

Fourth Session - Thirty-Eighth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Social and Economic Development

Chairperson
Ms. Marilyn Brick
Constituency of St. Norbert

Vol. LVII No. 3 - 3 p.m., Tuesday, November 22, 2005

ISSN 1708-6698

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Eighth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON SOCIAL AND ECONOMIC DEVELOPMENT

Tuesday, November 22, 2005

TIME – 3 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Ms. Marilyn Brick (St. Norbert)

VICE-CHAIRPERSON – Ms. Kerri Irvin-Ross (Fort Garry)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Ms. Allan

Mr. Altemeyer, Ms. Brick, Messrs. Cullen, Dewar, Eichler, Ms. Irvin-Ross, Messrs. Jennissen, Rocan, Santos, Schuler

APPEARING:

Hon. Jon Gerrard, MLA for River Heights

WITNESSES:

Mr. Jeff Penner, Private Citizen

Mr. Bruce Wilton, Vice-President of Engineering, ND Lea Engineers and Planners Inc.

Mr. Jason Kasper, President, Professional Interior Designers Institute of Manitoba

Mr. Alan Borger, Private Citizen

Mr. Doug Hanna, Private Citizen

Mr. Jon Reid, Private Citizen

Mr. Michael Boreskie, Private Citizen

Mr. Kyle Lewkowich, Interns in Architecture Committee, Manitoba Association of Architects

Ms. Andrea Lawson, Private Citizen

Mr. William Schellenberg, Private Citizen

Mr. Steve Sebastian, Private Citizen

Mr. Brian Everton, Private Citizen

WRITTEN SUBMISSIONS:

Mr. Jerry Semerak, Private Citizen, and Mr. Peter Hargraves, Private Citizen

Mr. Victor Kolynchuk, Private Citizen

Mr. Bill Burrage, Private Citizen

Mr. Ron Hambly, Private Citizen

MATTERS UNDER CONSIDERATION:

Bill 7–The Architects and Engineers Scope of Practice Dispute Settlement Act (Various Acts Amended)

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Madam Chairperson: Good afternoon. Will the Standing Committee on Social and Economic Development please come to order.

This meeting has been called to consider Bill 7, The Architects and Engineers Scope of Practice Dispute Settlement Act (Various Acts Amended).

As established in the committee notice, we will be sitting this afternoon until 5 p.m. A further meeting has been called for this committee this evening at six o'clock. We have a number of presenters registered to speak this afternoon, as noted on the list of presenters. Before we proceed with these presentations, though, we do have a few other important points of information to consider.

First of all, if there is anyone else in the audience who would like to make a presentation this afternoon, please register with staff at the entrance of the room. Also, for the information of all presenters, while written versions of presentations are not required, if you are going to accompany your presentation with written materials we ask that you provide 20 copies. If you need help with photocopying please speak with our staff.

As well, I would like to inform presenters that, in accordance with our rules, a time limit of 10 minutes has been allotted for presentations, with another five minutes allowed for questions from committee members. Also, in accordance with our rules, if a presenter is not in attendance when their name is called, they will be dropped to the bottom of the list.

We have received a written submission on Bill 7 from two individuals, Jerry Semerak and Peter Hargraves. Does the committee agree to have these documents appear in Hansard transcript of this meeting? *[Agreed]*

For the information of committee members, I would like to inform also those who are in attendance that subsequent meetings have been announced for this committee. If required, this committee will also meet on Wednesday, November 23, at 9 a.m., and Thursday, November 24, at 6 p.m. Thank you.

Hon. Nancy Allan (Minister of Labour and Immigration): It is my understanding that on Thursday, the opposition critic and I had a discussion, and we are prepared to meet. So maybe we will take that back to our House leaders and see if we cannot make that happen.

Mr. Ron Schuler (Springfield): Yes, and on Wednesday we are looking at sitting—

Madam Chairperson: Only in the morning at nine o'clock, as the House is not sitting after Question Period.

Mr. Schuler: If it is something that the committee would consider—

Madam Chairperson: Just one moment. I think this has already been announced, and I think it has already been agreed by the House leaders in light of the fact that Question Period was adjourned. But, if you want to take that back to your House leaders, I guess that is something that—

Mr. Schuler: Yes, and again this is something, if the minister would speak to her House leader. Certainly, I thought that is what we had sort of discussed amongst ourselves that, if need be, Wednesday we are willing to sit for three sittings: the morning, afternoon and evening. We just feel that those individuals who are prepared and are coming out to meetings, should be given the opportunity to speak.

Madam Chairperson: I guess, you would have to take that back to your House leader, as mentioned, and then you can take a look at that issue.

Prior to proceeding with public presentations, I would like to advise members of the public regarding the process for speaking in committee. The proceedings of our meetings are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be an MLA or a presenter, I have to first say the person's name. This is the signal for the Hansard recorder to turn the mikes on and off.

Thank you very much for your patience. Prior to proceeding with public presentations, we do have a couple of members here who are from out of town. Is

it the will of the committee to hear out-of-town presenters first? *[Agreed]*

I will now call people who are here from out of town. This morning we had agreed that people who were from out of town would be called at meetings this morning, this afternoon and this evening. Then, if they are not present after the evening calling of their names, at that point their name would be withdrawn from the list.

Mr. Jeff Penner, private citizen. Did you have written submissions you want to circulate? Mr. Penner is 117 for committee members on page 10 of 12. You can proceed, Mr. Penner.

Mr. Jeff Penner (Private Citizen): Thanks for the opportunity to speak. I was not available this morning or last night, so coming out from the southern part of Manitoba in the Winkler area.

* (15:10)

My name is Jeff Penner and I am a member of the Manitoba Association of Architects. By way of this presentation, I wish to formally express my opposition to Bill 7 slated for committee this November 22, 2005. I fully support the position of my colleague Don Oliver and my other colleagues and call upon the minister and this committee to delay Bill 7 from proceeding to third reading.

I am Manitoba's only rural architecture firm. I made that choice two years ago to deal with family issues, first of all, and then I found myself surrounded by rural communities that had a great need for architects. I have been there two years and I hope to remain there for the rest of my days. So this has a huge impact on my career, but, more importantly, it has a huge impact on rural Manitoba and that is what I was hoping to address today.

I would like to speak briefly on the significance of the critical role of architects in rural Manitoba. The negative impacts of the deficiencies of engineers who have chosen to practise architecture in rural areas is a concern. In my experience as rural Manitoba's only architect firm, I have witnessed first-hand the work of certain engineers that for many years were practising Bill 7 in terms of understanding their roles. For this reason I stand before you astonished somewhat at the ignorance of some members of the engineering profession who believe they have the training and the capabilities to practise architecture when it is clear they do not. Engineers are valuable and innovative professionals

who contribute to the technical resolution of complex problems. This is clear.

I was recently at a conference in Regina, Saskatchewan, called Building our Communities, a conference that was intended for communities, design professionals and other experts to gather together with hopes of creating better, liveable and sustainable communities. It was clear in all the proceedings that the architect's role was to enable and co-ordinate the many issues and potentials of a particular challenge, and through careful and respectful means integrate the complexities into a built form, a built form that was safe, functional, efficient and sustainable. It was also clear that, although engineers played a significant role in the future of sustainable communities, their role was as part of a team to technically resolve the aspirations of the community through their particular area of expertise, whether it be mechanical, electrical, structural, civil and so on.

Unfortunately, in my experience as an architect, I have noticed a professional naivety where engineers in rural Manitoba have claimed to be masters of all as they build facilities that have been designed and planned with little aptitude and insight into fundamental design issues. I have listed several of them, one being universal design, where I was asked by an engineer what that was. It was in a condominium project, 55 Plus, and to me that was a fundamental issue of that project. I also list sustainable design, environmental stewardship, functional planning, site design and master planning, as well as community collaboration.

The distinguishment and solidification of the differences in the roles of engineers and architects is deeply needed, and I would be willing to contribute to this definition based on my practical knowledge as an isolated design professional looking from the outside in. In fact, since September, my firm has been challenged with many projects across Manitoba that require an architectural review and seal. Most of these buildings have been delayed slightly to allow for my review and assurance. I have to say most of my projects are delayed slightly anyways, just the way the industry is right now.

