risks of surgery, and by the way, the doctor has this much in malpractice insurance. I don't think anybody could ever imagine that.

I think that it would be realistic, though, to perhaps put what type of insurance, if you have to list that you have liability. Would you have a problem with the type, but not necessarily the amount?

Mr. Alan Carson: I think that would be an improvement. Absolutely.

Mrs. Gila Martow: Okay. Thank you very much.

There also has been quite a bit of discussion that this piece of legislation might drive up the cost of home inspection, which is counter to what everybody wants.

What people want is, they want home inspections and they want them to be properly done, with proper insurance and proper training. Why do you feel that the costs would go up, and by how much?

Mr. Alan Carson: That's a good question. It would seem that a licensing fee charged to the practitioners is what's commonly done with the DAA model. Of course, the question is, how much would that be? I've spoken to a large number of home inspectors and the consensus that I'm hearing is that if the licensing fee is more than perhaps \$500 a year, that would be a hardship and cause some people to think about the viability of what they're doing.

I should point out that a lot of home inspectors, some by design and some not, are part-time practitioners, so the costs are incrementally higher the less business you do.

Mrs. Gila Martow: And that's in any profession. I worked part-time as an optometrist. I had to pay the full malpractice fee and the full licensing fee and all that.

What I'm wondering is if you have any suggestions for how those costs could be brought down. What I had mentioned last week is that insurance companies do a lot of the same things that some of the good home inspectors do. They go and they take pictures of different parts of the house for insurance purposes so you can't say, "Oh, I had this type of painting on the wall." They like to take those pictures, and it's useful for them in the event of a fire or a flood or whatever.

Would you see a possibility of maybe somehow home inspectors partnering with insurance companies so that insurance companies don't have to repeat the picture-taking, the home inspector does a very elaborate picture-taking that could be incorporated, and maybe some kind of cost-sharing?

Mr. Alan Carson: Yes, I think that's a reasonable possibility. You might extend that to appraisers as well. The energy audit model is a similar one, where you could combine multiple visits to a home into a single visit where the data is collected and shared. There are privacy issues, of course, to address, but there's a huge economy of scale there. So I think that might be very interesting to explore.

Mrs. Gila Martow: Okay. Do I have a few seconds?

The Chair (Mr. Peter Tabuns): You have about a minute left.

Mrs. Gila Martow: Would it be detrimental, though—I think people worry about home inspectors saying, "You need a new furnace, and here's who I recommend," and, "You need new windows, and here's who I recommend." We can certainly see that happening, and I think we've all experienced that. We're having something fixed and we ask the person, "Who would you recommend to do that part of the work if you don't do it?"

Would it be unprofessional of a home inspector to say to a potential homeowner, "Your windows really need upgrading, and within 10 years you'll make back whatever you pay in saved energy. Here are a few companies

that we recommend"? Possibly, the home inspector might get a referral fee. Would you have a problem with that?

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Mr. Alan Carson: Yes, I would. Most home inspection organizations have a code of ethics or a code of conduct that discourages that kind of apparent conflict of interest.

Mrs. Gila Martow: And I would say that we're trying to move to be professional, so I agree. Thank you.

The Chair (Mr. Peter Tabuns): With that, your time is gone.

We go to the third party: Mr. Singh.

Mr. Jagmeet Singh: Thank you for being here and thank you for your presentation. I just have a couple of questions.

First off, you indicate here that you offered the first comprehensive home inspection training program. When was that offered? I'm just curious.

Mr. Alan Carson: Our program was first offered in 1999.

Mr. Jagmeet Singh: So that's the program that all the others, now a number of colleges, base their curriculum on, the first program that you developed?

Mr. Alan Carson: That's correct.

Mr. Jagmeet Singh: How did you achieve that? That's a pretty significant thing to be able to achieve, that you launched the first one, were able to get it approved and now in public colleges, it's the go-to, the gold standard.

Mr. Alan Carson: Well, we've been training home inspectors since the late 1980s. I used to do a lot of classroom training, and I realized that classroom training is a big stretch. It's expensive for people, and I felt I couldn't do enough in terms of the time available in the classroom courses.

So I took three years off of work and created a distance education program, working with education design consultants and distance education consultants from Memorial University. We knew home inspection very well but we weren't professional educators, so we worked with educators to put together the program.

It was Seneca College who first adopted the program, and they've been instrumental in helping us introduce it to other colleges across Ontario.

Mr. Jagmeet Singh: Wow. It's very interesting. Throughout the years, how have you dealt with upgrading and updating this curriculum?

Mr. Alan Carson: It is more of a challenge than I would have guessed at the outset. I spent a good part of last year updating the program. One of our full-time staff is dedicated to keeping the content up to date because it's not only written text but it has illustrations, images and interactive exercises and case studies. The ongoing update is a commitment that unfortunately is a necessary evil, but there we go.

Mr. Jagmeet Singh: There you go. My last question is: Are you being consulted with respect to the certification of home inspectors and the process moving forward?

Is your expertise being relied on in any way by the ministry?

Mr. Alan Carson: I'm not aware of any certification of home inspectors, per se. I've been involved in working with associations and setting the requirements, for example, for registered home inspectors through the OAH, but not at the ministry level.

Mr. Jagmeet Singh: Okay. Thank you very much. No further questions.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Singh.

Mr. Dhillon.

Mr. Vic Dhillon: Thank you, Mr. Carson, for your presentation today. I have two questions.

First, in your experience, what percentage of Ontario homebuyers are getting home inspections? Would you say that this number is too low? If so, what measures would you suggest to be taken to bring that number to an acceptable level?

Mr. Alan Carson: I would say that historically, over the last number of years, probably 70% of resale homes have been inspected. More recently that number has dropped significantly, given the hot housing market in the GTA and outlying areas that that's spreading beyond. I know of many homebuyers who have stayed out of the market because they won't move forward without getting a home inspection.

To answer your last question, my solution would be that about 40% of our home inspections now are performed for the seller before the home goes on the market. That, in my opinion, is absolutely the right way and the right place for home inspection to be done. Sellers engaging the home inspector and making the report available to prospective buyers makes absolutely compelling sense across the board.

We need to move our community, I think, to that model. It would help sellers, ironically, in this market because a number of buyers, as I said, are holding back. If they could make an offer with the knowledge of the condition of the home at hand, I think the seller would find even more people coming to the table and would sell the house for more money. I think that's a logical solution all the way around.

Mr. Vic Dhillon: That brings me to the point: Bill 59 brings home inspectors into regulation and also provides consumers with stronger protections in this field. Can you explain to the committee what the most positive benefits of this legislation are?

Mr. Alan Carson: The most positive benefits, if it's done the way I hope it's going to be done, are the assurance of a high-quality, well-defined competency level for home inspectors so that consumers get the level of service that they deserve. Right now, anyone in the room could hang out a shingle tomorrow and be a home inspector. I'm comfortable with our position and our role in the profession. I'm not so comfortable with some of my peers. I think that's the big benefit.

Mr. Vic Dhillon: Okay, thank you very much. It appears you've made a significant contribution in en-

hancing or bettering this industry, so thank you very much.

Mr. Alan Carson: Thank you.

Ms. Daiene Vernile: I'll ask a question.

The Chair (Mr. Peter Tabuns): Ms. Vernile.

Ms. Daiene Vernile: Thank you very much. Listening to this—it's really fascinating—there has been a critical comment made that in certifying home inspectors in the future, if we go ahead with this, the cost might be about \$400 in order to get your certification. Some have said that maybe that's just a money grab, a tax grab. What are your thoughts on that?

Mr. Alan Carson: If they could do it and monitor and manage home inspectors for \$400 a person, I would say that was an incredibly efficient operation. I guess it depends what you think of when you say "certification," because I'm thinking about managing a profession: the intake, the ongoing discipline, management, administration, ensuring that insurance is in place and helping to protect consumers.

I have no experience with any of this. I am familiar with what associations charge their members for membership services. I have a lot of respect for the Ontario Association of Home Inspectors, but their work is substantially done by volunteers and the fees are still not very far off that. That, to me, would be a remarkable achievement.

Ms. Daiene Vernile: When we look to other jurisdictions that have adopted this system, what are we seeing in other provinces?

Mr. Alan Carson: I'm not happy with what I'm seeing in other provinces. Consumers are confused. Home inspectors are, I think, put in an awkward spot. I know that in British Columbia they are very unhappy with their model and have changed it. Much to my chagrin, they changed it once in 2016, with substantial changes. They're going to change it again in 2017. That leads to confusion and expense for consumers and the home inspector community.

As I said at the outset, people have struggled with this issue. I think it's terrific that Ontario has the wisdom of hindsight to see what others have done and where they've struggled, but Bill 59 feels like it's headed in absolutely the right direction.

Ms. Daiene Vernile: So our advantage is that we can learn best practices—

The Chair (Mr. Peter Tabuns): Ms. Vernile, I'm sorry to say you're out of time.

Ms. Daiene Vernile: Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much for your presentation. We appreciate it.

Mr. Alan Carson: Thank you.

PUBLIC INTEREST ADVOCACY CENTRE

The Chair (Mr. Peter Tabuns): Our next presentation is from the Public Interest Advocacy Centre: Mr. John Lawford. Mr. Lawford, as you've heard, you have up to five minutes to present, then we'll have questions

from each caucus. If you'd start by introducing yourself for Hansard.

Mr. John Lawford: Thank you, Mr. Chairman. My name is John Lawford, executive director and general counsel at the Public Interest Advocacy Centre in Ottawa. PIAC is a national, non-profit organization and registered charity that provides legal and research services on behalf of consumer interests and, in particular, vulnerable consumer interests, concerning the provision of important public services.

