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Mercredi 29 novembre 2006

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

Chair: Andrea Horwath
Clerk: Susan Sourial

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LEGISLATIVE ASSEMBLY OF ONTARIO

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**STANDING COMMITTEE
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AND PRIVATE BILLS**

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The committee met at 1005 in committee room 1.

**RED LEAVES
RESORT ASSOCIATION ACT, 2006**

Consideration of Bill Pr30, An Act respecting Red Leaves Resort Association.

The Chair (Ms. Andrea Horwath): I will start by calling the meeting to order and ask that the committee have a look at the agenda, the consideration of Bill Pr30, An Act respecting Red Leaves Resort Association. The sponsor of the bill is MPP Norm Miller and the applicant is Robert Comish, secretary of the organization. Welcome, both of you. Would the applicant have any comments to committee as we begin the procedure?

Mr. Norm Miller (Parry Sound–Muskoka): Can I start, please, Chair?

The Chair: First Mr. Miller? Absolutely.

Mr. Miller: As the sponsor, I would just like to add a few general words of support for this Pr bill. It creates a Red Leaves Resort Association. It's a necessary structure for the village-type development being developed in Parry Sound–Muskoka, in the township of Muskoka Lakes, at the location of the former Peyton House resort. This creates a unique governance structure for a destination resort similar to the type of structure used in the Intrawest development at Collingwood and also at the Mont Tremblant development village at Tremblant, Quebec, and it's also been used in BC and in the west.

I would like to speak briefly about the importance of this development not only for Parry Sound–Muskoka but for all of Ontario. It is a huge development, and we're seeing the beginnings of it already in that parts of it have been built. The Rock golf course, a championship 18-hole golf course, has been built. I think they're just about putting the roof on the J.W. Marriott hotel, the first of its kind in Canada, the most exclusive of the Marriott chain, and they're starting on the Marriott residences as part of the development. Also as part of the development there's a whole retail and village-type development, similar to what you've seen in Whistler, BC, and in Collingwood and Mont Tremblant.

All I would say is that I'm very pleased that Ken Fowler Enterprises and Ken Fowler have started this development. I see it as being the new face of tourism, certainly in Muskoka but also in Ontario. It's a huge

project. When it's built out, it could be some \$800 million. It could have huge benefits for the province of Ontario, up to as many as 6,000 jobs created and \$100 million a year in revenues for all levels of government when the project is completely built out in some 20 years or so; I think 25 is the time when it would be completely built out.

In terms of why this Pr bill is required and necessary, I'll let Mr. Comish do the explaining of that, because he can do a lot better job of it than I might be able to do. I'd just say that I'm certainly supportive of this and it's necessary for the development they're proposing.

The Chair: Thank you, Mr. Miller. Mr. Comish?

Mr. Robert Comish: I'm of course here to answer and respond to any questions or comments that any members of the standing committee have, but I might just start by giving you a little bit of an overview.

This is the second destination resort being built in Ontario. A destination resort is a resort that is designed to operate 12 months a year. To do that, you have to have a significant amount of structure in place. The Blue Mountain Resort in Collingwood is the first one. It's well under way now; it's pretty well half-finished. We're building the fifth hotel. It's proving to be very successful. Ken Fowler Enterprises is making a very similar financial commitment to the Red Leaves Resort. As Mr. Miller indicated, the estimates are that at least \$800 million will be spent developing the resort over a number of years.

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The destination resort model drives a totally different type of tourism. It drives tourists from a significantly larger geographic area, what's called the rubber tire market, which is anywhere from a six- to eight-hour drive. People will come to a destination resort where, generally speaking, they are not prepared to drive those kinds of hours to go to a typical Ontario resort, so it expands the market for tourism well into the States. Blue Mountain is already making very successful inroads into that market. We're looking forward to doing the same thing with Red Leaves.

The resort association itself is a unique animal and requires special legislation because it needs certain features which can't be found under any of the public statutes, the Condominium Act or the Corporations Act. The compendium that was included with your package I think tries to outline that, but I'll be happy to expand on it.

Essentially, the thing we're trying to address is the fact that whereas most Ontario resorts are owned by one corporation, a destination resort by its very nature is owned by a whole series of different stakeholders. First of all, the resort itself is usually billed out on a condominium basis, so that all of the suites in all the hotels and the town homes, the cottages, are individually owned, but most of them are also put into rental programs so there's a significant rental operation going, so that you're getting maximum usage of this tourism amenity. You have homeowners and you have commercial owners; a commercial village is always a very important aspect of a resort like this because it's a huge amenity and draw to provide people with something to do while they're there when the weather may not be ideal.

