



Fifth Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee

on

Municipal Affairs

Chairperson
Mr. Peter Dyck
Constituency of Pembina



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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS

Monday, July 5, 1999

TIME – 7 p.m.

Mr. Michael Mercury, Private Citizen

LOCATION – Winnipeg, Manitoba

Mr. Rick Weind, CUPE Local 500

**CHAIRPERSON – Mr. Peter Dyck
(Pembina)**

Mr. Bill Clement, Councillor, City of
Winnipeg, Charleswood-Fort Garry Ward

**VICE-CHAIRPERSON – Mr. David
Fauschou (Portage la Prairie)**

Bill 31–The Association of Manitoba
Municipalities Incorporation and Conse-
quential Amendments Act

ATTENDANCE - 11 – QUORUM – 6

Members of the Committee present:

Mr. Wayne Motheral, President, Association
of Manitoba Municipalities

Hon. Messrs. Derkach, Reimer, Mrs. Vodrey

MATTERS UNDER DISCUSSION:

Ms. Barrett, Ms. Cerilli, Mrs. Driedger,
Messrs. Dyck, C. Evans, Fauschou, Ms.
McGifford, Mr. Sveinson

Bill 14–The Amusements Amendment Act

Bill 24–The Municipal Amendment Act

APPEARING:

Mr. Gary Kowalski, MLA for The Maples

Bill 25–The Municipal Assessment Amend-
ment Act

WITNESSES:

Bill 24–The Municipal Amendment Act

Bill 31–The Association of Manitoba
Municipalities Incorporation and Conse-
quential Amendments Act

Mr. Wayne Motheral, President, Association
of Manitoba Municipalities

WRITTEN SUBMISSIONS:

Bill 24–The Municipal Amendment Act

Ms. Rolande Chernichan, Private Citizen

Ms. Shirley Weidman, Private Citizen

Mr. Grant Thorsteinson, President,
Manitoba Municipal Administrators
Association

Bill 25–The Municipal Assessment Amend-
ment Act

Mr. David M. Sanders, Colliers Pratt
McGarry

Mr. Jim Furgale, Private Citizen

Bill 25–The Municipal Assessment
Amendment Act

Mr. Kevin Chudd, Reeve, Rural
Municipality of Gimli

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Mr. Wayne Motheral, President, Association
of Manitoba Municipalities

Clerk Assistant (Ms. JoAnn McKerlie-Korol):
Order, please. Good evening. Will the Standing
Committee on Municipal Affairs please come to

Mr. David M. Sanders, Colliers Pratt
McGarry

order. We must proceed to elect a Chairperson. Are there any nominations?

Mr. David Faurichou (Portage la Prairie): I would like to nominate Peter George Dyck, the honourable member for Pembina.

Clerk Assistant: Mr. Dyck has been nominated. Are there any further nominations? Mr. Dyck, would you please take the chair.

Mr. Chairperson: Order, please. The next item of business is the election of a Vice-Chairperson. Are there any nominations?

Mr. Ben Sveinson (La Verendrye): I nominate the honourable member for Portage la Prairie, Mr. Faurichou.

Mr. Chairperson: The honourable member for Portage la Prairie has been nominated. Are there any others? Therefore, the honourable member has been elected as Vice-Chair.

This evening the committee has before it four bills: Bill 14, The Amusements Amendment Act; Bill 24, The Municipal Amendment Act; Bill 25, The Municipal Assessment Amendment Act; and Bill 31, The Association of Manitoba Municipalities Incorporation and Consequential Amendments Act.

The committee will be considering public presentations on the following bills: Bill 24, The Municipal Amendment Act; Bill 25, The Municipal Assessment Amendment Act; and Bill 31, The Association of Manitoba Municipalities Incorporation and Consequential Amendments Act.

We do have a number of presenters who are registered to speak on the bills this evening. It is the custom to hear the public presentations before consideration of the bill. Is it the will of the committee to hear the public presentations first?

Hon. Rosemary Vodrey (Minister of Culture, Heritage and Citizenship): I understand that we do not want to keep the presenters waiting, but there may be agreement in the committee to consider Bill 14, which is an amendment, and though I believe there will be discussion, we

may be able to deal with it in a reasonable amount of time. I wonder if you could canvass the committee, Mr. Chair, for agreement on putting Bill 14 and disposing of it and then being available to deal with the other bills?

Mr. Chairperson: Is there agreement to proceed with Bill 14? [agreed]

Bill 14—The Amusements Amendment Act

Mr. Chairperson: Then I would ask the minister to please take the chair, and we will move on to Bill 14, The Amusements Amendment Act. Does the minister responsible for Bill 14 have an opening statement?

Hon. Rosemary Vodrey (Minister of Culture, Heritage and Citizenship): Mr. Chair, I do have a short opening statement that I would like to give by way of background.

First of all, thank you all for coming. I would briefly like to discuss the amendment which we are proposing for The Amusements Act. The basic intent of the amendment is to reflect changing technology in the entertainment industry. When the current act was established, it was not possible to anticipate the extent to which video technology was going to develop. This amendment is proactive and simply allows us to address the potential classification of new video technologies such as digital video disks or DVDs. This means that changes we are making will address the new video technology before us today and will allow us to classify future technology that may become available. This includes video games.

On the subject of video games, I would like to explain that at this time it is not our intent to introduce a board rating system for video games. However, although we are not introducing a board rating system, I would like to make it clear that we are promoting and using an already established video game rating system.

As a parent, I can assure you that I share the concern many parents have about video game content. I believe parents need useful information to help them monitor what their children see in video games. That is why my department has studied the issue extensively and

has decided to promote an existing video game rating system that will help parents evaluate the content of the games their children are playing.

To this end, my department has launched a significant province-wide public awareness campaign to promote the Entertainment Software Rating Board system, or ESRB. This system has more than 250 game producers continually submitting products for rating.

In addition, in anticipation of the passing of this bill, we are preparing a regulation that will ensure children in Manitoba are not allowed to rent or purchase video game material that involves pornography or extreme violence. This, combined with the ESRB information that is being made available to parents, will help us ensure that our province's children do not have easy access to inappropriate video games.

As part of our extensive review of video game classification, we researched how rating systems are used in North America, particularly the U.S.A., Britain, and Australia. All have country-wide rating systems for video games. In our opinion, the most comprehensive of these systems is the ESRB system, which is already in use in the U.S. and Canada. That is why, after careful review of the issues, my department has decided to work with the ESRB system.

Here are some of the main reasons. As I previously mentioned, ESRB is a comprehensive North American rating system that is used across the continent. People are more mobile today than ever before, and that makes it important to introduce a system that Manitoba parents can access wherever they are in North America.

Secondly, up until now, a large part of the problem has been that Manitoba parents have not been aware of the existence of the ESRB rating system and did not understand how it worked. That is why we have launched a province-wide public information campaign to inform parents about the information available through ESRB. The campaign ran this spring and will run again in the fall. It will also be supplemented by point-of-purchase material in video stores.

Thirdly, the ESRB program we have developed is a partnership between the

government, video game retailers, and, most importantly, parents. This system provides important rating information to parents and empowers them in decision making for their children.

Finally, the ESRB is run by an independent advisory board. The ratings are conducted by independent panels of video game raters. The ESRB advisory board is made up of a wide representation of community members, including consumer advocates and children's educators. The rating panels also include a good cross-section of community members who are not connected to the video game industry. In addition, games are periodically submitted to a Canadian panel of independent experts. Their review of the ESRB ratings has been consistently favourable.

I would like to update you on the current progress of the new ESRB program. Effective Friday, July 2, Mr. Chairperson, 132 Manitoba video game outlets have received their ESRB promotion material. We are continuing an aggressive program that will see point-of-purchase material in many more stores over the next several months. The response from retailers has been very favourable. I would like to point out that we have received very positive feedback from parent councils. They see the new program as a partnership that will benefit all Manitobans, and they are helping us to promote this initiative across the province.

As we move through this initiative, it would be important for both of our partners, retailers and parents, to pay close attention to any product on the shelves that is not rated. In our review, we have encountered very few, if any such product. We will work with video retailers on this matter, but it is our firm expectation that they will remove unrated product from their shelves and will not rent or sell it until the rating has been completed.

In closing, I want to point out that Manitoba is leading the way in the rating of video games in Canada. No other province is even close to addressing this issue in the manner that we have. I believe that we have introduced a responsible and effective program in partnership with industry and parents, a program that will provide

solid information to help parents make responsible decisions for their children. Thank you very much, Mr. Chair.

* (1910)

Mr. Chairperson: I thank the minister for her opening comments. Does the critic for the official opposition have an opening statement?

Ms. Diane McGifford (Osborne): I would like to thank the minister for her statement. I am encouraged to hear that she said that her government will be preparing a regulation which would disallow children from purchasing video games involving pornography. I would like to think that one of the reasons for that is because we raised this issue in Question Period and during debate. In fact, I feel quite confident that that might be one of the reasons for this. So I thank the minister once again.

We have already said and are on the record as having said that we support this legislation. We think it is extremely important that DVDs be classified. They are described as the wave of the future. Films and videos are currently classified, so DVDs, which I understand will replace videos, and many of the other electronic medias quite clearly need to be classified. However, the minister also is aware that the opposition believes, and is on the record as having said so, that video games should be classified by the Film Classification Board just as videos and films are classified by the Film Classification Board.

We do not see the logic for classifying films on the one hand, videos on the one hand but not classifying video games which I think the minister would agree are arguably more violent, more realistic, more graphic. She has already dealt with the question of the pornographics, so that is encouraging. But the most disturbing thing is that video games are more interactive and video games, I understand, are approaching virtual reality where—it is not something that I have ever been a part of, but I understand in virtual reality it is as if you are doing the thing that you are not really doing, if you follow my reasoning there.

In other words, it would be as if you are murdering somebody, though, in reality, you are not doing that, and that is the difference between virtual reality and real reality. So I think we have been quite adamant in saying that one of the most disturbing things about video games is, yes, they are violent; yes, they are often very sexist; yes, they are graphic, but most disturbing is that they are interactive. You are not sitting there as a passive recipient; you are engaged in the acts of hurting people, maiming people, dismembering women or facsimiles of women. So we believe that it is extremely important that they be rated by the Manitoba Film Classification Board so that these ratings reflect Manitoba public standards. We believe this to be in the interests of the public good.

Now, I know that the minister is promoting the ESRB and its rating system. We have addressed this issue in the House and during debate as well. This is a system that has been around for a long time. I am not quite sure how many years. Four strikes me as the number, but I could be wrong. The minister argues that, yes, it has been around, but it has not been brought to the awareness of parents. Certainly, making parents more aware of the nature of video games is extremely important.