Today I come before you to discuss Bill 59. In my time, I intend to speak only to the area of the bill concerned with payday loans. Please see PIAC's full written submission which we've provided to the committee for our positions on the other aspects of the Bill.

I must stress that, overall, Bill 59 is a positive development for Ontario consumers, and that in particular, many of the proposed changes to the Payday Loans Act, 2008, will greatly assist consumers. Our intent with these remarks is to highlight potential amendments and questions to improve these changes.

I divide my time between three points under one theme. The theme is "missed opportunities": what is not in the bill, what is in the act but not used, and what may or may not be in the regulations. The three points then, taken in turn, are: conversion of payday loans into instalment loans, the missing Ontario Payday Lending Education Fund, and the potential responsible lending requirement.

The former Bill 156 in the previous session contained a provision allowing a borrower to enter into a 62-day or more agreement after taking out a third payday loan within 62 days. This provision is not included in Bill 59. This omission is unfortunate and greatly reduces the potential benefit of the bill to Ontario borrowers. Similar instalment conversion provisions exist both in British Columbia and Alberta payday loan legislation. Such an instalment loan conversion provides consumers with an off-ramp from the cycle of debt that payday loans, with their short repayment schedule and balloon payment of the entire principal plus interest, typically cause. We recommend the committee recommend reinserting this language from Bill 156 into this bill.

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Secondly, the Payday Loans Act, 2008, in section 66, created the Ontario Payday Lending Education Fund. The fund has its own regulation. The fund was intended, as per section 67:

"(a) to promote the education of persons respecting the rights and obligations of persons and entities under this act and respecting financial planning, where the education is done through the use of publications, training, advertising, and similar initiatives, including by making grants and transfer payments; and

"(b) to achieve other objectives that are consistent with the purposes of this act and that are prescribed by the minister."

None of this has been done. The minister has not required payday operators to contribute to this fund.

There is a crying need for financial education in Ontario and, in particular, for payday loan borrowers, yet this power to fill the fund is unused. We think this is scandalous, and we'd like you to ask the minister why.

Thirdly, an amendment of a regulation power under Bill 59 appears to give cabinet the power to require responsible lending practices, under the new amended clause 17 of section 77 of the act, which is the regulations clause. The new wording is:

"17. governing the requirements that parties are required to satisfy in order to enter into a payday loan agreement, including,

"i. requiring a lender to take into account the prescribed factors with respect to a borrower before entering into the agreement, and

"ii. requiring a lender to ask the borrower about the financial matters related to the agreement that are specified in the regulations before entering into the agreement."

Both subsections of this clause suggest a turn towards responsible lending practices. These can be thought of as a lender undertaking a good-faith inquiry into the most pertinent financial and life circumstances of the potential borrower, and his or her ability to repay any loan.

However, as with any regulation-making power, the executive may or may not implement regulations pursuant to this power, or if some are promulgated, they may or may not actually require inquiry into the borrower's extended financial circumstances.

PIAC therefore recommends that this provision be moved from the regulation-making-power section of the act to become a stand-alone requirement, with the circumstances the lender must consider clearly spelled out.

The Chair (Mr. Peter Tabuns): Mr. Lawford, I'm sorry to say you're out of time.

Mr. John Lawford: That's fine. I'm at a good point.

The Chair (Mr. Peter Tabuns): Excellent. I'll go first to Mr. Singh.

Mr. Jagmeet Singh: Thank you very much. I just noticed you were cut off. Was there anything else that you did want to add? You can take a couple of minutes of my time.

Mr. John Lawford: Yes, please.

Mr. Jagmeet Singh: Sure.

Mr. John Lawford: We were going to speak about the database not being there. There is a new clause in the bill that requires the lender to stop borrowers from taking out too many loans in a year, and also brokers from brokering too many loans for one borrower in a year. It's going to be impossible to track that without a database.

I don't believe the registrar of payday loans has set anything up yet. I'm not quite sure if the regulations have enough teeth to require the payday lenders to add data to any database.

It may be that you can say that somebody is only taking, say, five loans a year or seven loans a year, but without a database, it may be difficult to do. That was our last point.

Mr. Jagmeet Singh: Okay, fair enough. Would you support, then, the implementation of a database that

would be able to help, that would be able to allow for the enforcement of that particular regulation?

Mr. John Lawford: Yes, for two reasons: firstly, obviously, so that the lenders comply with the requirement. Secondly, subject to privacy concerns, which we hope would be addressed, we would like consumers to be able to rehabilitate their credit, so that those who did manage to keep their payday loans in good standing could improve their credit score. Hopefully, the folks who shouldn't get loans would be able to seek other help.

Mr. Jagmeet Singh: Thank you for that. Two other questions: One is, something that has been raised a number of times is the idea that to protect the consumer, one strategy would be to reduce the interest rate itself. Is that something you support?

Mr. John Lawford: Yes, and there's a regulation which has lowered it from \$21 to \$18, as of January 1, and then again to \$15 next year. We did support that in comments to the ministry.

Mr. Jagmeet Singh: But in addition to this idea of just reducing rates, there has been a suggestion that giving the consumer more time to pay back the amount, and particularly doing away with the requirement to pay back both the fee, or the interest, and the principal at the same time—that's really one of the biggest concerns that consumers have. There has been a suggestion that doing away with that requirement and allowing for instalments to be spread over a longer duration of time would really help people out. Do you have thoughts on that particular strategy?

Mr. John Lawford: Yes, that's certainly doable. It has been done in Alberta. Even from the first loan in Alberta, you can take time to pay it off. It takes the pressure off of consumers to come up with an amount from other sources to pay back the payday loan in two weeks. It's really the short time period plus the entire principal plus interest that causes financial stress, so yes.

Mr. Jagmeet Singh: Okay. Those are my questions. Thank you so much.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Singh.

To the government: Madame Des Rosiers.

M^{me} Nathalie Des Rosiers: Thank you very much for your presentation. That's very useful. You were mentioning Alberta; could you enlighten us about what the landscape is in terms of different provinces and where this bill puts Ontario?

Mr. John Lawford: I think it puts Ontario somewhat closer to best practices. I think the recent review in Alberta has probably put them, strangely, way out in front, largely because of the instalment type change that I've just spoken to. Also, all of the provinces are moving to this \$15 point for the rate. So it's coming along, and there are some good points to this new act.

M^{me} Nathalie Des Rosiers: Well, I wanted to make sure that we knew which points you liked so that if we are in the process of amendments, we know what are the good parts. Then I have one more question.

Mr. John Lawford: Well, having the number of loans per year limited is actually one of the strongest ones. It was done in Washington state, and it greatly reduced the volume of payday loans in that state and reduced the rate there as well. It did not drive out all payday lenders; there are still operators, but at a much better rate. That's one, and that, as I said, relies on the regulation and the interpretation and maybe the database.

M^{me} Nathalie Des Rosiers: My last one is: In the bill, there is also the provision to allow municipalities to decide where payday loans should be. Do you have any comments to that to help us out here?

Mr. John Lawford: Yes, a number of grassroots groups feel the clustering of payday loans in certain neighbourhoods is predatory towards the people who live in those neighbourhoods, and they do tend to cluster. We support the idea that those local communities are the best judges of whether it's appropriate to have that kind of clustering, and I believe the bill now allows cities to do this without concerns about charter challenges and this sort of thing. So it's probably a good development in conjunction with the rest of the reforms in the bill.

M^{me} Nathalie Des Rosiers: Thank you.

The Chair (Mr. Peter Tabuns): Mr. Baker.

Mr. Yvan Baker: How much time do I have, Chair?

The Chair (Mr. Peter Tabuns): You have about two minutes.

Mr. Yvan Baker: Thanks very much for coming in. I wanted to, first of all, start by thanking you, and through you, your colleague, Michael Janigan, for the work that you did in supporting the private member's bill I brought forward banning door-to-door sales of certain products. That bill, with some amendments, has been brought into Bill 59, so I wanted to just pass on that thank-you to you for your organization's advocacy on that issue.

Are you able to comment on the door-to-door component of this?

Mr. John Lawford: Yes.

Mr. Yvan Baker: Could you just share with us briefly your thoughts on the door-to-door component? What do you like, and if there's anything you would improve, what would it be?

Mr. John Lawford: The door-to-door component is an awkward one because you're trying to stop a bunch of practices that have gone beyond energy retailing now and into water softeners—all sorts of crazy things. We've attached a couple of stories from individuals to the back of our written comments to this committee for a flavour of it.

This is a valuable first step to go forward on this, but really, I think, you should keep on the ministry to keep on, if you will, the volume of complaints that come after the bill goes through and the type of complaints. There may be a concern now that if door-to-door solicitation is blocked, there may be flyers that go into the mailbox that then ask someone to call, and if someone calls of their own volition and invites someone in, there may be a new problem. We'll have to see what the volume of that is.

But, as I said, barring it for whatever is in the regulations, larger than energy retailers, is a great step forward.

Mr. Yvan Baker: What I hear you saying in your point around the dropping the flyers is that the dropping of the flyers could lead consumers to call the company who's dropped the flyer, and that could lead to an invitation by the consumer to have the person come in, and then they could continue with the unscrupulous practices that they have continued with in the past.

Mr. John Lawford: Exactly right, yes.

Mr. Yvan Baker: Okay. Thank you very much.

Mr. John Lawford: You're welcome.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Baker.

We go the opposition: Ms. Martow.

Mrs. Gila Martow: Thank you very much for your presentation, and especially for all your handouts. We really appreciate that, because sometimes people can't be here.

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There was a company that presented called Quick-check Canada. I don't know if you've ever heard of them, but they have a software system that can do exactly what we were discussing, and I think there are other software companies out there in terms of protecting privacy. It doesn't have to be people's personal information. It doesn't even have to have their name that the government can see, but that the government is able to kind of track the use of the payday loan companies. But for the payday loan companies, they are able to access more of the personal information. This way, they can track if somebody already has an outstanding loan. I just wanted to mention that.

