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Monday 15 May 2006

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Lundi 15 mai 2006

**Standing committee on
general government**

Stronger City of Toronto
for a Stronger Ontario Act, 2006

**Comité permanent des
affaires gouvernementales**

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

Chair: Linda Jeffrey
Clerk: Susan Sourial

Présidente : Linda Jeffrey
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Monday 15 May 2006

Lundi 15 mai 2006

The committee met at 1553 in room 151.

**STRONGER CITY OF TORONTO
FOR A STRONGER ONTARIO ACT, 2006
LOI DE 2006 CRÉANT
UN TORONTO PLUS FORT
POUR UN ONTARIO PLUS FORT**

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

The Chair (Mrs. Linda Jeffrey): Good afternoon. The standing committee on general government is called to order. We're here today for clause-by-clause consideration of Bill 53, the Stronger City of Toronto for a Stronger Ontario Act, 2006.

We have a lot of material to cover today, and as this bill is composed of three sections and three schedules, we need unanimous consent to stand down the three sections in order to consider the schedules first. Do we have agreement on that?

Mr. Peter Tabuns (Toronto–Danforth): I don't understand it. Sorry.

The Chair: Maybe I can get the clerk to explain. It's probably easier.

The Clerk of the Committee (Ms. Susan Sourial): The bill is composed of three sections and then three schedules. If the sections passed and the schedules didn't, it would affect the sections. We need to deal with the schedules first and then go back to deal with the sections.

Mr. Tabuns: I see. In other words, we're going—

The Chair: It's the way it's printed in the bill. We're just doing the business of the bill first and then we'd come back.

Mr. Tabuns: Fine.

The Chair: So you will still get to vote on it. It's just the order of how we vote.

Mr. Tabuns: Okay.

Mr. Brad Duguid (Scarborough Centre): We don't know what it means, either.

The Chair: It's the way things are printed, I think.

Mr. Tabuns: Fine.

The Chair: Are there any comments, questions or amendments to the bill and, if so, to which schedules and which sections? If there are none, we'd move on to work on schedule A. So we'll stand down the first three sections. Is there agreement on that?

Would you like me to go over it again, Mr. Hardeman?

Mr. Ernie Hardeman (Oxford): Yes, if you would, Madam Chair.

The Chair: This bill is composed of three sections and three schedules. We need unanimous consent to stand down the three sections in order to consider the schedules, so that we can do the business and then we'll come back to the sections.

Mr. Hardeman: Can I get some clarification as to what the intent is here?

The Chair: I'll get the clerk to explain it again.

Mr. Hardeman: Thank you.

Ms. Laura Hopkins: Members, I can probably help using the bill itself as a visual aid. If you flip to the end of the explanatory note, which is about eight pages in—the page numbers for the explanatory note are i, ii, iii—you'll see the first page of the bill proper. The first page of the bill proper has a short table of contents, and the first section is labelled Contents of the Act. I'm just wanting to make sure that everybody's looking at the same page of the document.

What is proposed is this: We skip the first page of the bill, skip the second page of the bill, which has section 3 on it, and begin debate with schedule A to the bill. Schedule A itself begins with a table of contents that's several pages long. You'll know that you're in schedule A if you find a table of contents that appears to be about 10 pages long. So we move to page 14. Once we're on page 14, we're inside schedule A, and schedule A contains the proposed new City of Toronto Act. The structure of the bill is quite confusing. It's the nature of the beast.

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell): So we are going to page 14, which is part I?

Ms. Hopkins: I understand that's the proposal, yes. We'd be starting with section 1 of schedule A, which appears on page 14, part I, Interpretation.

Mr. Lalonde: Okay.

The Chair: Is everybody clear? Any comments or questions?

Seeing none, we're going to move on to schedule A, part I, section 1. On sections 1, 2, 3, 4 and 5 there are no amendments. Is there any debate on sections 1 to 5 of schedule A? Mr. Tabuns.

Mr. Tabuns: Well, in fact, I do have an amendment on page 1 of the package of amendments.

Mr. Duguid: Section 6.

The Chair: We're not at that point.

Mr. Tabuns: Okay. My apologies, Chair. I'm still finding my way through.

The Chair: Don't worry. If you could see the pile of papers I have here, I completely understand your confusion. There's a lot of material to cover.

So on sections 1 to 5 we have no amendments. Shall schedule A, sections 1 to 5, carry? All those in favour? That's carried.

Part II, General Powers of the City, section 6. Mr. Tabuns.

Mr. Tabuns: I move that section 6 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following subsection:

"Same

"(1.1) Limits of the powers of the city under this or any other act shall be strictly construed."

The Chair: Any comments or questions? Mr. Tabuns, do you want to talk about this motion?

Mr. Tabuns: It's simply saying that we don't want to put unnecessary restrictions on the city of Toronto. It seems to be the intent of this bill to expand the powers of the city of Toronto. We don't want to have limitations on the city strictly construed.

Mr. Duguid: "Strictly construed" can be interpreted in a lot of different ways. We're looking at this and we think the powers of the city already will be interpreted broadly with the way the section is now and are a little concerned that any added restrictions with wording that we're not quite sure what it means could impact on our ability to protect the provincial interest in the end. So we will not be supporting this motion.

1600

Mr. Hardeman: I disagree with the amendment. As I read section 6 now, in fact, it states that "The powers of the city under this or any other act shall be interpreted broadly so as to confer broad authority on the city...." As a legal document, if you go beyond that "broadly" and then infer that the limits of the city shall be "strictly construed," I think it goes one step further. I don't think anyone judging as to whether the powers were there or not—putting both in place I think would be like the Ombudsman suggested about a David and Goliath type of arbitration, as to whether the constituent or the taxpayer or the city was right or wrong on an issue. When you emphasize the broadness of it and the unrestrictedness of the piece of legislation, I think this goes a little further than one should go. Remember that in the presentations we had, if there were concerns expressed about the act, almost exclusively the concerns were based on the city going further than anyone was envisioning they were going. So I would have problems with saying that's what we now agree they should be doing, taking

the other side of the issue every time, the more permissive side of any authority they were given. So I can't support this motion either.

The Chair: Any further comments or questions?

Shall the amendment carry? All those in favour? All those opposed? That's lost.

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

There are no amendments for section 7.

Shall section 7 carry? All those in favour? All those opposed? That's carried.

Section 8: Mr. Hardeman.

Mr. Hardeman: I move that section 8 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following subsection after subsection (3):

"Public hearings re taxes, fees and charges

"(3.1) The city shall not pass a bylaw to establish or increase a tax, fee or charge under this or any other act unless the city gives notice to the public of the proposed bylaw and holds public hearings in respect of it."

The Chair: Any comments or discussion?

Mr. Hardeman: I think it came out in quite a number of the presentations that in fact the extra powers required for accountability purposes should require the city to make sure that the public was informed and that it was explained to the taxpayers of the city why a tax was being put in place and why a bylaw was being passed, so everyone would be informed so they wouldn't just wake up one morning and have it happen. This is already required under the Municipal Act. We think it's appropriate that for accountability purposes the city of Toronto would meet the same requirements as it relates not between the province and the city but between the city and the people they govern.

Mr. Duguid: We will not be supporting this motion, for a number of reasons. The first is that the city already has the obligation under this act to notify the public, provide notice. The question is, how should they provide that notice? Our view is that the city is mature enough and responsible enough and accountable enough to their people to put in place a process that is fair and transparent. So we believe that will be sufficient.

Secondly, I can't help but think that this is so much of the mentality that would have made municipalities have to bring forward referendums whenever they had to raise taxes. It's a tough decision for municipal politicians to raise taxes. I think the accountability should be in the electoral process. We're absolutely confident that the city of Toronto will be accountable for whatever they do. They'll share that with the public. They'll share that information. You can rest assured that it would be virtually impossible for the city of Toronto to impose new taxes without the public having ample opportunity to engage in discussions on it and without the public being fully notified. That just would not happen with the scrutiny of the media in this city. As I said, there's already a provision that would require official notice anyway. We just feel that this is way too prescriptive to go any further than what we've done.

Mr. Hardeman: Contrary to the parliamentary assistant's comments, I think we had many presentations where people did not have the confidence that the parliamentary assistant has that the city will not pass on tax increases without due notice, without proper notice to their constituents. It was pointed out numerous times that the people in Toronto were really concerned that this could happen. In my opinion, if the city deems it appropriate to give proper and adequate notice, this will not be an impediment to that. This will encourage that to happen.

I don't know how you could give proper notice without providing the opportunity for the public to be heard on the issue. That's really all this is: You must have a meeting where the public can be heard on the need for changing and adding new taxes. This isn't for the budget, that they must have a meeting to pass a budget increase, as the parliamentary assistant was implying; this is if they want to put in a new tax. We will be dealing with it later on in the bill with the land transfer tax. If they decide that they're going to include the land transfer tax, and hopefully they won't be able to, but if they can, we think it's appropriate that the people of the city of Toronto have an opportunity to appear before the people who are going to impose this new tax and be heard on the issue. The mayor told us quite clearly that he would not be interested in imposing a tax that was going to be harmful to the sector on which he was imposing the tax. I don't know how he would know that if he wasn't prepared to hold a meeting so the public could be heard on the issue.

I see absolutely no detriment to this. I think it would be of great assistance to the people of Toronto to know that before these things were going to happen, their city council had to ask them—tell them first what was going to happen; not ask them, but tell them why they were doing it and what they were doing.