Of note, however, is that in the rural context most of these projects are unoccupied storage facilities of approximately 5000 square feet. This seems to be an interesting number that is coming up. Some of these buildings have been more complicated; for instance, a church requiring an

architect due to their nature. Multi-storied buildings are another example. In all cases, these clients have accepted that architects may indeed be an accepted part of life, with grumbling primarily from the local engineers who claim architects are unnecessary design types. That is the layman word, I suppose.

Again, I am deeply concerned and disappointed in the lack of knowledge and the easily swayed political entity, at least the way I see it, that is the present government. It is very clear that the power of the media and the forceful nature of the APEGM have had a massive impact on carrying this bill to this point. I am in disbelief at the fact that I have to drive out from my community to defend my profession.

Regardless, I am dedicated to the sustainability and long-term health of rural communities. I take very seriously my responsibility as a professional architect. Whatever the outcome, I will continue to bring forward the importance of architectural presence in occupied buildings of a certain size in order not only to put bread on the table for my children but to be a part of something much bigger than myself, something much larger. For instance, regionalization, looking at rural communities that need more than just a simple plan or a simple building. They want have answers, but they also want to live there for the rest of their days.

I will continue to contribute to the building of communities while local engineers sway to the demands of developers, ignoring the danger of their work on future generations. On the other hand, I will continue to work closely with colleagues, engineers, that have healthy and dynamic view of their own role in advancing the cause to better these rural communities, neighbourhoods, streets and regions. You can choose to mix these defined professions or encompass these jurisdictions as they are. Or why not look at the professional jurisdictions across North America, or furthermore, to Scandinavia, such as Sweden, Finland and Norway, where architects' roles are not questioned? The result, a place that dignifies the aged, celebrates the young and respects the air we breathe, the water we drink and the earth we dwell in.

Architects are about protecting the rights of those that do not have a voice, not padding the pockets of developers. Architects are needed and if you look at what is happening across North America it is clear that, to let engineers with their specific training grapple with generalities, we will consume

ourselves with big box stores and 50-foot by 100-foot sheds. Our legacies will one day be gravestones on a dead rural landscape, and that is very clear right now.

I do not want this, and I do not expect that anybody wishes this on our communities. We have the power to impact rural Manitoba the way that most engineers and architects cannot. The future of rural life is so dependent on the nature of our rural surroundings. Someone needs to stand up and say, "Enough is enough." It is like the farmer that looks out on his field and asks himself, "Why am I doing this? There is no money, the crops are crap, fuel is high. Why am I doing this?" Well, I asked myself that the other day. Architects and farmers are not ready to sell the farm yet, so we know we have value because we know why we are here.

I am a registered member of the Manitoba Association of Architects. I worked very hard, from a poor family, and I got the education, got the training, traveled the world, and we bring that to Manitoba and this is it. You are going to see people go and that is what is left. So I am sort of emotional about this. I feel like I am a lost puppy or something but, really, reality is I am a registered architect and that is the assurance I give you. You can count on a registered architect, and I tell every client that. Thank you.

Madam Chairperson: Thank you. Are there questions for the presenter? Seeing no questions, we thank you very much for your presentation.

The committee calls Duane Joyce, private citizen. Duane Joyce, private citizen. Mr. Joyce will be dropped to the bottom of the list.

Ellen Kotula, private citizen. Ellen Kotula, private citizen. Ms. Kotula's name will be dropped to the bottom of the list.

The committee calls Bruce Wilton, ND Lea Engineers. You can proceed, Mr. Wilton.

Mr. Bruce Wilton (Vice-President of Engineering, ND Lea Engineers and Planners Inc.): Thank you. Minister Allan, honourable members, ladies and gentlemen, my name is Bruce Wilton. I am a professional engineer who has been registered in the provinces of Ontario, Alberta and Manitoba over a 30-year period. I am currently vice-president of engineering for ND Lea Engineers and Planners Inc., a company which has practised consulting engineering in Winnipeg for over 40 years.

*(15:20)

Let me say at the outset that I am not a design engineer. Although I did some design work early in my career, my principal focus over the course of my career has been on managing engineering disciplines, project management and business development. I am therefore looking at this dispute and the proposed legislation from the perspective of a manager of engineering, as opposed to the technical perspective of a designer.

As has been pointed out by some of my colleagues that preceded me, there is an overlap between the engineering profession and the profession of architecture. This is no different than in any other part of Canada. But, as you are aware, all jurisdictions with the exception of Ontario and Québec have a reciprocal clause in each of their acts that allow other professions to practise unfettered. However, such is not the case in Manitoba, and as a result a court ruling has brought some elements of the building construction industry to a crawl, if not to a standstill.

As a professional engineer, I would have preferred to see a more straightforward exemption for our profession under The Architects Act. However, in a spirit of compromise and a willingness to see this issue resolved, I support the proposed amendments to the legislation.

In my view, it is the marketplace that ultimately determines whether an architect or engineer, or both should be involved in a project. A client will decide what he or she needs to get a specific project underway. The client makes that decision based on the competencies that each member of the design team brings to the table. Should the client decide that he needs both an architect and an engineer on his team, he will make that decision to do so.

It is to the minister's credit that this bill has delineated the areas in which an engineer, architect, or both are required, along the lines of what is currently happening in the marketplace. Yes, there may be differences of opinion on this issue, even amongst my own colleagues. But I believe as a whole we are prepared to accept the delineation as proposed.

Another area where a wrong has been righted in my view is a provision to allow engineering firms to offer architectural services. Architectural firms have always had the right to offer engineering services, which allows them to offer a more integrated design

team to a prospective client. This proposed change is a positive step and one for which the minister should be congratulated.

Another aspect of the proposed legislation that we wholeheartedly support is the change in The Architects Act to allow a person other than an architect to be the prime consultant on a building project. This is an important change, not only to engineers, but also to interior designers, contractors, design builders, et cetera. I would also point out that many engineering professionals have gone beyond the minimum four year bachelor's degree and associated training to obtain master's degrees, MBAs and other levels of training that enhance their abilities and qualifications to fulfil prime consultant roles. These skills do not rest exclusively within the architectural profession.

I wish to now turn our attention to the joint architecture-engineer board, originally set up in 1998 to serve as a vehicle to work out the "grey areas" where the two professions overlapped. The proposed legislation gives the joint board significant powers that will be binding on both engineers and the architects. Further, it gives the chairman of that board even greater powers to make unilateral decisions should the members of the board not be able to agree.

I believe that the minister is correct in structuring the board and its operating policies in this fashion to ensure that things will get done and not be stalled by potential factions within the joint board. However, I note that the current chairman of the joint board is the Dean of the Faculty of Architecture at the University of Manitoba and also a member of the Royal Architecture Institute of Canada, and as such may be in a conflict of interest. We would strongly urge the minister to select a new chairman for this board who is not affiliated with either the engineering or the architecture professions.

The role of the chair of the joint board may turn out to be very critical during the process for grandfathering of professional engineers. Should the joint board not be able to agree on the criteria for the grandfathering provisions, the chair has the authority to establish the criteria. In principle, we agree with this provision, provided that the chair of the joint board has no conflict of interest.

I would like to raise one final point which the minister may want to consider. Some of the revisions proposed to The Architects Act may require changes to be made to the by-laws within the MAA. The

minister may be wise to set a time limit as to when those by-law changes should be accomplished, so that the intent of the proposed changes in the legislation are not tied up in by-law changes within the MAA.

In summary, I would like to thank the minister and her staff for putting together a fair and pragmatic approach in the form of Bill 7 to solve this long-standing dispute. The engineering community stands ready to work hand in hand with the architectural community as we move forward from here to serve the public and the economy of the province of Manitoba. Thank you.

Madam Chairperson: Are there questions for the presenter? Seeing no questions, we thank you very much for your presentation.

The committee calls Phillip Dorn, private citizen. Once again, Phillip Dorn, private citizen. Mr. Dorn's name will be dropped to the bottom of the list.

Roger Wilson, Fox Warren Ethanol Agency. Once again, Roger Wilson from Fox Warren Ethanol Agency. Mr. Wilson's name will be dropped to the bottom of the list.

That concludes our list of out-of-town presenters. We will return to our original list of people here wishing to speak from in town. The committee calls Jason Kasper from the Professional Interior Designers Institute of Manitoba. You can proceed.