I do not think that most members sitting at this table understand video games. I know I did not know what was going on in that industry until I started doing research, and it is truly shocking, truly shocking. I think, as parents, we have an obligation to come to terms with this media and understand it. I must say, as a parent, it is something that I did not do. My youngest child is 19. My child was not interested in video games, so I suppose I was very fortunate. But, as a legislator, I think it is incumbent upon me, and I was truly shocked and revolted when I saw the kind of thing that is available.

So the ESRB, it has been around for awhile. One of the things that disturbs me is that it is an American-based system, and I do not think that American culture and Canadian culture and culture in our province are the same thing. I think Americans have a greater tolerance for violence in their society than we have. At least I would like to think so. No, I would not like to think so; I fear that is the case. So I do not really

think that the ESRB is what we need in the province of Manitoba.

The minister talked about the issue of partnership and felt that by creating this public awareness program and by highlighting, I suppose, the ESRB, she was creating a partnership with the retailers who rent and sell videos and with parents in the community. Well, I am very interested to hear that the campaign ran this spring because I never heard or saw anything of the campaign, other than when I was at Rogers Video the day of the announcement. Now, I do not watch television so that could be one of the reasons, but I do read newspapers very carefully and I did not see anything in the newspapers. I am not saying it was not there. I am saying I did not see it, and if I did not see it, a lot of people did not see it.

So I am not quite sure how comprehensive or how thorough this campaign was, but I do know, because as part of my research on this bill, I have been in several of the retail outlets, and I can assure the minister that there are many videos that are not rated. I think I said on the record when I was making the speech at second reading that in one of the stores that is listed as a partner in this program, I was told by a young man, a clerk, that they did not have to be rated because there were no laws in this province. Well, he was almost right but not quite right, which leads me to one of the other things that bothers me about the minister's intention not to have videos classified by the Film Classification Board, and that is that, ultimately, the system is totally voluntary.

The minister I believe said that she hoped that the unrated product would be removed from the shelves and that the retailers would do this. My experience in the research I have done is that is not happening. I certainly hope that it will be done, too. [interjection] Oh, I am sorry, the minister tells me that once the legislation is passed, then she believes that the unrated product will be removed. Well, I hope it to be the case, but we will see.

I think that sums up what I wanted to say. I just do want to end once again with saying I do not see the logic in having films and videos classified by our Film Classification Board and

then a refusal to have video games classified by that board. I know it would be expensive or at least cost something. I know it might interfere with the smooth runnings of business, but I think that the public good comes first, and I think that in the interests of the public good, these video games should be classified.

Mr. Chairperson: I thank the member for her comments.

Mrs. Vodrey: Mr. Chair, I do not want to prolong this, just to answer the member's question. This bill now will give us the authority and also give the Film Classification inspectors the authority to now look at what is available within the stores, to then make sure that there is not the unrated material out and to make sure that working in partnership any unrated material will be removed and will be sent back for rating.

But at the moment—that is why this bill is quite important—there is not any authority resting with the Film Classification Board to deal with these new types of technologies, DVDs or video games, and that is why this is important. Thank you, Mr. Chair.

* (1920)

Ms. McGifford: I just wanted to ask the minister a question about that. So I understand then the film inspectors will have the right—will they be allowed to or will it be an obligation to suggest that these unrated products be removed, and will businesses be required to remove those, and if they do not, is there a penalty attached, because I am not clear.

Mrs. Vodrey: Mr. Chair, we are in the process of writing the regulation, but the chair of the Film Classification Board assures me now that it will be part of the protocol of the inspectors when they go out to review any of the video stores. They will also now be looking at video games, since now they will have the authority to deal with that with the change in the legislation.

Ms. McGifford: I hear the expression "will have the authority to," and I think there is a difference between having the authority to and actually doing it, because I understand that this

legislation would allow for classification of video games by the Film Classification Board but that the minister has decided not to have them classified by that board.

Mrs. Vodrey: Mr. Chair, we intend to proceed with the inspection of the stores and include now in the protocol of our inspectors video games, so that now we will be looking to make sure that there is not unrated product available within our stores and that unrated product will, in fact, be returned for a rating. But it was impossible to do that or to make any requirement in terms of video games until through this legislation the scope of video games or other technology was brought into the scope of the Film Classification Board.

So the one thing that we have decided not to do is to develop a provincial rating system because we do have confidence in the rating system of the ESRB at the moment. If there are some difficulties which arise in the practice with the ESRB rating system, we then have the authority already vested from this piece of legislation to then bring a provincial classification about.

Ms. McGifford: Then one thing that worries me from previous conversations in Estimates with the minister is I understand that there are something, and my figures could be off, but I believe there are something like 850 video outlets in the province, and I believe three inspectors.

Mrs. Vodrey: I am not sure I can exactly confirm the number, but if so, I am just wondering where the member is going with that assessment.

Ms. McGifford: If my numbers are correct, and I am remembering them from Estimates, as I said, then it seems to me there is a lot of inspecting for a very few people. I wonder how this work can be done and how we can be assured that the unrated videos are indeed sent back.

Mrs. Vodrey: Mr. Chair, again, we have a system for our inspectors as they proceed through the province. I know the member has had some experience which she raised during the

Estimates debate about a store in her area which happened to have been inspected. It is clear that the inspections do occur.

So I believe that the Film Classification Board will proceed with this initiative. It is our intention to proceed with it. I would like to say again, regardless of everything that is being thrown up as an obstacle, the overriding part of this initiative, Mr. Chair, is that Manitoba is leading the way in terms of what it is doing and what it is requiring and how it is working with parents and with the industry in terms of video games.

We have accepted the fact that there is concern about the content of video games and have understood that, as a result of that concern, there needs to be a two-pronged approach, one, an education initiative that tells people what is in those games, and, secondly, an authority to be vested with our Film Classification Board in order to deal with this.

Ms. McGifford: Yes, it is not a question; it is a comment. I have said this to the minister before. I am very concerned about kids whose parents do not supervise them and even, I suppose, children whose parents do and whose parents are very interested in what they are doing, because I was told by one of my colleagues, for example, that he was extremely shocked to find his sons engaged in a video game which he found extremely distasteful. Apparently somebody had brought it from his house and it had been loaded onto this system. I hope I am using the correct technological terms. This is a very conscientious parent. None of us as parents can be behind our children 24 hours a day.

I also wanted to assure the minister that we are not putting road blocks in the way of this legislation. We have been quite unequivocal, totally unequivocal in saying that we support the legislation. We are just asking her to classify video games or to have video games classified by the Film Classification Board.

Ms. Marianne Cerilli (Radisson): I just want to pick up on a point that the minister made in her comments, because she made reference quite a bit in discussion of this bill to having a partnership with parents. I think we have asked

the question before about the kinds of consultation she has done on the legislation, so I want to ask her now if there was consultation with parent councils and other community groups prior to the bill being developed.

Mrs. Vodrey: The consultation and discussion was with parent councils. The public education initiative is aimed at parents.

Ms. Cerilli: I just want the minister maybe to provide a little bit more detail about the nature of the consultation with parents and parent groups in developing this legislation.

Mrs. Vodrey: First of all, this government is concerned and accepted the challenge of dealing with some of the new technology. We recognized that DVDs and video games were two of the most easily accessible and likely becoming the most important. So we had to, first of all, develop legislation which would deal prospectively to allow for this technology and others as it was developed to fall into the scope of the Film Classification Board. That is what this legislation does.

The education process, the education initiative is another prong. It is not dependent upon this legislation, but it was a consultation and an initiative which this government undertook because it was important, we believe, to have a way to alert parents.

Ms. Cerilli: What I am understanding from that answer is that the minister did not really consult to ask parents or parent groups or parent councils what they thought should be in legislation and what kind of classification system should be in place to restrict access to video games and DVD. What they did was they consulted with parents on an education component of the system that they are proposing.

Mrs. Vodrey: That would be right in one way. However, I think it is important to say that the education initiative, No. 1, is an important partnership initiative. Secondly, it was important to bring this within the scope of the Film Classification Board, and then, as I said in my opening remarks, we did an investigation

about where any such classification systems might, in fact, might be available.

The member for Osborne (Ms. McGifford) had referenced in Estimates a year ago classification systems in Australia and Great Britain. As you can tell simply by the name, they are national classification systems. They are not locally done. They are national. Great Britain has something like 58 million people. It is not a local system, the reason being that this technology is so available from locations completely outside of where people live. People's mobility is such that they need to know if they are renting a video game in Manitoba and when they go to rent a video game in South Dakota, how does that system relate to them, or if they buy those video games?

So we have decided in Manitoba to use a system which is for us an international system here and makes it an international versus a national system. As I said, if we find that there are a lot of complaints that people feel for some reason this rating system is inconsistent with the community values in Manitoba, then we can certainly look at doing something that is more local. At the moment I believe that this system acknowledges the reality of the developing technology, and that is the position that our government has taken in adopting the ESRB system.

* (1930)

Ms. Cerilli: I just want to make it clear on the record, because I do not think it is clear from the discussion so far that one of the reasons for having a request to have the Film Classification Board involved is because the current system is information for parents and children only, that it is not in any way going to restrict access, that now the minister is bringing in a regulation which she had not mentioned before until today that there is going to be a regulation that is going to restrict pornographic and, I believe she said, excessively violent material.

The concern that we have is if you have an international system that is information only, the minors are still going to have access to material that is of concern. So if the minister wants to clarify then how material is going to be

restricted under her proposal, I am quite interested in hearing that.

Mrs. Vodrey: The member has to put the rating system on one side and then the authority to do anything such as restricting in the legislation which is before us. The ESRB gives us a classification system. It does not censor; it provides classification. Then what we have done is we have said all the classifications in the world do not assist us except for information.

We think the information is important, but the authority for the Film Classification Board to deal with this in any way required legislation. This legislation now allows the authority for a regulation to be put into place to deal with access in terms of young people being unable to access the adult product and/or restricted product.

It also allows for, prospectively, the Film Classification Board to deal with other types of developing technology and, if required, a classification system to deal with video games here in Manitoba, if we find it necessary. We have been working all along with a classification system to start with.

Ms. Cerilli: I appreciate the minister giving us that classification, but it does still seem that she is I guess taking a wait-and-see attitude and is not going the full step of having a system in place that is going to really assist parents with helping them try to deal with the access that kids will have to the kind of excessively violent material. So I think that is all the questions I will have for now.

Mr. Chairperson: Thank you. During the consideration of the bill, the preamble and the title are postponed until all other clauses have been considered in their proper order. If there is agreement from the committee, the Chair will call clauses in blocks confirmed to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? [agreed]

Clause 1—pass; Clause 2—pass. Clause 3.