In addition to that, there are a number of recreational amenities that have to be developed and then owned and operated by one or more entities, so it's golf courses and indoor aquacentres, tennis facilities and things like that. You end up with anywhere from five, six, seven, eight different types of groups of people who have a different economic interest in the resort from their fellow stakeholders. The result is that you need some kind of governance model that will allow them all to have some input into how the resort is operated as a whole, and at the same time it ensures that you have a mechanism to draw fees from these people who benefit from the resort, from all of them in a very equitable way, and have enough funds to pour back into the resort to maintain it year-round.

I think that's a bit of an overview. I'd be happy to answer any questions.

The Chair: Thank you very much, Mr. Comish. We appreciate that. First, before I go to the parliamentary assistant, I'm just wondering if there's anyone else in the room who would like to make comments on this bill to me.

Okay. That's great, then. I guess the next order is the parliamentary assistant, who will give comments from the government's perspective on the bill.

Mr. Mario Sergio (York West): First of all, I'd like to compliment the member for Parry Sound–Muskoka for bringing the bill to our attention here. The bill has been circulated to the relevant ministries and we have no problem with the bill. The Ministry of Tourism, as a matter of fact, supports the bill as it deals with making improvements to our tourism industry. The Minister of Municipal Affairs and Housing has no problem; he sees no problem. We couldn't see, the minister couldn't see, any implication or complication with respect to the local municipalities. We are in support of the bill.

The Chair: Excellent. Thank you very much, Mr. Sergio.

Are there any questions or comments from the committee members?

Mr. Bill Mauro (Thunder Bay–Atikokan): Just one. The act, then, will apply to any structure on the property described from today to complete build out. Is that accurate? Private, public, commercial—anything?

Mr. Comish: Yes, that's right. There is a geographic area defined because, as you know, it's attached as a schedule to the act. That geographic area can expand or contract depending on how the development actually moves forward. It's highly unlikely it will change dramatically from what it is now, but essentially, if you buy any interest in real property within this geographic area and become an owner in fee simple, then you are automatically a member of the association.

Mr. Mauro: Subject to the governance of the—

Mr. Comish: Exactly.

Mr. Mauro: But you mentioned also that the geographic area can change and expand?

Mr. Comish: Yes.

Mr. Mauro: From what's described here today?

Mr. Comish: Yes.

Mr. Mauro: And then the act would apply to that expanded geography?

Mr. Comish: Yes. How that would happen is, the owner of, say, an adjacent piece of property decides that for his own reasons, it would be wonderful to be part of the resort. He would make application to the resort association to become a member. If it is in the best interests of the resort association and all its members, then he'd be welcomed in. He would then have this bill registered on the title to his property, so his property would then be treated exactly like all of the rest of the real property, and that owner would pay fees based on the structure that's already in place under the bylaws.

Mr. Gerry Martiniuk (Cambridge): Thank you, Mr. Comish. I understand that this property is located on Lake Rosseau, which I take it is the premier lake in Ontario. It brings back old memories because it includes the old Cleavelands House property, where I spent many happy moments on Saturday nights over the years in my younger days. I remember in particular that it had two docks; one was 40 feet long and one was about 15 feet long. At about 12 o'clock one Saturday night, when I was sent out for more liquid refreshment, I took the wrong dock, the short dock. I ran out of dock and found myself in the water. It brings back great memories.

As you mentioned, these are fairly unique properties. They're destination properties; we only have one other. I'm just wondering, in regard to future legislation, number one, if there aren't going to be possibly that many of these destination properties in Ontario to make it worthwhile to do a general bill. The corollary of that of course is, can you generalize or is each project going to be very unique and require special legislation rather than general legislation?

Mr. Comish: The answer is that, actually, British Columbia already has a public statute that allows anyone to incorporate under that statute a destination resort non-profit corporation. It would be equivalent to our Business Corporations Act or our Corporations Act. The reason they did it was, because they have so many mountain resorts there, there were a number of people coming forward asking for special legislation. At some point, at least in BC, they said, "You know what? We should do a

public statute," which they've done, and it seems to work fine.

But I think you probably put your finger on it: In Ontario, the number of destination resorts that could be built are probably somewhat limited. We have a limited number of unique recreational facilities, such as a high mountain, for instance. That's the kind of thing. You need something pretty unique in order to qualify as a destination resort.

The other unique feature, if you do not have something like a mountain, is that you then need to be very close to a major market. That's of course why Blue Mountain is successful, and Intrawest believes it will be only more successful. Red Leaves is anticipating the same thing.

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Mr. Dave Levac (Brant): Mr. Comish, thank you so much for your presentation, and, Mr. Miller, your support for it by sponsoring the private bill.