Mr. Jason Kasper (President, Professional Interior Designers Institute of Manitoba): Good afternoon, Madam Chairperson, the honourable Minister Allan, legislative members and colleagues. My name is Jason Kasper and I am a professional interior designer who has practised in Manitoba for the last 12 years. I graduated with a Bachelor of Interior Design degree from the University of Manitoba and a master's degree in Facility Management. I am NCIDQ certified, an international certification of competency and qualification for interior designers. I am the president of the Professional Interior Designers Institute of Manitoba.

I am also the owner of an independent interior design firm who specializes in health care and commercial interiors. My clients include the Health Sciences Centre, the Winnipeg Regional Health Authority, the Winnipeg Airports Authority as well as the Province of Manitoba. I am a stakeholder in this dispute. The 130 members of my professional association are stakeholders in this dispute.

On September 16, the injunction handed down against the City of Winnipeg has significantly impacted the work that my members can perform. If we cannot work, we cannot be effective business people contributing to our communities. We will have to seek employment out of province. I want to work in this province.

For the last few decades, interior designers have had a solid relationship with the City of Winnipeg plans examinations department. This authority having jurisdiction has recognized the competency of our professional members and this has allowed them the confidence to approve for permit work on a variety of scales and occupancy classifications. The injunction has put a stop to some projects, created huge delays on others and has threatened the future for additional projects. This dispute is not one that we began nor one that we had any warning about. However, we were not about to stand by and watch as the roles and responsibilities on projects were carved up without our input.

It is important to remember that, in any conflict, by the very nature of conflict, there are two sides. We got involved because the engineering association approached us and asked us for our help in resolving this issue. Our mission in getting involved was to aid in just that, the resolution of this issue that takes into account the broader design community within a present day context. In our getting involved, this in no way means that we do not value the roles of all members on the design team and do not value those roles equally.

* (15:30)

However, as recently as three weeks ago, there were architects in this community still questioning why we, as interior designers, would be involved in this process as this had nothing to do with us. Well, I am here to say that this has everything to do with us. We need this to be understood today. This issue affects us all. We have heard during these presentations how architects are the only professionals trained in how to solve problems for human beings in buildings. I beg to differ. We, too, as interior designers, undertake a rigorous internationally accredited educational program and write comprehensive and internationally certified examinations to ensure that the highest level of practice is achieved and maintained. We deal with the built environment considering the human being first and then work our way out.

The point here is that the interior designer, in collaboration with architects, with engineers, and with both, provides the essential expertise relative to the human context. Our involvement on projects ensures that this human factor is not overlooked, but rather satisfied and even elevated. We are in a pivotal position to ensure the protection of public health, welfare and safety. This will allow the project team to be more diverse, sometimes involving all three disciplines, and sometimes not.

My members have numerous projects at various stages of completion. These projects are not able to proceed until this issue is resolved. Clients, not having anticipated this injunction, are in a position where they are rethinking the projects entirely as a result. The economic impact of them changing their minds goes far beyond the designers. The construction industry is being impacted, as are the suppliers and vendors of product, movers, cleaners, installers, all impacted.

As professionals, it is in our best interest to assemble project teams based upon appropriateness of team member, level of experience and area of expertise. We have been doing so for years. As of September 16, 2005, the injunction has prohibitively limited such flexibility in team composition. We have worked with engineers and architects in a variety of team structures over many years. Collaboration is required in order to expedite the built form, but not always the same team.

The proposed legislation, in particular the draft of Table 2.1.7, Alterations, works towards providing the flexibility for teams to be assembled as per project scope and expertise, while ensuring the protection of the public. This is the type of solution that will have a positive impact on our local economy.

In the recent Throne Speech, I heard that in this province effort will be met with opportunity. My members have put in the effort and continue to work toward furthering our mandate for protecting the health and safety of the general public. This effort needs to be met with opportunity, and the work that has been thus far put into the writing of Bill 7 acknowledges this effort. The proposed Bill 7 is not a winner-take-all approach. In reviewing the draft legislation, it is clear that all parties have made concessions toward resolving this issue. It is important that the bill be passed. It will restore our ability to provide professional services to the public.

In addition to amending the acts, we need to be assured that the Manitoba Building Code amendments, as drafted, will be immediately implemented. This is critical for us to get on with business. The authorities having jurisdiction is the appropriate place for decisions to be made in the public interest. We will be able to get back to work for you and your constituents and in the interests of all Manitobans.

We look forward to continued collaboration with both engineers and architects in the community. This legislation will help us all work together. I would like to take this time to thank those who have spoken and will be speaking on this issue. Your time and commitment to this cause and its resolution will not only benefit us at this time, but will also help the next generation of design professionals within our community.

I appreciate the opportunity to speak on behalf of my professional association, and I look forward to an expeditious resolution of this matter, one that reflects all professional interests and benefits all Manitobans. Thank you.

Madam Chairperson: Thank you very much. Are there questions for the presenter? Seeing no questions, thank you so much for your presentation.

The committee calls Alan Borger, private citizen. You can proceed, Mr. Borger.

Mr. Alan Borger (Private Citizen): Minister, members of the Legislature, my name is Alan Borger. I am the president of Ladco, and I am here today to urge you to pass Bill 7 without substantive changes and without further delay.

Ladco is a family-owned, professionally managed corporation. Our roots here run deep. We have been in business for 87 years and 100 percent of our assets are located in the province. Most of you are familiar with our heavy construction subsidiary, Borland Construction, and you are doubtlessly aware of our planned residential communities like Southdale and Fort Richmond. But, first and foremost, Ladco is a property development company. We are by no means the largest, but we are a respectable size with about 1650 apartments, three-quarters of a million feet of commercial space and one 226-room four-star hotel. My father, if he had two of anything, that would be too easy, so this is what I am dealing with.

But seriously, clearly we work with architects and engineers almost every day. We have great respect for both professions and we do not wish to

take sides. However, this is no longer an inconsequential turf war. Your actions over the next couple of weeks, perhaps months, will have significant and far-reaching consequences.

I hope it is clear to everyone that you must act quickly and decisively to deal with the chaos created by Madam Justice McCawley's interpretation of the existing legislation, legislation that has been around for about 92 years and that is now seriously outdated.

In this case, doing nothing is not an option. In the short run, you will create unacceptable bottlenecks, long delays and huge cost overruns for many projects. That is the short term. In the long run, I do not think things are going to be much better. You will leave developers with much less choice, flexibility, competition, higher soft costs, longer timelines and quite possibly higher hard costs as well. That is not acceptable. Statutory monopolies are supposed to protect the public, not enhance a given profession.

Let me describe for you a simple scenario. If you do nothing, my design and construction management costs will increase significantly because the new environment will be a lot less competitive. Further, I see a new structure with fees cascading and doubling up.

Of course, I will attempt to ask for more rent. Sometimes the tenant will pay. Sometimes we will not be able to make the numbers work. Ultimately, fewer deals will get done which is bad for Ladco, bad for the consumer and bad for our economy.

If I can get the deal done, my new tenant will face higher fixed costs. In other words, my tenant now has more risk in a less competitive cost structure. As a result, my tenant will try to pass these new costs on by raising prices, but, of course, that means higher retail prices and a lower standard of living for the local consumer, your constituents. As well, for other businesses, that will translate into fewer international and extraprovincial sales which ultimately means less investment, jobs and taxes.

With respect, your job is to balance the needs and wants of all your constituents and do what is right for the whole province. Quite frankly, I cannot see how the current state of affairs can be tolerated or defended. But I did try and think of a few analogies. One analogy would be chiropractors, physiotherapists and massage therapists. Should their work and their fees be channelled through a doctor?

But an even better example, one that I am more familiar with, might be accountants and lawyers. Sure, the Income Tax Act is a legal document, and, yes, lawyers also enjoy a statutory monopoly, but both do tax work, and God help us all if my brethren in the legal profession are able to reclaim this territory on an exclusive basis. Good luck collecting your tax.

* (15:40)

The reality is that both accountants and lawyers can do the more sophisticated and for them lucrative planning work with the client making the call about who will do what work on a given file and how the billing arrangements will work. The fact is that as time passes and our economy evolves, the different professions will change and the governing statutes must keep pace and reflect these changes. If they do not, we will condemn ourselves to a lower standard of living.

From time to time, the so-called grey areas may cause some aggravation but they are actually your friend. These grey areas create competition, bring down prices and make our economy more competitive.