Ms. McGifford: I have an amendment.

Mr. Chairperson: Is there leave to introduce the amendment? [agreed]

Ms. McGifford: I move,

THAT the following be added after section 2 of the bill:

2.1 The following is added after section 24:

Video games to be classified

24.1 Notwithstanding sections 23, 24 and 53, video games shall not be exempt from all or any part of this Act, and the board shall classify video games.

Mr. Chairperson: We thank the member for that amendment. However, I am informed that this amendment is out of scope, and I cannot accept it. So it has been ruled on that. Consequently, it being out of scope, we then proceed. It is therefore out of order.

Clause 3—pass; preamble—pass; title—pass. Bill be reported.

That is it for Bill 14.

* * *

Mr. Chairperson: Just to proceed, it is the custom to hear public presentations before consideration of a bill. Is it the will of the committee to hear the public presentations first? [agreed] Does the committee wish to consider the bills in numerical order? [agreed] Okay, we shall proceed.

Mr. Clif Evans (Interlake): Might the committee, seeing that we have one presenter for Bill 31, might we deal with Bill 31 first, and then the other two we can deal with after?

Mr. Chairperson: Just for clarification, the person you have referred to is presenting on all three bills. However, I am not concerned. I stand at the will of the committee.

Mr. C. Evans: No, if the committee wishes to proceed in numerical order, that is fine. Just a comment.

Mr. Chairperson: Could I have order of the committee, please? I would ask leave of the committee for the minister to make some comments regarding Bill 25. [interjection] Okay, then we will proceed.

Bill 24—The Municipal Amendment Act

Mr. Chairperson: I will backtrack again. We will proceed with Bill 24, and as agreed, we will call the out-of-town presenters first.

I would like to call on Mr. Wayne Motheral, President, Association of Manitoba Municipalities, please. Good evening, Mr. Motheral. Do you have a presentation for us?

Mr. Wayne Motheral (President, Association of Manitoba Municipalities): Yes, I have written copies here.

Mr. Chairperson: Please proceed.

Mr. Motheral: Thank you, Mr. Chairman, fellow committee members. The Association of Manitoba Municipalities, AMM, appreciates the opportunity to present our comments on Bill 24, The Municipal Amendment Act.

As many of you know, the AMM was created earlier this year as a result of the amalgamation between the former Union of Manitoba Municipalities and the Manitoba Association of Urban Municipalities. The AMM now represents all 201 municipal corporations in Manitoba.

The current Municipal Act came into effect in January 1997. Amendments were made to the legislation last year and now Bill 24 makes further amendments. The AMM appreciates that the province is continuing to review The Municipal Act on an ongoing basis and is willing to address some of the problems or concerns that have arisen during the two and half years that the legislation has been used.

The major amendments in Bill 24 deal with the tax sale process. The procedure for placing properties with taxes in arrears into tax sale has always been a balance between the rights of the property owner and the need for municipalities

to receive property taxes from their ratepayers in a timely and consistent manner.

While the AMM favours some of the proposed changes to tax sale procedures, there are other amendments which we do not support.

Bill 24 amends the notice provisions requiring that more notice of the tax sale be given, not only to the property owner, but to the general public as well. Specifically Section 367 will now require municipalities to provide property owners, through personal service, two notices of the tax sale auction. In regard to the public notice, the amendments state that in addition to the current requirement of posting a list of the tax sale properties in the municipal office, a notice of the auction must also be placed on or near the affected properties and in two other public places in the municipality at least 30 days before the auction. As well, the amendments require that a notice should be published in a local newspaper on two occasions before the tax sale.

The AMM supports all these amendments that strengthen the notice provisions. The sale of property for taxes in arrears is a serious action. We agree that the public and particularly the property owner should receive ample notice about the tax sale auction.

* (1940)

The AMM also supports the amendments to Section 369, which allows for the municipality and property owner to enter into agreement for the payment of taxes in arrears and costs. If a municipality can reach a payment agreement which they believe is reasonable, we agree that the option should be available.

Bill 24 makes further amendments to tax-sale procedures which the AMM does not support, because we believe they place unnecessary restrictions on municipalities. We are opposed to amendments to Section 365(1) which allow the province, through regulation, to establish criteria for whether a property is eligible for tax sale. Currently property is eligible for tax sale if the taxes are in arrears for the year designated by the municipalities. We

do not believe further criteria should be established.

Based on consultations with Rural Development staff, we understand that the regulation could specify a minimum or threshold amount for arrears before a property would be eligible for a tax sale.

The AMM is concerned that a threshold amount for taxes in arrears would undermine the entire basis for having tax sales. In addition, creating a threshold amount through regulation gives the province, rather than the municipalities, greater authority in determining which properties will be eligible for tax sale.

A threshold amount would also negatively impact those municipalities that have a number of properties with a low amount of property taxes. As an example, if the province sets a threshold amount of \$500, any properties with taxes in arrears below that amount would be ineligible for tax sale. There are numerous municipalities which have properties with annual taxes less than \$500, and if they were in arrears, it could take several years before the municipalities were able to deal with the properties through tax sales. The use of a threshold amount makes it more difficult for some municipalities to collect their taxes through tax sales and, therefore, puts them at a disadvantage.

The AMM is also opposed to amendments prohibiting municipal councillors from bidding for property at tax sales. We believe that provisions in The Municipal Council Conflict of Interest Act which allow elected officials to declare a conflict of interest and remove themselves from the discussions is sufficient to address concerns about elected officials purchasing property.

We also do not agree that chief administrative officers or designated officers of the municipality should be prohibited from purchasing property at tax sales. While the conflict of interest legislation does not apply to municipal employees, CAOs could still be encouraged to remove themselves from discussions and to seek legal advice before purchasing property at tax sales. We feel these

steps would be preferable to prohibiting employees from purchasing tax sale properties. This position was recently confirmed by municipal officials at the AMM's eastern June district meeting.

The AMM believes that if the notice provisions for the public and property owners are strengthened, the other amendments limiting participation in tax sales and reducing the number of eligible properties are not necessary. We are aware that there have been a few isolated cases of tax sales causing public concern. However, we do not believe that these cases should be the basis for making significant changes to the tax sale process.

When the current Municipal Act came into effect in 1997, municipalities were given the ability to act with greater autonomy and independence and to use their own discretion. We believe that the amendments regarding additional regulations on tax sales and prohibitions on purchasing properties place more restrictions on municipalities and are therefore a step backward.

With regard to future amendments to The Municipal Act, we hope that the province will continue to monitor the legislation and address other concerns that municipalities may have with the legislation. In particular, two issues which have been brought forward by our municipalities in the past are councillors being allowed to abstain from voting and nonresidents being allowed to run as municipal candidates. We look forward to discussing these and other issues related to The Municipal Act in future meetings with the province. Thank you for the opportunity to express the AMM's views on Bill 24.

Mr. Chairperson: Thank you, Mr. Motheral, for your presentation. Are there any questions?

Ms. Becky Barrett (Wellington): I have a question on the concern you raise about the threshold amount for taxes in arrears. You stated in your presentation that this was in discussion with rural development staff members, that this was going to be in regulation. When I look at the legislation, I believe it is in the subsection 365(1) that council must offer for

sale, by auction, every property in the municipality that (a) has taxes in arrears for the designated year and then (b)—is the problem you have—meets the criteria for sale, by auction, established by regulation. Is that the area where you were talking with the staff in Rural Development about the threshold? Is that the area?

Mr. Motheral: The dollar figure that we placed in our presentation was only a dollar figure to give you a comparison of what we feel is not proper, because we feel as though there is an awful lot of small properties that will never become eligible for tax sale in a lot of smaller municipalities—if that answers your question.

Ms. Barrett: Yes. I realize that it was only an example, but this is the area where the staff said this is an example. The threshold amount of tax owing is an example of what could be under this criteria, for sale by auction. Is that correct?

Mr. Motheral: I am not sure if I am understanding your question.

Ms. Barrett: You say in your presentation that you met with Rural Development staff and that they suggested that by regulation, the new legislation could do things such as establish a threshold of tax owing before a municipality could put the property up. In your discussions with the Rural Development staff, did you ask the question or did they give you any answer as to why this additional criteria was going to be put into the legislation and then through regulation be implemented?

Mr. Motheral: No, I do not believe they did. It was a very short meeting we had with them. They did say that they were thinking of possibly putting in some regulation to establish a threshold amount. At that time, we did not make any comment. We did have a board meeting afterwards and discussed it at a board meeting and decided against it.

Ms. Barrett: Did the staff give you any other indication of any other criteria that they might be looking at under this piece of legislation?

Mr. Motheral: No, they did not.

Mr. Clif Evans (Interlake): Mr. Motheral, you state here what your concerns are and what you would like to see. Would you like to see this part of the act remain as is or is there a way, besides what is occurring now with the legislation, an amendment to the legislation, is it too strong in your opinion, or would you just rather leave it as it is and leave this section out?

Mr. Motheral: We feel as though the existing legislation under the new Municipal Act that is two and a half years old was fine if we strengthened the notification procedures. That would, in our opinion, resolve everything.

* (1950)

Mr. Chairperson: Any further questions?

Ms. Marianne Cerilli (Radisson): In an effort to try and find some compromise perhaps on this issue that you are raising, are you concerned about having a threshold for tax arrears because the province is setting it? Would you therefore be amenable to having a threshold set if the municipality set the threshold and that would be sensitive to different municipalities in different parts of the province being able to have a different level that would meet the size and the nature of their municipality?

Mr. Motheral: At this point in time, we would have to confer with our membership. We decided this at a board level to oppose the suggestions. We always act on behalf of our membership. The membership may look at this and say that if the threshold amount is the right amount, it may not be a problem but, as of now, we do not know that.

Mr. Gary Kowalski (The Maples): On page 3 of your presentation in regard to the purchase of property by municipal councillors or chief administrative officers, you indicate that The Municipal Conflict of Interest Act should address that concern, but I guess why this was in there was because of certain incidents that had occurred. I have never lived in a small town. Would this not be a problem that if you are sitting on a council, even if someone declared a conflict of interest, this is someone you are working with in the same council, that there would be a problem working with that person if

you did not allow them to purchase it? I am not too sure how that addresses that concern.

Mr. Motheral: That gets into personalities, and that is not really what I am prepared to talk about. We feel as though the legislation, the conflict of interest legislation is there, and if it is used in the proper manner, there should not be a problem.

Mr. Chairperson: Any further questions?

Mr. C. Evans: You stated in your presentation that because of a few incidents that have occurred in the past since the new act was brought in, I am sorry, I am not totally familiar with those incidents. Have there been many such situations that have occurred in the past two and a half years that have created this new amendment, this legislation?