A couple of quick questions, for clarity for me, regarding the overall function, the creation of potentially 6,000 jobs. Did I hear that correctly, Norm?

Mr. Miller: Yes.

Mr. Levac: Are those carry-over jobs, or are those construction and, ultimately, the end result?

Mr. Comish: Those are the permanent jobs that will be created as a result of the operation of the resort.

Mr. Levac: And those are important jobs.

Mr. Comish: Not the construction jobs. The construction jobs are, of course, shorter-term, but there will be significantly more than 6,000 full-year equivalent jobs created during the construction.

Mr. Levac: Correct. We'll be supporting the creation of 6,000 jobs in the riding. Great.

Mr. Comish: Yes.

Mr. Levac: Glad to hear that.

The second thing is with regards to the specialness or the uniqueness, as it's been described. Within the area, do you see any other potential destination resorts being contemplated, or is there a geographic area that tends to be taken care of by the creation of one to deal with the scope of the project you're talking about?

Mr. Comish: Certainly there's no real barrier to another destination resort, except that there are some practical barriers. One is that you need to find a parcel of land that is large enough to allow you to create a destination resort. As you may notice from this, we're talking about 1,400 acres of land here. We were just very fortunate in having a series of adjacent resorts that were all along the shoreline of Rosseau, started by Peyton House, which was burnt down, etc. There is a marina next door to it. Then there's Clevelands House. There's Lakeview. A number of resorts were all adjacent, so it was very fortuitous that over a period of time Ken Fowler was able to acquire all of these contiguous properties and build the mass that he needed.

I think you're going to have to go a long way north before you find that kind of acreage. Then of course the problem is, how do you get people there? Because it's

going to be a fairly significant drive if you're going to Sudbury or wherever to find that kind of property.

Mr. Levac: Two more quick ones. Number one, how much do you think the annual fee will be for the golf course?

Mr. Comish: I don't play golf, but I think actually up until now it's been a public course. At some point there probably will be a private club as part of it, but we'll try to keep it as low as possible.

Mr. Miller: I'd like to comment, if I could. You should go in the spring, because they have some very good deals. You can play 18 holes of golf and dine in the restaurant. They have some real bargains on as they're trying to build business in the spring.

Mr. Levac: I'll work with you on that one.

Mr. Miller: Probably in the fall, too.

Mr. Levac: Congratulations on a great project, and all the best wishes to you.

Mr. Comish: Thank you very much.

The Chair: Are there any other questions from committee members? No? Are you ready, then, to move to the voting? That's great.

Mr. Sergio: Before they change their mind.

The Chair: Yes, before they change their mind.

Members, just for your information, I'm going to need unanimous consent to postpone consideration of sections 1 to 18, which would be the normal way that we do things, section by section as they appear in the bill. But the issue is that many of sections refer to schedules and forms that come later. So what we'd like to do, with your consent, is to start with the schedules and forms, and then move into the sections. Is that all right? That's great. Thank you very much.

So we're going to start with schedule 1. Shall schedule 1 carry? Carried.

Shall form 1 carry? Carried.

Shall form 2 carry? Carried.

Shall form 3 carry? Carried.

Shall form 4 carry? Carried.

Now we're back to the main body of the bill: section 1. Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Did you want me to just skip down and ask if sections 5 through 18 are carried? Okay. Sections 5 through 18 are carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Great. Thank you very much.

Congratulations. That's business accomplished. Thank you again for coming. We appreciate the great vision you have for the project.

Mr. Comish: If I could make one final editorial comment, I want to compliment legislative counsel. The group of people you have in that department are absolutely superb at what they're doing. I've practised corpor-

ate commercial law in downtown Toronto for 35 years and like to think that I've dealt with a lot of very capable people in the legal profession. The people I've met within that group certainly fall within that category.

The Chair: Thank you very much. We'll make sure we pass that on. Sometimes we forget how valuable they are. We appreciate that.

REVIEW OF REGULATIONS REPORT

The Chair: Members, we are now going to move into the consideration of the draft report on regulations. Research has just provided an updated report. There is further information that was provided and can be included. Now I'm going to ask Andrew McNaught to walk us through the report.

Mr. Andrew McNaught: Good morning. I'm Andrew McNaught, the research officer for the committee. Today I am also counsel for the purposes of presenting the regulations report to the committee. I suppose this could be described as the committee's annual visit to the dentist, but bear with me.

I'm going to begin by just giving you a quick overview of the committee's role in reviewing regulations and then we'll go through the report. Susan, I think, has just distributed a second draft, because I received some further information late yesterday from the Democratic Renewal Secretariat and I've included that on page 9.