With respect, the question is what makes sense today for the whole economy. Not to assert an archaic monopoly based on language and a statute that is over 90 years old. If it were my decision, I would leave it up to the different professions to decide what work their members can or cannot do. Life safety has never been an issue. However, it strikes me that the minister has struck a decent balance with the proposed legislation. It is not perfect, I am sure it will cost me a little bit more, but it seems like a reasonable compromise. The architects will end up with some exclusivity with respect to design, but where it makes sense, on urban structures over a certain size.

For our company and for our projects, I think this will take us back more or less to where we were with several very important exceptions. In the end, all of this seems like a reasonable compromise to me. I urge you to pass this legislation expeditiously. I know that the engineers and architects have literally studied this to death and have previously produced two draft agreements that were ultimately rejected. It falls to the honourable members of the Legislature to act decisively where others have failed so that we can all get on with business. Thank you.

Madam Chairperson: Thank you very much. Are there questions for the presenter? Seeing no questions, we thank you very much for your presentation.

The committee calls Doug Hanna, private citizen. You can proceed, Mr. Hanna, whenever you are ready.

Mr. Doug Hanna (Private Citizen): Madam Chairperson, Minister Allan, honourable committee members, ladies and gentlemen.

I would first like to thank the committee for their patience and attention in listening to this and other presentations on Bill 7. As you have seen and will continue to see, this is an important issue not only to engineers and architects, but also to the public. The public needs assurance that properly trained and certified professionals are designing their buildings for them. That is at the core of The Architects Act.

My name is Doug Hanna and I am a registered member of the Manitoba Association of Architects. I practised in architecture for over 20 years and I am a principal at Number Ten Architectural Group. Our firm has done work across Canada, the northern United States, parts of Europe and Africa. We employ 55 people in Winnipeg and British Columbia including architects, interns, interior designers, graphic designers, technologists and administrative staff. I support the position of my colleagues, including Don Oliver, Robert Eastwood, Scott Stirton and other members of the MAA, and call upon the minister and this committee to delay Bill 7 from proceeding to a third reading.

Let us be clear about what is at issue today. We are not talking about houses requiring architects. We are talking about reinforcing the core value of The Architects Act, that states that architects should be involved where there are buildings that have human occupancy. That includes assembly buildings, such as theatres; larger or residential occupancies over a certain size, such as apartment buildings; business and personal services occupancies of a certain size, such as office buildings; larger mercantile occupancies, such as shopping centres; and some industrial occupancies which have occupied space.

There are some valid reasons for changes to The Architects Act, but definitely not to the degree proposed in Bill 7 that we see before us today. As an employer in Manitoba, I am very concerned that the best and most creative of our university students in architecture will look at the disregard that Bill 7 has

for the value of their education and choose to go to other provinces.

As a professional, I am appalled that Bill 7 in its present form would give control over deciding what is the practice of architecture to a Building Standards Board that is made up of industry stakeholders, business and private interests. In other words, allowing who designs buildings to be determined by market forces, not qualification.

As a father, and a new father at that, I am dismayed that Bill 7 would allow engineers who are neither trained nor licensed in architecture to design buildings for human occupancy without the involvement of an architect.

Our firm works very closely with consulting engineers on all of our projects. I have a great deal of respect for their specialized skills and expertise. In a truly integrated design process, architects and engineers are co-dependent and each brings something valuable but different to the building project. The engineers bring their specialized skills in civil, structural, mechanical and electrical engineering, while the architect brings the overall building design and co-ordination skills. It is the combined strengths of the architect and engineers that create good buildings. They should not be considered exclusive of each other.

I am a LEED-certified architect. In fact, I was the first registered architect in Manitoba to be LEED certified. It stands for leadership in energy and environmental design. This is an international standard created to evaluate the merits of green buildings. It goes far beyond building codes and focusses rather on suitable site selection, energy efficiency, resource efficiency, reducing waste, encouraging natural daylight and natural ventilation, all in an effort to balance the environmental responsiveness of our buildings. At the core of LEED is an integrated design process which values the input that both architects and engineers bring to their projects.

At current count, there are 40 accredited professionals in the province of Manitoba that are LEED certified. Of those, 20 are architects, nine are mechanical engineers, of which two of those work in architectural firms, one is an electrical engineer and one is a structural engineer. This initiative has been championed by architects and will continue to be championed by architects.

Nonetheless, architecture and engineering are different professions. As you have heard from my colleagues, these professions flow from two different streams of education. Architects are educated, trained and tested on the skills related to the very specific field of building design. The education to become an engineer does not include the principles of building design. Rather, it includes the training to design specialized systems in buildings. The one profession should not be confused with the other.

The buildings that we design now for cities will, in most cases, last lifetimes. Bill 7 will determine the quality of Manitoba buildings that we will leave behind for future generations to judge us.

As you have heard from my colleagues, there are a number of proposed amendments to The Architects Act included in Bill 7 that require change or more clarity before they are enacted as legislation. You have heard the perceived backlog of permits, which was fuelling a sense of panic in the first place, can be resolved through a temporary relief to the legal injunction. That means there could be time made available.

If this bill was passed in its current form, then some of the unclear language that is used will create more problems than it solves. As an example of some of the unclear language and unclear intent of the proposed amendments, I would now like to speak just briefly on one topic, that is, arena-type exemptions.

Our office, for those of you who do not know, was involved with the MTS Centre. What is involved with this particular amendment is the draft table for professional designers required in article 2.3.1.3. The draft table proposes that engineers, meaning all engineers, including mining, mechanical, electrical, agricultural, et cetera, be permitted to undertake arena-type buildings up to 1000 seats without an architect's involvement. No other jurisdiction in Canada allows this.

Few arenas have fixed seating, and so the consequence of this is that many arenas and, indeed, many different kinds of buildings could conceivably fall within this category. As an example, the MTS Centre, if the MTS Centre was designed and constructed with a fixed seating capacity of 1000 persons and the remaining seats added at a later date through an alteration to the building, which would not require an architect according to the draft table, it could be constructed without the involvement of an architect.

This amendment also lacks clarity because the term "arena type" is not defined and could easily be interpreted by the authorities having jurisdiction to include other arena-type buildings such as community centres, many of which have day care centres, classrooms, gymnasiums, pools and observation areas, or curling rinks, many of which have lounges and restaurants.

The Oxford dictionary defines arenas as "any sphere of public or energetic action." A synonym for "arena" includes "theatre," among others. If this bill was passed, do you want to deal with the consequences of that unclear language? Arenas are assembly occupancies and, in addition to being hockey rinks, are commonly used for other high-density public gatherings such as rock concerts, wedding socials, electoral polling stations, community dances, circus proceedings, et cetera. They can even act as emergency shelters during disaster relief efforts. They are major public buildings and their complexity is not dictated by seating capacity alone.

* (15:50)

As assembly occupancies, arenas should involve the same assurance of professional involvement as do other assembly occupancies, all of which require an architect.

What is the remedy? The solution is that all assembly occupancies, including arenas, should be treated as requiring the involvement of an architect. This is how it is done in every other jurisdiction in Canada. Is there a good reason why Manitoba should accept a lower standard?

In summary, I call upon the minister and her committee to delay Bill 7 from proceeding to third reading so that amendments such as this one can be corrected before they become legislation. Thank you very much.

Madam Chairperson: Thank you. Are there questions for the presenter? Seeing no questions, we thank you very much for your presentation.

For the information of the committee, we have received written submissions from Victor Kolynchuk, who is No. 86 on your list, and Charlie Bouskill, who is not on your list. These submissions have been distributed to committee members. Does the committee agree to have these documents appear in the transcript of this meeting. *[Agreed]*

Also for the information of this committee, Mr. David Witty, who is No. 94 on your information, has been asked to be removed from the list. He has asked us to remove his name from the list.

The committee calls Jon Reid, private citizen. You can proceed, Mr. Reid.

Mr. Jon Reid (Private Citizen): Good afternoon. Thank you for the opportunity to speak to proposed Bill 7. I feel privileged to live within a society and country where issues such as these can be spoken to in an open and significant way, and I appreciate the role of the committee.

This issue is of obvious significance to me personally as I have spent the last 10 straight years of my life pursuing an education in apparently the two main opposing factions concerning this bill. I completed an undergraduate degree in civil engineering from 1996 to 2000 and am currently conducting my master's thesis in architecture, both from the University of Manitoba. Therefore I, like so many other young people that you have listened to, am greatly affected by the potential outcome of this vote.

So, to outline my presentation, I will first explain the differences in the educations I have received. From this, I will explain that the only significant overlapping area between these two distinct professional educations is learning how to properly collaborate. I will then explain why the legislation laying out the relationship between these two professions should be founded on this overlapping area that they both understand, collaboration.