Mr. Duguid: Just to be clear, the procedural bylaws for the city of Toronto are such that such decisions are made at committees where the public are invited to make deputations. I can think of no circumstance where the public would not have ample opportunity to depute and have their views heard and where any decision regarding a new tax would be made without a great deal of public scrutiny. I think the idea of telling them that they have to go out and do public hearings is excessive. They may choose to consult with their public in another way, but as a mature level of government, my view is that they should be given the alternative to determine what the appropriate level of consultation is, provided they provide public notice, which is what we're demanding be done within the act.

Mr. Tabuns: I just wanted to say that—I'm sure Mr. Duguid could speak to this as well—my experience on city council, and anyone's who sat on a municipal council, is that when you change fees, taxes etc., it happens during the budget process. There's an awful lot of public scrutiny at that time, and anyone who tried to change fees etc. outside of the budget process would invite a huge amount of hue and cry. I would say this is redundant and overly prescriptive.

Mr. Hardeman: Having sat on municipal council for 14 years, I can tell you that I am aware of what's required in a public meeting and what's not required to have a public meeting for. As both the parliamentary assistant and the member of the third party pointed out, there were already committee hearings being held through the committee process at city council, so this is not needed. The truth is that this legislation doesn't say there have to be special public meetings for that purpose, as long as that purpose is part of the hearing. Under this amendment, it would include, if it's being done at committee, that that was a public hearing on the issue and they could use that for it.

I would point out that this clause is presently in the Municipal Act, and the debate took place when that was put in the Municipal Act as to whether it should always be done at budget time and be part of those budget hearings. The reason this was added is so the municipalities could have these changes and tax increases totally apart from the budget by just holding and informing the public of that happening. That's why it was needed. But under this regulation, or this amendment, holding the budget meetings, noting that that was part of the budget, would include and be the public hearings that we're talking about. This is just to make sure that we can't not include them in our budget process, and then on June 1, when everybody's out of the city, impose land transfer taxes that no one knew about. This prohibits the city from doing that. If they have no intention of doing that, this will never be needed, but if they do, then there's protection in there for the citizens—again, not for the province, but for the citizens—of Toronto to be heard by their city council before this happens.

1610

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

Mr. Hardeman: Can I have a recorded vote on that, Madam Chair?

Ayes

Hardeman.

Nays

Brownell, Duguid, Lalonde, McNeely, Rinaldi, Tabuns.

The Chair: That's lost.

The next motion: Mr. Tabuns.

Mr. Tabuns: I move that clause (a) of the definition of "local board (restricted definition)" in subsection 8(6) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out.

I think this is a housekeeping motion, more than anything else, requested by the city. It deletes reference to a society under the Child and Family Services Act, since these societies are not local boards of the city.

The Chair: Any further debate?

Mr. Duguid: There will be an ongoing theme through a few of the sections that we go through regarding what is and what is not a local board. There are issues surrounding it. I think there are some interesting discussions that can be had on some of these issues as to what should be considered a local board and what shouldn't be, and as we move forward through this legislation, what boards the city should have the ability to delegate and not delegate to and so on. It is a little more than an administrative amendment, because it does have implications as to what boards down the road in the legislation can be delegated to. We're not prepared at this point to move beyond where we're at, but that doesn't mean, when the two-year review comes up, that this wouldn't be an issue, at that point in time, that we might want to take a closer look at and, in consultation with the city, perhaps move a little further along.

Mr. Tabuns: Just out of curiosity, then, are you suggesting that societies set up under the Child and Family Services Act might be moved into the jurisdiction of the city of Toronto?

Mr. Duguid: No.

Mr. Tabuns: So if they aren't under the jurisdiction of the city of Toronto and you don't plan to move them under the jurisdiction of the city of Toronto, why would they be counted as local boards? They don't report to council, they don't have their boards appointed by council, they exist as separate entities. I understand that they are entities that the province has responsibility for, not the city. Is that not correct?

Mr. Duguid: There are a series of boards that probably merit a look at in terms of where they should apply and where they shouldn't—police services boards—and there is provincial interest in some of these. It's a case of trying to figure out where all of them land. We're not in a position where we've determined that we can go any further at this point. We think there's probably some time for some further discussion on some of these matters.

I'm not saying that we're necessarily opposed to this. We're not in the mindset yet where we're sure we can approve it without some unintended consequences potentially occurring. We want to take a closer look at it. I think the two-year review would be a perfect opportunity for us to do that, and then move forward. So at this point in time, we can't support it, not because we think it's necessarily a bad motion. We're just not fully prepared yet or sure that it's the right thing to do.

Mr. Tabuns: I understand your argument.

Mr. Hardeman: I understood the motion right up until the time the discussion started, and then I got confused.

To the clerk: What is it that we're debating to take out? Is it to make the definition broader so more boards apply, or is the intent of the motion to reduce the number of areas that this section will cover? The definition of "local board (restricted definition)" means a local board other than—so all the ones listed are the ones that are restricted now. Is that right?

Ms. Hopkins: Currently, the definition of "local board (restricted definition)" would exclude the societies that are described in clause (a). Deleting clause (a) would appear to move those societies into the definition of "local board (restricted definition)." So it would appear to characterize them as local boards.

It may be that it would be more helpful for you if we were to ask for the expertise of ministry staff on this point. I believe it's more complicated in law than what I've just represented to you.

Mr. Hardeman: To go to the mover of the motion, if we could, Madam Chair, is the amendment intended to include the societies defined under the Child and Family Services Act or to exclude them?

Mr. Tabuns: It is intended to exclude them because they are not local boards of the city. The city doesn't appoint their boards of directors, the city doesn't fund them, the city doesn't control them. They don't report to the city.

A board of health is a different animal. A board of health is integrated into the city of Toronto decision-making machinery. It's easy enough to understand, why it would be considered a local board of the city of Toronto. The Children's Aid Society of Toronto is another matter.

Mr. Hardeman: To the mover of the motion, the way I read the act presently, "local board" means a local board other than a society as defined under subsection 3(1) of the Child and Family Services Act, a board of health. So neither the society, under the Child and Family Services Act, nor the board of health is included in "local boards." I'm not sure—

The Chair: Mr. Lalonde has a question. Maybe he can be helpful.

Mr. Duguid: Could I—

The Chair: Can I recognize my speakers' list first? Mr. Lalonde, and then I will come to you.

Mr. Lalonde: Definitely, when I look at clause 8(6)(a), does that mean that Mr. Tabuns would like the city of Toronto to have full responsibility of children and family services, according to the amendment that is submitted? At the present time, the city of Toronto will not have a say in the Child and Family Services Act.

Mr. Tabuns: I understand the question you're asking. I relied on the recommendation of the city of Toronto, whose interpretation was that the wording here brought the Child and Family Services Act entities under the control of the city of Toronto; considered them as local boards. Until I've looked at it a bit further, that still seems to be my interpretation of it. They're trying to ensure that local boards—like a police services board or a public library board, which in fact is integrated into the structure of the city of Toronto—remain counted as local boards.

Mr. Lalonde: That excludes those: "other than". It's clear.

Mr. Tabuns: By your interpretation, the Toronto Public Library Board, which is a local board of the city of Toronto, funded by the city—the board is appointed

by the city; it reports to the city. I can't imagine that that is excluded as a local board.

The Chair: Mr. Duguid.

Mr. Duguid: Later in the bill, as we go through, we'll see motions that deal with things like passing down or delegating of powers to local boards. I'm trying to think of some of the other things—I can't off the top of my head—but we'll see these things as we go through the bill. The problem is, many of these boards are dealt with through other legislation which is province-wide legislation, including the Public Libraries Act and things like that. Many of them have provincial representation on them as well, so there are conflicts with some of these.

1620

As I said, the intent of the motion may be reasonable, but we need a fuller discussion of the impact of these sorts of special boards that have some provincial interests and some complexities. Our preference now, and what we're recommending, is to take a look at this maybe at the two-year review time. There's a lot in this bill. There's a lot for the city to deal with, I'm sure, in the next 24 months after this bill is passed; these particular boards will not in any way be impacted.

It also applies to something like, for instance, where the Ombudsman can investigate these boards. Some of these boards have provincial legislation that provides for investigative types of procedures where an Ombudsman would be able to investigate or things like that.

At this point in time, we're not prepared to change the definition until we've had a fuller discussion and fuller consideration of the implications of doing so.

Mr. Hardeman: My suggestion is that we take the advice of the legal branch and hear from the ministry folks. I agree with the parliamentary assistant, save and except that he's speaking to why we should vote against the motion. I need to know why we should support the motion. I need to know what the suggestion is actually suggesting be done. I think that matters. As we go through the rest of the bill, it will have some impact on how we look at some of the other issues in the bill.

The Chair: Are there ministry staff here who could come up and help provide some clarification on this amendment? Could you identify yourself, please?

Mr. Scott Gray: My name is Scott Gray. I work with the legal branch at the Ministry of Municipal Affairs.

This request, as I understand from the city of Toronto—in their minds, it's very clear that a children's aid society is not a local board. I think there's no need to say in the piece of legislation that it's not a local board, so you just get rid of it because it's so clear. Historically, they have been local boards, and for certain purposes they have been local boards, and the ministry responsible for CASs would prefer to leave it in place. They're concerned that there is a possibility that, in some way, for some circumstances, they might be considered local boards and, at this point in time, they don't want that removed.

My understanding from Toronto is that they accept the fact they are not local boards. They don't have jurisdiction over them and they don't want jurisdiction over

them. This achieves that purpose. They just feel they're redundant words in the legislation that they'd like to be rid of.

Mr. Tabuns: Maybe it's because I don't have legal training—I'll plead that for a little while—but as I read the definition of "local board," which includes a board of health and a police services board, and then I go to the section that talks about excluding boards of health and police services boards, I find it unclear. Better minds than mine may well be able to find the clarity in all of this.