Regarding the role of the committee, the committee is required under the Regulations Act and the standing orders of the House to conduct a review of regulations made under Ontario statutes each year. The research lawyers of the legislative library—that's me—act as counsel to the committee for that purpose. The purpose of the regulations review is to determine whether regulations are being made in accordance with the nine guidelines set out in standing order 106(h), and that's included in appendix B of the report. As an example, guideline (iii) provides that, "Regulations should be expressed in precise and unambiguous language." The review procedure we've developed is as follows.

We'll read the regulations and identify potential violations of the committee's guidelines, and then we will write letters setting out our concerns to the various legal branches of the ministries that are responsible for those regulations. If we feel that a ministry's response to our letter does not adequately address our concerns, then we'll include a discussion of that regulation in the draft report. Once the committee has the draft report, it's up to the committee to decide whether a particular regulation will be mentioned in the final report and whether the committee will make any recommendations. Finally, the report is tabled in the Legislature.

You have before you the draft report for regulations made in 2005 and for the first 180 or so regulations made in 2006. I'll just go through that with you. On page 1 of the draft report, we include a brief description of the origins of the committee's role in the regulations review process as well as an overview of the terms of reference.

On page 2 and page 3, we've included some statistics on regulations made since 1991 up to 2006. Then, at the bottom of page 3 is the substance of the report. I just forewarn you that some of the issues raised here are very nitpicky, and you might even consider trivial, but that's the nature of the process, so bear with me.

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The Chair: Hence the dentist remark.

Mr. McNaught: Yes, that's right.

If you go to the top of page 4, we discuss two regulations made under the Conservation Authorities Act. The first regulation is O. Reg. 97/04, which is what you could call the model regulation that conservation authorities must follow when they make their own regulations.

In reviewing the 37 regulations that were made by conservation authorities in 2005, we identified three potential problems with the model regulation, which itself was made in 2004. Two of the issues we discussed are, I guess, minor drafting issues, and you'll see, over on page 5, that the Ministry of Natural Resources has agreed with our comments about them and has said that it will be making appropriate amendments.

The third issue we raise begins in the middle of page 4 and concerns sections 4 and 6 of O. Reg. 97/04. In a nutshell, we found that while a conservation authority must apply certain criteria when considering whether to grant permission for development in areas where development would otherwise be prohibited, they are not required to apply any criteria when considering whether to grant permission for certain non-development activities, such as altering an existing water channel. We raised this discrepancy with the ministry as a possible violation of the committee's precision-of-language guideline and you'll see the response over in the middle of page 5. Basically they say it's not feasible to prescribe criteria in connection with granting permission to alter a channel of water since there are just too many factors to consider.

Our position is that that's a reasonable explanation. You'll see that we've given you, on page 5, a suggested recommendation, which is that the committee accept the ministry's response and that it proceed with the amendments it has suggested it would make in connection with those two minor drafting issues that we raised.

The next regulation we discuss is towards the bottom of page 5, O. Reg. 158/06, which is also made under the Conservation Authorities Act. That was made by the Essex Region Conservation Authority. Section 9 of the regulation deals with the power of a conservation authority to extend permission to carry out development and non-development activities. We found that the regulation does not contain all of the requirements set out in the model regulation. Specifically, it does not specify under what circumstances an extension can be granted and the procedures for obtaining an extension. We raised this with the ministry as a possible violation of the committee's second guideline, which requires that there be authority to make the regulation.

Over on page 6 you'll see that the ministry agrees with our findings and has proposed to amend all regulations

made by conservation authorities accordingly. Again, we've provided a draft recommendation, which basically says that the committee accepts the ministry's response and recommends that the ministry proceed with appropriate amendments.

At the bottom of page 6 we discuss a regulation made under the Child and Family Services Act. That's O. Reg. 104. You'll see that subsection 50(3.1) of the regulation provides that when a child is being placed for adoption by an adoption agency, the parent cannot consent to the adoption until he or she has been informed of certain information. You'll see that clause (b), right at the bottom of page 6, provides that the parent must be advised of "significant changes that will result when specific provisions of" the act become law. So in the context of the committee's precision-of-language guideline, we asked the Ministry of Community and Social Services to explain what constitutes "significant changes" and "specific provisions."

Over on page 7, the ministry explains that these are references to the provisions of the Adoption Information Disclosure Act, 2005, and also that the adoption agencies have been provided with an information sheet that is to be given to parents before they consent to an adoption. On page 7, we've set out three possible options for the committee. The last one is the possible recommendation that the regulation be amended to include a reference to the information sheet that's been distributed to adoption agencies.