Mr. Motheral: I am not aware of them other than what I have read in the press.

Mr. Chairperson: If there are no further questions, I want to thank you, Mr. Motheral, for your presentation. Thank you very much.

Before we proceed, I did omit a few little items here. One is, is it the will of the committee to set limits on presentations, time limits? No? Okay. How does the committee propose to deal with presenters who are not in attendance today but have their names called? Should they move down to the bottom of the list? Is that the will of the committee? They will move down to the bottom of the list. Once they are called twice, are they dropped from the list? They are then dropped from the list by will of the committee. Thank you.

If there is anyone else in the audience here who would like to register or has not yet registered and would like to make a presentation, would you please register at the back of the room. Just a reminder that 20 copies of your presentation are required. If you require assistance with the photocopying, please see the Clerk of the committee.

I would like to call on our next out-of-town presenter, Rolande Chernichan, please. Do you have copies for us for distribution?

Ms. Rolande Chernichan (Private Citizen): No, I am sorry, I was not aware that I needed 20 copies. Should we take the time and move on with another presenter while I get this done?

Mr. Chairperson: We will proceed, just if you have a copy there. Do you have an extra copy to make?

Ms. Chernichan: No.

Mr. Chairperson: No? Then I would suggest that we proceed with your presentation, and then after that we could get some copies. Please proceed. Thank you for coming tonight.

Ms. Chernichan: Thank you very much. Thank you for this opportunity to address yourselves. I am from the R.M. of Tache, and I am just a private citizen, but, at the same time, I certainly had an interest with regard to the proposed amendments contained in Bill 24, especially pertaining to the tax sales of real property. I am familiar with the sections of The Municipal Act respecting the municipal tax sale processes, and I would like to provide my comments respecting the proposed amendments to The Municipal Act as contained in Bill 24.

My comments regarding other sections of the legislation not currently being revised through Bill 24 are also being provided because I am of the opinion that this could also improve municipal tax sale processes.

With regard to Section 367, I commend the initiative to ensure that every effort is made to contact the owners of properties who may be in tax arrears, and I believe that subsections (1) through (5) very adequately address the matter. I also commend the initiative regarding the notice of auction as provided by subsections (6), (7) and (8) which will ensure greater public awareness of properties being offered for sale.

However, I do have some concerns that through Section 367(6)(b), where, "a property may be sold at auction for less than the amount of the tax arrears," I believe that through this provision, a property owner whose property is in tax arrears could conceivably let it ride in order to pick it up through tax sale for less than taxes owing. I have not seen anything in legislation

which would prohibit a property owner from bidding on his own property in the tax sale process, if he actually dared to take the risk to let it go that route.

Section 367(6)(c) states that, "if the property is sold, the sale is final and any interest the person had in the property before the sale is extinguished." Again, I believe the legislation does not prohibit a property owner who is in tax arrears from bidding on his property in the auction of a municipal tax sale.

Section 367(7)(b) provides that the public notice of auction also reveal, "a description of each property to be offered for sale." I believe that the public notice should also identify the registered owner by name, so that the public at large can better identify which properties are available in tax sale. In rural settings, properties are more easily identified by the owners' names, as compared to a legal description or simply a roll number, as certainly has been the practice in the R.M. of Tache.

Current legislation through Section 368 provides for a designated officer of the municipality to take possession of a property. I believe that this section is deficient in that it fails to stipulate how the designated officer is determined. Is a designation required to be made by council resolution, or is it simply assumed that this is just one of the many responsibilities of the CAO? I would like to see clarification on this matter through amendment.

Bill 24 does not touch on Section 369 which deals with cancellation or adjournment of auction. Is a rescheduling of a tax sale auction deemed a cancellation or adjournment? As such, would subsections 1 and 2 apply? Would ratified minutes of a council meeting suffice as sufficient notice to the public for rescheduling of an auction? I believe that 369(2) should be amended to mandate that in the event of a cancellation, adjournment, or rescheduling, the notice requirements contained in Section 367(7) and (8), should apply anew. I also believe that Section 369(2)(b)(1), which only requires the posting to be in the municipal office 14 days before the new date, is not sufficient notice to the public of a new auction date. We have had trouble with municipal tax sales in the past

because posting has been confined only to municipal offices.

I commend the initiative of amendments to Section 373, which identifies who can and cannot bid or act as purchasers or agents in tax sales. However, I have serious concern and am suspicious as to why clause (b) of regulation 3 from the Order-in-Council 55198 has been dropped. This clause provided that an employee of the municipality or a member of his family was also prohibited from bidding in a tax sale. I strongly believe that this regulation should be added to the amendments being considered in Bill 24.

Section 373 (c) also states "a designated officer of the municipality." Once again, unless legislation specifies how a designated officer is determined, for example, by council resolution, this leaves the door open for one of the persons currently excluded by Section 373 to still act in the auction without the public being certain of the capacity in which they are acting.

Current legislation, Section 374, is also in need of similar amendment because it too provides for a designated officer of the municipality to bid on or purchase property on the municipality's behalf. Is the CAO by his position automatically the designated officer for the municipality? Legislation should clarify how such an individual is assigned and that it should be public knowledge through council resolution.

* (2000)

I believe that Section 377(2), regarding challenging a tax sale, is also in need of amendment. Subsection 2 limits a tax sale challenge to 30 days. I believe that this is not sufficient time and that 90 days or 120 days would be more appropriate in view of the severity and the finality of a tax sale.

It has been my own experience that I have questioned a tax sale to a municipal employee which took place in November 1998 in apparent contravention of the regulations of Order-in-Council 55198 and also against a resolution of council. I have sought intervention of Minister

Derkach regarding enforcement of the regulation, as it had been initiated by his department. I especially do not agree with the provisions for challenging a tax sale, which requires a person to bring an action in court to set aside the matter.

I believe that as The Municipal Act is provincial legislation, its enforcement should be undertaken by the provincial government and it should not depend on an individual citizen to incur legal costs to ensure its enforcement. Is our provincial government not concerned about compliance and enforcement of its Municipal Act and its many other pieces of legislation? Why is it that the departments of Natural Resources and Environment have enforcement officers, yet private citizens have no avenue to ensure that their local municipal governments respect and adhere to The Municipal Act that is supposed to govern them?

Mr. Chairperson: Thank you for your presentation. Are there any questions? If there are none, thank you very much for your presentation tonight.

I will call on our next presenter. Grant Thorsteinson, please.

Mr. Grant Thorsteinson (President, Manitoba Municipal Administrators Association): It is not all that hard to say.

Mr. Chairperson: Do you have copies?

Mr. Thorsteinson: Yes, I do.

Mr. Chairperson: Okay, we will just wait a minute until they have been distributed. Please proceed, Mr. Thorsteinson.

Mr. Thorsteinson: Thank you for giving me the opportunity to make a presentation tonight. My name is Grant Thorsteinson, and I am the president of the Manitoba Municipal Administrators Association. Our board has not had the opportunity to meet to discuss the proposed changes, but we have been in contact with several of our executive and members to discuss the proposed changes to the legislation.

We have a few suggestions and concerns regarding the changes to the act which are proposed in Bill 24. These concerns and suggestions deal mainly with the proposed changes to the tax sale process. Although there were concerns with this section of the new act when it came into force in 1997, our members have come to realize that it is generally easier and more straightforward than the old act. No doubt there were a few small corrections needed. The main one was a need to better advertise tax sale auctions so as to make them appear more fair and open. We feel that this was corrected in recent regulations. If a tax sale is open and fair, there should be no reason to restrict anyone from purchasing tax sale property.

Section 373 of the act will prohibit the chief administrative officer along with several others from purchasing property at tax sale. We feel that this is unfair and prejudicial. As stated above, if the tax sale is open and fair and properly advertised, it should not matter who purchases tax sale property.

Section 367(7) deals with public notice of a tax sale auction. We feel that posting of property is a waste of time and money especially in the rural areas. Although the proposed amendments allow for posting on or near the property, which alleviates a concern of posting the wrong property without doing a legal survey, we still feel it is unnecessary to post property. Posting can be torn down or damaged by weather, making these requirements meaningless. The requirement for posting in at least two public places and in a newspaper as outlined in this section is very good, and actually a lot of our members were doing this anyway.

Section 365(1)(b) talks about criteria established by regulation. Do we know what these regulations are? Some are spelled out in Section 369, but are there others that can be enacted at any time? We do not believe it is necessary to establish any further criteria for tax sale than what are already in place. According to Section 369(1)(a), it states that a municipality may cancel or adjourn a tax sale auction if the outstanding tax arrears and costs are no longer subject to sale by auction according to regulation.

We assume that the regulations will set some dollar amount. What is that amount? If it is too high, then we are going to be back in the same situation as we were under the old act where property subject to tax sale will not be sold and the process will be dragged out over a long period of time. The new act fixed the delaying problem by speeding up the process, and now with the proposed amendments we see this process being extended unnecessarily.

Section 369(1)(b) allows the municipality to enter into agreements for payment of arrears and costs. Agreements were allowed under the old act and were taken out for a reason. In polling several of our members, any agreement just prolonged the inevitable. People would not honour the agreements, and the municipality would be in the same position just a little further down the road with having to sell the property at a tax sale auction.

Section 369(1) being an option for a municipality will mean that some will use it, others will not, and there will be several different types of agreements which will lead to all kinds of confusion. A person may own land in neighbouring municipalities and may be dealing with two different ways of dealing with tax sales. For consistency's sake, we feel that there should not be any option given to enter into agreements and no allowance should be given to cancel or adjourn if the balance of tax arrears and costs goes below some arbitrary figure set by regulation.

Section 367(1) of the amendments call for personal service of the registered owner at the address shown on the most recent tax notice or an adult person residing at that address. Does this mean the postal address? If it does, then we are not going to find many people at post office boxes in rural Manitoba because that is where most of the addresses are, box numbers at rural post offices. We do not use civic addresses, so it would be difficult to find those people possibly.

We believe the current requirement for any delivery service whereby the sender is provided with an acknowledgement receipt is sufficient notice, such as registered mail. Every person who owns property knows, or ought to know, that they have to pay annual taxes. It is up to

them to make sure they are paid. The requirement for personal service is by far the most contentious change proposed in Bill 24 as far as municipal administrators are concerned. It appears that this requirement is an overreaction to some complaints the province may have received.

Section 367(2) requiring a second notice does not seem to serve any real purpose and only increases costs as long as there is a record that the first notice was received and the property owner has been notified.

Thank you for listening to our concerns and suggestions. We hope you will take it into account when finalizing the amendments.