I will let my motion from the city of Toronto stand. I understand from Mr. Duguid that the government won't support that. Fair enough.

Mr. Hardeman: Just a final question, and maybe the ministry would be the most appropriate to answer it. This definition section is referred to here, but if you took it out of here would it have any implications in the rest of the act, or just this section?

Mr. Gray: There's a variety of definitions of "local board" and different provisions. What this is saying, in this section, is that we give the city great big, broad, new powers and they can't exercise that with respect to the children's aid society. That's what that's saying.

There are other sections—for instance, the municipal auditor has a responsibility to audit local boards. In that circumstance, you don't have a restricted definition, so it includes, for instance, library boards. It wouldn't include the children's aid society but it would include library boards. So for different purposes you have different definitions of local boards. But this only applies for the purpose of the great big, broad, new power we've given to the city of Toronto. We've said you can govern—

Mr. Hardeman: Well—

Mr. Gray: There are three powers that we've given the city in section 8 that deal with local boards: to deal with the governance structure of local boards, accountability and transparency of local boards, and financial management of local boards. What this is saying, and what that definition is saying, is that you can't deal with those things with respect to the children's aid society or the police services board. The decision is long since made that, to the extent the governance structure of the police services board is changed, that will be done by the Solicitor General under the Police Services Act. It's not going to be done by municipalities, even through it's clearly a local board, generally.

Mr. Hardeman: I guess, having heard that explanation, I would suggest I can't support the motion, because of—and you mentioned that in your explanation—the accountability part, because the children's aid society under this act does not have the scrutiny of the Provincial Auditor either. So if you took it right out of the legislation and you didn't mention it at all, then we'd have some problems with who does become accountable for it. That's what this motion is really trying to do: pretend it doesn't exist.

Mr. Gray: It exists in another context. Public library boards exist in the context of the Public Libraries Act; the police services board in the context of the Police Services Act. The ministries responsible feel that to the

extent there are accountability measures and transparency measures with respect to those bodies, they'll be dealt with in their legislation, not by a general bylaw passed by municipalities.

Mr. Hardeman: But I guess that's my whole point. There's a reason why they're all listed, because we won't want them to exist for this section but we want them to be in the legislation. If you remove them here, it doesn't come up again, so then it's out there. The provincial government doesn't monitor it, and the municipality doesn't either, because it's not a local issue. All of a sudden, it gets lost in the fray. I see absolutely no negative to leaving it in, so I have to agree with the government side and not support this motion.

The Chair: Any further debate?

Seeing none, all those in favour of the amendment? All those opposed? That's lost.

Shall section 8 carry? All those in favour? All those opposed? That's carried.

Section 9 has no amendments.

Shall section 9 carry? All those in favour? All those opposed? That's carried.

Section 10: no amendments.

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

Section 11: Mr. Tabuns

Mr. Tabuns: The members of the committee have the text before them.

I move that section 11, as set out in schedule A, be amended by adding the following subsections:

"Definition....

"'local matter' means a matter that manifests itself and has impacts primarily within the boundaries of the city."

The Chair: Mr. Tabuns, could I ask you to read it in its entirety into the record, please, everything that you see.

Mr. Tabuns: Okay. Fair enough.

Schedule A to the bill: subsections 11(0.1) to (0.3) of the City of Toronto Act, 2006

I move that section 11 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following subsections before subsection 11(1):

"Definition

"(0.1) In this section,

"'local matter' means a matter that manifests itself and has impacts primarily within the boundaries of the city.

"Legislative power re local matters

"(0.2) The powers of the city under this or any other act are powers to legislate with respect to local matters.

"Same

"(0.3) A city bylaw respecting a local matter is deemed not to conflict with an act or regulation described in clause (1)(a) of the province or an instrument of a legislative nature described in clause (1)(b) made or issued under an act or regulation of the province."

The amendment is moved to give the city clear authority to legislate with regard to local matters. The motion seeks to define local matters, and then provide

that city bylaws relating to those local matters will not be found to be in conflict with a provincial act, regulation or instrument of a legislative nature. It strengthens the powers of the city of Toronto.

1630

The Chair: Any further debate?

Mr. Hardeman: Again, I want to quickly ask not just generally what the motion does but what it does other than what the bill presently does—what we're asked to change here.

Mr. Tabuns: What we're asked to change here is to reinforce the power of the city to set its rules within its area of jurisdiction and to say that for strictly local matters, so defined, the city has primary jurisdiction. So if we're dealing with stop signs, with tree bylaws, with matters that affect the residents of the city and don't affect the residents of the province as a whole, the authority and responsibility rest with the city.

Mr. Hardeman: I guess my question really would be, doesn't the act already do that? It's the same as the previous one, the first one we debated. Should we re-emphasize doubly the superiority of the city as opposed to just giving the city the authority they've asked for? Rather than saying, "It's all in there, but just in case you don't interpret it that way, here's another line to make sure that you have to interpret it that way"—how many times do you have to reinforce "You have authority"?

Mr. Tabuns: The request from the city is that it be reinforced. That was their deputation to us on this committee. Their legal staff and their political decision-makers have concluded that they would like that reinforcement to be present in the act.

Mr. Duguid: I think this goes beyond just duplicating a power that's already there. These are always matters of interpretation, but on matters where there's a conflict between provincial legislation and a municipal bylaw, the provincial legislation must supersede that. That's something that's in this act and something that, obviously, the government side supports. Probably all of us at the province support that. It makes sense. Ultimately, the provincial legislation has to be supreme in those types of conflicts.

The problem with this is that it defines as a "local matter" something that "manifests itself and has impacts primarily within the boundaries of the city." It can be interpreted to allow a municipal bylaw to potentially supersede provincial legislation. I think of something like an environmental standard. The city could say, "We're not going to adhere to that provincial environmental standard. For economic reasons, we're going to do less than that." Then you get yourself into a conflict situation.

I'm not sure whether that example is valid or not here. It's open to interpretation as to how far this could go, but it certainly would raise doubts in terms of whether the provincial legislation supersedes the municipal bylaw. That's of concern to us, and as a result, we won't be supporting it.

Mr. Hardeman: Again, I agree with the last comments. One other matter in the bill deals with the transportation issues between Toronto and the airport. This

resolution would imply that that could be solved, because the cab drivers are primarily in the city, and so they could pass a bylaw that would apply in Peel region. I would have a real problem when you have this bill—I don't think it was ever intended to go beyond the boundaries of the municipality. I think that under this, that would be a possibility. You could solve that problem in the city and say, "It's primarily here, so the rest will apply too." I can't support this resolution.

The Chair: Further debate?

Seeing none, all those in favour of the motion? All those opposed? That's lost.

Mr. Tabuns, yours is the next motion.

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

The language used in the act frustrates the purpose. It's not language found in the Ontario Municipal Act, 2001, and it could be interpreted as an additional limit on the city's power. The city should at least have the protection of its powers already accorded in the Ontario Municipal Act, which would be to say, strike out this section.

The Chair: Any discussion?

Mr. Duguid: Go ahead.

The Chair: You're going to have to go through the Chair. Don't decide between yourselves.

Mr. Hardeman, I'll let you have the floor.

Mr. Hardeman: Thank you very much, Madam Chair. When we started and we put down the first sections of the bill as to the purpose of this piece of legislation, if I go strictly to the purpose of it, I would agree with this motion because this section does put limits, at the same time recognizing the explanation I hear that it doesn't exist in the present Municipal Act, and the reason it doesn't is because the ability to do these things is prohibited in the Municipal Act, so you don't need to provide restrictions on how you do it.

If you're going to have broad, permissive powers, you do have to have certain limitations as to how far they go. As in the previous motion, I have some concern that if you strike it right out and there's no connection between this and provincial direction, if the city decides to change the direction just for the city, they could, in essence, override legislation and regulations that apply province-wide. I would have concern with that. That's why I wouldn't be supporting this amendment.

Mr. Duguid: The government side won't be supporting this amendment either, for reasons similar to what we talked about before.

The Chair: Any further discussion? All those in favour? All those opposed? That's lost.

Shall section 11 carry? All those in favour? All those opposed? That's carried.

There are no amendments in sections 12 to 19. All those in favour of sections 12 to 19? All those opposed? That's carried.

Section 20: Mr. Tabuns.

Mr. Tabuns: I move that subsection 20(2) of the City of Toronto Act, 2006, as set out in schedule A to the bill,

be amended by adding the following paragraph after paragraph 5:

"5.1 A delegation may specify the manner in which the delegate is required to exercise a delegated power, including requiring the delegate to exercise the power by bylaw or otherwise."

It's saying that the city has the power to constrain those who are delegated power by the city, set the framework within which power can be exercised.

The Chair: Any further discussion?

Mr. Duguid: This is somewhat similar to our motion 7, which I think is the next motion after this. We prefer the wording in motion 7; otherwise, we would have been happy to support this. But we think the wording we have is a little clearer.

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

Mr. Duguid or Mr. Brownell.

Mr. Jim Brownell (Stormont-Dundas-Charlottenburgh): I move that section 20 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following subsection:

"Same

"(3) The conditions and limits referred to in paragraph 5 of subsection (2) may include such matters as the following:

"1. A requirement that the delegate act by bylaw, resolution or otherwise, despite subsection 132(3).

"2. Procedures that the delegate is required to follow.

"3. The accountability of the delegate and the transparency of the delegate's actions and decisions."

The Chair: Any discussion?