At the bottom of page 7 is the last regulation that we've flagged, which is O. Reg. 82/06, made under the Election Act. This regulation sets out procedures to be followed by the Citizens' Assembly on Electoral Reform. We've identified three provisions of this regulation, again in connection with the precision-of-language guideline. These provisions deal with the right of a person with a disability to have access to meetings of the citizens' assembly and the right to have interpretation services and the right to have access to publications of the assembly in an alternative format. Subsection 8(4), discussed at the top of page 8, provides that a disabled person who attends a meeting of the citizens' assembly is entitled to have the meeting conducted in a way that is accessible to him or her. So we asked the Democratic Renewal Secretariat whether this entitlement arises simply on request or if the intention was that the request must be made with reasonable notice. We raised the same issue under subsection 8(5) in connection with interpretation services.

The secretariat's response is summarized on page 9. You'll see that regarding the right to have access to a meeting and the right to interpretation services, the secretariat says that the intent of the regulation is to have accessible meetings and interpretation services available on request; that is, reasonable notice is not required.

The third issue we raised under this regulation is discussed at the bottom of page 8, and that's subsection 8(7) of the regulation, which provides a right to the publications of the assembly. We asked the secretariat to

explain the meaning of the term "publications," because it's not defined in the regulation. We asked about the right to see publications in an alternative format.

Again, over on page 9, you'll see that the secretariat says that the term "publications" includes everything published by the assembly, including documents in any form. However, it says that any request for publication in an alternative format will be "reasonably accommodated," which appears to be slightly different from the wording of the regulation, which says "on request."

Towards the bottom of page 9, we've set out a couple of options for the committee. One is to simply accept the response of the secretariat without any further comment. The other is to accept the response but also recommend that the regulation be clarified "to explicitly state that a reference to 'on request' in these provisions does not imply that 'reasonable notice' be given." Secondly, we suggested that they further define the term "publications."

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Mr. Gilles Bisson (Timmins–James Bay): I would simply—

The Chair: We're going to go back and do each section at a time. We're just going to get through the report and then we're going to go back. Thank you.

Mr. McNaught: I'm almost done. I'm just going to mention that we conclude the report, starting on the bottom of page 9, with a brief discussion of Bill 14, which is the Access to Justice Act, 2006. That act, of course, includes a schedule that will enact the Legislation Act, 2006, and that's going to replace the Regulations Act in 2007. We've included a brief note on how the new legislation will affect filing of regulations and publication of regulations.

That's the overview; now maybe you want to discuss the suggested recommendations on the individual regulations.

The Chair: If we can go back, then, the first recommendation came on page 5, which was the accepting of the minister's response on 97/04 and 158/06, conservation authorities.

Mr. Martiniuk: I have a general question before you get into specifics. The standing orders provide guidelines in 106(h), and I'm just wondering if regulations, for instance, let them impose a penalty such as in sub (vi), "fine ... or other penalty." Is it permissible to argue that the regulation is ultra vires in a court because it does not comply with the guidelines set forth in the standing orders, which is in fact legislation?

Mr. McNaught: That's a very good question. I'm not aware of any court cases on that.

Mr. Martiniuk: The reason I was asking is because I don't know whether it dealt with the same thing, but the courts some time ago held that probate fees, which were set by regulation, were in fact a tax, which is also mentioned in 106, and therefore were ultra vires, in effect. I don't know whether it was ultra vires the probate fees statute, or whether it was ultra vires the standing order.

Mr. McNaught: In fact, we discussed that very case about five reports ago. I wish I had it here with me to show you, but I can undertake to provide you with a discussion of that case. I don't remember whether they specifically raised the standing orders on that. I don't think so. I think it was more of a statutory argument, but—

Mr. Martiniuk: Rather than give me that, then, can you raise the standing orders?

Mr. McNaught: I believe you can, but as I say, I'm not aware of any cases off the top of my head about that.

Mr. Martiniuk: Thank you.

The Chair: Any other general questions? We go back then to the first recommendation, which came on page 5.

Mr. Levac: I move the adoption of recommendation number 1 on page 5: "The committee accepts the ministry's response and recommends that it proceed with appropriate amendments."

The Chair: Is there a seconder for that? Do I need seconds for all these? I don't think I do. Okay. All right, that's great. Is there any discussion on the motion? All right, that's great.

I guess I'm just in your hands. Do you want me to go through the voting on each of these or do you want to wait till the end and do it as a whole if there are any amendments? All right, we won't vote on them; we'll just do it at the end. Thank you.

So then the next recommendation comes on page 6. Again, it's a recommendation to accept the response of the ministry in response to the report. Any comments on that one?

Mr. Bisson: One second.

Mr. Levac: Page 6, Gilles.

The Chair: This is where the ministry has agreed to the amendments suggested by research to tighten up the language.

Mr. Bisson: Okay, that's fine.