Yesterday there was a presentation where they made the suggestion—it was an advocacy group—that maybe non-profits could be given updated legislation and be able to provide some kind of microloans, because I think everybody is very concerned about loansharking and online unlicensed vendors. I don't know if you have any thoughts on community groups or religious organizations providing these small loans in communities. I thought that was interesting.

Mr. John Lawford: Yes, we do absolutely have to encourage other sources of short-term lending for lower-income Ontarians. I've seen a model in Ottawa that works. The name escapes me at this moment, but it has just been set up at a lower interest rate than payday lenders. Because the mission of the group is not the same as a profit-making company, they're a good addition to the landscape.

Mrs. Gila Martow: I think that there is a place for payday loans in our communities; especially some of the rural communities seem to rely on them very much. I appreciate what you said about letting the communities figure it out, as opposed to government legislating. I personally think sometimes there are too many coffee shops on the same corner, but it's supply and demand, I guess. We have to let business figure things out, sometimes, for themselves.

Do you feel that it's really predatory when they come in clusters, or is it just that this is an area that's having a high volume of payday-loans demand?

Mr. John Lawford: It's sort of the chicken and the egg. I agree with you. But it can become abusive in the sense that it drives out other financial services from that area, or maybe it stops other financial services from setting up. It depends on each location, and I really think it does help to have the data on the local area. It also helps to have the input from the community to decide what's going on.

Mrs. Gila Martow: I think if there will be limitations and the database, we won't see so many clusters.

Mr. John Lawford: Let's hope. I think that would be better for everybody.

Mrs. Gila Martow: Anything else you want to add? I probably have a minute left.

The Chair (Mr. Peter Tabuns): You do.

Mr. John Lawford: No. I think we're fine as far as my points.

Mrs. Gila Martow: Okay. Thank you very much for coming in.

The Chair (Mr. Peter Tabuns): Thank you, sir.

Mr. John Lawford: Thank you.

CITY OF OTTAWA

The Chair (Mr. Peter Tabuns): Our next speaker joins us by teleconference. Councillor Fleury, can you hear me?

Mr. Mathieu Fleury: Yes.

The Chair (Mr. Peter Tabuns): Excellent. Welcome to the committee. I just want to let you know who's here. On the government side, we have Madame Des Rosiers, Ms. Vernile and Mr. Baker; from the opposition, Gila Martow; and from the third party, Mr. Singh.

You have up to five minutes to present, and then we'll have up to five minutes of questions from each party. My colleagues have heard this speech before. They're getting very used to it. If you'd introduce yourself for Hansard, and then proceed.

Mr. Mathieu Fleury: Excellent. Thank you very much, Mr. Chair, for having me on. I'm a council member for the city of Ottawa. Certainly the MPP in my zone is Nathalie Des Rosiers, so I'm happy that she has also joined us at committee. I know she is well aware of the issues that we've seen, more specifically in a section of our community, which is the old city of Vanier, and more specifically to that, Montreal Road, which really has a proliferation of payday lenders. I think we have the most per capita across the province in this little zone. It is an area where we've seen socio-economic issues, and tied into this, we've seen different undesirable uses. I won't go into details, but they seem to tie into that corridor along Montreal Road.

The reason for my involvement at committee is that we've gotten support from council here in the city of Ottawa to ask the province, as part of these amendments to Bill 59, specifically for the Payday Loans Act

components, to ask to gain authority under the Municipal Act for the control or at least the power for controlling the numbers and location of the payday lenders. The idea, really, is to reduce or at least control some of the impacts that we might see on lower incomes or the socio-economic challenges that we've seen in certain sections of our community.

Further to that, I wanted to address a couple of other points. I think it is important—and we have seen issues around financial literacy for our most vulnerable population, where they do get short-term loans from different providers, which puts them at risk furthermore. We have seen challenges on that. I was listening to the previous discussion around that, and I have seen that the privacy commissioner does see challenges around that. I respect that, but certainly, there are challenges of going from loan company to loan company and putting yourself in more vulnerable situations.

I also want to address furthermore the cheque-cashing component, which a lot of those lenders provide, which now can range up to 25%. I see challenges when sometimes residents work in vulnerable areas and get paystubs and might have credit issues or might not have a debit card, so they make their way to these lenders to get cash in hand, and they get charged up to 25%. That is one of the elements. I know that it's not entirely addressed as part of this bill, but I think the members do need to consider that our most vulnerable who do not have bank cards use these payday lenders for that type of use. It is, in my mind, outrageous, the amount of percentage that is taken off of their hard-earned money. I recognize it's not a lending component, but they do use it for those services.

I also want to applaud the efforts here of the bill in addressing some of the mandatory information and some of the annual fees that we've asked to be posted on the front doors of those establishments. You might have seen that, right now, a lot of them promote that it will cost you \$20 to get a loan of \$200. Well, we know full well that if that isn't paid on time, the percentages of payback are much more than the \$20 and much more than the \$200 that would need to be paid back. Certainly, financial literacy and all elements that are tied into those components are very important for our community and for residents of Ottawa.

I want to be clear—and that will wrap up my comments—that I'm speaking today on behalf of city council on the components of having the authority to control the number and the location under our authority in the Municipal Act, but all the other information is specific to impacts on my neighbourhood and consultations we've had in my neighbourhood as well.

The Chair (Mr. Peter Tabuns): Councillor, thank you very much. We go first to the government: Madame Des Rosiers.

M^{me} Nathalie Des Rosiers: Bienvenue, Monsieur Fleury. It's nice to hear you from Ottawa.

M. Mathieu Fleury: Merci beaucoup.

M^{me} Nathalie Des Rosiers: Just to start, I don't know if you saw that the bill does provide the authority to set

rules to cap the fees for cashing at least government cheques as part of the bill. That may help a little bit. But I want to hear, and maybe you can enlighten the committee, about why it's important that there be some authority to limit the number and places of payday loans, and whether you can help us as to how you came to the conclusion that it was a necessary aspect to ask the government for this authority.

Mr. Mathieu Fleury: Thank you for the question. Certainly, the portion about being able to cash government cheques is very important, and I think the bill certainly addresses that. I'd like to go further and see caps on non-government-issued cheques for those types of lenders. I mean, that's more of an open comment, but certainly, for our community, what we've seen is a proliferation of those payday lenders in and around Montreal Road, where we know we have one of the lowest-income communities in our city.

What we've noticed, as well, to that, are their opening hours, which are open much longer than banks and often extend through the weekend hours of 2 a.m. That certainly is much different than the bank opening hours. We've seen that they've seemed to target a group that might be even more vulnerable.

1640

We certainly want to make sure that at-risk residents have access to short-term lending; we don't want to put it underground. I applaud the government's efforts in that regard. Certainly for us it's finding that sweet spot where we don't see proliferation of those storefronts in a given neighbourhood and that lending is done on main streets where it's safe, but at the same time, that we don't see any proliferation and increase in number for a given area.

M^{me} Nathalie Des Rosiers: Can I just push you a little bit on that, to just understand? How do you imagine that you're going to regulate the payday loans in Vanier? Is it going to be the number, or is it the location? Are you going to prevent them from being close to an LCBO? Is that what you had in mind? How are you planning to exercise the authority that you're seeking?

Mr. Mathieu Fleury: The authority that we're seeking would be very similar to what we've done for adult parlours and strip clubs. They're grandfathered in location. As you know, zoning rights for municipalities allow us to look forward, not backward.

But in terms of future sites, we would certainly look at a maximum number within a given corridor and we would look at locations where they're accessible from transit—they might be on main streets—but that we wouldn't have a proliferation. Certainly, in my mind and in the minds of a lot of members of our community, it aggravates the income inequities in certain neighbourhoods.

The Chair (Mr. Peter Tabuns): Ms. Vernile.

Ms. Daiene Vernile: Mr. Fleury, this is MPP Daiene Vernile. My home riding is Kitchener Centre. Thank you very much for your comments today.

I want to share with you something a person actually within the payday loan industry said to this committee,

and I want to get your thoughts on this: that in some instances, for some people, payday loans are the only financial services available for some folks. They can't go into a bank, and the only place that they can get a loan is with a payday loan company.

What are your thoughts on that?

Mr. Mathieu Fleury: We've certainly seen that as an issue in my neighbourhood, and that's why I've highlighted the importance of regulating the cheque-cashing component, which could be up to 25%.

I'll give you an example: A resident who works hard gets a paystub, makes \$1,000 a week, and doesn't have a bank account or struggles with their credit. They make their way to one of these lenders, who will take 25% off the top of that paystub. It's not the pure elements of the act, which are lending—and I'll recognize that—but it is core to their business to do some cheque-cashing.

In the component of the lending, I recognize the risk—

The Chair (Mr. Peter Tabuns): I'm sorry to say that you're out of time with this questioner.

We have to go to the official opposition: Ms. Martow.

Mrs. Gila Martow: Hi, thank you very much for phoning in. I wrote down your quote. You said that you don't want to drive it underground. You mentioned also the "sweet spot."

I think that we have to recognize that the percentage might sound high—25%—but if it's \$25 on a \$100 cheque, it's the same amount of work to cash that cheque as a \$400 or \$500 cheque. We have to really look at a minimum administrative fee and make it fair, because these are businesses, and they're paying rent and they're paying staff, just like any other business.

If they're open longer hours, I'm wondering about the pros and cons of that, because they are offering a service. If somebody's car breaks down on the weekend, they don't have a credit card, the bank is closed, they want to pay the garage and it's 6 p.m. on a Saturday, is it fair to say that they shouldn't be open? I'm wondering what hours you think are acceptable.