We appreciate that The Municipal Act is being reviewed on an ongoing basis since it has come into effect in 1997. We believe it is a generally good piece of legislation with minor amendments as we go. We also appreciate the opportunity to be part of the process and look forward to working with the province on any future amendments to The Municipal Act or any other legislation that affects municipal government in Manitoba.

Mr. Chairperson: Thank you for your presentation. Are there any questions? If not, thank you again for appearing tonight.

Mr. Thorsteinson: Thank you.

Mr. Chairperson: Before we move to Bill 25, I would like to inform the committee that written submissions from Shirley Weidman on Bill 24 and Jim Furgale on Bill 25 have been received. Copies of these briefs have been made for the committee members and were distributed at the start of the meeting.

I would further like to advise the committee that Kevin Chudd, No. 11 on the list, was registered to speak to Bill 25, has advised that he will not be able to attend, but would like his brief included as a written submission as well.

Does the committee grant its consent to have these written submissions appear on the committee transcripts for the meeting? [agreed]

*(2010)

**Bill 25—The Municipal Assessment
Amendment Act**

Mr. Chairperson: We will move on then to Bill 25. We are doing the out-of-town presenters. I would like to again call on Mr. Wayne Motheral, please.

Hon. Leonard Derkach (Minister of Rural Development): Mr. Chairman, with permission of the committee, I would like to just offer a brief explanation to Bill 25 as it relates to a specific section of the bill. To that extent, I would like to announce that to ensure fairness and protection of Manitoba taxpayers, during the clause-by-clause review of the bill, of the amendments, we will be proposing to withdraw certain sections of Bill 25 for further review. The amendments have been introduced in this current legislative session aimed at helping taxpayers and municipalities.

For example, certain sections of the bill were designed to give Manitoba's appeal tribunals, namely the Municipal Board, in rural Manitoba and the boards of revision, the authority to either decrease or increase assessments under appeal. However, several issues have been raised around the procedural fairness of the assessment revision process. For that reason, we felt there was no other option but to withdraw certain sections of the bill for further review.

Concerns about Bill 25 revolve around two specific issues. The first issue was that the amendments might intimidate residential home owners from filing legitimate appeals. The second issue raised by the City of Winnipeg and individual ratepayers was that, without amendments, current assessment practices would continue to unfairly shift the tax base from commercial property owners to residential home owners.

Before we proceed any further, we need to review the appeal process to ensure it protects all property owners. At the same time, we want to ensure that municipalities have a fair and equitable tax base. As part of the review, there will be ample opportunity for consultations with

key stakeholders to get their valuable input regarding where we go from here. It remains our intent to then proceed in implementing legislation that balances the interests of taxpayers and municipal governments. Thank you very much, Mr. Chair.

Mr. Chairperson: We thank the minister for those comments.

Mr. David Faurshou (Portage la Prairie): Mr. Chair, originally we had discussion in regard to the length that the presenters would have. We chose to be unlimited. However, there was no discussion at the time as to the length of time the committee was going to sit. I would like to establish an adjournment time, if that is the will of the committee. In some cases, with parameters of time, we value the time.

Mr. Chairperson: Thank you. It has been suggested that we set a time limit as to how late we want to sit tonight. What is the will of the committee?

Mr. Faurshou: Mr. Chair, I would propose ten o'clock.

Ms. Becky Barrett (Wellington): Mr. Chair, I think that at the very least we owe the individuals who have come out tonight to hear their presentations. I assume that we will likely be through with the presentations by ten o'clock, but I think it would be very unfair for us to say at ten o'clock if there are still people who have not presented that we would not hear them.

Mr. Derkach: Mr. Chairman, perhaps to clarify and alleviate some concern, I could recommend to the committee that we hear the presenters on Bill 25, and then perhaps we could proceed to go through Bill 24 clause by clause. I would ask that with regard to Bill 25 that we do not go clause by clause this evening.

Mr. Chairperson: Is that the will of the committee?

Mr. Faurshou: Mr. Chair, I thank the honourable minister for his comments. I would like to propose, however, to committee based upon ten o'clock, and then perhaps committee could review at that time if there are still

presenters to hear, but to target a time. In that way, we value and are conscious of our deliberations.

Mr. Chairperson: Then I believe what I am understanding is that at ten o'clock we will review to see where we are at and then determine as to the procedure you want to take.

Mr. Derkach: Mr. Chairman, I am sorry. I did not mean to omit Bill 31, but I think we could probably dispose of Bill 31 tonight if there is a will of the committee.

Mr. Chairperson: Is there a will to dispose of that tonight? [agreed]

We will then proceed, and I would like to call on Mr. Wayne Motheral for Bill 25, please. Do you have copies for distribution?

Mr. Wayne Motheral (President, Association of Manitoba Municipalities): No, I do not. We just have a few brief comments on this issue.

Mr. Chairperson: Okay, thank you. Then please proceed, Mr. Motheral.

Mr. Motheral: Thank you. We originally planned to speak in support of the amendments which would have allowed the Board of Revision and the Municipal Board to increase or decrease assessments, regardless of who was appealing the assessment or what the appeal was for. In light of the minister withdrawing the amendments, we would like to say we support the withdrawal only if it means a further review of the issue.

Mr. Chairperson: Okay, thank you very much. Are there any questions? If not, then what we will do is proceed to Bill 31 right away, because you would be the next presenter, with your permission, please.

Bill 31—The Association of Manitoba Municipalities Incorporation and Consequential Amendments Act

Mr. Chairperson: Mr. Motheral, please proceed.

Mr. Wayne Motheral (President, Association of Manitoba Municipalities): Again, we do not

have a written presentation, just a few comments on this.

The AMM was created on January 1. As you know, we are an amalgamation of the two municipalities. It came as a result of extensive consultation between the two associations and the municipal membership. For some legal and accounting reasons, it was important for the AMM to be incorporated through an act of the Legislature, rather than through the Corporations Branch. Therefore, I would like to thank the Minister of Rural Development (Mr. Derkach) and the province for bringing forward this legislation which allows for the amalgamation and continuation of the AMM as a corporation.

Bill 31 amends other pieces of legislation which made reference to the UMM and MAUM to reflect the change in name. These references are indicative of the constructive working relationship that the UMM and MAUM had developed with the province over the years, and the AMM hopes to continue to build on that relationship.

Thank you for your support of this legislation.

Mr. Chairperson: Thank you very much for your presentation. Are there any questions or comments?

Hon. Leonard Derkach (Minister of Rural Development): I have no questions, Mr. Chair, but I do want to, first of all, congratulate both organizations, both former organizations, the former UMM and the former MAUM, for having the vision and the foresight to strengthen their organizations through their amalgamation. I would like to congratulate the current president and his association for I think the very positive attitude and the work that they have done as a unified organization in providing for the municipalities in Manitoba a strong voice, whether it is to this government or the government at the federal level. So my congratulations to the organization.

Floor Comment: Thank you very much, Mr. Minister.

Mr. Clif Evans (Interlake): Mr. Chairman, I would just like to echo those words, and say that we are very glad to see that the associations were able to get together over a period of time. I know at times it was difficult, but it came through very well, and we are very pleased on this side of the House to acknowledge a strong organization such as yours, and congratulations.

Mr. Chairperson: If there are no further questions, thank you very much, Mr. Motheral, for your presentations tonight.

Bill 24—The Municipal Amendment Act

Mr. Chairperson: We will then move back to the top of the list on Bill 24. I will call on the presenter, the No. 1 presenter, David M. Sanders. Do you have copies for handout?

* (2020)

Mr. David M. Sanders (Colliers Pratt McGarry): Yes.

Mr. Chairperson: We will just wait a moment, then, until they have been handed out. Mr. Sanders, please proceed.

Mr. Sanders: Mr. Chair, honourable ministers, members of the committee, I am appearing before you this evening to make comments on Bill 24 and specifically the new provisions with regard to municipal tax sales. I am appearing in support of the presentation made just a few minutes ago by Ms. Rolande Chernichan of Ile des Chenes. I am appearing at this time on this bill in my capacity as a part-time articling student with the Public Interest Law Centre. Ms. Chernichan has approached our office with a request that we assist with the resolution of certain matters pertaining to a tax sale held on November 13, 1998, by the Rural Municipality of Tache.

I believe there are two issues which are appropriate for this committee's consideration. First, the avoidance of conflict of interest and secondly, responsibility for enforcement of the act. With respect to the first issue, the avoidance of conflict of interest, Section 14 of Bill 24 provides for the repeal and replacement of the present Section 373 of The Municipal Act. This

is an improvement over the wording of the existing Section 373 because it specifically prohibits purchases at tax sale by councillors, the auctioneer, the municipalities chief administrative officer, a spouse or dependant family member residing with any of the foregoing or a person in which any of the foregoing have a pecuniary interest. The proposed new section also prohibits purchases by a designated officer of the municipality at the discretion of the municipality.

The existing Section 373 states only that a member of council is deemed to have a pecuniary interest if a property is purchased at tax sale by the member, a nominee or spouse or child of the member, or any person in which the member has a pecuniary interest. Under existing law, a member of council could disclose his interest and refrain from participating in any council proceeding related to a tax sale. The council member or any of the other related parties could then proceed to bid on and/or purchase a property at tax sale without violating the requirements of The Municipal Council Conflict of Interest Act.

Please note that this existing Section 373 was passed in 1996 as part of the wholesale revision of The Municipal Act at that time. I do note that prior to that time, Section 809 of the act prohibited the assessor, the clerk, the treasurer, the manager, and any member of council from actually purchasing lands at tax sale. Unfortunately those broad prohibitions were not carried forward into the revised act in 1996. Likewise, while Sections 803 to 805 of the pre-1996 act required that a municipality advertise intended tax sales in a newspaper and the Manitoba Gazette, that requirement was dropped in the 1996 act. The act presently requires only that a list be posted in the municipal office.

When it became apparent that the remaining provisions of the new 1996 act were allowing certain questionable transactions to occur, the provincial government approved the municipal tax sale regulation 551 of '98 on October 28 of last year. This new regulation again requires that the intended tax sale be advertised in a newspaper, as was required prior to 1996, and this regulation now specifically prohibits the auctioneer or—and I emphasize—an employee of

the municipality or a member of the immediate family of either from bidding for or buying lands at tax sale.

So, in the context of the above, a closer examination of the wording of the new Section 373 proposed in Bill 24 reveals that, first, it does not prohibit purchase at tax sale by an employee of the municipality. At its discretion, the council and the municipality may exercise its discretion to prohibit purchase by "a designated officer."

Under Section 130 of the act, a designated officer is a person appointed by council to hold a specific position responsible for carrying out certain duties pursuant to a by-law or act. Clearly, this would not extend to all employees of the municipality. So for the avoidance of doubt and to bring the new legislation in line with the new regulation just approved, I suggest that the proposed new Section 373 be amended to prohibit bidding on or purchasing at tax sale by an employee of a municipality.