The Chair: Okay, then, thank you.

We're now on to page 7. There's a series of options that Mr. McNaught has put to committee in the report.

Mr. Levac: I think that in terms of the committee, we should look for clarity wherever we can. I don't have any problems with asking for number 3 to be accomplished, which was, "Although the ministry's explanation clarifies (to the committee) ... " which I think is being said, that as a review we understand what you're saying, but the meaning of the wording—so that the rest of number 3 be adopted.

The Chair: Any further comments on that? No? Okay, thank you, Mr. Levac.

The next committee options come on page 9, in reference to the Democratic Renewal Secretariat. Any comments from committee members on where the committee wants to go with these options?

Mr. McNaught: I omitted, of course, an option that's available in all these cases, which is to not report the regulation at all. I'm sure I didn't need to tell you that.

The Chair: So I'm in your hands in terms of the committee. I haven't gotten any guidance here. Do we

accept the response of the Democratic Renewal Secretariat or do we recommend amendments to the regulation?

Mr. Sergio: Are you on page 9?

The Chair: Page 9, yes.

Mr. Sergio: The second bullet, I believe.

The Chair: Yes. The second bullet, you're suggesting, Mr. Sergio, is the way to go?

Mr. Sergio: Yes.

Mr. Bisson: Hang on a second. So the regulation as read is what is on 8, right, Andrew?

Mr. McNaught: Yes.

Mr. Bisson: Both in regard to disabilities and French-language translation?

Mr. McNaught: Yes.

Mr. Bisson: "On request"—I'm not so sure. It's a bit of a moot point; we've already done seven of these things. You show up at the committee and the person wants to participate in the process. They go there and they have some sort of disability that prevents them from getting access. They have to make a request, but the meeting is already happening. It doesn't make any sense.

Mr. Sergio: No, I don't think it says that.

Mr. Bisson: Can you explain?

Mr. McNaught: The point we were making was, is it implied in this that there should be some sort of reasonable notice? Can you show up five minutes before a meeting and ask that everything be altered to accommodate you? It may not be reasonable.

Mr. Bisson: It should be done ahead of time. I assume all of us, when we do public meetings in our ridings, make sure that they're accessible. You don't go and have a meeting somewhere where you know somebody can't get in and can't participate because of a disability. We always make sure it's accessible. You need to make sure that the regulation is not upon request on showing up at a meeting. It should be when they're organizing these meetings that in fact they are accessible. That's my point. The regulation, as I read it, would not automatically presume that it's going to be accessible, right? So why would we, as a committee, allow that?

The Chair: Mr. Sergio?

Mr. Sergio: With respect to publications, I know what the member is saying, but I thought we would have some flexibility with respect to the term "publications," since just accepting the report does not specify the term "publications." That is why I was suggesting number 2.

Mr. Bisson: But this is not just about publications, am I correct?

Mr. McNaught: No, it's—

The Chair: It's both. Each bullet refers to the different type of situation. The first bullet is accessibility, the second bullet is publications.

Mr. McNaught: The first bullet refers to the issue of what "on request" means.

The Chair: Reasonable notice for accessibility. Right.

Mr. Levac: If I can, they would have already known that the meeting was taking place, and in between the time of their knowledge of the meeting, they would have made the request because they have a disability and

they're requesting—I think I'm reading what the Democratic Renewal Secretariat is saying:

“The intent of this provision is that a person with a disability who is entitled to be at the meeting (whether as a member of the public or as a member of the citizens' assembly) be reasonably accommodated even if he or she makes the request just prior to the commencement of the meeting.”

What we're saying is, accept the response of the secretariat and the recommendation that the regulation be amended to explicitly state that a reference to “on request” in these provisions does not imply that reasonable notice be given. So it doesn't imply that reasonable notice be given, that they do respond to the request for modification if it's necessary. I think what you're saying, if I can hear, is that we should even be getting in front of that and automatically planning for it. Is that what I'm hearing, Gilles?

Mr. Bisson: That's exactly what I'm saying.

Mr. Levac: But that's not covered in the regulation.

The Chair: That's right.

Mr. McNaught: Yes, that's sort of beyond the scope of—

Mr. Levac: That's beyond the scope of the regulation, if that's what I'm hearing.

Mr. McNaught: You're suggesting drafting a new provision to cover a certain aspect of the committee's proceedings.

Mr. Bisson: That's what I'm basically saying, yes.

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Mr. Sergio: In order to perhaps clarify it a bit more, if you look at the top of page 9, the first bullet, which is 8(4), the third line, after the bracket after “citizens' assembly,” says, “be reasonably accommodated even if he or she makes the request just prior to the commencement of the meeting.” There is a request being made, so we are acting on it.