Mr. Mathieu Fleury: Thank you for the question. I do see a wide variation and I do recognize that vulnerable residents might choose not to get credit or might not have access to credit. Certainly, short-term loans are important. Thank you for highlighting that. We do not want to push that underground. We do want that storefront and that business to be in place. That said, when you look at an area like ours, MPP Des Rosiers's area and mine, where we have the most per capita, we have certainly seen a proliferation of drug use, crime and other types of elements that demonstrate the inequity portion of it.

I'm concerned. I recognize the challenge that you have in front of you. You have to provide them a framework in which they need to work. I'm certainly worried about the high percentage. Although there is improvement, it still remains very high. I question why they are open at 2 a.m. and beyond the traditional bank hours. That's a question that we've seen raised in our area for some time.

Mrs. Gila Martow: I've been hearing from a lot of people in the community, like yourself, and I've been

trying to think if there is a balance where we could say that it's a lower fee if the person agrees to take a bank card with the money on the bank card instead of cash, because that's less likely to go to something too impulsive that we wouldn't want it to go to. Again, people are adults, and they have to make their own decisions. I don't think it's a question of education.

I'm reminded of my father having a rental duplex across the street from our home. The woman worked, and her husband didn't—I'm not sure why. As soon as she would go to work, he would be hungry and he would order a pizza in a taxi, because that was before pizza delivery. My father was frustrated, because she couldn't always pay her rent, and he was very understanding. She ended up leaving her husband, and let's just say my father lost a great tenant. I remember them very well. Being a young child—and here we have eight-year-olds who can manage their money better than a lot of adults in our community.

I really appreciate your efforts. You must be a great representative for your community.

Anything else you want to tell the committee while you're on the line?

Mr. Mathieu Fleury: Well, that's an interesting story. Certainly, in my mind, I do see in areas a gap in terms of financial literacy that would go beyond this bill. But we have a duty, in my mind, to protect those who might not be informed of the risks of lending. I know in the act, it's very subtle, but it speaks to only having access to one loan until you can repay the following loan. I think the issue—and one member previously speaking to me spoke about the data set. Again, the privacy commissioner didn't stipulate on that—

The Chair (Mr. Peter Tabuns): Councillor, I'm very sorry to say that we've run out of time with this questioner.

I'm going to go to the third party. Mr. Singh.

Mr. Jagmeet Singh: Thank you so much for your input and your insight—I appreciate it—and for taking the time to be here with us.

I just wanted to touch on your concerns around the concentration of payday loan companies and your concerns around the fact that if they're concentrated it would aggravate income inequality.

Are you still there?

Mr. Mathieu Fleury: I'm still here.

So your question is around what's the impact or the risk when we've seen a proliferation of those storefronts?

Mr. Jagmeet Singh: Yes. I was going to ask you if you could go into what your concern is with respect to—I also agree that having a lot all being concentrated in areas where people are poor, to me, just intuitively seems wrong. But I wanted to know if you had any deeper analytical basis for that concern.

Mr. Mathieu Fleury: You've raised the important point, which is that they seem to locate in lower-income areas. We've tied that to my neighbourhood on Montreal Road. When we look at the trend in the city of Ottawa, they locate in areas where we know there is, based on the

Ottawa neighbourhood study, lower income. That's certainly an element that, in my mind, continues to aggravate the income inequity.

At the same time, I think the risk is that to continue to promote these debt circles where you get caught—maybe you need access to a loan. But then, if you don't have financial literacy or if you don't have some information around what services are offered beyond the lending, you get caught in that vicious cycle of getting a loan to pay another one. That, in my mind, is certainly a tough issue to tackle without pushing that lending underground.

1650

Mr. Jagmeet Singh: I understand. We've talked about a number of solutions. I don't know if you can weigh in on them. When it comes to the actual client going into a payday loan company and getting a loan, we've heard that there have been two concerns. One you've touched on is reducing the rate itself. The rates are so high that it puts people in a difficult position.

What we've heard some evidence on, though, in addition to the rate and, in fact, even more important than the rate, is the fact that you have to pay back both the fee, or the interest, as well as the principal, together. That puts people in a difficult position. The suggestion has been to allow people to pay in instalments and to pay in a lengthier period of time, to pay back—your thoughts on that?

Mr. Mathieu Fleury: That would certainly be constructive. I think a lot of times people go in—as one of the members highlighted, your car breaks. You need access to money. You go in. You get that loan. You start putting some thought into how you're going to repay it. I think the challenge is that unless you've put the thought prior to receiving the loan, you might put yourself in a more vulnerable position, which you've highlighted. Certainly, reducing the rate would go a long way, and having access to the instalments would further that.

Mr. Jagmeet Singh: Okay, fair enough. Those are all my questions. Thank you so much.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Singh and thank you, Councillor. We appreciate you being with us this afternoon.

Mr. Mathieu Fleury: Thank you very much.

ENERCARE

The Chair (Mr. Peter Tabuns): Our next presenter is Enercare, John Toffoletto.

My goodness; you don't give a small brief, sir, you give a substantial one.

Mr. John Toffoletto: Lots of information.

The Chair (Mr. Peter Tabuns): As you've probably heard, you have up to five minutes to present and then up to five minutes of questions from each party. If you'd introduce yourself for Hansard. Please proceed.

Mr. John Toffoletto: Thank you for the opportunity to present before this committee. My name is John Toffoletto and I am senior vice-president and chief legal officer of Enercare. I am joined here today by Lauren

Black, legal counsel at Enercare. This is actually the second time Enercare has had the opportunity to present on door-to-door sales. The first opportunity was in respect to Bill 55, the Stronger Protection for Ontario Consumers Act, which we supported and indeed have long advocated for.

My remarks today will cover the following: a quick overview of Enercare as a company, a summary of the aggressive, misleading and often fraudulent door-to-door sales activities that Ontarians have endured over the last several years, and our strong support for Bill 59, along with some suggested improvements.

Enercare is one of North America's largest home and commercial services and energy solution companies. Headquartered here in Toronto and originating from Enbridge and Consumers Gas, we today operate in six provinces and 29 US states and provide services to over 1.6 million customers annually. In particular, we provide water heaters, furnaces, air conditioners and other related products and services. We do not sell our services and products door to door.

We are here today to express our strong support for Bill 59. The fact is, Ontario homeowners have had to endure predatory door-to-door sales activities for far too long. We have provided the committee copies of our materials, but I'd like to highlight a few sections briefly.

Tab 1 is our formal submission to the committee and contains recommendations to strengthen and improve the bill. Tab 2 is examples of the numerous press reports on the issues, going back several years. Tab 3 is a series of police bulletins and warnings in respect of door-to-door sales.

In addition to this, as a company, we have taken the step of obtaining sworn affidavits from our own customers who have been approached at the door by agents who have used deception, aggressive tactics and outright fraud as a form of business practice. To date, we have shared over 130 signed affidavits with the ministry's enforcement branch. This, unfortunately, represents just a small fraction of the illicit behaviour that is taking place.

Enercare strongly supports any action taken by the province that is focused on protecting Ontario consumers from unsolicited door-to-door sales. This is where the fraud is. We also recommend strengthening the bill in key parts to make it more effective, as well as refining it in others to prevent a negative impact on consumer choice, cost and ease of service in certain everyday circumstances.

First, we believe the consequences of violating Bill 59 will not have enough of a deterrent effect because the penalty is far too low. Unfortunately, the risk of occasionally having a contract made void is a relatively low cost of doing business for some perpetrators.

History has shown that only a small number of infractions are caught and even fewer are remedied. We strongly recommend increasing the penalty to a significant monetary fine and bringing rigorous enforcement.

As stated, we strongly support a ban on unsolicited door-to-door sales activities. However, we believe that

there are a number of everyday scenarios that are potentially caught by Bill 59's broad prohibition that should be exempted in order to preserve legitimate business practices and avoid consumer frustration with higher costs and delays in acquiring services—for example, delays in receiving heat, cooling or hot water.

As these scenarios are outlined in our written submission, I will provide just one example. As currently drafted, Bill 59 would prohibit entering into agreements in a home unless a consumer has specifically asked the supplier to come to their home for the purpose of entering into such an agreement. Where a customer calls a supplier for the purpose of remedying a problem—for example, they have no heat or they have no hot water—immediately replacing the equipment, if that is indeed what is required, would be prohibited by the act simply because at the time of the call, they did not specifically know the equipment needed to be replaced.

Creating such impediments to a consumer receiving services they have requested is not in consumers' interests and does not address abusive and historically problematic door-to-door sales practices. However, we are confident that these scenarios can readily be addressed either by refinements to the bill or in the regulations. We look forward to continuing to work with the ministry in this respect.

Aggressive, deceptive and fraudulent door-to-door sales tactics in the home services sector has been one of the top consumer complaints in Ontario for a very long time. The material we have shared demonstrates the need for action. With this bill, we believe Ontario is taking an important step to protect Ontarians.

The Chair (Mr. Peter Tabuns): Mr. Toffoletto, with that, you're out of time, I'm afraid.

Mr. John Toffoletto: I was just going to say that I'm happy to take questions now.

The Chair (Mr. Peter Tabuns): Our schedules coincide; this is wonderful.

I'll go to Ms. Martow.

Mrs. Gila Martow: Thank you very much for your presentation. I don't think they pay us enough to read all this, but we will endeavour to.

In terms of door-to-door sales, one thing that I wanted to mention—not to get into all of my stories of my childhood—is that people used to not be able to answer the door if they were somehow incapacitated. They didn't have a motorized scooter or they were in an institution. Now we have vulnerable people in our community who are able to answer the door but might not really have the authority or the capacity to make those decisions. I think that's part of what's driving—you're saying that some of the top consumer complaints, a lot of the stories that we hear are people saying, "My elderly mother agreed," or, "My son who is special needs agreed, and the next thing I know, I come home from work and the furnace has been taken away."