Mr. Duguid: Just a short explanation. This is really an additional clarification. When power is delegated, the city can decide how that person must act. It's fairly technical in nature. It ensures the accountability of the delegate and the transparency of the delegate's actions and decisions. I don't know if I need any further explanation than that.

Mr. Hardeman: My question to the parliamentary assistant is, as we go back to the comment about giving authority to the city and their ability to delegate some of that authority for other purposes, why would it be necessary to then clearly define in this new amendment the requirement of how they must act and what they must do? Can't the city make those decisions for itself? It would seem to me very basic: If they're giving the authority they have to another body, they surely should have the authority to decide how that body should function through bylaw.

1640

Mr. Duguid: This act gives the city the ability to delegate. This clarifies to the city—and it's here at the request of the city—that they not only have the ability to delegate but they also have the ability to delegate decision-making and how they would get through the process of that decision-making. So it ensures that the city has a little bit extra—it's quite possible that this

would not be required, but the city wanted further clarification, so that not only do they have the ability to delegate but they have the ability to delegate how decisions will be made.

Mr. Hardeman: It seems to me that the present act sets broader authority for the city than the amendments do, not that there's much difference. But it almost seems like a redundant amendment. When you look at 3, 4 and 5, "a delegation may be made subject to such conditions and limits as city council considers appropriate" would seem to cover everything that's in this amendment. When you add 3 and 4 to that, I don't know how much broader authority one could have than what it presently says. Why would you then outline the process or the procedural bylaw for any appointed delegation committee? Why you would have a procedural bylaw in the provincial act rather than in the bylaw of the city—it's a somewhat redundant solution.

Mr. Duguid: I don't see it as entirely redundant. I'm not sure it's an absolutely essential amendment, but at the same time, it's something the city has requested.

Mr. Hardeman: Thank you. I won one debate, anyway.

Mr. Duguid: I think it's probably helpful in terms of providing greater clarification to ensure that they can not only delegate decision-making ability to a board or a committee but also be able to define exactly what process that board or committee has to go through to make that decision and make sure its transparent and those kinds of things.

Mr. Hardeman: One question on that. The parliamentary assistant talks about making sure the process is appropriate and transparent. With this amendment, is it also possible for the city to make it untransparent? I think it's quite serious. Can they restrict the amount of visibility or the amount of public involvement that these appointing agencies could include?

Mr. Duguid: In response, the appointed agencies would still be obliged to comply with the same rules that council itself has to comply with with regard to transparency and decision-making and those kinds of things. Where, in the legalese of this document, that would be, I don't know. They'd still have to be within the rules of council decision-making.

Mr. Hardeman: A little further on that: Council can go into legal and personnel for certain issues that deal with property, legal issues and personnel issues. Does this amendment provide the opportunity for city council to give the committees that are making the decisions broader ability to go into what we call legal and personnel?

Mr. Duguid: I would hesitate to give you a definitive answer on that. I'd have to take a closer look at the legislation. That may be a question I'd prefer to defer to ministry staff, just to be safe.

The Chair: Did you want an answer from ministry staff? You can all fight to come up here, I'm sure.

Mr. Gray: I'm not sure if I understand the question completely. They can only delegate what they have, so

when council delegates power to anybody, there's a rule in the act: It goes along with any limits or restrictions that are on the power they delegate. So if they're delegating a power to deal with personnel, the same limits that apply to council will apply to whomever they delegate it to.

Mr. Hardeman: The question is, though, if they delegate an authority, in any of their delegatable authority as the committee, could they have a bylaw authorizing that committee to meet completely out of the public view?

Mr. Gray: My answer is no. One of the limits that applies to council now is that if something has to be dealt with in a public meeting, and you delegate to a council committee, that council committee will have to do it in a public meeting as well. They couldn't say, "We have to have a public meeting, but we're going to give it to a council committee, and they don't have to have a public meeting." They wouldn't have that jurisdiction.

Mr. Hardeman: Okay.

The Chair: Any further debate?

Seeing none, all those in favour of the motion? All those opposed? That's carried.

Shall section 20, as amended, carry? All those in favour? All those opposed? That's carried.

Section 21: Mr. Tabuns.

Mr. Tabuns: I move that subsection 21(2) of the City of Toronto Act, 2006, be struck out and the following substituted:

"Restriction re applicable acts

"(2) The city may delegate its legislative and quasi-judicial powers under only this act and the following acts and provisions of acts:

"(1) Cemeteries Act (Revised), sections 2 to 7.

"(2) Fire Protection and Prevention Act, 1997, clause 7.1(1)(c).

"(3) Highway Traffic Act, sections 128 and 137.

"(4) Liquor Licence Act, section 62.1.

"(5) Planning Act.

"(6) Ontario Heritage Act.

"(7) A private act relating to the city.

"(8) Such other acts as may be prescribed."

As I read the act that's here, there is already provision for the provincial government to prescribe acts that may be delegated by the city of Toronto. The city has asked that these specific acts be named at this point so that they can delegate those powers to different bodies within the city to carry forward decision-making on those areas. As the chief administrative officer of the city said to me, "We are dealing with stop sign issues at full council meetings." It doesn't make sense that those sorts of issues take up the time of council as a whole. They should be left to bodies who are delegated to deal with such matters within the city of Toronto.

The Chair: Any further debate?

Mr. Duguid: I don't think that at this point in time we have a great degree of opposition to the idea that some of these acts may at some point be delegated to another body appointed by council for decision-making. We're just not sure specifically why they've named each of these acts. We're not sure whether there would be any other implications.

Through this act, we've allowed ourselves the ability—at some point in time, if we determine that there should be further delegation, we could certainly do that through regulation. We're looking forward to taking a look at these in the two-year review and doing a little bit more homework on these, just to make sure that there are not any provincial implications or public interest issues that we should be considering in moving forward.

We just don't have enough specifics on this to be able to move. Again, it doesn't mean that we wouldn't look at it in the future. As I said, we've left ourselves open with the ability to do this through regulation if we deem it appropriate.

Mr. Tabuns: I would say that what the city has put forward are fairly reasonable changes, and I think that you would not be putting yourself in any peril to go forward at this point. I'd have the motion stand and go to the vote.

1650

Mr. Hardeman: First of all, when you look at the intent of the bill, at some point in time if we have enough delegation, then one really has to wonder why we wouldn't have these boards all elected by the people in order to have accountable people making decisions on their behalf. We seem to be looking to delegate just about everything the city does.

You mentioned the issue of stop signs. I agree that's something—whether it should be there; I'm sure the public works department can use their facts and figures to prove whether there should be a stop sign. I'm not sure you need city council to meet to decide that that's where the stop sign should go. Yet when you look at the overall picture and say we should be able to just delegate all these different areas, what's left that needs city council's decision as opposed to a delegated decision?

It's not that I think city council isn't working hard enough, but I think the people of the city of Toronto at some point are going to want to know whom to hold accountable for the decisions that are being made, and if every one of them is, "It's that other appointed body; we appointed them, so we have to live with their decisions," I don't think that's going to provide for good government.

The one question I would have too is that one of the ones that's listed is the Liquor Licence Act and the issue of bars and the hours of business under the Liquor Licence Act. I guess this is to the legal branch, or maybe the parliamentary assistant can answer: Would the issue of regulating that, presently under the act, have to be done by the full city council? They cannot delegate that authority to implement and enforce that act?

Mr. Duguid: It would be my understanding that city council would have to make that decision, but I'll look to staff. I'm getting nods, so that's confirmed.

The Chair: Any further debate?

Seeing none, all those in favour of the motion? All those opposed? That's lost.

Shall section 21 carry? All those in favour? All those opposed? That's carried.

Section 22: Mr. Tabuns.

Mr. Tabuns: I move that paragraph 6 of section 22 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by striking out "84(1) and (2)."

This amendment would permit the city to delegate legislative powers with respect to the establishment of small business counselling services and with respect to encouraging the establishment and initial growth of small businesses within Toronto, which is not allowed under the act as currently written.

Mr. Duguid: The practice of this would raise some potential concerns to me. I'm not sure if this is what the city is after, but delegating the ability to bonus could lead to, I think, intra-Toronto competition for businesses. You could have Scarborough community council trying to bonus to attract business away from Etobicoke or something like that. I can't help but think that there could be some form of almost a parochial unravelling of the assessment base in the city if we were to allow this.

Again, I'm looking at this and trying to interpret what the potential could be, and I can't help but express some concern that there could be some negative implications if we were to allow that to happen. I can only imagine it would likely be community councils that it could be delegated down to, and I'm not sure I'd be comfortable with that.

Mr. Hardeman: I'm still trying to figure out what it is we're trying to change here. Maybe someone could explain that to me.

Mr. Tabuns: Mr. Hardeman, in section 22 right now, it says, "The city cannot delegate any of the following powers and duties...." In paragraph 6 it refers to sub-sections 84(1) and (2). If you go to 84, it says, "Without limiting sections 7 and 8 and despite section 82, sections 7 and 8 authorize the city to provide for the establishment of a counselling service to small businesses operating or proposing to operate in the city...."

"Without limiting sections 7 and 8, those sections authorize the city to do the following things in order to encourage the establishment and initial growth of small businesses or any class of them in the city": setting up programs, participating in "programs administered by the crown in right of Ontario."

It's actually just saying that the city would have the authority to delegate such activities to a body other than council as a whole; for instance, to a community council. I don't believe, though, that this would have anything to do with bonusing. This is simply delegation of the authority to counsel small businesses and to assist small businesses within the city of Toronto. It doesn't include the ability to lift levies, charges or fees to those small businesses. That's another matter.