Mr. Bisson: But how do you do that?

Mr. Levac: You have to change the regulation, right?

Mr. Bisson: That's what I'm saying. I don't know how you do that.

Mr. Sergio: But this is based on a request. It's right in there. It's in the first bullet.

Mr. Bisson: I think Dave understands what I'm getting at.

Mr. Levac: Can I refer this to Andrew? If I'm not mistaken, what I'm hearing Gilles say is beyond the scope of the present creation or structure of the regulation. We're cleaning up the regulation as it is. What we would need to do, if I'm getting this right, is get in front of that by creating another regulation that says what Gilles wants to have happen. We're not privy to create regulations here. Are you okay with that, Gilles?

Mr. Bisson: I understand what you're—

Mr. Levac: I hear your point, and I'm just trying to—

Interjection.

Mr. Bisson: Andrew, you were going to add something. Please participate.

Mr. McNaught: I don't know—it slipped my mind now. We're dealing with the wording before us. We have to apply the guidelines, and the guidelines don't talk about making recommendations to draft provisions to deal with other aspects of this issue.

Mr. Bisson: Part of the problem is that I walked in halfway into this thing, so I'm going to ask the question this way. I'm looking at page 8. It reads, “A person with a disability who is entitled to attend a meeting is entitled, on request, to have the meeting conducted so as to be accessible to him or her.” As I read that, it means to say that the scenario could be—

Interjection.

Mr. Bisson: Hang on. Let me just finish, so that you understand what I'm saying and make sure that I'm on the same ground. As I understand, what that regulation means is that the citizens' assembly might have organized a meeting where, for whatever oversight, they're not accessible; there's no wheelchair accessibility. Let's make it really simple. A person finds out from their neighbour that this meeting is happening tonight, arranges the Wheel-Trans, gets all the way over there and finds out it's up on the second floor or there's some barrier to being able to attend. That regulation doesn't talk about notice, as I read it; it just says, “When you show up, you have the right to demand that”—so what do they do? They're going to cancel the meeting?

Mr. McNaught: That's the issue we raised: Should there be reasonable notice implied in that?

The Chair: And if you look in response to that issue that was raised, the bullets on page 9—

Mr. Bisson: Where's the response?

Mr. McNaught: The top of page 9.

Mr. Bisson: “The Democratic Renewal Secretariat has acknowledged receipt of our correspondence on this matter but has yet to respond. Therefore, the committee could

“—keep the draft text in the report as an ‘observation’”—

The Chair: No, you must have the old report.

Mr. McNaught: There's a problem there. Sorry; there's a second draft.

Mr. Bisson: Okay. That would help me.

The Chair: While this is being handed out—so the issue is raised by research and by legislative counsel saying that there's a problem with this regulation; it's not clear.

So then the ministry comes back with what their explanation is of why the regulation is written the way it is. Our committee has to decide: How do we deal with that? I think what Mr. Sergio is saying is that it's not good enough to just accept the explanation, but in fact we have to go further than that by asking the ministry to amend the regulation, as the suggestion is written here on page 9 by leg. counsel.

So that's kind of where we are now, and that's I think what Mr. Sergio is recommending. I think what Mr. McNaught is saying is that, notwithstanding what you're saying and what Mr. Levac is perhaps agreeing with, we

can't rewrite the regulation, but what we can do is ask the ministry to clarify so that people are not misled—I shouldn't say "misled," maybe; are not misunderstanding—what the intent was. Does that explain things for people?

Interjection.

The Chair: Okay.

Mr. McNaught: I just point out that the alternative to the recommendation that you amend the regulation to explicitly state that it does not imply reasonable notice is to say that it does imply, or to provide—

Mr. Mauro: Exactly right. Thank you for saying that. That's the issue with what's recommended here before us. It's contrary completely to what's trying to be accomplished here. Exactly. I'm not sure why that's there as a recommendation, is my question to you. It contradicts what's trying to be accomplished.

Mr. Bisson: Because I think we're all on the same page, right?

Mr. Mauro: Yes, absolutely. Yes. My question back to you is, why is that there? Because you're saying, "does not imply that 'reasonable notice'" has to be given.

Mr. McNaught: That's the secretariat's position: that it is not implied; that it is intended to create this higher standard where notice is not required.

Mr. Mauro: But in their explanation at the top of page 9, they state that they feel like they've met the more demanding standard already.

Mr. McNaught: Yes, that the regulation, as written, is what was intended.

Mr. Mauro: Yes, that's their interpretation, that they would have addressed the concern that Gilles and others are raising. So I guess my question would be: Do you agree with their interpretation?