How do you feel about—it's not just in the home. Would you feel that people will be waiting on the street if they can't knock on people's doors? Do they have to

physically be at somebody's door to target people? We all have been to the mall where people are walking around with clipboards. Does that concern you?

Mr. John Toffoletto: What we have actually seen and are familiar with are the tactics at the door; that's been the focus. Presumably, there could be abuses as well outside of that. I guess anything to some extent that's unsolicited. It's not like folks are walking through the mall or waiting at home to have someone come by and talk about their water heater. That's sort of where this is going. I wouldn't be averse to anything that would be broader in respect of unsolicited sales, even outside the home.

But you're absolutely right, and Lauren can speak to this because she's been front and centre in collecting all the complaints and affidavits. There is very much a predatory aspect to this that goes with folks that—English is not their first language, or the elderly, or, as you said, those who are incapacitated in some sense.

Mrs. Gila Martow: And what if their name isn't on a lease or deed to the property? Do they really have the authority to replace a, in my opinion, structural part of the house, like a water heater or a furnace?

Mr. John Toffoletto: In short, it depends on the nature of the product we're installing. If it's something that's—for example, in a tenancy, we would typically want the landlord to sign as well. It depends on what exactly we're installing.

1700

Mrs. Gila Martow: I just wanted to say that we hear sometimes from the NDP that electricity should be basically a human right in this province, and there's been a lot of discussion in the Legislature about that. In terms of having a furnace removed, if you don't want the new furnace because the homeowner has cancelled, they can't get the old furnace back. Do you have any suggestions for outside of door-to-door sales that you have concerns about—other tactics, phone calling or things like that?

Mr. John Toffoletto: I think protections are there right now in the act. To speak frankly, I think there are protections there. On unsolicited calls you have the no-call list and other items. From our perspective I think it's a question of rigorous enforcement and hefty fines.

What we've discovered with the folks who do this is that they do the math. "I get away with it 18 times out of 20; I have to pay two times; I'm still ahead; I will continue to do this." Not to be cynical, but that's what the mentality is.

Mrs. Gila Martow: Do I have 30 seconds left?

The Chair (Mr. Peter Tabuns): You have 30 seconds.

Mrs. Gila Martow: I'm just going to make a comment that I personally support this, not just for the reasons of door-to-door sales and the concerns, but because I don't really feel comfortable with people ringing people's doorbells and people answering the door constantly without knowing the person who's there, just because they have a clipboard in their hand. We're seeing a rise in home invasions and robberies when people are

home. It's very easy to get a vest and clipboard and pretend you're doing door-to-door sales. Thank you.

Mr. Bill Walker: Plus you're excluding election campaigns.

Mrs. Gila Martow: Oh, yes, but election campaigns should be allowed.

The Chair (Mr. Peter Tabuns): Yes, never forget that.

Mrs. Gila Martow: That's the advantage for women: People do answer the door when they see me. I used to tell the candidate, when I was just a volunteer, "Move away; move away. They don't answer the door when they see you."

The Chair (Mr. Peter Tabuns): And with that, thank you. Mr. Singh.

Mr. Jagmeet Singh: Thank you for being here and thank you for your presentation. With respect to the door to door, one of the key issues that you talked about is to be able to address the folks who are perhaps fraudulent in nature or inappropriate—that the fines or the penalties are not prohibitive enough, and so that that's an area that needs to be addressed.

As a general principle, in terms of what type of practice we want to address, I wanted to ask your opinion. There's been some discussion around the idea that ideally you want to prevent people at the door—homeowners—from getting into high-interest, long-term commitments at the door because it's high interest and it's a long-term commitment and it's difficult to make that decision at the door. Your thoughts on that?

Mr. John Toffoletto: In terms of what's high interest, it's all relative. I think there are certain provisions already in other acts that address interest rates that are offside. I think the key in respect to that is disclosure, making sure folks are aware of what they're signing.

That's been the whole problem with the door to door: There's no transparency. No one even realizes half the time they're actually entering into a new contract, let alone what they're actually contracting for.

By way of example, in terms of our offering, we're very cognizant of the fact that it has to make sense, it has to be a value proposition, and it has to be cost-effective for the consumer. In terms of what we put in front—it doesn't remotely approach anything like that, so we're comfortable. Otherwise folks who know what they're doing will walk away from it.

But there are folks out there who will not have that transparency and will continue to abuse it unless you put in legislation like this, which stops them from hiding behind something.

Mr. Jagmeet Singh: Fair enough. In addition, there's been some discussion about when you enter into an agreement for a service or a product, if at some point along the way you want to make the decision to buy the product outright, there is often a prohibitive cost in association with that. And though there is the notion that, similar to when you take out a mortgage, you're making a commitment to pay back on that capital for a period of time, there seems to be some feeling of unease around the

fact that if you want to purchase the product outright, there seems to be this very exorbitant cost associated with that. Your thoughts on that?

Mr. John Toffoletto: I do know that some other companies have contracts where, if you want to break it, there is what I would term a penalty, so you don't actually get value. You don't get anything when you buy out the contract; you're left with nothing. We don't do that.

We do have it where, if we install a product, you then for a period of time can buy it out till the end, and it's on an age-reduced price. As the equipment ages, the purchase price for the equipment ages as well, so it's not a penalty.

To have the notion that you can put in a piece of equipment on day one and then have it removed on day two—for example, in our rental offering, basically, we couldn't offer a rental model because, quite frankly, the cost of installation, of putting in the equipment, and then removing it on day two would be of such a magnitude of loss that it's not a sustainable model.

There have to be protections for the company because they are putting in a capital asset and they are spending money, but it has to be reasonable. From our perspective, it's that you can, on a retail-based price, factoring in installation costs, then buy it out, comparable to as if you'd bought it in the first instance.

Mr. Jagmeet Singh: Thank you very much.

Did you want to add anything?

Ms. Lauren Black: I was just going to say, if I may, that as part of my position, I have the somewhat unfortunate spot of speaking to many of the people who have been victimized by this. From my experience—and I would say I've spoken to hundreds of them—it's not even so much the issue that afterwards they're upset that there's some kind of high-interest agreement that they entered into, or a buyout. The real issue that they seem to be so upset about is that the way it happened was so fraudulent that they didn't even know or understand they were going to be entering into an agreement. They had not had the thought or intention that they wanted to replace their equipment, or even thought about whether they needed to replace their equipment. Rather, somebody appeared at their door and misled them to the point that they thought there was a requirement for them to take out this stuff and put in new stuff.

Because the person is already in their home—which goes to the other member's comment before—when they're actually in the home, even if you have a second sober thought later or whatever, it's too late, because they were there, they came in and they took it out. It all happened so fast that they're duped and they don't even realize it. Only later, then, do they understand what actually happened.

It's not that they didn't like the contract they entered into, or there's some other provision in it that they don't like, but they weren't really thinking about replacing their equipment, and in many instances, their equipment doesn't require replacement at all. But somebody came and said, "I'm here from the government, and we have to

switch this out ASAP. Otherwise, you're going to be hit with a fine, you're going to be in violation, you're going to have carbon monoxide." I even had someone tell me they were told that their unborn baby was going to die from the water.

So they don't know what to do, and they say, "Sure, take everything out. Put new stuff in." "Sign here." That's what happened.

The Chair (Mr. Peter Tabuns): I'm sorry to say, with that, your time is up.

We go to the government: Mr. Baker.

Mr. Yvan Baker: Thank you both. It's good to see you both here again today. I wanted to thank you. These two fine folks came to see me when I introduced my private member's bill on this issue, and were kind enough to provide me with a lot of documentation. I don't remember if it was as much as today, but it was substantial, and a lot of it was helpful, so thank you.

What I want to do is just drill down on the comment that Mr. Singh was following up on as well, with regard to penalties. You've clearly outlined why you believe stronger penalties are necessary. Can you just talk about what kinds of penalties, how big should they be, and at what point should they be imposed? Can you talk me through what your suggestions would be as to what those penalties should look like?

Mr. John Toffoletto: I'll go first. I'm not going to start throwing out quantitatively what those are; it's a relative scale.

But what we found is that very often, there will be an infraction. In the dispute between the company and the consumer, they're given an opportunity to work it out. That's part of the regime, which is helpful in some respects. But in others, we find that what I'll call the infringing company will then, for lack of a better word, bribe the consumer—"Well, we'll just give you a year free" or whatever it is—and somehow wheedle out of it. Or it will be an infraction, but there's nothing that really comes of it. Okay, the contract is void, so you lose the equipment. It's not enough, quite frankly, to make them care.

Again, it's just a cost-benefit analysis for them. Like, I get caught this many times; I lose out this number of times and I win this many. It's a cost of doing business, and this becomes a legitimate business practice for them.

Mr. Yvan Baker: Right. I'm not trying to hold you to a number, but I'm trying to get a sense, even a ballpark sense, of the quantum that we're talking about. Do you have any kind of thoughts on what that should look like?

Mr. John Toffoletto: Again, I think a lot of the numbers—I mean, I would just have it so that you're not relying just on section 116, because you do have some provisions now that you could be taking advantage of. But I would have thought that something that is five figures at least, for infractions, and then multiplied, depending on the multiple, would be helpful.

Lauren?

Ms. Lauren Black: I was just going to say that I think a tiered approach also would be good. After the first infraction, you have this, but if you're on the third

infraction, it's now times three or something, because those are the people who continue to do it, so obviously, the penalty in the first round wasn't enough.

Mr. John Toffoletto: If our language seems a bit strident in terms of how we're characterizing these folks, you've got to understand that we've been watching this for seven years, right?