Mr. Hardeman: The question I have is the ability to delegate. Is it the operation of that community advisory, or is it actually setting it up so they can't delegate the ability to go and set up these types of organizations throughout the city on the city's behalf? Could they not appoint that, and then the function can be completed by the people who work within the centre?

Mr. Tabuns: The way it's set up in the act: "to provide for the establishment of a counselling service."

Mr. Hardeman: So the city—

Mr. Tabuns: So in fact you would delegate the establishment of a counselling service to a body within the city rather than retaining the power to set up that counselling service with council as a whole.

Mr. Hardeman: I guess that's really my question. The city can set up the councils and they can go on and do their work. It's just that they can't give a committee the power to, say, look at it and see if it's a good idea to set up these councils around the city and then have them set them up. They actually have to be set up by the city.

Mr. Tabuns: This resolution would actually delegate power with respect to establishment of small business counselling services to a sub-body of the city of Toronto; for instance—and I'm picking it theoretically—if city council said, "Scarborough community council, you have the authority to set up counselling services in your part of the city to help small businesses."

Mr. Hardeman: But again, would it not be possible for the city to say, under the present act without amendment, "Scarborough, you have the power to set up a community advisory service"? They can't do that?

Mr. Tabuns: Apparently not; otherwise, I would assume they would not have requested this amendment.

Mr. Duguid: I guess I have the advantage of having ministry advice on some of this stuff, and they have indicated that it refers to small business programs which provide assistance to small businesses. Again, I guess the major concern—there may be others—is that could potentially involve bonusing for small businesses. I don't think you want to open the door to a potentially unelected—I wouldn't say totally unaccountable, but an argument could be made—less accountable body to make decisions on bonusing types of issues or other potential benefits that could accrue to some local small businesses.

The Chair: Any further debate?

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

Shall section 22 carry? All those in favour? All those opposed? That's carried.

There are no motions for sections 23 and 24. Shall sections 23 and 24 carry? All those in favour? All those opposed? Those are carried.

Section 25: Mr. Tabuns.

Mr. Tabuns: I recommend or move that the committee vote against section 25 of the City of Toronto Act, 2006, as set out in schedule A to the bill.

This gives the Lieutenant Governor in Council the ability to make regulations imposing limits and conditions on the power of the city. This is a condition not currently imposed on the exercise of municipal power in Ontario. It gives the province the potential to reduce rather than expand the city's powers and, I think, is contrary to the thrust of the act itself, which has been to expand the authority, responsibility and powers of the city.

1700

The Chair: Any discussion on this section?

Mr. Duguid: This bill is about a permissive approach to powers for the city of Toronto, but it doesn't just walk

away from provincial responsibility as well. It's very important that there are some checks and balances. If this particular section were not to be approved, we could run the risk of having a pretty unaccountable process set up where the provincial interest could not be protected. One of the necessities, I think, of the permissive approach is to ensure that there are some checks. Permissive, yes: You can pass whatever legislation is within your realm of decision-making. But if there's a provincial interest, the province has to be able to step in on behalf of the people of this province, and on behalf of the public in Toronto, for that matter, to ensure that the provincial and public interests are protected.

I'm a little surprised that the NDP is not supporting this particular provision, but so be it.

Mr. Hardeman: I'm kind of torn between and betwixt, I think is the term. Again, as relates to what the minister said this bill was going to do and why the minister introduced this bill, it was because the city of Toronto is a mature government and we have every faith that they will make the decisions in the best interests of the people of Toronto. That's why we need the legislation, which is different and more permissive and more open than the Municipal Act. That says I should support this motion.

Having said that, I believe that in some of the things that were presented to us at committee from people other than the city of Toronto, there's a lot of concern as to whether the minister is right. Not everyone shares his faith in the city of Toronto, and I think this is a part of the act that is required, as the parliamentary assistant says, if, for whatever reason, something does happen that may be good for the city of Toronto but may not be good for all of Ontario. It may be in the provincial interest to prevent that from happening, I think this part of the act does provide the ability to do that.

So I guess I'm voting against this amendment strictly because I believe that there have to be some safeguards put in place to make sure—if the assumption is that we can totally be sure they will always make it in the best interests of everyone in the province, we don't need this protection, but I think at present, at least for the first time out, we need this protection.

The Chair: Can I just clarify that this isn't a motion? It's just a recommendation to vote for or against this section, although it's indicated—

Mr. Hardeman: Then I guess I would just change my wording, Madam Chair. That's how I'm going to vote.

The Chair: Okay. Thanks.

Any further debate? Seeing none, all those in favour of section 25? All those opposed? That's carried.

There are no amendments on sections 26 through 28. Shall sections 26 through 28 carry? All those in favour? All those opposed? That's carried.

Part III, General Powers, Limits and Additions: There are no amendments from section 29 through 77. Shall they carry? All those in favour? All those opposed? That's carried.

Mr. Duguid: Mr. Lalonde?

The Chair: Section 78: Mr. Lalonde.

Mr. Lalonde: I move that subsection 78(1) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out and the following substituted:

“Parking lots

“(1) If the city passes a bylaw for regulating or prohibiting the parking or leaving of motor vehicles on land not owned or occupied by the city without the consent of the owner of the land or regulating or prohibiting traffic on that land, the city may enforce the bylaw on the land but only if a sign is erected at each entrance to the land clearly indicating the regulation or prohibition.”

Mr. Duguid: Just to clarify what this motion is for, in the original bill on page 45, clause 78(1)(a) says, “The owner or occupant of the land has filed with the city clerk written consent to the application of the bylaw...; and

“(b) a sign is erected at each entrance to the land clearly indicating the regulation or prohibition.”

At the city’s request, and we agree, there’s no need to have a provision in there that would require written consent. If the property owner has a sign, it means they’d likely want it enforced. If they don’t want it enforced, they’d likely take down their sign. It’s kind of a minor thing, but it’s a little bit more administrative red tape for property owners to have to have written consent to the city. They’d prefer just to enforce it based on whether the sign is present or not.

Mr. Hardeman: Just a question on enforcement of it. If the ownership of the lot changes hands, is it the act of taking down the signs that takes away the city’s right, or is it as long as the signs are up that the ability to enforce it would remain?

Mr. Duguid: I’m just taking another look at the provision. From what I can see, it would be at the discretion of the property owner. If there are no signs, you can’t enforce it anyway. You can only enforce it if there’s a sign. So if the signs are taken down and a new property owner comes in, and if there’s no sign up, it wouldn’t be enforced. If they choose to enforce the city bylaws, whatever those bylaws may say, then they’d have to put their own sign up, and one would expect the property owner to know that.

Mr. Hardeman: If the ownership changed but the sign wasn’t removed, the enforcement would continue on the new owner?

Mr. Duguid: Correct.

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

Mr. Tabuns.

Mr. Tabuns: My motion, Madam Chair, is identical to the government’s motion. I was happy to have voted for theirs, and this would be withdrawn.

The Chair: So you’ll withdraw it. Thank you.

Shall section 78, as amended, carry? All those in favour? All those opposed? That’s carried.

There are no changes to sections 79 through 81. Shall sections 79 through 81 carry? All those in favour? All those opposed? That’s carried.

Mr. Tabuns: section 82.

Mr. Tabuns: I move that section 82 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following subsection:

“Same

“(4) Despite subsection (1), the city may grant bonuses by giving a manufacturing business or other industrial or commercial enterprise a total or partial exemption from levies, charges or fees.”

Madam Chair, I’m always cautious about anything to do with bonusing. I would say that if the city of Toronto was interested in tax holidays or making cash gifts to manufacturers or employers to settle in the city, I would be opposed, but I would say on levies, charges or fees, often to do with development or the initial construction of a business, if the city wants to take that risk in order to attract employment, then I think we should give them that authority.

Mr. Duguid: Similar to an argument I made on an earlier motion, I guess one of the concerns we have about this is you don’t want to get into a situation where municipalities in competition for businesses, in particular manufacturing and industrial businesses and commercial enterprises that all municipalities so covet to enhance their assessment base and provide jobs, start competing at a level that’s going to reduce their own revenues and potentially impact the taxpayer and ultimately the assessment base. So Toronto will have the ability to bonus through a community improvement program or a business incubator program without provincial approval, but to go further than that, we think, could be troublesome and could provide an unfair advantage to the city in the competition for these kinds of enterprises.

1710

Mr. Hardeman: I agree with the parliamentary assistant. I’d just go a little further and suggest that this is one of the areas where what may be good for the city of Toronto may not be good province-wide. In fact, if the city of Toronto started having the authority to bonus—and there is no other word for this but “bonusing”—it would seem to me that if it worked for the benefit of the people of Toronto, it would be to the detriment of the rest of the province. Then of course they would have to be able to do the same thing, and all of a sudden next year they’re all slipping the other way and no one benefits, and the taxpayer just did a lot of bonusing that no one really benefited from.

So if, for whatever reason, they started doing this, I would see this as likely one of the first places where the province would have to step in with a regulation taking away the right to bonus, because this is what would happen. If on one side of Steeles Avenue they can’t get an exemption from development charges and on the other side of Steeles Avenue they can, we know which side they’re going to build on. I think this would be something that would have a negative reaction across the borders all around the city of Toronto. Everything except on the south side, where it wouldn’t make much difference.

The Chair: Mr. Tabuns, did you have any further debate?

Mr. Tabuns: No further comment.

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

Shall section 82 carry? All those in favour? All those opposed? That's carried.

Mr. Tabuns: section 83.

Mr. Tabuns: A minor amendment, Madam Chair.