Coming out of high school, my academic strengths were in the sciences and math. This, combined with a deep interest in the built environment, made civil engineering a logical choice. I worked hard for four years taking a general first year of engineering fundamentals and then specializing within the realm of civil engineering for the last three years. I satisfied the educational requirements of future engineers and graduated on the dean's honour list. I felt confident that my education along with a variety of summer jobs ranging from concrete construction, large-scale project management, geotechnical analysis for Manitoba Hydro, all gave me the proper basis for enrolling as an engineer in training or an EIT. I was confident that this apprenticeship program would further help me become worthy of the status of professional engineer.

Even though I truly enjoyed aspects of my engineering coursework pertaining to specific building systems, I was also interested in how all these different building systems came together, interacted and created environments for human life. My engineering education did not consider this to any relevant degree. I could calculate loads on structural members and arrange them into efficient structural systems. I could design the fundamental layout of effective waste water treatment plants. I understood the basics of designing highway pavement. I grasped onto the planning and design of large earthen structures to control and mitigate the effects of water.

I had worked for four years and found myself being fragmented into even more specialized areas. I wanted to see more of the picture. I wanted to understand how humans interacted with their environment, so after speaking with engineering counsellors and the Department of Architecture, I entered the pre-master's architectural program the fall after graduating from engineering.

I figured I really could not lose. If I found that the architectural education was even close to my previous engineering degree, I could quit and enrol in the EIT program. That could not have been further from reality. If that was true, I would likely be standing before you as a professional engineer today. Yet painfully I am still a student. I would not be standing here today still a student if I did not wholeheartedly believe that these two very distinct professions are both required necessities within our society. Even though the proposed legislation may have good intentions, the way it has been laid out will undermine both professions.

I have been exempt from only two technology courses throughout my five years of architecture study. The only overlap that currently exists between educations is that architects are taught the fundamental principles of structures, mechanical and electrical systems, allowing for a basic understanding when collaborating with engineers and strengthening the capability of integrating engineering information into their design work.

The closest equivalent of overlap in engineering towards architecture is one lone class. This technical communication class teaches engineers how to convey information to a larger group outside of their engineering specialities. From this seemingly basic interpretation that took 10 years for me to grasp and understand, this clearly states that collaboration is

where my engineering and architecture educations overlapped.

If viewed negatively, this entire process could be considered a turf war, who gets what piece of which pie that fits through what corresponding slot. However, if we take a step back and view this process positively with its original intention, this process is once again about setting up a framework for professions within the building industry to work with our own interest, the interest of the public and the interest of their fellow professions on a level footing. The only way to achieve this framework is to promote collaboration rather than undermining it. Collaboration is the area that both professions understand and strive for. The collaboration process is the most direct and positive path to any successful outcome. It is the goal of any architect or engineer to obtain a client that promotes collaboration from a variety of specialties, ensuring the most well-rounded solution to the problem.

This committee now acts as the ultimate client, setting up a framework that will be followed for years to come. The proposed legislation must clearly communicate a framework for increased collaboration not one that promotes a turf war. I agree with the position of my colleague Don Oliver and believe that the proposed legislation should not be given its third reading. As is evident from the professional outcry, the passing of this bill creates an environment of increased negativity and separation between professions. There must be a possible framework for increased collaboration between professions, allowing for each of their strengths to be realized to their fullest potential, empowering our city and province for the years ahead. Like many of my fellow students, I cannot live or work in a province that does not value my profession. Thank you for the opportunity to address the committee.

Madam Chairperson: Thank you. Questions from the committee?

Mr. Schuler: I mentioned before I have restrained myself from asking too many questions or making too many comments. But, Jon, as a former constituent of mine, I appreciate very much that you are coming forward and your generation, especially yourself, and you did come and see me before the committee meetings and had laid out your concerns.

I certainly appreciate the fact that you straddle both sides of the fence and now you know what it is like to be a politician. You know, you speak with great integrity and we appreciate that. The committee

has to hear from everybody and, again, I think we really appreciate the fact that the next generation is also coming forward. This is the first time you have come to committee and that takes a lot of guts to do.

I guess the only concern I have is now, when I walk out in my constituency, I have to keep one eye on you because you speak so well at committee. We appreciate very much that you have come forward and laid your concerns out. As we go further and we go line by line in the legislation, certainly we will keep in mind all the presentations, especially the next generation's that is coming up, so I appreciate that very much.

Madam Chairperson: Mr. Schuler, you did not have a question, just a comment. Is that correct?

Hon. Jon Gerrard (River Heights): In your presentation you talk about the need for a collaborative environment. What three things would you feel are essential in order to provide the environment for collaboration to be in this act?

Mr. Reid: That is a good question. First, I think you have to promote some kind of environment that people do not have their backs up against the wall and are fighting for, basically, the role of their profession within the greater society. To take away the control of the architectural profession and put where they work, basically, or how they act, into the hands of a building standards committee just does not promote that kind of environment.

* (16:00)

Secondly, I guess, to create some kind of system for this to work within, the economy, of course, has to come into play. It affects every day life whatsoever. It, however, should not be the only sole thing that we look at. The thing with economy and people that have a lot more money than I standing in front of you today or yesterday or tomorrow, things matter more about the deal, perhaps, that instant, that year, and buildings do not exist in that kind of framework. They exist over a long period of time. So any kind of framework that exists that would promote looking at buildings over a longer period of time and framework and giving as much value to a building in its first year as in its twentieth year, I think, would help that. I do not really have a third.

Madam Chairperson: Thank you very much. Seeing no other questions, we thank you for your presentation.

Mr. Reid: Thanks.

Madam Chairperson: The committee calls Michael Boreskie, private citizen. You can proceed.

Mr. Michael Boreskie (Private Citizen): Madam Chairperson, Honourable Minister Allan, honourable members of the committee, thank you for your time.

My name is Michael Boreskie, and I am a registered member of the Manitoba Association of Architects. I am a graduate of the architectural program here at the University of Manitoba. I am a past member of the MAA's council. My firm's client base extends from the west coast of British Columbia to the east coast of Newfoundland and as far south in the United States as Kansas. During my career, I have spent four years as a sessional lecturer. That is a part-time position in the Graduate Department of Architecture, functioning as a design critic in design studios. I spent four years delivering the programming in that same graduate department, programming being the articulation of an owner's quantitative and qualitative needs for a project which forms the basis of design.

On the national level, I am a member of the Architectural Resource Group of the United Church of Canada, and I spent 10 years serving as the architectural adviser to the Canadian Conference of Catholic Bishops. Out of that work, I co-authored and co-edited a document called *Our Place of Worship*, which is now the basic document provided by the CCCB to all parishes across Canada dealing with methodology for religious projects, particularly dealing with process and content issues. That document is based largely on a design process that I have developed for working with non-profit organizations that is inclusive and participatory.

I support the position of my colleague Don Oliver and my other colleagues and call upon the minister and this committee to delay Bill 7 from proceeding to third reading. I do so for a number of reasons and will elaborate as follows.

When listening to some of the discussions of the relationship between architects and engineers and the requirements of the local building industry, it is hard not to draw six conclusions: (1) that the substance of the debate is really about who will interpret the Building Code and hence be able to practise architecture; (2) that the Building Code is synonymous with public safety, which is, in turn, synonymous with the public good; (3) that quantitative issues and information, that is, the bulk of the code, represent the substance of the common good; (4) that anyone given only some exposure, or

enough exposure, will be able to affect the design of complex buildings created for human use or supervise the construction of same or both, meaning that these skills can be picked up by osmosis or piecemeal in some unspecified, overtime process of association; (5) that what architects are only about, what they only offer to the common good, is merely an erroneously held belief that they alone can interpret the Building Code, the poor misguided dears, and some sort of tangential capacity to make buildings look pretty which is inconsequential to the serious business of construction; (6) that it would never occur to architects that there is an area of overlap between the two circles representing the respective fields of endeavour.

When examined objectively, none of these conclusions remain standing. I would like to offer some illustration of how this is so. Please note that none of my comments are meant to convey that the two circles representing respective fields of endeavour do not in some way overlap, but rather that in these matters a significant element of the public good is dependent on legislators, as those pre-eminently responsible for upholding the common good, as opposed to the rest of us wastrels and our vested interests understanding what actually lies within the overlap, what lies within the portions that do not overlap, and why these differences are necessarily so. Detailed knowledge on your part is required, knowledge which cannot be obtained through any series of 10-minute commentaries. Common sense is not enough because, as the philosopher Susan Langer observed, "common sense is only good for common issues."