Mr. Yvan Baker: Yes, absolutely. They're calling people who are subscribed to Enercare products and telling them that the Enercare product needs to be removed because it's not working or not compliant.

1710

Mr. John Toffoletto: Yes. Quite frankly, a lot of the time, our customers are actually upset with us, because, somehow we should know this is going on and we should be stopping this—because a lot of times they impersonate us too, right?

Mr. Yvan Baker: Absolutely. I wanted to talk about your second recommendation on page 3, or associated recommendation, where you say, "We would also recommend bringing rigorous enforcement." I presume that's to address what you just referred to, which is the fact that, in many cases, the unscrupulous folks don't get caught. Could you just talk about the type of increased enforcement that you would want to see?

Mr. John Toffoletto: I think the notion is, once the ministry becomes aware or the police become aware of some wrongdoing, when you see a bit of a pattern developing, that, I think, moving quickly to—again, provided the evidence is there, and I know that's a challenge because we've spoken to the ministry, and it gets a little difficult at times. These folks are really good at obfuscating and making it difficult to catch them, so I appreciate that. But when you do catch them, and you may have five times when someone has put up their hand, but if you have one or two of those, take advantage of those one and two, and move aggressively on that in terms of oversight of their practices and fining them.

Quite frankly, we've often—Lauren is on the front lines—we've collected 130 affidavits. They're not 130 different people. There's a lot of the same folks doing a lot of the same stuff. You just can't quite understand why they can keep doing it for so long. When you look at it, it does seem to be that—again, with the view that folks are not consciously doing it or whatever it is—it's not a business practice, perhaps folks are a bit too lenient on them. I'm not criticizing.

Ms. Lauren Black: I think if it could be some kind of strict liability offence, so that as soon as the consumer can show, "Look, it happened contrary to whatever requirement you have," then automatically there's some kind of penalty associated without having to go through the rigmarole because of the evidentiary difficulties that sometimes happen. I know that when I speak to a lot of these customers, afterwards they'll say, "Well, I did call the ministry," because we always do refer them to the ministry—

The Chair (Mr. Peter Tabuns): I'm sorry to say that with that, you're out of time. Thank you for your presentation today. I appreciate it.

RELIANCE HOME COMFORT

The Chair (Mr. Peter Tabuns): Our next presentation is from Borden Ladner Gervais: Jeffrey Graham and Jack Cook. Gentlemen, as you've heard, you have up to five minutes to present and then we'll have up to five minutes of questions from each party. If you'd start off by introducing yourselves for Hansard.

Mr. Jeff Graham: Thank you, Mr. Chair, and thank you to the committee for giving us an opportunity to present before you this afternoon. I'm going to pass the microphone to our client, Reliance, who is represented by Sean O'Brien and Jack Cook.

The Chair (Mr. Peter Tabuns): And you are?

Mr. Jeff Graham: I'm Jeff Graham. My apologies.

Mr. Sean O'Brien: Good afternoon, and thank you for the opportunity to share our views on Bill 59, in particular the portion of schedule 2 that amends the Consumer Protection Act. My name is Sean O'Brien and I am the president and chief executive officer of Reliance Comfort Limited Partnership. I'm joined by our general counsel, Jack Cook.

The Reliance business originated in the 1960s in Ontario, and we have since grown to place ourselves amongst the largest providers of consumer heating, cooling, water heater equipment and other services. Reliance also has Canada's largest water heater rental portfolio, with approximately 1.5 million residential and commercial customers in four provinces, including Ontario.

Bill 59 currently does not make any mention of HVAC or water heater equipment; however, we are aware that misleading door-to-door solicitation of these products, among others, is a driving force behind certain provisions in Bill 59. We believe the nature of our business, our customer base and our experience in the consumer water heater and HVAC industry provides a unique perspective on the market and continuing need for regulatory reform.

We had the pleasure of speaking to the Standing Committee on the Legislative Assembly in 2013, when it was considering Bill 55, which also amended the Consumer Protection Act to better protect Ontario consumers from an increasing number of misleading door-to-door practices. Regrettably, these misleading sales practices, although substantially reduced, were not entirely eliminated by Bill 55. Furthermore, those persons misleading consumers at the door appear to now have moved to similar products such as furnaces, air conditioners and water treatment equipment. Further reform appears to be necessary to ensure that consumers are sufficiently protected from the unscrupulous door-to-door sales tactics. For this reason, Reliance supports the relevant provisions in Bill 59.

Mr. Jack Cook: We applaud the government for moving forward in a timely manner with this important bill.

In an attempt to protect consumers from unscrupulous door-to-door sales tactics, earlier bills were introduced in the Legislature, and they proposed to entirely prohibit in-home sales and rentals of this type of equipment.

But as you may be aware, this equipment is highly specialized and cannot simply be bought off the shelf. Various measurements and calculations by trained professionals at consumers' homes are required at the time of sale or rental to ensure that equipment is of the proper size and type, and that installation requirements are met. In-home transactions are not only customary in the HVAC industry; they are a necessity.

Reliance believes Bill 59's requirement that the supplier be invited by the consumer for an in-home sale to take place acknowledges that a total ban on in-home sales is impractical and not in the best interests of consumers, who need timely and efficient access to HVAC and water heater goods and services, often in emergencies and other urgent situations.

However, Reliance would also recommend that Bill 59 and its regulations be sufficiently flexible so that otherwise lawful, convenient and efficient delivery of goods and services be available to Ontario consumers the same way they are in the other provinces of Canada.

In that regard, Reliance would propose that the requirement in section 16 of schedule 2, that consumers initiate contact with suppliers, be replaced with a more general ability for regulations to specify requirements of a customer invitation or even other exceptions on the prohibition on in-home sales. Flexibility is appropriate, given that Bill 59 does not actually specify the goods and services to which the in-home sale prohibition would apply, and no one can actually predict what tactics may be used by wrongdoers in the future.

These minor changes would provide a measured and flexible approach and strike the balance between protection from misleading and unsolicited door-to-door transactions by a small minority of industry participants, while allowing legitimate transactions between consumers and reputable suppliers.

The Chair (Mr. Peter Tabuns): And I'm sorry to say, with that, you're out of time.

We go first to Mr. Singh.

Mr. Jagmeet Singh: Thank you very much. Was there anything you wanted to finish off with? A couple of extra minutes, if you would like.

Mr. Sean O'Brien: No, I would just say that we fully support and look forward to working with the committee and the government to actually protect consumers from this unscrupulous behaviour from the door-to-door sales practice.

Mr. Jagmeet Singh: Excellent.

We've heard a number of different concerns. If you could point to one key issue—people have talked about transparency; people have talked about the high-pressure tactics. We just heard from a deputation where it was the purposeful, mistaken perception that this is something that you had to do as a government agent.

What would you point to as the key of all these issues that you also pointed out? What is really the fundamental problem?

Mr. Sean O'Brien: The way I see it, the fundamental problem of the door-to-door activity is the misleading

behaviour that these salespeople present to the consumer, creating a sense of unrealistic or unjustified explicit need for the consumer to make a buying decision based on incorrect information. That's number one.

I do struggle personally. At Reliance, we do not practise door-to-door sales. It's something that we don't do. We specifically stopped it several years ago because of the tarnished reputation of the door-to-door activity from some people in the marketplace.

I wrestle with eliminating it from the marketplace. I truly do. I think about myself. I used an encyclopedia set that my dad had bought from someone who came to our door. I used it religiously through my high school years. I wouldn't have had that if these people—so I'm not totally against the door to door; however, in this industry, with the lack of controls and what has happened over several years with the poor behaviours of these agents in the marketplace, I think, at this point, we need to eliminate it in this space.

Mr. Jagmeet Singh: I think it's very fair for you to say. The misleading behaviour is what I hear often as the key issue. It's reassuring to hear that. I'm sure that there are other things that are equally important to address, but that is something that I hear a lot.

I was going to ask you about your views in terms of overall—and you've weighed in on that. Perhaps it's not something to ban entirely. I tend to agree, in the sense that the key issues are perhaps the misleading behaviour, the high pressure and getting into a service where it's high-interest and it's hard to break that contract, and doing that in a high-pressure environment of door-to-door. But perhaps a lower-priced item without the same sort of onerous, high-interest, long-term commitment—maybe that could be something at the door. In terms of principles, what would you say, then, would be okay in terms of door-to-door activity, and what would be the guiding principle around what is okay?

1720

Mr. Sean O'Brien: My kid going to your house and asking you to buy a chocolate bar. I heard one of the members say that we should not have anyone go to your door. To me, I think that's a little bit too aggressive, because I'm thinking that my son is going to be coming to your door and asking you to buy a chocolate bar to support his soccer program.

I think that until we can create some sort of controls and measures that clearly eliminate misbehaviour, big-ticket items and significant contracts that bind people should be eliminated. I think that smaller deals that are open-ended with no contractual obligations make sense. If I want to buy fish from the guy who comes into my neighbourhood and wants to sell me some fish, it's my decision at that point in time, but on these big, large binding contracts, we should have some control over them.

Did you want to add anything?

Mr. Jack Cook: No, I think that's right. To your earlier question on the types of tactics: Normally, the complaints that we see are about who is being repre-

sented, whether it's a government or a utility that someone claims to be associated with, and what the nature of the transaction is. It's not so much the terms of the deal; it's just the fact that they're getting into a deal, a rental of equipment, in the first place. People don't understand that, and I think that's the focus that this ought to have.

Mr. Jagmeet Singh: Fair enough. Thank you very much for your comments.

Mr. Sean O'Brien: And will you buy my kid's chocolate bar?

Mr. Jagmeet Singh: I would definitely do that.

Mr. Sean O'Brien: Perfect. Thank you very much.