Secondly, the proposed Section 373 prohibits bidding on purchasing at tax sale by only a spouse or a dependant family member residing with one of the persons in the prohibited categories. This proposed wording is similar to but not identical to the definition of dependant found in the municipal Conflict of Interest Act. It is less restrictive than the present Section 373 which prohibits a nominee or spouse or child of the member of council, regardless of whether they are dependant or residing with the person. It is also less restricted than the wording of Section 3 of the new regulation which refers to "a member of his or her immediate family."

So for the avoidance of doubt, I suggest that the proposed Section 373 subsection (d) in Bill 24 be reworded to define very clearly whichever class of dependants and/or family members the Legislative Assembly wishes to exclude from tax sales. I believe the broadest definition would be in the public interest. But in any case, it would certainly be helpful for all concerned if the subsection could be worded so as to avoid any possible future confusion on the question of eligibility of any persons to participate in tax sale proceedings.

The second issue relates to the responsibility for enforcement of the provisions of the act. Section 377 of the act, as passed in 1996, suggests that a tax sale may be challenged only on the grounds that the sale was not conducted in a fair and open manner or that the notice of the sale was not served in accordance with Section 367. More importantly, a person wishing to challenge a tax sale must bring in action in court within 30 days after the date of the auction.

Ms. Chernichan has challenged the validity of a particular tax sale to an employee of the R.M. of Tache on November 13, 1998, after the approval of the new regulation and after Tache council had passed its own resolution 1047/98 requiring that in future, tax sales be advertised in a local newspaper and that employees be prohibited from bidding on or purchasing tax sale properties. Ms. Chernichan has not yet brought an action in court on this matter.

Her position, as I understand it, is it should not be necessary for a citizen, particularly one who has no direct interest in the property in question, to incur legal costs for the purpose of ensuring that the provisions of the act are followed by a municipal council in a case such as this, and I would agree. I would suggest that the Department of Rural Development should be willing to bear the costs of enforcement in this and similar cases just as many other departments do for the purpose of enforcing the provisions of the legislation which they administer; otherwise the presence of such laws on our statute books is of no practical force or effect and is at best misleading to the public.

Under the present wording of Section 377, there is nothing to prevent the minister from challenging a tax sale by bringing in action in court. All that is required is for the minister and his department to be ready to review citizens' complaints and then to take the necessary court action if warranted. On the other hand, it might help serve notice to the public of the department's willingness to undertake responsibility for this matter if a section were inserted in the act stating that the minister, upon receiving a written complaint from any person, may investigate the circumstances of a tax sale and then challenge it pursuant to Section 377.

Finally, I note that Section 377 only allows for a challenge within 30 days. Some of you may recall that under the old act there was a right for redemption by an owner for a whole year. Given the length of time taken now only for the production and ratification of council minutes for example, the minister might consider lengthening the challenge period to at least 60 days or the 90 or 120 days suggested by Ms. Chernichan earlier. Thank you very much.

Mr. Chairperson: Thank you for your presentation, Mr. Sanders. Are there any questions? Okay, thank you again. With that, we will ask you to remain here and we will move on immediately to Bill 25.

Bill 25—The Municipal Assessment Amendment Act

Mr. Chairperson: Again we will call as our first presenter for Bill 25, Mr. David M. Sanders. Are there copies for distribution?

Mr. David M. Sanders (Colliers Pratt McGarry): No.

Mr. Chairperson: Please proceed.

Mr. Sanders: I am appearing with respect to Bill 25 in my capacity as director of real estate advisory services for Colliers Pratt McGarry, a large commercial real estate firm in Winnipeg. I and my group are responsible for handling as many as a thousand appeals on behalf of commercial and institutional clients every year.

I appreciate very much the remarks made by the minister at the beginning this evening to the effect that certain sections of Bill 25 will be withdrawn. I would ask, though, could he clarify whether it is specifically his intention to withdraw Sections 4, 5, 6 and 7?

Hon. Leonard Derkach (Minister of Rural Development): Mr. Chair, yes, it is the intention to remove all of those sections.

Mr. Sanders: Mr. Chair, I would just like to say very quickly that I appreciate very much the decision of the minister in this respect. There is a lot I would have had to say otherwise, but instead I look forward to working with the

minister and his staff on proposed amendments to this act including many other amendments which I would have supported and which I think taxpayers and municipalities need very much. Thank you very much.

Mr. Chairperson: Thank you, Mr. Sanders. Are there any further questions? If not, then we will thank you again. We will move on to our next presenter, John Petrinka, please. John Petrinka. We move on to Chuck Chappell. Chuck Chappell. Next to Michael Mercury. Do you have copies for distribution?

Mr. Michael Mercury (Private Citizen): No, I do not, Mr. Chairman. I had a bunch of copies for distribution, but I might say that I was pleasantly surprised this morning when I received a telephone call in my office from the Provincial Municipal Assessor who indicated that the government was proposing to withdraw Sections 4 to 7 of Bill 25, which naturally made me very happy because I was going to speak to those sections.

In any event, I was intending to appear as a private person. I do not handle 1,000 appeals per year as my predecessor does, considerably less, but nevertheless, I think the move is a wise move. I might say that I have been in the Manitoba Court of Appeal. I am a lawyer with the law firm of Aikins, MacAulay and Thorvaldson. I have been in the Manitoba Court of Appeal on a number of occasions where this present legislation has been looked at by our highest court, and the court has indicated to me and to other counsel present that if we ever had any influence with the powers that be across the street, please, please, said Chief Justice Scott, have them review this legislation and clarify it because there is a lot wrong with it. I am glad to see that the minister is withdrawing this bill, and I too would be very happy to assist the minister and give him the benefit of my experience in this very technical field. Thank you very much.

* (2030)

Mr. Chairperson: Thank you for giving us your comments. Are there any questions? If not, thank you, Mr. Mercury.

We will move on to our next presenter, Rick Weind.

Mr. Rick Weind (CUPE Local 500): Mr. Chairman, good evening.

Mr. Chairperson: Good evening. Do you have copies for distribution?

Mr. Weind: Yes, I do.

Mr. Chairperson: We will distribute those, and then we will get started. Please proceed, Mr. Weind.

Mr. Weind: Mr. Chairman, Mr. Minister and the committee, I am representing CUPE Local 500 and we welcome this opportunity to make a presentation to the committee. I understand, as the minister has indicated, that he is going to be removing large, significant portions of this bill. Nevertheless, we are going to take him up on his offer to consult with him, and we are going to be proactive at this point. We had a presentation made up and we are going to table it tonight for the record, and that is why we are still here tonight presenting.

We represent approximately 140 members of the Assessment Department in the assessor, technical and clerical positions. We supported the bill and the sections that were deleted in a means to facilitate the Assessment Department's mission statement and the vision statement adopted by the City of Winnipeg. All the employees in the Assessment Department were asked for their comments or concerns on this bill which impacts on us and all citizens in the city, and many gave their input. We have a number of points that I am just going to touch on briefly. As I say, we are prepared and we welcome any opportunity to consult with this committee or the minister in the future on the legislation.

Point No. 1: In 1996, Bill 43 originally gave the various courts and review boards the ability to raise or lower assessments regardless of which party was the applicant. Knowledgeable members of the assessment and appraisal community were aware of that. The Scurfield report endorsed the proposed amendments of Bill 43 with minor qualifications, and the

provisions to raise or lower assessments were not one that were of concern to them.

What the bill had intended to do, from our perspective, was to give impartial boards and courts the authority to raise or lower assessments based on evidence that was presented at the hearings. A restriction on these review panels to make a decision irrespective of who filed the appeal erodes the intent of the legislation to determine market value and equitably to distribute the tax burden.

Point No. 3: One of the criteria for the Assessment Department is to establish market value, and we go on to specify certain provisions of the act, the definition of market value and the fair and equitable provisions in the act. In the middle of page 3, we go on to state the two requirements. The courts have determined that market value would be the prime determinant in assessing properties and that assessments will be fair and equitable when properties are assessed at or near market value.

This notion has been confirmed in a decision by the Court of Appeal for Manitoba in regards to *Flanders vs. the City Assessor*. This opinion has been subsequently confirmed in the *Leila Farms and Seabrook Industries Ltd.* decisions (Court of Appeal, 1997). A more recent decision emphasizes the court's position to place more weight on market value as noted in the *Fredant Investments Ltd. versus the Assessor of the City of Winnipeg*.

We include substantial quotations from two decisions, the *Marion Holdings* decisions from the Municipal Board in 1995 and, as well, the *Rideau Towers* decision from the Court of Appeal in 1998. Both of these decisions focus on the fact that initially the Assessment Department does a mass appraisal. Subsequently at the appeal at the Board of Revision level and more particularly at the Municipal Board level we do a site-specific appraisal. New evidence comes to light in these situations, and the boards and courts should have the ability to raise or lower the assessments based on evidence presented at these hearings. Possible reasons for upward or downward adjustments to the assessments that can be made are site inspection of the properties take place,

misinterpret or incorrect income expense information originally submitted, and often information is not submitted to the department until an appeal hearing is filed or scheduled.

Those are just a couple of the reasons why these assessments can be raised or lowered. The Assessment Department often makes recommendations lowering assessments when new evidence comes to light, far more often probably than we make a recommendation to raise an assessment. As well, for certain circumstances, long-term vacancies, assessments can be adjusted between assessments. There are some concerns with the current legislation that four years between reassessments is too long. The assessment legislation was introduced approximately 10 years ago. It is evolving as are market value assessments with the Assessment Department.

We would support any move to move to a more current year as long as it is done in a timely fashion. The only enhancement that was contemplated by the legislation is that of impartial boards or courts, not faceless bureaucrats. It was not a bureaucratic decision that would be to raise or lower. It is the courts that would do that.

As well, in the province of Manitoba, the burden of proof in matters affecting assessment is on the assessor. This is the only jurisdiction in Canada and quite possibly the U.S.A. where this is so. Given this fact, it is essential that boards be given the authority to adjust assessments where it is necessary. The obligation of the assessor should be to present all evidence, be it for increasing or decreasing assessments. The boards and courts should be allowed to make these adjustments irrespective of who has filed the application for revision. We also understand that Manitoba is the only jurisdiction where the courts cannot raise or lower an assessment irrespective of who has filed the appeal.

Again, we appreciate the opportunity before the committee. We understand that this legislation has been changed substantially and we welcome an opportunity to participate in any consultative process that the minister sees fit to proceed with. Thank you very much.

Mr. Chairperson: Thank you for your presentation, Mr. Weind. Are there any questions from anyone? If not, thank you again.