I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following headings before sections 83 and 84 respectively:

“Grants

“Small business development”

As written, section 83 doesn't deal with economic development and is better defined by the term “Grants” preceding it. Section 84 is better defined by the title “Small business development” preceding it.

The Chair: Any discussion?

Mr. Duguid: I think this is just a drafter's disagreement as to what heading should be in place and what shouldn't be. It appears to be purely cosmetic. I don't know why they're asking for this change, and we're not going to support it simply because I don't think it really adds anything to the bill at all. It's really cosmetic in nature.

The Chair: Any further debate?

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

Mr. McNeely.

Mr. Phil McNeely (Ottawa–Orléans): I move that subsection 83 (2) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following clause:

“(c.1) to provide for the use of officers, employees or agents of the city by any person, upon such terms as may be fixed by council;”

The Chair: Any discussion? Mr. Duguid, did you want to speak to this?

Mr. Duguid: Sure. Just by way of clarification, what this does is provide clarification on granting powers. The city had requested that this be in. I guess it clarifies that the activities mentioned in the amendment are included in the power to make the grants.

Mr. Hardeman: I think that explanation was fairly clear. This is just an addition. They cannot only give cash and other services; they can give manpower too. Is that right?

Mr. Duguid: That's my understanding.

The Chair: Any further debate?

All those in favour of the motion? I think that was unanimous. That's carried. We haven't had one of those yet.

The next motion, I believe, is a duplicate of—

Mr. Tabuns: Right, so I withdraw it, Madam Chair.

The Chair: You withdraw it. Thank you.

Shall section 83, as amended, carry? All those in favour? All those opposed? That's carried.

Sections 84 and 85 have no amendments. Shall sections 84 and 85 carry? All those in favour? All those opposed? They're carried.

Mr. Hardeman: section 86.

Mr. Hardeman: I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 86:

“Restriction on licensing power

“86.1 Despite any other provision of this act, the city is not authorized to provide for a system of licences with respect to a business or activity if a licence is required under another act to engage in the business or activity.”

We heard a lot of deputants who came before the committee talking about the issue of being able to license and the much broader authority that the bill has for the licensing of activity within the city than is presently available in the Municipal Act. The concern overall was that generally they didn't believe the city should be using licensing as a way to supplement their overall city expenses but that the cost of the licensing provision should be related directly to the cost of the licensing to regulate the business rather than as a way of raising funds.

First of all, I'd say there were a lot of people who came forward and said, “We are already licensed by the province one way or another” or “We have a licensing structure that already exists.” This motion would suggest that if it's already a business licensed and controlled by the province, they would not be able to just arbitrarily charge a licensing fee when there was actually no licensing taking place for that industry because the total licensing would be under the jurisdiction of the province.

I would use the example of—and it wasn't used, I don't think, in the presentation—professionals such as doctors. The city would not be able to attach a licence to a doctor's office just for the sake of the fact that they're in business within the city. They're already covered by the province, and they shouldn't be licensed by the city.

Mr. Duguid: Madam Chair, if my reading of this is that it's an attempt to ensure that if the province licenses a particular activity, the city then can't step in and license them, so there's not a duplicate licensing process. I understand the intent of that. I think if there's a public interest or a provincial interest and the city were to engage in licensing a particular field, endeavour or whatever, the minister has the regulatory ability to prohibit that, to prevent that from happening. Certainly if it were in the public interest for the minister or the government to step in, they would.

The concern I have here is that there may be circumstances—and we'd probably have to really give it some thought, but it's an idea. Perhaps a cab driver has a driver's licence. Does that then mean that the city—and this may not be a good example—would not have the ability to license a cab driver? There may be other circumstances like that where it may be appropriate for there to be dual systems of licensing, where the province may license one aspect of something and the municipality another aspect.

So we won't be supporting this, but keeping in mind that we have listened carefully to a number of concerns being raised in this area, if it is deemed to be not in the public interest, this is something that certainly may be considered when the regulations come forward. There

have been some industries or fields that have made some representation to us. No decisions have been made on any of those yet, but we could accommodate some of those concerns, potentially, in the regulations.

Mr. Hardeman: I think the amendment is more explicit than was portrayed by the parliamentary assistant when he referred to a cab driver being licensed by the province as a driver and that this resolution may then prohibit the city from licensing the cab. It's quite clear that it is "with respect to business or activity if a licence...." And the licence refers to the activity, which is the cab, not driving. We all have a driver's licence, but we're not all cab drivers. I think it's directly related to the double licensing that you referred to first, the double licensing of any activity. If I need a provincial real estate licence to practise realty, can the city also charge me a levy for being a realtor in the city of Toronto? I think it's really the type of activity, when you're licensing the person or the business and then have two licences.

1720

Again, going back to the person driving the cab: Can the city impose another driving restriction on a cab driver other than his driver's licence to drive it? We understand they can license the cab, but can they license, and request more licences, for things that are presently totally licensed by the province? I think this prevents that from happening. It's one of these things where we can say, "If it happens, we will do something about it." If that's the intent of the government, then there's no reason not to put it in the legislation and not wait for the brick to fall and then solve the problem. Solve the problem now so we know it can't happen and the city knows very clearly that if they already hold a provincial licence they can't be licensed again just to raise funds.

Mr. Duguid: Just to clarify, we will certainly be taking a look at these issues when we put the regulations for this bill together. No decisions have been made yet in terms of some of the representations we've heard; for instance, from the real estate industry. That's something that could be accommodated potentially in the regulations, but we would still have concern that this could be overly prohibitive. There may be areas that could potentially require duplicative licensing regimes. I can't think of any off the top of my head, but there may well be.

We reserve the right, and the minister has the ability to ensure, that if the city were to move in an area that's contrary to the public interest or the provincial interest, we could certainly move on that and prevent it from happening. I don't anticipate that's going to be necessary in the end anyway, but to put it in legislation now might be overly restrictive.

Mr. Hardeman: In the total thrust of having legislation and then coming up and saying—and I know, and said earlier, that we need protection for regulations or for the province to be able to step in for the provincial interest. I don't believe it's appropriate to say, "Don't worry about any exclusion. Don't worry about the eventualities of what may happen, because we have the ability through the ministry regulation to change the

direction the city is going if it's going in the wrong direction in our opinion." I really have the concern that if that's the principle of this bill, then I don't know why it's such a big bill. I don't know why we didn't just say, "City of Toronto, we have a bill here. It's a one-pager. Do as you like, but remember that when you do what we don't like, we're going to pass a regulation to prevent you from doing it." That's really all that's required, because what you're really saying here is, "We don't believe that we should be double-licensing. If it's provincially licensed, we don't believe that the city should license, but we're not really sure. After we get this bill passed, we'll sit down and we'll discuss it in the minister's office and we'll decide what we think is good for the city of Toronto, and then we'll set the rules in place after the fact."

I think the people of Toronto and the people of the province have a right to know whether this is something that the province supports or doesn't support. Does the province believe we should have in this legislation a regime that allows the city to license activity in the city that is presently licensed by the province? If not, then we should put something in place in the act that says no, that's not what we intend. You can still override it if it goes beyond where you thought it was. That's what that Henry VIII clause is in there for. I just can't believe that we would say, "Don't worry about making any changes, because once we get this on the ground we've got the power to change anything that's in the bill. So don't worry. We can make it all work the way we want."

This is an important process, to make sure that we're doing it the way the people of Toronto want it. I don't think we're going very far in that direction.

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

Mr. Hardeman: A recorded vote, Madam Chair.

Ayes

Hardeman.

Nays

Brownell, Duguid, Lalonde, Rinaldi, Tabuns.

The Chair: That's lost.

Mr. Tabuns.

Mr. Tabuns: I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 86:

"Licensing absentee landlords

"86.1 (1) Without limiting sections 7 and 8, those sections authorize the city to provide for a system of licences with respect to absentee landlords and,

"(a) to provide for a system to track the absentee landlords; and

"(b) to require absentee landlords to post a bond to be used for property upkeep.

"Same

"(2) Section 86 applies, with necessary modifications, with respect to the system of licences under this section."

Different parts of the city have had different experiences with absentee landlords. As a former councillor in the downtown area, I had to deal with absentee landlords who did not pay attention to the properties, allowed a fair amount of decay and in some instances allowed crack house operations to go on on their properties. The city of Toronto has concerns about absentee landlords and wants to have more authority to track them and take action, make sure that their properties are properly maintained so as not to cause degradation in the neighbourhood, and thus asked for this power.

I think it would be in the government's interest, frankly, to support them on this, because all of us from time to time in our own jurisdictions have to deal with houses that are very disruptive. Having the authority to do that in the city of Toronto may well help MPPs in other parts of the province to say, "Those powers are useful to municipal governments to deal with disruptive houses."

Mr. Duguid: We will not be supporting this particular motion. The city of Toronto now has the power to license absentee landlords, and they could accomplish this policy objective through licensing. But to suggest that an absentee landlord should post a bond with the city is pretty draconian.

I understand that absentee landlords are a problem. They certainly are in my own neighbourhood, and we've had to deal with them for some time. But they're also an important piece of the rental housing market. The last thing you'd want to do is discourage people from renting by saying, "You've got to pay the city up front in case you break the law down the road."

The city has powers, and most communities aren't afraid to use them—some probably are less aggressive than others—to track the property owners through the property tax rolls, so they know who owns the property, and to recover any costs they may incur through taxes. They have the ability to do that now, and I think that's adequate. Some cities may be more reluctant or less reluctant than others to use that tool, but the tool is there nonetheless. When it needs to be utilized, it certainly can be.