The Chair (Mr. Peter Tabuns): We'll go to the government. Ms. Vernile? Oh, no, Mr. Baker.

Ms. Daiene Vernile: Oh, no. I was signing up for the chocolate.

The Chair (Mr. Peter Tabuns): Oh, I see.

Mr. Yvan Baker: I'll sign up for chocolate.

Mr. Sean O'Brien: Perfect.

Mr. Yvan Baker: Thank you very much, gentlemen, for coming in. I know we've spoken in the past when I introduced my private member's bill on the issue of door-to-door sales, so thank you. It's good to see you again.

I wanted to just follow up on your recommendation. I'm reading from the transcript of your testimony that you provided, where you say that you recommend that a section be "replaced with a more general ability for regulations to specify the requirements of a customer invitation or even other exceptions to in-home sales." Then, in your other submission, you provide an example from the Alberta regulation, which you provide as an example of the kind of regulation I presume you'd like to see. Would you support this Alberta regulation if it was the one that was part of this bill?

Mr. Jack Cook: Yes, we would. When Alberta was consulting with industry, we did support the requirements that they set out.

The key, we think, is that everyone is referring to this as a door-to-door ban, but the words "door-to-door" don't appear in the bill. The difficulty is that we use terms from the Consumer Protection Act about a direct agreement. All door-to-door agreements are direct agreements, but not all direct agreements are door-to-door transactions.

We just want to ensure that other legitimate business activity would still be permitted, because the reality is that, as heinous as the behaviour of misleading door-to-door sales agents is, it is a very small proportion of the overall industry activity that does transact at people's kitchen tables, and that's what we want to ensure isn't affected here.

Mr. Yvan Baker: I appreciate that. In the regulation you've brought forward, the key component of the exhibit that I see in the Alberta regulation is subsection 3, where it talks about a specific way in which a consumer must invite the business for that to be considered what you called a solicited sale or a legal sale. Just for the sake of those who are listening:

"(3) An invitation by a customer must be...

"(b) made

"(i) by phone, email, text ... or

"(ii) through the direct selling business's normal place of business..."

Is this because this provides a paper trail? Why do you support subsection 3?

Mr. Jack Cook: I think the key to the Alberta regulation is that it still allows for two-way communication between suppliers and consumers in a way that the consumers expect. It provides limits around the parameters by which they invite suppliers into the home, but it allows for a two-way discussion to lead to that invitation, as opposed to a one-way consumer-initiated invitation which we think would be a largely problematic element to the current bill.

Mr. Yvan Baker: When you say "a one-way invitation," can you give an example of what that could be?

Mr. Jack Cook: You heard from a previous speaker that there are instances where you might have repair people in-home, and transactions result from repair visits. The invitation into the home for the purposes of the repair visit should be sufficient. However, it may not necessarily be expressly for the purpose of the direct agreement, and therein the problem lies.

It would be any invitation into the home, in our minds, but not one that is obtained through an unsolicited door-to-door contact. You can't knock on the door and obtain the invitation that way.

Mr. Yvan Baker: Right.

How much time do I have? About a minute?

The Chair (Mr. Peter Tabuns): Yes, about a minute.

Mr. Yvan Baker: Just to clarify what you just said, what I hear you saying is that you want the regulations to be able to allow the consumer to invite the business into their home for purpose A—let's call it, say, a repair—and if they've done that, you see that as adequate to make the sale legal, should there be a sale that follows up from that. Am I hearing you correctly?

Mr. Jack Cook: I think that's right. I wouldn't want to say that's the only circumstance. The concern we have with the bill is that there are a lot of unknowns right now in terms of the products and services it would cover, in terms of even the places of business that could be prescribed to which this prohibition would affect. So the scope is something that would be hashed out through a regulatory process. I think our comment is, if the scope can expand, we also ought to have the flexibility to ensure it can be targeted as well to make sure it's right, both in terms of the suppliers and what the consumers' needs are.

The Chair (Mr. Peter Tabuns): With that, I'm sorry to say you're out of time with this questioner.

We go to the official opposition: Mr. Walker.

Mr. Bill Walker: I'm relatively new to the committee, so I'm getting up to speed. I hope I'm not going to ask you things that have already been said in here.

A couple of different things—and if you want to add anything to that last question, that's kind of where my head's at. When I see flexibility, the concern I have is then how challenging does the bureaucracy and the

ministry have to be, because if it's not black and white, then people drive buses through it.

The other side is that whole piece of putting the list together right up front and having it be black and white. I heard reference to Alberta. I believe what you're saying is, that's a good piece of legislation and you would be quite comfortable with that type of legislation.

But can you just expand a little bit more on the flexibility side? I think what I hear you saying is that there are certain industries, certain portions of the industry, certain ways to be able to get into the house that you want to be able to do, that may not be a cold-call knock on the door, but on the other hand, there may be situations where people almost need that. So can you share with me a little bit more detail there?

Mr. Sean O'Brien: Can I just give an example, and let me know if I jump off?

Mr. Jack Cook: Yes, absolutely.

Mr. Bill Walker: And I'll buy the chocolate bar as well.

Mr. Sean O'Brien: Awesome. This is great. I wish my kid was selling them.

I get called to your house, you're my customer and your furnace is red-tagged. We test it: carbon monoxide, through the roof. Based on the way the language is written, and it's implied, I'd have to leave—you're freezing cold; you've used me for 30 years, you trust me and you love Reliance—and wait for you then to call me back into your home to take care of you. It's just sort of—

Mr. Bill Walker: Semantics.

Mr. Sean O'Brien: Yes. It's nonsensical, right? Versus, in that example, we're in there, you've invited us, and we have a relationship, so that should imply that I've been invited into the home.

Mr. Bill Walker: Absolutely. From a rural community where I'm from, most of it is through word of mouth, and you do typically deal with a very small select group of suppliers that you've dealt with forever. I can't fathom having to tell my buddy Bob to leave and I'll call him back in a day to come back into my house when he has serviced me for 30 years. That's exactly the type of clarity.

The other thing that you said was the unknowns. I think what I'm hearing you say again is that legislation has been put on the table, but really there's not a lot of clarity at this point of what it really means and who is really going to be covered by it.

I use an example: I got a call on the weekend actually from an aeration company. They were in my neighbourhood last year and they banged on the door. Frankly, they did a great job. They called me up now and said they want to come back. It was a good service. It was from out of my community. It wasn't available in my community, so it was a good door-to-door. Now, like anything, there could have been guys who didn't do a good job and could have tried to sell me a bill of goods. Absolutely, to get to committee, make sure we have all of that.

1730

I think that the key requirement of any legislation is being as clear and concise as possible, so when I see that word "flexibility," I've just got to be careful because it can be a double-edged sword to some degree, but I think I'm getting the context.

The other is, I think the presenter prior that I was here for talked a bit more about the whole rigorous enforcement. Can you just give me a quick 30 seconds of what you believe is a good level of enforcement? Because even with existing legislation, there are some things that should be there and they shouldn't be able to be challenged. If it's the law, it's the law. Are you consistent with the last presenter in saying it's not rigorous enough?

Mr. Jack Cook: We actually support the remedies that are set out in Bill 59.

Mr. Bill Walker: As existing?

Mr. Jack Cook: As existing. It would provide for a high degree of cost recovery in terms of rendering the goods, whatever they may be, even when prescribed—they would be considered unsolicited goods and allow for cost recovery by the consumer.

There's also a provision that seems to be a bit of a holdover from Bill 55, the previous measures that were put in place for water heaters, that would contemplate, particularly in a situation in which there's an existing relationship with a prior rental company—for instance, where the consumer faces significant penalties because of the removal, or significant costs related to the removal of old equipment—the consumer would also specifically have the ability to recover those costs from the new supplier as well. So there's a high degree of cost recovery—

Mr. Bill Walker: An example, if I can just ask for clarity, something like the furnace doesn't get installed or there's a delay for three days—again, freezing temperatures and the pipes burst. Now you've got a \$5,000 issue in your house. Do you interpret the current legislation as saying they would also be compensated for those types of loss recovery associated with that type of fraudulent practice? And is it 100%?

Mr. Jack Cook: I don't interpret it that way now. I interpret it more in the context of costs paid to suppliers as opposed to—

The Chair (Mr. Peter Tabuns): I'm sorry to say, with that, you're out of time. Thank you very much, Mr. Walker.

Gentlemen, thank you for your presentation today. We appreciate it.

Mr. Sean O'Brien: Thank you.

Mr. Jack Cook: Thank you.

NATIONAL HOME INSPECTOR CERTIFICATION COUNCIL

The Chair (Mr. Peter Tabuns): Our last presenter is the National Home Inspector Certification Council: Mr. Claude Lawrenson.

Mr. Lawrenson, as you probably heard, you have up to five minutes to present, and then there will be questions of up to five minutes from each party. The Clerk will come to see you to get those reports; he's right there. If you would introduce yourself for Hansard, and please proceed.

Mr. Claude Lawrenson: First off, thank you and greetings. My name is Claude Lawrenson and I represent the National Home Inspector Certification Council. I serve as president. I'm a retired college professor. My other job is a credentialing specialist.

The NHICC is a national, not-for-profit home inspector or certification entity and not a home inspection association. Our primary focus is based on ISO, which is the international standards organization's certification standards. We use this to administer recognition of what we call our national certification program, which meets the regulations for home inspectors—I'll talk about that in a moment—offering certification mobility from coast to coast. Currently, our certificate holders are recognized for licensing in both BC and Alberta. Additionally, we maintain membership in the Institute for Credentialing Excellence.

We would like to offer several key points for your consideration. One, the question regarding the exemption of architects and engineers requires reconsideration. Although traditionally professional in their respective fields, they have not been formally educated or trained in the practical skills of home inspection. That's not to say that they can't do it; it's just that they haven't been trained to do it.