Mr. Sergio: But the recommendation is different than what is being suggested, so I think we have to look at the recommendation here.

Mr. McNaught: I think maybe it creates some unreasonable expectations.

Mr. Mauro: If we all knew that notice was being given to people, then we could be assured that they would have an opportunity to be accommodated. Correct? So if we're satisfied that notice is being given with the way the regulation is drafted, then I think everybody's concerns are accommodated. So if notice is being given, they have an opportunity to—

Mr. McNaught: Sorry, notice, I think, in this context, means that the person making the request to be accommodated has to give reasonable notice to the people conducting the meeting that they want the meeting made accessible to them.

Mr. Bisson: The problem is that it's an unworkable regulation because the notice may not have been given to the person until six hours before the meeting, at which point you couldn't accommodate.

Mr. McNaught: You're saying—you could clarify it if the organizer of the meeting gave advance notice that the meeting is going to be held.

Mr. Mauro: Yes.

Mr. Sergio: To me it's crystal clear. I don't want to get hung up on this, but if we look at the committee's options and we look at the first bullet, second bullet and then first small bullet where it says, "to explicitly state that a reference to 'on request' in these provisions does not imply that 'reasonable notice,'" which means it has to be done. Reasonable notice doesn't even apply. It's got to be done. They've got to do it, period. That's the way I read the recommendation from the committee here.

Mr. McNaught: That's the secretariat's position.

Mr. Sergio: Yes, and it's exactly, in a way, what Gilles is saying. How do we know that it's going to be done? It's got to be done. They've got to do it. It's got to be done. It's not only implied, it's got to be done.

Mr. Levac: If I can add to that, I want to follow Mario's logic by simply restating, "be reasonably accommodated even if he or she makes the request just prior to the commencement of the meeting." I think that reinforces what Mario is saying, that in actual fact, the words "reasonable notice" are not the issue here. What the ministry is saying, or the secretariat is saying—"on request" is a higher standard of reasonable notice. Therefore, taking "reasonable notice" out as not implying reasonable notice, forget that. "On request" is even closer to what Gilles is talking about, without changing "regulations," so that if somebody knows that there's a meeting coming up within hours, they can call and say, "I'm on my wheeltran, I'm on my way, try to get me accommodated." I understand this to say that every single effort will be made to ensure that the person with that disability gets to that meeting, even if it means carrying them. I think that's the intent. Further to Mario's point again, it raises the bar. I think that's what he's saying. It raises the bar, it takes "reasonable notice" out of the picture. That's why accepting that recommendation brings us a step closer to having it absolutely accessible.

The Chair: Okay. Thank you. So, then, the committee thus far is suggesting that the best option would be to take bullet number 2 under "committee options," which is to accept the response but ask that the regulation be amended for clarification in both of those bullets. Thank you very much. That was a good discussion.

Mr. Bisson: Yes, and that would be similar to the other regulations for French-language services.

The Chair: Yes, it carries all accommodations.

Mr. Bisson: Because I know it's already an issue. I spoke to the person who actually was drawn out of my riding to be on the citizens' assembly. She speaks English, but if she's trying to explain herself, she really would have a heck of an easier time doing it in French rather than in English.

The Chair: Absolutely.

Interjection.

The Chair: That's great. Thank you very much.

Mr. Levac: Do you need acceptance?

The Chair: Yes. I'm just going to walk you through the required motions now.

Shall the report, as amended, be adopted?

Mr. Bisson: There's still the one—the last one that I said, "So moved." Remember, a little while ago? The one

in regard to children's services—not children's services but adoption. Not adoption, but—

The Chair: Page 7?

Mr. Sergio: Page 6.

Mr. Bisson: That was at the beginning? Let me just see what that says. Page 6?

The Chair: “Accepts the ministry's response and recommends that it proceed with appropriate amendments.” That's what the committee decided to do.

Mr. Bisson: “The committee accepts the ministry's response—”

The Chair: On page 7.

Mr. Bisson: I'm looking in the wrong place.

The Chair: Child and family services, Adoption Information Disclosure Act.

Mr. Bisson: Yes, that's the one.

The Chair: So what the committee recommends, or what the committee has discussed is actually making the following comment on the recommendation, which is the third bullet point.

Mr. Bisson: “Although the ministry explanation clarifies the committee response, it does not address the possibility”—okay, I got you.

The Chair: Okay. So shall the report, as amended—we've just made those amendments—be adopted? Agreed.

Upon receipt of the printed report, shall I present the report to the House and move its adoption? Agreed.

All right. There's no dissenting opinion, so that's the end of that.

Thank you very much, Mr. McNaught. That was an excellent discussion. Thank you, committee members.

The committee adjourned at 1101.

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