By way of illustration, I would like to look first at a micro-issue in the design construction world, and then use that example as a move to the other end of the scale, the macro level.

On the micro level, I suggest that we look at the design for disabled and, in particular, use the design of a ramp as a specific example. In this regard, I reference article 3.8.3.4 "Ramps" in section 3.8 "Barrier-Free Design." I am sure you are all familiar with that. We will sing along now and pass the plate. It is in the National Building Code and carried over into the local code. I provide it for you at the top of page 2. What you will notice there is a lot of qualitative information. This wide, that high, this long, that slope. Such a ramp is an example of one small issue that can arise in a typical design project. It is an issue in its own right, but it is also an example of an issue within a larger issue, that is,

designing for the disabled or, more properly, universal design.

We are clear now in our culture that the needs of minorities, such as the disabled, must be addressed. Why is this useful? It is useful, this particular example, because it illustrates the fallacy of believing that addressing the code is adequate to addressing the issue. How so? The principles of universal design, a copy of which is attached to this submission, mandate a much wider consideration. Even the cursory consideration of universal design's seven principles and 30 guidelines indicates that this lowly ramp represents a design challenge of some complexity and that the quantifiable information in the code barely scratches the surface of the guidelines. As example, note guidelines 1(b) avoid segregating or stigmatizing any users; 1(d) make the design appealing to all users; 2(a) provide choice and methods of use; 3(b) be consistent with users' expectations and intuition. Intuition? What kind of a quantifiable piece of data is that? 5(d) discourage unconscious action in tasks which require vigilance.

In actuality, a wide range of qualitative issues are also involved, and the act of addressing these qualitative issues calls for a different skill set than is needed in addressing the quantitative. To address both calls for an even larger skill set. Appropriate design means more than simply turning the task of designing the ramp over to anyone who would consider that the only thing involved is using the quantifiable information contained in the code's section.

Our ramp is only one instance of design for the disabled. What of streetscape design, washroom design, flooring for those afflicted with Alzheimer's and remedies for the hearing impaired, to cite but a few issues? We could limit our discussion to this issue of the ramp and its code references, but to do so would be to ignore the very nature of design and its role in the public good. As noted, ramp design sits within the larger context of designing for the disabled. In turn, designing for the disabled sits within an even larger issue, succinctly set out, as everything is connected to everything else.

This brings us to the opposite side of the micro level, the macro level, where we can gain an even more powerful illustration of the need to keep the quantitative and the qualitative joined. I would like to use a description of an image I found a few years ago in the provincial archives when researching building in Manitoba to focus this discussion. It is

one of the most riveting images I have ever encountered. It is of a turn-of-the-century photograph of a family of settlers, who had just arrived on their new homestead on the Prairies. They were a tiny band, huddled together on a summer day with all of their worldly possessions piled at their feet. They had good reason to huddle, because the remainder of the photograph revealed nothing other than a sea of short grass stretching away to an alarmingly distant horizon. The land was virtually flat, totally empty and almost suffocating in its vastness. The scaleless vault of the skies sprang from what appeared to be the very edge of the Earth and was, if anything, even more overwhelming than the land. It was an utterly dominating space, filled with a sense of absence and of ultimate realities.

I have often wondered what happened next, both in the moments immediately after the photograph was taken and in the season and years which followed. How did these courageous souls begin to give voice to their presence in the landscape? Did they have sufficient human and material resources to continue what must surely have been a heroic endeavour? Were they, in the end, able to transform overpowering space through the creation of a uniquely individual place? I have no further knowledge of the family or their fate, but their simple, determined presence on that stark, grassy plain has remained, for me, as a pre-eminent symbol of the human challenge to find our place on the prairie.

* (16:10)

One thing is certain, however. If they did succeed and eventually created meaning and satisfaction, it did not come through happenstance. Anyone with even a slight knowledge of prairie winters is aware that that was never an option. Success, if at all, would have been found through other avenues, backbreaking labour, sacrifice and heroic endurance. It would also have been achieved through an awareness of all the factors affecting their fate, an immensely cautious weighing of priorities, a deliberative and sparing allocation of resources and highly directed effort.

The circumstances of that long-ago family are a match for our own cultural position. By comparison, however, our challenge has to be rated as greater than that which was faced by the settlers. Their focus was mostly with their own immediate circumstance and their own tiny geographic region. Their worldview and their sense of their place in the

scheme of things was much more sure and clearer than ours. As our new millennium begins, our task is actually radically different from theirs. Complication and complexity now characterize all of the life. The interrelatedness of everything overwhelms us on all scales.

Madam Chairperson: Mr. Boreskie, I have to ask you to end at that point. I apologize, but your time has come to an end. Are there any questions?

Mr. Gerrard: Mr. Boreskie, you have done a lot of work with universal design. Tell us how that work relates to this bill in terms of what the implications are for architects and engineers in the scope of practice.

Mr. Boreskie: If the definition of architecture is removed from the act and is determined by forces in the marketplace, it is hard to understand how the qualitative and the quantitative will remain together. In those sorts of horse trading and vested-interest turf wars, the lowest common denominator ultimately becomes the only measure, and that is going to be the quantitative. That is what is registered in the code. The remaining, the qualitative elements simply will not appear.

Anyone designing any sort of a space, for instance the kind of projects that I work on which are primarily religious projects, understands that it is impossible to have those projects led by the quantitative. They can only be led constructively and successfully by engaging, utilizing the qualitative dimensions of the projects to arrange the quantitative dimensions of a project. The quantitative dimensions of a project can be anything. What gives place its spirit is the qualitative.

Mr. Schuler: Considering the work that went into this presentation, with leave of the committee, could we have the last six pages of the presentation, it is the actual presentation, as if it was spoken into the record published in Hansard? I leave it to the committee.

Madam Chairperson: Is there leave? *[Agreed]* The presentation will appear as if it was read.

Mr. Boreskie: Thank you.

Madam Chairperson: Thank you very much.

Mr. Boreskie: *And any widely held common sense of our place in the cosmos is long gone. The simplicity of life (life which moved at a measured pace) and the pristine untouched quality of the land, have vanished. We live now in a globalized world where*

we cannot simply attend to our own small physical patch of the earth's surface or indulge in the dubious luxury of treating one part of life as discreet from all others. Differing values and meaning structures pour in on us and clash in an increasingly pluralized society, and resources so often do not meet demand.

Our approach to meeting our challenges, from the scale of individual actions up to the scale of the culture has been mainly to turn to strategies and techniques based on the empirical, measurable, predictable and concrete dimensions of life. We attempt to gain "control" of our lives with ever-stricter management, sharper budgets, tighter schedules, more technology and vain reductionist attempts to minimize the complexity of issues. We seek security in the quantifiable. This has been our ever-increasing approach for generations. While we clearly have benefited mightily from doing so, we have developed the staggering benefits of modern medicine and agriculture, of industrial production and Internet communication, to name a few.

Yet the resultant cost has also been enormous. For all of our "managing" the quantifiable we have placed ourselves in a position of global peril. Issues such as the uncontrolled spread of nuclear material from Eastern Europe, the diminishment of the ozone layer and the threats inherent in global warming loom on the immediate horizon. In terms of our inner lives, we have managed to create a spiritual wasteland, a world where we are alienated from self, neighbour and nature.

This myopic, solely empirically based approach is simply no longer acceptable. A different approach is necessary. In the words of the Encyclopedia of Architecture, Design, Engineering and Construction (1989, p. 754): Instead of responding only to the minimum demands of laws which require a few special features for disabled people, it is possible to design most manufactured items and building elements to be usable by a broader range of human beings, including children, elderly people, people with disabilities, and people of different sizes.

Industry has taken up the challenge, as in the example of Pacific Bell: Universal design might be thought of as "accessible" or "inclusive" design. The underlying goal is to design products or services for the fullest range of human function, taking into account the physical, sensory, cognitive, and language needs or abilities of the broadest spectrum of customers during the initial design phase. To do that, design concepts must be adopted with an

understanding of how all individuals function when using a product, service, or physical environment (http://trace.wisc.edu/docs/pacbell_ud/agpd.htm#RTFToC35)

Of necessity, an approach that relies merely on the quantifiable cannot succeed. The design of spaces for human use and habitation is not principally the result of logical, linear thought processes. While it includes linear processes, it is the result of much deeper operations of human imagination in which all quantitative and qualitative requirements are synthesized in a spatial expression that is at once functional, efficient, emotionally moving and cost effective. This is not engineering.