We will move on to the seventh presenter, John Read or Mark Newman. John Read or Mark Newman. Not being present, will be dropped to the bottom. David Grant. David Grant. Dropped to the bottom. Number nine, Ross Nugent. Not being here, drop to the bottom. Councillor Clement or Councillor Eadie.

Good evening. I take it this is Councillor Clement. Welcome here. Do you have copies for distribution?

* (2040)

Mr. Bill Clement (Councillor, City of Winnipeg, Charleswood-Fort Garry Ward): Yes, I only brought 15, though. I understand I am five short. I understand Jack will not mind loaning me a few cents to pick up the other 10 pieces of paper.

Mr. Chairperson: Thank you very much. We will just wait one moment and then I will ask you to proceed. Okay, please proceed with your presentation.

Mr. Clement: I am Bill Clement. I am the chairman of Finance for the City of Winnipeg, and I originally came here tonight to talk about Bill 25. I understand that it has been changed somewhat today, but, notwithstanding that, I am going to read my text in any case the way it is prepared. I am speaking only to that section of Bill 25 dealing with empowering the boards of revision and the Manitoba Municipal Board when dealing with assessment appeals by any party to permit finding of property value, whether it be up or down.

I might add that I am profoundly disappointed that we are going to have further review of this matter.

Assessment appeals are part of the overall process of establishing real estate market values for properties to be used for the equitable distribution of the costs of municipal and educational services. If there are restrictions that

do not allow the finding of the true market value, then the equitable distribution of the cost is compromised. When a property is valued at something less than market value, all other property owners must pick up the shortfall through their tax payments.

Taxes do not disappear in the appeal process; they are redistributed to other folks. When specific categories of property are appealed and subsequently reduced below market value, the taxes are shifted to other categories. This problem is even worse when the courts identify that an assessment in a category is low, but they do not have the ability to increase them.

I was not aware until tonight, and I am glad I came now, that we are the only jurisdiction where this is the case. So I find it strange that we are reviewing it further.

Professional appellants initiate most appeals with the exception of those on single-family homes, and some of these agents are now circulating publications—we have seen them—encouraging appeals since there is no risk of increase. The fallout from that—and frankly that is why portions of Bill 43 were introduced in the first place so that that would stop because the cost is huge, not only to the City of Winnipeg, but to the Province of Manitoba through the Municipal Board hearings that fall out from those things because some of them go straight to the Municipal Board with no regard for the Board of Revision whatsoever. This can only increase the appeal load, frankly, and decrease the time available to improve assessments in the first instance, which is what we are hoping our Assessment Department does, which is where the effort should be placed to improve equitable distribution.

In any year, the Winnipeg property Assessment Department dedicates significant resources, 80 percent in the year, down to 35 percent in the last year of the four-year cycle, which I would like to see remain as at least a four-year cycle, to ensure that appeals are processed in the appropriate manner. The Valley Gardens decision recommended that assessors across the province take the much more intimidating action of appealing

assessments in case a property might be appealed and undervalued. As assessors do not know until the appeal process, 100 percent certainty of the ability to increase assessment to fair value on appeal would be to appeal the entire roll. Frankly, if this legislation is not amended, any provincial assessor will not be doing their job if they do not appeal the entire roll, in my view.

The cost is horrendous, so I do not understand what this extra review is all about. Frankly, well, I cannot say it anymore. I was going to say Bill 25 is the more palatable solution, but as of tonight, it is not. While I welcome the opportunity to go through the review process, I would have much rather that it would have been dealt with as it was in the last few days before it was being amended because we just felt it was time to get on with it. There is a significant cost to going through these appeals, and people do deserve fairness. The fact of the matter is that the professional appellants primarily deal with commercial developments and those types of properties, not with the taxpayers as such, that they purport to represent. Thank you.

Mr. Chairperson: Thank you for your presentation. Are there any questions?

Hon. Leonard Derkach (Minister of Rural Development): No. Thank you, Mr. Chair. Not a question, but more a comment to Councillor Clement.

We certainly respect the view of the city and understand the issue that the city assessors are facing with regard to having to file cross-appeals on properties if, in fact, the Municipal Board is going to have the ability to increase assessment to a proper market value. However, after reviewing the amendment very carefully and having some advice on it, it appears that we have to ensure that any amendment that is passed is going to be as secure as possible from challenge to the courts.

As you know, the legislation as it was passed in 1996 was challenged, and it was challenged way back in—or the legislation that was passed in 1990 was challenged as well, challenged successfully. Therefore, I think it is

incumbent upon us to do a broader consultation with people like yourselves at the city level, some of the individuals and groups who presented here tonight, including the assessors, so that indeed this will be as foolproof as possible when we do amend the legislation. We certainly intend to move ahead with it in the next session and certainly prepare the legislation between now and then in an appropriate fashion.

Mr. Chairperson: Thank you. Are there any further questions? If not, thank you Councillor Clement.

I shall now canvass the auditorium to see if the presenters are out there. John Petrinka? Chuck Chappell? John Petrinka will be dropped from the list. Chuck Chappell will be dropped from the list. John Read or Mark Newman will be dropped from the list. David Grant will be dropped from the list, and Ross Nugent will be dropped from the list.

That concludes the list of presenters that I have before me this evening. Are there any other persons in attendance who wish to make a presentation?

Seeing none, is it the will of the committee to proceed with the detailed clause-by-clause considerations of Bills 24, 25 and 31?

An Honourable Member: Not 25.

Mr. Chairperson: Okay. So it is the will of the committee to proceed with Bills 24 and 31.

An Honourable Member: That is correct.

Mr. Chairperson: Is it the will of the committee to defer consideration of Bill 25 on a clause-by-clause basis to another time? [agreed] Then we shall proceed with Bill 24.

Bill 24—The Municipal Amendment Act

Mr. Chairperson: Does the minister have any opening statements?

Hon. Leonard Derkach (Minister of Rural Development): Mr. Chair, I feel that this bill is one that is well known by members of this committee on both sides of the House, and the

reasons for the amendment, I think, are fairly clear. We have discussed it between members of the opposition, and, indeed, we have consulted with our stakeholder groups, so I firmly believe that no further comments are necessary at this time. Perhaps we could move to clause by clause at this time.

Mr. Chairperson: Does the member for the official opposition have a statement?

Ms. Becky Barrett (Wellington): I have a question, and I do not know if I should ask it now or when we get to the section in the legislation. I am at the Chair's discretion.

Mr. Chairperson: If I could suggest that we wait until we get to that point, and I shall try and be alert and catch your—[interjection] Thank you. Then we shall proceed.

During the consideration of a bill, the preamble and the title are postponed until all other clauses have been considered in their proper order. If there is agreement from the committee, the Chair will call clauses in blocks that conform to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? [agreed]

Clauses 1 through 2—pass; Clauses 3(1) to 6—pass. Clauses 7 to 12.

Mr. Derkach: Mr. Chair, I have an amendment to propose in Clause 10.

Mr. Chairperson: Could we then deal with Clause 7 first? Is there agreement that Clauses 7, 8 and 9 will pass—pass. Clause 10.

Mr. Derkach: I have an amendment here. I would like to move:

THAT the following be added after section 10 of the Bill:

10.1 Clause 335(2)(a) is amended by adding ", Le Collège de Saint-Boniface" after "The University of Winnipeg".

[French version]

Il est proposé d'ajouter ce qui suit après l'article 10 du projet de loi :

10.1 L'alinéa 335(2)a) est modifié par adjonction, après " l'Université de Winnipeg, ", de " le Collège de Saint-Boniface, ".

Motion presented.

Mr. Chairperson: Are there any comments to the amendment, any questions? Amendment—pass.

Clause 10 as amended—pass. Clause 11.

* (2050)

Ms. Barrett: Several presenters questioned subclause (b) in this subsection of the legislation. I would like to ask the minister if he can explain why subsection (b), which states that the council must offer for sale by auction every property in the municipality that meets the criteria for sale by auction established by regulation—can the minister explain the addition of that element into the amendment?

Mr. Derkach: I would like to just explain that the reason for this amendment results from the fact that properties that we have seen in some instances have been sold for very nominal values compared to the market value of the property. In one case, I believe a parcel of property sold for less than \$100, far less than \$100, whereas the assessed value of that property was significantly more. In another case, there were arrears of less than \$5 on a property, and it was put up for sale.

So, therefore, we have to be reasonable in putting properties for tax sale. I believe that, by establishing some value beyond which perhaps a property should not be placed for tax sale is probably a reasonable way to go. What the threshold should be is the subject of some discussion between AMM and ourselves at this point in time, because it does impact on municipalities. We were suggesting in the beginning something in the neighbourhood of \$1,000. I think what we are looking at is something between the range of \$250 to \$500, somewhere in that range, to make sure that if a property is put up for tax sale, that indeed there is a reason to put it up for tax sale, not just perhaps for costs that were accrued in putting up the property for tax sale.

In one incident that I know of, a property that was valued in the \$60,000-plus range was put up for tax sale because the costs were outstanding, not the taxes, but the costs. So it hardly warranted, in a practical person's viewpoint, to put property like that up for a tax sale. However, the legislation that was passed did not give the municipality any flexibility, so the municipality was obliged to put that property up for tax sale. Now there is going to be more flexibility given to that municipality.

In addition to that, if there are costs, for example, that could amount to anything between \$100 and maybe more, then those can be cleared off on property that is valued at \$60,000 without having to go through a tax sale process. So that is the rationale for putting in a threshold.

Mr. Chairperson: Clause 11—pass; Clause 12—pass. Clauses 13 to 14.

Ms. Barrett: Sorry, Mr. Chairperson, I have another question on Clause 14. That relates to the prohibition of certain individuals and classes of individuals from acting as an agent in buying a property. Several individuals were concerned about the definitions here and said that they were less clear and perhaps less encompassing than other legislation or than the previous legislation.

I am wondering for example why an employee of a municipality is not specifically prohibited from buying or acting as an agent in buying property. Also, subsection (d) a spouse or dependant family member residing with any of the persons, why is that definition different from where it would appear from the presentations in other pieces of legislation?

Mr. Derkach: Mr. Chair, this is a section that we struggled with for some time. In the regulation I think the term that is used is "employee." However, when we were looking at moving this into legislation, our intention was to try and address the situation where perhaps individuals who had something to do with either providing advice to council on tax sale properties or perhaps were working with materials that would give them information regarding tax sale properties should not be allowed to buy property that is going for tax sale.

However, there are other employees in municipalities who have no connection to these kinds of activities at all, whether it is people who are involved in the maintenance, the engineering, or perhaps the construction aspect of works that are undertaken by municipalities, and would not have access to any kind of information regarding properties that are going for tax sale. So for that reason we narrowed the definition from employee to those people who might have some access to information by virtue of the fact that they were either giving advice to council or involved in transactions or that sort of thing with regard to particular pieces of property.