Mr. Hardeman: I had overlooked it when I was reading the bill in total; I have concerns with the licensing of landlords, absentee or otherwise. We all know that in rental housing, the cost of whatever it costs to do that is going to go back to the people who live in it. The people who live in these apartments are already paying taxes to the city up to four times as high as they would if they owned the building themselves, so I believe that they're paying their fair share.

Looking at the bill and the ability to raise money on behalf of the city and their licensing structure, in not having to relate the cost of the revenue received from licensing—you don't have to relate that to the cost of the licensing process—they could all of a sudden tack a massive licence fee on rental accommodations and that would all go to the tenants. We have solved the budget crunch but, to me, not in a very adequate and sustainable

way. Really, I think this is a poor place to look for further revenue for the city.

I also think it would become almost impossible for the city to identify absentee landlords as opposed to non-absentee landlords. I would think that in the vast majority of rental accommodations in the city of Toronto, the owner of the building does not live in the building. So does "absentee": mean that you're out of the city, you're out of the province, you're out of the country or you're off the continent? What is "absentee"? I think it would be totally unrealistic to administer "absentee" as it applies to landlords. I'm opposed to having a licensing system for landlords so the tenants get to pay even more of the city's share of the cost. I think this motion would make that even worse. I don't think you could define who should pay the licence and who shouldn't.

1730

Mr. Duguid: Just to clarify, this is not something that could be used as a cash cow by the city. The licensing provisions need to be done on a cost recovery basis, so it's not something the city could use to raise revenues to use in other areas.

I believe their request has been to use the licensing provision to hire more property standards inspectors to be able to better inspect units. It's actually there at the request of tenants and tenant advocate groups who have been active in trying to encourage the city to go that route. But Mr. Hardeman is quite right in his assessment that the tenants would end up paying for it themselves.

Again, this would be a city decision one way or another; it's not our decision. We're just giving them the ability to determine whether they would want to license landlords and utilize the revenues from that as part of an enhancement of an inspection regime for those particular units.

Mr. Tabuns: I'd just like to say, generally speaking, that an absentee landlord is a landlord who does not live on the property that has rental units in it. If you have a house and you're renting the upstairs, you're not an absentee landlord. If you don't live on the property, you're an absentee landlord. It doesn't relate to whether you're in Toronto, Ontario, Canada, whatever.

I think Mr. Duguid has been pretty good in pointing out that there is an interest on the part of tenants and of homeowners to see that absentee landlords actually run their properties well. As a city councillor, my problem was far less with landlords who lived on the site. They tended to have a greater interest in making sure the properties looked good, were well maintained and were not disruptive.

In any event, I think what the city has put forward is reasonable. I'd urge you to vote in favour of it. My count of heads is not encouraging to me.

Mr. Hardeman: Just a question on the comments made by the parliamentary assistant about the requirement to match the expense of the cost of operating the system to the cost generated by the licensing: Is that part of Bill 53?

Mr. Duguid: Yes. My understanding is that the ability to license is subject to cost recovery. The fees they can

charge are subject to cost recovery. I couldn't point out exactly where in the bill that is, but my understanding is that it's part of this bill.

Mr. Hardeman: I would appreciate finding where that is.

The Chair: Staff is looking. Are we going to get an answer right away?

Mr. Gray: The authority for fees and charges under the proposed act are in part IX. There isn't a specific reference in that part that says they're limited to cost recovery. What we're relying on is the court's interpretation of fees and charges power, and they've been very clear in saying that the fees and charges power doesn't authorize a tax. If it exceeds cost recovery in any significant way, it's an unauthorized tax and isn't authorized by the words "fees and charges."

Mr. Hardeman: So it's based, then, on the court's interpretation of fees and licences, as opposed to a part of the act that says that there must be an accounting for it, that there has to be a match between the revenues and the expenses.

Mr. Gray: Essentially the courts have said that that's what a fees and charges authority means. If you want to authorize a tax that can raise general revenue, you'd better say it. If you don't say it, they're going to say that it's limited to a fee and charge, which is cost recovery.

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

Mr. Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Brownell, Duguid, Lalonde, McNeely, Rinaldi.

The Chair: Mr. Hardeman, did you—
Interjection.

The Chair: That's lost.

Shall section 86 carry? All those in favour? All those opposed? That's carried.

There are no amendments from section 87 through 103. Shall they carry? All those in favour? All those opposed? That's carried.

Mr. Lou Rinaldi (Northumberland): I move that clause 104(3)(a) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out.

The Chair: Any debate?

Mr. Duguid: This probably needs some explanation, and I'll do my best. Currently, boards and other municipalities are exempt from the city's tree bylaws. What this does is remove that exemption, so that if another municipality owns property in the city of Toronto or if a board—probably a board of education—owns property in the city of Toronto, they still have to comply with the city's tree bylaw.

My personal experience is that the board of education, by and large, did that; I've been through processes

myself with them. But it may have been certainly due to convention more than necessity, so that's why this is here.

Mr. Hardeman: I guess the question would be, if it's in the bill presently that the municipality or any of its boards do not have to comply, why is it deemed necessary that if it is the school board, they should comply? Why would they not be exempt the same as the municipality itself? They represent the city of Toronto too.

Mr. Duguid: What this provision deals with is property owned within Toronto by municipalities outside of Toronto or, I believe, the board of education; I'll have to just check, but I believe it's the board of education as well. Taking out this section ensures that they will not be exempt from provisions under the tree bylaw of the city, as per the city's request.

Mr. Hardeman: I guess the question would be, why would they not be exempt?

Mr. Duguid: Why would they not be exempt?

Mr. Hardeman: Yes.

Mr. Duguid: Good question. I think that it may be something that's just automatically been there for some time. There really should be no reason to exempt them. I think, as we go outside of Toronto, I'd have to check the Municipal Act to see whether in fact that exemption may apply the other way around as well. It may be something we have to consider when we deal with the Municipal Act this spring too, but I may be taking myself out on a limb on that. If staff have anything else to add—is that pretty much it?

Mr. Gray: It's a general exemption now in all municipalities. Other municipalities and local boards of municipalities do not have to comply with the tree bylaws. The city of Toronto made a request: "We should be able to decide. There are some circumstances under which other municipalities own land in our city, and they shouldn't be able to cut down trees without city regulation." A decision was made, yet that's reasonable.

Mr. Hardeman: That's my problem: The standard across the province is what's presently in the act, which is that every municipality and their local boards are exempt. In fact, they're not only exempt from the tree bylaw; they're exempt from paying taxes in that municipality. That's a pretty basic exemption. So it would seem strange to me that all of a sudden we would put an act in place where they don't have to pay taxes in Toronto if they own property for municipal purposes, but they do have to apply and are controlled as to whether they can cut down a tree on that property. It seems rather a strange way. It would seem to make more sense for the city to put in there that they must pay taxes, as opposed to having to comply with the tree bylaw.

1740

Mr. Duguid: Again, I'm going out on a limb here, pardon the pun.

Mr. Hardeman: Well, make sure it's not the tree they're cutting.

Mr. Duguid: I'll try not to.

An example: I thought about this one when I saw this, and as we deal, as I said, with the Municipal Act later on, maybe make a note that this might be something we want to look at. The city of Toronto owned Keele Valley. Should they be exempt from tree bylaws in that particular municipality? I think it's probably worth talking about, but I think they should have to comply. When you own property in another municipality, it shouldn't give you the ability just to clear-cut, which is currently what exists. It seems like a reasonable request from the city and, as I said, something we may want to take note of, as it might apply across the province.

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

Mr. Tabuns, I believe the next motion is yours, and it seems to be a duplicate.

Mr. Tabuns: I agree, and it should be withdrawn, Madam Chair.

The Chair: Thank you.

Shall section 104, as amended, carry? All those in favour? All those opposed? That's carried.

The next motion: Mr. Brownell.

Mr. Brownell: I move that clause 105(2)(a) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out.

Mr. Duguid: This is a similar motion to the previous one, except that it deals with the dumping of fill, the removal of topsoil or grade alterations. Other municipalities and boards will now be subject to the city's bylaws on site alteration, if this carries. It's a request from the city, and we agree that they should be.

Mr. Hardeman: Just very quickly, I guess my position is the same on this one as on trees. I would think this is a rather strange place to make the change from where the responsibility between one municipality and another applies. The question would be, if it doesn't exempt us, is the province going to fall under the same conditions?

Mr. Duguid: No.

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

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

Mr. Tabuns: So true. It should be withdrawn.

The Chair: Withdrawn. Thank you. You both had good ideas at the same time.

Mr. Duguid: Great minds think alike.

The Chair: Exactly.

Shall section 105, as amended, carry? All those in favour? All those opposed? That's carried.

There are no amendments to sections 106 and 107. All those in favour of those sections? All those opposed? That's carried.

Interjection.

The Chair: Mr. Tabuns, I'm advised that you're adding a section after section 108, so we can vote on section 108 before we get to your motion. Shall section 108 carry? All those in favour? All those opposed? That's carried.

Mr. Tabuns.

Mr. Tabuns: I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 108:

"Fire prevention sprinklers

"108.1(1) Without limiting section 7 and 8, those sections authorize the city to pass a bylaw requiring and governing the installation of fire prevention sprinklers in new residential buildings.

"Same

"(2) A bylaw under subsection (1) applies in the city despite section 11 and the Building Code Act, 1992."

This allows the city to require fire prevention sprinklers in new residential buildings without conflicting with provincial legislation.

The Vice-Chair (Mr. Jim Brownell): Any debate? Seeing no further debate, all in favour of this motion? Opposed? The motion is defeated.

I see no amendments to sections 109 through 113. All in favour of sections 109 to 113? Opposed? Carried.