Who, then, is at hand. In a word: "architects," the only professionals trained to design complex buildings for human occupancy, that is, to work with all of the variables of a building in an iterative process directed to achieving the most appropriate design on all levels of evaluation. Only architects receive an education that addresses the entirety of a building in terms of learning to design within constraints utilizing both quantitative and qualitative factors and based in a process of refining knowledge and the integration of all building elements through the reflective act of design. Only architects receive a training in developing and testing different options involving the integration of all dimensions of a building, a skill which ultimately has a substantial effect on the functional suitability of the spaces, construction cost, life-cycle and maintenance costs, appropriate cultural expression and aesthetics. The education and work of architects involves not only the quantitative aspects of projects but the integration of vision, mission, cultural embodiment, and all the factors of human occupancy including code and safety issues and aesthetics. It is an education and way of working that fosters the learning habits needed for the discovery, integration, application, and sharing of knowledge over a lifetime. It is this training and capacity to integrate and manipulate the full spectrum of the built environments elements that constitutes the architect's major contribution to the public good. And it is a way of working that is either fully integrating and fully comprehensive, or it is not. Elements cannot be picked or deleted on a whim, as though it could be reduced to making buildings pretty or code issues could be severed from how we live and make meaning.

The notion that the education, training and skills of architects and engineers is interchangeable is

nonsense. I attach to my package copies of the program requirements on both the undergraduate and graduate levels for the academic year 2005-2006 faxed to me by the University of Manitoba. I have also downloaded and attached as examples the first two pages of the detailed course descriptions at the undergraduate level of both architecture and civil engineering. It is hard to image that a prudent person in attempting to draft Bill 7 would not do such an on-line review in detail, and even harder to imagine that the gross differences in content would not signal a need for caution.

The Carnegie Foundation for the Advancement of Teaching, the U.S.'s foremost authority on education states: "Never in history have the talents, skills, broad vision and ideals of the architecture profession been more urgently needed..." (http://www.aia.org/nwsltr_nacq.cfm?pagename=nacq_a_091504_bp_boyer)

The issue cannot be avoided. In the words of Lee D. Mitgang, coauthor of a Carnegie Foundation study that culminated with the seminal 1996 publication of *Building Community: A New Future for Architecture Education and Practice*: "Name any significant environmental, social political or economic challenge facing the arcane matter of architecture" (http://www.aia.org/nwsltr_nacq.cfm?pagename=nacq_a_091504_bp_boyer)

The fact that it is arcane does not relieve legislators from the obligation of understanding it and its role in the public good. The operation of removing an appendix is also arcane for most of us, but it is hard to imagine that the Province of Manitoba would consider allowing my friend who is a registered nurse specializing in operating theatre work to perform the actual operation without some stated qualification. Could she do the work? Perhaps, but in our culture we measure meaning and value by methodology and objective standards. She would be expected to meet some clearly stated objectively measurable standard before proceeding.

In its current form, Bill 7 fails. Sample issues are:

By abdicating direct responsibility for defining the scope of architecture and passing it down the line to a group of stakeholders whose only loyalty is to their vested interests;

By proposing to admit to the practice of architecture individuals who have no training in the profession without establishing an objective standard by which competency can be measured;

By proposing to admit to the practice of architecture individuals who will not be subject to the disciplinary rules of the Manitoba Association of Architects and hence will be unregulated by any association for the practice of architecture and who will not be able to obtain liability insurance for "architectural" work.

The substance of this debate is not about who will interpret the building code, the building code is not synonymous with the totality of the public good in these matters, quantitative issues are not the sum of the common good, the skills of architects cannot be picked up by osmosis, architects offer far more than merely code interpretation or making buildings pretty and it does occur to architects that there is an overlap between the architectural and engineering fields of endeavour. In this latter regard I refer you to section 11 of the Province of Ontario's architects act as a sample illustration of a responsible way of defining the relationship between the professions.

If there is a "backlog" or any other crisis, and I do not believe that there is, it can be accommodated by asking the court to temporarily suspend its order in the City of Winnipeg case, in order to allow government, with the assistance of the MAA where possible, to address any outstanding issues.

Bill 7 creates more problems than it purports to solve. The need to protect public health and welfare in the built environment is too important to allow this legislation to rush through without resolving those problems.

As I noted at the beginning of this presentation, I am a Registered Member of the Manitoba Association of Architects. You need look no further to assess whether I am qualified to design a building. "Registered Architect" is your assurance that I am. You can count on a Registered Architect.

Again, thank you for your time and attention.

Madam Chairperson: The committee calls Dave Ennis, Association of Professional Engineers and Geoscientists of Manitoba. Mr. Ennis's name will be dropped to the bottom of the list and called again.

The committee calls Kyle Lewkowich, Interns in Architecture Committee, MAA. You can proceed.

Mr. Kyle Lewkowich (Interns in Architecture Committee, Manitoba Association of Architects): Good afternoon. My name is Kyle Lewkowich, and I

am speaking on behalf of the Interns in Architecture Committee of the Manitoba Association of Architects.

On behalf of the Interns in Architecture Committee of the Manitoba Association of Architects, an organization representing 80 citizens and their families directly affected by the proposals as indicated in amendments to Bill 7, I would like to have our voices of displeasure counted. We do not support these amendments and request that this committee discard them.

The legislation, as we see it, is intended to achieve two goals, neither of which will be possible should this legislation pass.

The first goal of the legislation is that the amendment seeks to address the perceived backlog of construction projects that have been affected by the McCawley decision and the accompanying injunction. The amendments effectively declare that the illegal actions of a number of engineers should be retroactively declared legal and that these engineers should be allowed to continue to practise architecture.

This is the plan the government has for mending the so-called backlog. If there are projects that are currently held up in the system because the authorities having jurisdiction are saying that they were not stamped by an architect, this would alleviate the problem by endowing these individuals with the false sense, a false set of architectural credentials which would make the drawings legal.

As an aside to this, we take issue with the comments made by John Woods, speaking on behalf of himself as a private citizen, but who is with the Consulting Engineers of Manitoba, and Peter DeSmedt of the City of Winnipeg. Both individuals commented that the reason why there is no drawing backlog at the City of Winnipeg is that the illegal drawings have been rejected by the officials. This is, in fact, good news because that means the city officials are doing their jobs properly, rejecting projects that do not comply with the law. An illegal and rejected project is not a backlog project; it is a rejected project.

The second goal of the legislation involves attempts to solve the problems that exist in Manitoba today concerning the 15 years of illegal projects that have been approved by the authorities having jurisdiction. They have been submitted illegally as architectural scope construction drawings by

engineers, contractors and others who are not legally allowed to make such submissions. Two court cases initiated by the MAA demonstrated the validity of The Architects Act and the validity of the legal restriction that the architectural scope of practice is only open to those who are so trained. Government should accept the decision of the courts and proceed on the basis that the legislation is good and valid and should thank the architectural community for protecting the public good. If the government needs a scapegoat, it should look to the perpetrators of the illegal actions and not at the MAA who warned that the problem exists. This amendment would not put the blame directly where it belongs but would instead make the whistleblower, in this case the MAA, the scapegoat for pointing out that there was a problem in the first place.

Should this legislation be passed, it will have an enormous and detrimental effect upon the future of the architectural profession in this province and will create many more problems down the road that are non-anticipated by the framers of the law. I would like to speak to the unintended consequences of the bad legislation and its effect upon interns in architecture. I would like to focus on the reasons why the engineers and others who are breaking the law are unqualified and why they should be the ones facing sanctions, not the architects, why the sanctions that are in place, and this amendment will eliminate the careers of a group of honest Manitobans before they even begin. I would finally like to propose to the government a means by which they can extricate themselves from this mess and make the outlaws redeem themselves by paying for their illegal actions and protect the public purse at the same time.