Furthermore, there are many subdisciplines within the engineering field itself that have no relevance to home inspection; for example, chemical engineering.

Let's talk about a second point here: associations. Although there are many associations recognized within the province of Ontario, putting politics aside, we encourage that decades of wealth and knowledge. As an example, I have been a home inspector, and also a college professor, but I started home inspections in 1988, so over 30 years. Most of that was part-time and, of course, during summer months off, full-time. That's just to kind of give you some of my background and what is actually happening out in the field.

What we're really saying here about the associations—I think all associations have some wealth of knowledge that really can help a designated—yes, designated administrative authority. Tongue twister there; sorry. Why can't we tap into that expertise, or at least think about tapping into that expertise, such as an advisory committee to help the DAA on that side of the issue?

Education and training, a third point here: Education and training we heard earlier about from, I believe, Mr. Carson. It really is a necessary base for home inspection training, and also for the practical skills that are required to perform in the field. Aside from colleges, though, there are other viable training opportunities available: private career colleges, private trainers. I know of a

number that are really well put together beyond just the college system. Home inspectors should be free to choose other acceptable means of getting training.

One of the large contentions we see from home inspectors in general is that the cost of college training is not really reasonable for some people. I think as long as the training fulfills the learning outcomes required of the profession, we really should take a closer look at training.

Conflicts of interest, the fourth point here: The relationship we've heard before between realtors and home inspectors requires clearer delineation to regulate a number of conflicts of interest to help protect consumers. Examples include what we call preferred vendors and lack of disclosure. What happens is, this really puts a consumer at a disadvantage.

The DAA: One of the big issues—I sat on the panel—affordability and sustainability—

The Chair (Mr. Peter Tabuns): Mr. Lawrenson, I'm sorry to say, your five minutes are up.

Mr. Claude Lawrenson: Oh, boy. Thank you.

The Chair (Mr. Peter Tabuns): It goes fast when you're having a good time.

Mr. Claude Lawrenson: Yes.

The Chair (Mr. Peter Tabuns): We go to the government: Ms. Vernile.

Ms. Daiene Vernile: Do you know what I'd like to do? Because it seems like you're not done there, do you want to keep going and we can use our time to let you finish up there?

Mr. Claude Lawrenson: Okay. I started on the DAA. Affordability and sustainability I believe are two large issues that could be a negative impact on the bill. The reason I say that—the actual licensing numbers that were presented at the time of the panel report were in the estimate of 1,500 home inspectors in the province of Ontario. The estimated cost for the DAA was \$1.5 million, if it's a self-funded model. It could be more; it could be less. One of the concerns I have is that that's \$1,000 per licence. We've been talking maybe \$500, \$750—\$1,000.

Let's couple that with the current marketplace in real estate, the bidding wars, the lack of home inspections, being waived out of the opportunity to help protect consumers. I see that as not only sort of a negative factor for the consumer, but it also has a major impact on the home inspection profession itself.

We believe that that number of 1,500 is almost more like half. The problem is, we have to take into consideration part-time. We also have to take into consideration those who are losing business, and there is a lot of feedback we're getting on our renewals indicating such. The business model may not be there anymore. That's my concern.

I've got other points, but I think I don't want to belabour those at this point—because I don't want to.

Ms. Daiene Vernile: Okay, good. You've left me a little bit of time to ask you some questions. I want to touch on training. You talked about how not everybody has the wherewithal or the finances, say, to go to college

to take one of these courses. How long should they train for, how rigorous should that course be, and at what cost?

Mr. Claude Lawrenson: I guess I could use my own college as an example. I taught at St. Clair College in the architecture program. For a number of years, I and the department proposed a home inspection program. Many of the colleges do carry it, but it was developed by one developer. That could be a good thing, but it also creates an environment which sort of eliminates the other competition that is actually out there, so I have a concern in that area. That's why I say we have to sometimes look beyond the colleges.

1740

Affordability: Probably the average course that they were talking about would be in a range of, say, \$400 to \$500. There are courses available for \$100 to \$200 outside of the college. I'm not saying it's a bad environment. You have to look at also the economics of affordability.

A home inspector could easily invest \$20,000 before getting that first home inspection.

Ms. Daiene Vernile: We just have a little bit of time left. I do want to mention, though, because you got right into your presentation, and I think you're being very modest. You're a nationally certified home inspector. You operated a business in Windsor-Essex for many years. You're a founding member of the Ontario Association of Home Inspectors. You're an expert witness on newly constructed homes. You teach at the college level. You're a member of the expert panel that provided advice to the government in 2013. So I thank you very much for being here today and sharing all of your knowledge with us.

Mr. Claude Lawrenson: Thank you very much for the compliment.

The Chair (Mr. Peter Tabuns): We go to the official opposition: Mr. Walker.

Mr. Bill Walker: Thank you for being here. You used the example of the waiving of an inspection in the case of a bidding war. One of my questions there is, that's almost a "buyer beware." If you're willing to do that, then is it really the place of government to say you can't do that and to be overly rigid? I'm not saying I'm on one side of that, but it's one thing that I've certainly been asked in my constituency. Any thoughts on that?

Mr. Claude Lawrenson: I guess if we want to truly look at consumer protection in a home inspection, there should be a home inspection at some point in the process.

We heard earlier from one of the other presenters, maybe from the seller's point of view at the beginning. That is possible, but again, it depends on a lot of different circumstances. There are some negative aspects to also the up front, because is the seller going to disclose all defects? That's the biggest question.

If you have an unbiased third party come in at the end, representing the purchaser, I think it's to protect the purchaser. I'm not going to say, "Let's not protect the seller."

Mr. Bill Walker: Yes, I'm not suggesting not to do it. I'm just saying that it's interesting that if it's truly

consumer protection and I tell you I don't want to do that and I'm willing to waive it, I'm just curious about what our role really is. You've had the opportunity to have protection and you've declined it, so at that point, I think you just drive on and we don't get caught up in the pedantics of being overly rigid in enforcing that.

I think many of the banks, industry-wise, now are starting to make a home inspection mandatory, at least for a new mortgage. That is almost starting to self-drive, in many cases, as a requirement.

Mr. Claude Lawrenson: Yes. It's kind of interesting. I've done a lot of home inspections for, basically, appraisers and, again, probably bank money protection, to some degree. Unfortunately, that's not always the case.

I don't think the banks have really bought into home inspection totally, or enough at this point. To me, that's protecting their investment.

It's kind of a mixed bag, because there's no easy answer here. Certainly, there are a lot of different paths to follow in trying to say what's the best of licensing.

Mr. Bill Walker: Absolutely. The other piece I think you were talking about, then—and tell me if I'm wrong, but here's how I was interpreting it—was more of the regulation of the industry, to make sure people are properly qualified and you're getting truly someone who knows the business, as opposed to, I can print out a business card and say I'm a home inspector, and, really, there's not a lot of value there. I've had situations where people have come through the door on that concern, in my constituency.

Mr. Claude Lawrenson: Yes, I would agree. If I look at my own market—I'm from Windsor; Essex county—there are probably 40 home inspectors. I think the market could maybe sustain 20. So you have to question the amount of home inspectors in the market but also their qualifications.

Mr. Bill Walker: Sure.

Mr. Claude Lawrenson: More often, the consumers were more concerned about, "Do you have insurance? And how much is it going to cost? Why can't I get a better deal from you? Because somebody's only going to charge me \$199, not \$399."

Again, it comes from different perspectives.

Mr. Bill Walker: Absolutely. I mean, a house is typically your biggest investment, so I can't fathom that if you had the opportunity to have a home inspection, you would ever not do it. As an individual, I certainly wouldn't be turning that down. But I do get caught up in over-regulating and saying "you must."

The other one that has certainly been raised is, when they were talking in a slightly different manner, particularly in a rural area like mine, with a lot of the old century homes, coming in more from an energy audit, if you will—to make that fully comply to today's standards makes it almost unsellable for many of those old homes, because there are just huge dollar values to replace everything from day one.

Mr. Claude Lawrenson: Plus the cost.

Mr. Bill Walker: There was concern big-time, more from the realtors, saying that this is going to really put it

in jeopardy if you make this too significant. Again, not that the principle isn't agreed to by everybody, but the cost to take one of those old century farmhouses is very, very challenging. Your job is to come in and point out the deficiencies, but to say "you shall remedy all of those" is a whole different reality, because I should be able to choose if I want to bring that home up to standard, to whatever standard.

Mr. Claude Lawrenson: Yes.

Mr. Bill Walker: So we're on the same page.

Mr. Claude Lawrenson: Definitely.

Mr. Bill Walker: Thank you.

The Chair (Mr. Peter Tabuns): Okay. Thank you, Mr. Walker. Mr. Singh?

Mr. Jagmeet Singh: Thank you. The benefit of being last in the lineup is that most of my colleagues have asked all the questions I considered asking, so thank you so much for your time here.

Mr. Claude Lawrenson: Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Lawrenson.

Mr. Claude Lawrenson: Thank you very much.

The Chair (Mr. Peter Tabuns): Members of the committee: I understand, Ms. Vernile, that you have a motion you want to bring forward.

Ms. Daiene Vernile: Thank you, Chair. I move that the amendments to Bill 59 be now filed with the Clerk of the Committee by 12 noon on Friday, March 3, 2017.

The Chair (Mr. Peter Tabuns): Is there any discussion? Are you ready to vote? All those in favour? Opposed. It's passed. Thank you.

Members of the committee, you just passed a motion. Noon on Friday is when you have to have your amendments in, and then we will reconvene on Monday, March 6, at 2 p.m. in this room. This committee is adjourned.

The committee adjourned at 1746.

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