Next, we have an NDP motion.

Mr. Tabuns: I'm just wanting to make sure that my numbering is good here. I have an additional motion beyond those that were put in the package. I just want to make sure it's coming after this one. Yes? Fine. Then I've counted correctly.

I move that section 114 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following subsection:

"Peer review

"(4.1) As a condition of site plan approval, the city may require the owner of land to submit plans and drawings for peer review by a design review panel composed of such persons as the city considers advisable."

This is a motion that will give the city more control over building design in areas where site plan approval is currently in place.

The Vice-Chair: Any further debate or comments?

Mr. Hardeman: I guess I need some clarification. To the mover of the motion: This is going to apply to an area of development that has all the site plan approvals now, and the city could go back and ask them for further information, leading with what they can develop?

Mr. Tabuns: I think, Mr. Hardeman—

The Vice-Chair: Mr. Tabuns.

Mr. Tabuns: Sorry, Mr. Chair. Through you, when the city goes forward with site plan approval, this would not be on top of the current site plan approval but in conjunction with or the method by which site plan approval is reviewed.

Mr. Hardeman: With that, I guess I would have to ask the staff of the legal branch: Is the requirement or the suggestion that "the city may require the owner of land to submit plans and drawings for peer review by a design review panel composed of such persons" not already part of the plan that the city could include as to what they consider a complete application?

The Vice-Chair: Please give your name.

Mr. Irvin Shachter: Good afternoon. My name is Irvin Shachter, from the legal services branch of municipal affairs.

The motion is not necessary. There are two aspects. The first is that it's an advisory panel, and the city will already have the authority to set up such advisory panels through its administrative process. As well, as part of the site plan approval process, the city will already have the authority to require the owner to submit such plans and drawings for peer review by such an advisory panel.

Mr. Hardeman: Thank you very much. The resolution really is quite redundant, if you look at what is already available to the city.

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

We need the next one distributed; it's a new motion, 24a. Mr. Tabuns, when everybody gets it, could you read it into the record, please?

Mr. Tabuns: You want me to wait until everyone gets it?

The Chair: Yes, please.

1750

Mr. Tabuns: Everyone has it, including staff? Good.

I move that paragraph 2 of subsection 114(5) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by striking out "and" at the end of subparagraph iv, by adding "and" at the end of subparagraph v, and by adding the following subparagraph:

"vi. construction standards relating to energy efficiency and conservation."

As you have heard numerous times in the House, and as you heard in the government question to the Minister of Energy today, there are concerns about the supply of electricity to the city of Toronto. There's tremendous interest in the city of Toronto in ensuring stability and security of energy supply, and thus an interest in making sure that the buildings in that city operate as efficiently as possible.

The city of Toronto in the past, in the early 1990s when I was on council, actually used its zoning powers to require building developers to meet a higher standard of construction, a higher efficiency level of construction, than was at that point required by the Ontario Building Code. In fact, it was the efforts on the part of the city of Toronto to push that higher code that eventually led to revision of the Ontario Building Code so that the standards the city was setting became the standards across the province. I would say that the city, not out of virtue but out of necessity, has tended to push forward on these issues more than other jurisdictions.

Your government, Madam Chair, understands the necessity of ensuring that Toronto has power. We disagree on methods, perhaps, but we agree on the need for power. The city of Toronto feels that a way that's environmentally and economically quite viable is to have greater authority to set energy efficiency and conservation standards. That's the reason I'm moving this motion.

The Chair: Any discussion?

Mr. Duguid: I know we're being very flexible in terms of the ability of the city to have standards for green

roofs. But beyond that, when we're talking about construction standards related to energy efficiency and conservation, I think there really needs to be a province-wide initiative. You don't want one-offs happening across the province; you want some form of standardization.

Perhaps it's something we could review in a couple of years, but at this point in time, certainly, I'd be a little concerned about supporting it, in that I'm not sure exactly what the city would have in mind, and I'm not sure what the repercussions could be to our building community here in the city of Toronto or to the cost of housing overall.

Mr. Tabuns: The repercussions for the city of Toronto would be reduced energy demand, lower operating costs, a better environment and, frankly, an expansion of the skills of the construction industry in this city and in this province. The city's experience at the beginning of the 1990s with the requirement for a higher energy efficiency standard was not at all negative. In fact, it meant that buildings that came in used less power than they otherwise would have, meaning, over the long term, more comfort for tenants, more comfort for owners and lower operating costs, which is something that I think everyone in this room would be supportive of. I think the argument is a fairly powerful one.

Mr. Hardeman: I don't disagree with the argument and the need for more efficient construction standards, but I think this does relate to the presentations. We heard from a lot of deputants about the green roof issues—the environmental issues there—and how much ability the city would have to go beyond the requirements in the building code. During those hearings and the presentation from government, it was assured that this was in there as the green roofs, totally separate, but there would be no ability for the city to go beyond the present building code standards that will be applied throughout the province. I think this would open it up such that the building code would only be a floor standard for the city. They could then impose anything that they deemed appropriate in addressing conservation and energy efficiency. I think this would open a door that would lead into the concerns expressed by so many of the people who build and who have to compete with the standard here to where they would live in the surrounding areas. The choice between a house in Toronto or a house in Peel region—if all of a sudden you make it twice as expensive or a third more expensive to build a house in Toronto, it's going to make it very difficult for the people to buy homes in Toronto. I can't support this because of that, not because I don't think we shouldn't build energy conservation in it, but I think, as the parliamentary assistant suggests, it has to be province-wide in order to make it work.

Mr. Tabuns: I don't want to belabour this point, but I do want to say something for the record. The federal government, in its commercial building improvement program, found, in working with building developers, they could cut long-term energy use in buildings by 25% to 35% with no increase in capital cost. By cutting the energy demand in the buildings, in the envelope, they

could reduce the size of mechanical installations for heating and cooling. In fact, an intelligent program that did change the way we approach energy use could give us the benefits without increased capital costs in many cases. I would say, frankly, that in most cases increased capital costs are more than paid for by reductions in energy use, something that's of consequence to the city as a whole. Thank you for the opportunity to stand on the soapbox, Madam Chair.

The Chair: You're welcome.

Mr. Lalonde.

Mr. Lalonde: Really, I don't disagree with the energy conservation, but this subsection, 114(5), refers to site plans and doesn't refer to building codes. This is why I don't think this could be included in that section. Again, that section refers to the site plan agreement and not the building code.

Mr. Duguid: To my colleague Mr. Tabuns—who is very comfortable speaking on this particular issue, I can tell; he seems to have a lot of knowledge on it—we are reviewing the building code. We're looking at putting more energy-efficient code standards in there. That's certainly something he'll want to keep his eyes on in the coming months, because that's something that's under way. We'll look forward to his further input on that.

The Chair: Any further debate?

All those in favour of the motion?

Mr. Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Brownell, Duguid, Hardeman, Lalonde, Rinaldi.

The Chair: That's lost.

We have a new motion, 24b. Mr. Tabuns.

Mr. Tabuns: I move that paragraph 3 of subsection 114(6) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding at the end "except construction standards relating to energy efficiency and conservation."

Madam Chair, I think we've all made the arguments on this one. I have no new arguments. My suspicion is that those oppose it have no new arguments. I call for a recorded vote.

The Chair: Any further debate?

All those in favour of 24b?

Ayes

Tabuns.

Nays

Brownell, Duguid, Hardeman, Lalonde, McNeely, Rinaldi.

The Chair: That's lost.

Mr. Duguid, I believe, 25 is yours, or somebody's—it's a government motion.

Mr. Lalonde: It's NDP.

Interjection.

The Chair: Sorry. I actually know what I'm doing, but I have to explain it to you. Number 27 is actually number 25, so it is a government motion.

Interjection.

The Chair: Because of the renumbering of the previous motions—I actually know what I'm doing.

Mr. Duguid: Madam Chair, perhaps I can assist. We are quite happy to support the NDP motion on this. It's identical to ours. We'd be happy to support it, so if you want to take it—

The Chair: So you would like to withdraw number 25?

Mr. Duguid: Yes, that would be fine.

The Chair: Then I'll let Mr. Tabuns read the motion into the record.

Mr. Tabuns: I move that section 114 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following subsection:

"Drawings for residential buildings

"(8.1) Despite the exception provided in paragraph 2 of subsection (5), city council may require the drawings mentioned in that paragraph for a building to be used for residential purposes containing less than 25 dwelling units if the proposed building is to be located in an area specifically designated in the official plan mentioned in subsection (2) as an area in which such drawings may be required."

The Chair: Any discussion on this item? Any debate? Mr. Hardeman, you're ready to vote? That's good. I like people who are ready to vote.

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

The next motion: Mr. Tabuns. You're on a roll.

Interjection.

The Chair: You have to wave the right way; otherwise, I don't know it's a question.

So 26 is now 27, I think—at the top of my page, in case you're confused, which is 114.1 It's an addition, so we can vote on section 114.

Can I get a recommendation from committee that section 114, as amended, be carried? All those in favour? All those opposed? That's carried.

The House division bells were heard to ring.

The Chair: Having heard the bells, I'm going to say that we have not completed clause-by-clause. We will return at 114.1. Mr. Tabuns, you'll have the floor when we come back.

We stand adjourned until 3:30 p.m. on Wednesday, May 17, 2006.

The committee adjourned at 1802.

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Mr. Irving Shachter, senior counsel, Ministry of Municipal Affairs and Housing
Mr. Scott Gray, counsel, Ministry of Municipal Affairs and Housing

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Ms. Laura Hopkins, legislative counsel