In addition to that, we also included the family that was associated with that individual, because it is a perception issue. Perhaps in some cases it might be a reality issue, but indeed it is a perception issue that indeed information can go back and forth within that family. I think this definition is probably consistent with what we have in the provincial Legislature with regard to conflicts of interest and that sort of thing.

Ms. Barrett: But I do not see in Section 14 the clarification that the minister has just given me, which states that it is a municipal employee or someone who is providing advice rather than someone who is an employee in a different manner, unless that is the designated officer of the municipality, and if that is the case, is there a definition of designated officer somewhere else in the legislation that would clarify this?

Mr. Derkach: Mr. Chair, to answer the question as completely as I can, I think it is understood that it is the auctioneer, a member of council, the chief administrative officer or at the discretion of the municipality. The municipality then designates an officer to deal with cases, whether it is someone who is dealing with the paperwork or a designated officer of the municipality who has to deal with the case itself.

Those people would then not be allowed to bid on property, and, in addition to that, "a spouse or dependant family member residing with any of the persons described in clauses (a) to (c)." So we are trying to cover it off so that individuals who have had something to do with a

pending tax sale would be prohibited from bidding on land.

Just if I might conclude, the member probably knows that in some of the cases that we read about in the media last fall, as a matter of fact, there were employees who were buying properties for tax sale, and the perception was, and perhaps a reality in some cases, that it was just a little unorthodox to be selling property in this way.

* (2100)

Ms. Barrett: I have just one brief other question that was also raised about subsection (d), where it says: "a spouse or dependant family member residing with any of the persons described in clauses (a) to (c)." I mean, family members, even if they are not residing, still have access, through modern technology, to information. So I am wondering why that residing phrase is in there.

Mr. Derkach: Well, Mr. Chairman, this is a very difficult one to put parameters around, but it is consistent with provincial legislation that is in place now in terms of conflict of interest. So basically we relied on that legislation to give us a narrower definition of what we were trying to accomplish here and still make it as clear as possible to municipalities whom we were really targeting this at.

Mr. Chairperson: Clauses 13 to 14—pass; Clauses 15 to 17—pass.

Mr. Derkach: I have another amendment, Mr. Chair.

Mr. Chairperson: Which clause?

Mr. Derkach: Well, Mr. Chair, it is not a clause. This is just a renumbering amendment. I would move

THAT the Legislative Counsel be authorized to change all section numbers and internal references necessary to carry out the amendments adopted by this committee.

[French version]

Il est proposé que le conseiller législatif soit autorisé à modifier les numéros d'article et

renvois internes de façon à donner effet aux amendements adoptés par le Comité.

Motion presented.

Mr. Chairperson: Amendment—pass; preamble—pass; title—pass. Bill as amended be reported.

Bill 31—The Association of Manitoba Municipalities Incorporation and Consequential Amendments Act

Mr. Chairperson: Then we will move on to Bill 31. Does the minister responsible for Bill 31 have an opening statement?

Hon. Leonard Derkach (Minister of Rural Development): Mr. Chair, all I would wish to do with regard to this particular bill is indicate that this was a request of the amalgamated organization of municipalities, and we were pleased to bring it forward.

Mr. Chairperson: Does the critic for the official opposition have a response? No, then, we thank you for that.

During consideration of a bill, the preamble and title are postponed until all other clauses have been considered in their proper order. There is agreement from the committee, the Chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? [agreed]

Clauses 1 to 6—pass; Clauses 7 to 9(1)—pass; Clauses 9(2) to 11—pass; Clauses 12 to 16—pass; Clauses 17(1) to 19—pass; Clauses 20 and 21—pass; preamble—pass; title—pass. Bill be reported.

Thank you very much, and that concludes the business before the committee. Committee rise.

COMMITTEE ROSE AT: 9:05 p.m.

**WRITTEN SUBMISSIONS PRESENTED
BUT NOT READ**

Re: Bill 24.

June 23, 1999

Re: Bill #24

Dear Committee Members,

As a citizen and property taxpayer of the R.M. of Cartier I would strongly support the proposed amendments to The Municipal Act, re property tax. sales.

In a perfect world The Municipal Act could leave a lot of leeway to local R.M.s on how to conduct a property tax sale, with the best interests of all the residents of the R.M., including the person losing his property, but we do not live in a perfect world and as long as there are loopholes in The Municipal Act re tax sales someone in an authority position will take advantage of these loopholes out of greed for their own gain.

I expect the elected officials and staff of the R.M. to make every effort to circumvent any tax sale, but, of course, this is not always possible. When a tax sale is absolutely necessary I want the process to be conducted in an open and fair manner.

Many companies exercise their right to restrict their employees on certain actions in which they may find themselves in a real or perceived conflict of interest. This is not anything new! I think the amendment in this regard is absolutely necessary as councillors and R.M. staff are privy to prior knowledge of possible, future investment, e.g., rezoning, new development, et cetera.

In short, I expect the provincial government to amend The Municipal Act in regard to tax sales to protect the interests of all the citizens of the province by making every tax sale as open and fair as possible.

Sincerely,

Shirley Weidman
Dacotah, Manitoba

* * *

Re: Bill 25.

Dear Committee Members:

Please allow me to share with you a brief accounting of a terrible experience that my neighbors and I had recently with the assessment laws in the City of Winnipeg.

In 1994 my wife and I purchased a home on Wellington Crescent. Since we paid less than

the assessed value of the home we decided to appeal our assessment with the Board of Revision. I made a personal appearance to the board and presented the argument that we had paid less for the home than the assessed value. I indicated that this was the true market value.

The city argued that because it was an estate sale the property was sold at lower than what it normally would have. I argued that estate sale or not, the fact was that the price was reduced several times and could have been sold to anybody. In a free market the true value of the home is what people pay for it. The Municipal Board ruled somewhat in my favor, they lowered the assessment and although they did not lower it to the price I purchased the home for I was satisfied with their ruling and accepted the new value for tax purposes. Nine other homeowners lost and then carried their appeal to the Municipal Board.

Three and a half years later the Municipal Board finally ruled that 32 properties on the crescent should be reassessed. The new assessed value should be what would apply to not only the nine homes that were in question but also all the other homes on the list including mine, even though the city had already settled with me. The city then carried out this reassessment of these 32 homes and in 1998 completed this reassessment, which was retroactive to 1994. As a result I received a retroactive back tax bill of just under \$11,000.00. You can imagine my shock and disbelief. The other neighbors and myself decided that this was unfair so we hired a lawyer and took this matter to the Provincial Court. The Provincial Court ruled in favor of the city and the matter of the taxes stood.

We therefore decided to appeal this to the Appeal Court of Manitoba. Our lawyer made our presentation to the courts and shortly after we received a favorable judgement quashing the original Municipal Board order to reassess these properties and at the same time made it quite clear that in the future tax assessments should never be retroactive. The courts agreed that it was unfair for a citizen who has paid his tax in good faith to receive a bill for prior years.

This process, needless to say, was extremely stressful and disheartening, not to mention very

expensive. Having gone through the process of appealing my assessment with the Municipal Board in 1994, I found myself now in a position that should we lose in court we would have to go back to the Board of Revision and have this assessment appeal heard all over again. Should that fail, the merry-go-round would continue back again to the Municipal Board, where it all started. The point I am trying to make by telling you this is that the laws must be kept simple and fair for the taxpayer. The process of appeal must also be kept simple so that the average citizen can deal with an unfair assessment.

I ask you today to reconsider your Bill 25, in that it tends to complicate the appeal procedure. The city has ample time to establish assessments for properties. When the assessments are established why should the city have the right to increase an assessment just because a taxpayer appeals the assessment. Bill 25 will allow the city to do this. The Court of Appeal made it quite clear that intimidation of citizens by the assessment department is not acceptable. I see this section of Bill 25 as further complicating and making the system of assessment more cumbersome and costly. In the spirit of fairness, I ask you to reconsider this portion of the bill. Why should the Legislature give the city the opportunity of changing their mind on an assessment and increasing it after the fact? This will cause confusion.

There are many cities in North America that have very simple and uncomplicated assessment and appeal processes. Let us not create laws that will make the system cumbersome and more burdensome for the taxpayer. Thank you for allowing me to offer my opinion.

Sincerely,

James B. Furgale
Winnipeg, Man.

* * *

Re: Bill 25.

July 5, 1999

Standing Committee on Municipal Affairs
Attention: Honourable Len Derkach, Minister of
Rural Development

Dear Mr. Derkach:

Re: Bill 25, to amend The Municipal Assessment Act

Enclosed please find a certified copy of a resolution passed by the Council of the Rural Municipality of Gimli with respect to the above.

The resolution expresses council's concerns regarding the assessment appeal process.

Please consider council's concerns as you review the legislation.

Yours truly

Kevin Chudd
Reeve
Rural Municipality of Gimli

**Rural Municipality of Gimli
Council Meeting of June 14, 1999**

Moved by Councillor Danny Luprypa;

Seconded by Councillor Luke Zaborosky;

WHEREAS Bill 25, being a bill to amend The Municipal Assessment Act, proposes to allow Boards of Revisions and the Municipal Board to increase assessments on properties under appeal, regardless if the appeal is filed to reduce a property assessment;

AND WHEREAS this practice would provide an assessor with an unfair advantage in the property assessment process by giving the assessor the opportunity to obtain an increase in assessment without the requirement of meeting the conditions of Section 43(1) of The Municipal

Assessment Act, being the application requirements;

AND WHEREAS a property owner should not be faced with a possible increase in property assessment when they are appealing to decrease their assessment;

AND WHEREAS any attempt to increase or decrease an assessment through the Board of Revision process should be by appeal for that specific purpose;

AND WHEREAS proposed Section 54(1.3) appears to be inconsistent with Section 43(2) of The Municipal Assessment Act in that it allows a board or panel to consider an appeal by an assessor to increase assessment while 43(2) prohibits a board from considering an application that is not in compliance with subsection (1) (the requirement for an application).

NOW THEREFORE BE IT RESOLVED THAT the Council of the R.M. of Gimli is opposed to the provisions of Bill 25 as they apply to the right of a Board of Revision or panel or Municipal Board to increase assessments of property when the appeal under consideration is to lower the assessment;

AND FURTHER THAT council do hereby request that the proposed legislation be amended to require an assessor to file the necessary applications to have assessments increased as is required by a property owner wishing to have their property assessment decreased.

CERTIFIED to be a true and correct copy of a resolution passed by council on the date above mentioned.

Chris Fulsher, Chief Administrative Officer