The MAA asserts and the interns concur that the architectural profession is the only profession that is trained to have the competency and expertise necessary to plan and design buildings. Engineers are competent and trained to provide expertise in the design of the systems of engineering that support architecture: electrical, mechanical, structural and civil systems that are used within buildings. What does it take to become an architect? As an intern in architecture, I can readily attest and readily answer this question, but for the sake of brevity, and because I think this issue has already been adequately recorded within the minutes and the transcripts of the other presenters, I will pass over these remarks and leave them as part of my written submission, if I may.

As interns in architecture, however, it is our task to learn the skills of architecture, and these are skills that cannot be completed by an intern through everyday office experience. Engineers in training, on the other hand, spend four years in an undergraduate program, then four years training with an engineer. They sit for two exams, one on ethics and one upon the completion of their training that validates their ability to practise. There is no specialization with the field of study per se, and there are engineers and engineers in training who have completed a course of study in one field of engineering and who practise in another. Nonetheless, none of this training or education is in the field of architecture.

Legislation, as it stands, leaves little doubt that had I known I wanted to become an architect in high school and had I known beforehand the way things are playing out now, I could have entered an engineering school, graduated, started working with an engineer in an outlaw firm practising outside his jurisdiction for my four years, done a building on my own and now be grandfathered into being recognized as an architect without ever having set foot in an architectural school, having worked for an architect, having taken an architectural exam or submitted any of my professional qualifications to a licensing body that has the power and expertise to evaluate if I was competent within my profession.

Madam Vice-Chairperson in the Chair

In effect, the individuals who have claimed that they are capable of providing architectural services despite their lack of proven competency have committed a fraud against the public trust. They have misrepresented their skills and ability in a legislated profession before their clients and then again before the authorities having jurisdiction. They have misrepresented their level of expertise and area specialties to the public and have claimed to be able to seal the drawings where they did not have the authority to do so.

The authorities having jurisdiction are now entangled in this fraud as they have accepted these unlawful drawings for permits. The AHJs have relied upon the authority of the engineer's seal to assume that since the self-regulating profession was backing its members, the work must therefore be legal. In effect, the AHJs have been duped.

* (16:20)

This fraud is now being perpetuated before this committee by those organizations that have a vested

interest in seeing their illegal work retroactively decreed to be lawful. What this committee should recommend is that this legislation be thrown out and that the advice of the MAA be heeded, that the decision of the courts be respected and that the blame for this situation, and the penalties to be served and paid be meted out squarely upon the shoulders who broke the law. Unlawful deeds and actions should be punished, not rewarded.

The fraud of these outlaw engineers, with the blanket support of APEGM, is important to keep in mind as it speaks to a deficiency in the self-regulation process within the profession of engineering. At the heart of every self regulatory profession is regulation, and when APEGM failed to discipline their members who were practising outside of their area of expertise, especially after the Denoon decision, APEGM failed the public. Self-regulatory professions were created because the regulation of experts is often best left in the hands of the peers who best understand the profession. When the professional body steps out of the regulatory role, however, and seeks to act promotionally and politically to expand the scope of practice of its membership, the profession is acting outside its mandate.

The architects' association is a small association with only a few hundred members. The engineering profession is large with a few thousand members. This is a classic David and Goliath dispute with the government currently in support of the Goliaths. The courts, however, have in both cases, where the question has come before them, interpreted The Architects Act the same way and have supported the contention that architects and architects alone should be the only ones allowed, by law, to practise architecture in Manitoba.

If this legislation is passed, I foresee unintended consequences that will affect the reputation of Manitoba and Winnipeg. There comes a point where Manitobans must realize that they are continuing to fall further and further behind the curve in comparison with the rest of the country. While this legislation is going through this exercise, other jurisdictions are making great and positive strides to distance themselves from our level of the playing field.

Vancouver City Council, for example, recently recognized the increasing complexities of the building and construction industry and unanimously passed a motion that declared that they will seek to

achieve a mandatory green-building strategy for all non-combustible, four-storey or greater, commercial, residential, mixed-use, industrial and office buildings. In effect, this is the scope of work that is within the jurisdiction of The Architects Act of this province as well as theirs. The resolution then goes further, addressing the rest of the non-combustible construction and smaller construction that falls under both part 3 and part 9 of the Building Code, indicating that it, too, will be subject to the same level of expertise, but within a longer framework of time.

There is as an incredible push to pass this legislation, but we need to determine why the Province should respond to it. If the engineering profession was acting for the public good, their association would have sanctioned its offended members long ago. The *raison d'être* of any self-regulating profession is self-regulation. This would have saved the City and the Province. The problem that now exists about what they do with the large number of projects in which the liability of the designer is not going to be covered by that designer's liability insurance. I have never seen an insurance policy that is not invalidated when a policyholder commits an illegal act and relies on the insurance to cover their mistakes.

This question of liability is immense. If these designers cannot be found liable when mistakes are discovered in their designs, does that mean that the Province assumes that liability because they are the agents that sanctioned the drawings for permits and construction? Does this mean that the citizens of this province are on the hook for 15 years of illegal engineered buildings? This amendment has, at its heart, this liability issue, and it seeks, in a clumsy and inefficient way, to shift the liability from the design of years of illegal buildings onto the shoulders of those designers by making those projects retroactively legal.

But, instead of damaging architectural practice, we should propose a creation of a trust, something that I would call the liability superfund, that could be established by government through fees levied against the offending parties and their supporting organizations that would be held in trust should design-related failures occur in engineer-designed architecture, and that would act to protect and cushion the public's liability. The outlaws have put the Province and the City into this situation and should be forced to pay for the danger that they put this jurisdiction in. This would be akin to the new

home warranties and other protections that were developed in B.C. to address the lack of accountability in the construction and development industry in the leaky condo crises.

Madam Vice-Chairperson: Thank you, Mr. Lewkowich, your time is up.

Mr. Schuler: With leave from the committee, could we have this presentation published in Hansard as if it was read?

Madam Vice-Chairperson: Is there leave from the committee? *[Agreed]* It will be published in Hansard.

Mr. Lewkowich: *There the government identified the problem, struck a commission, and found a way for the guilty parties to pay for the damage that was caused to the public. We should do the same here.*

There needs to be found a way to guarantee to the public that the illegal projects will not become the responsibility of the Crown, and in the creation of a liability superfund, the Province should seek the assurance that the offending professions are willing to stand fully and completely behind their wayward members. Being responsible professionals, they will surely not balk at a solution that metes out responsibility in a way in which all those responsible can share in the means by which the public and the Province can be protected against illegal work.

This committee should realize that the architects are the good guys in this scenario. We have acted responsibly by identifying a number of problems, the existence of outlaws, the complicity of building departments and the Office of the Fire Commissioner in the acceptance of these illegal construction drawings, and now we have identified solutions, including what to do about the backlog, how to sanction the outlaw individuals who have embarrassed the government and how to protect the public good and the public purse from illegally designed buildings by making the perpetrators, and their supporting associations pay the cost of their illegal actions.

Throw out this amendment to Bill 7, and let the architects get back to the business of regulating their own businesses under their own act. Do not pass this legislation and hurt the future of the interns and young architects in this province. These are the means by which we will continue to support the building boom in this province.

I am a registered Intern-in-Architecture member of the Manitoba Association of Architects, and I speak on behalf of the Intern in Architecture Committee. Thank you.

Madam Vice-Chairperson: Seeing no further questions, thank you very much for your presentation.

The next presenter is Allan Silk. Allan Silk is not here, he will be dropped to the bottom of the list.

The next presenter we have is Andrea Lawson. Do you have copies of your presentation?

Ms. Andrea Lawson (Private Citizen): No, I do not.

Madam Vice-Chairperson: Okay, thank you. Please proceed.

Ms. Lawson: First of all, I would like to give a short introduction about myself, and then I would like to talk about the delegating exceptions in the architecture act to the Manitoba Building Code.

First, I would like to state that I support the position of my colleague Don Oliver and call upon the minister and the committee to delay Bill 7 from proceeding to third reading.

My name is Andrea Lawson. I am a registered member of the Manitoba Association of Architects. I have been licensed to practise architecture in the province of Manitoba. I have satisfied the national qualifications standards required by every jurisdiction in this country to practise architecture. I have completed the building-specific design education requirements, intern requirements, NCARB requirements and I am working towards my continuing education requirements.

In addition, I am a LEED-certified professional who strives through design to reduce the impact of the built environment on the environment. The LEED process is a means to quantify how well a design uses the principles of sustainable sites: water efficiency; energy and atmosphere; materials and resources; and indoor environmental quality. It reinforces environmental responsibility, source efficiency, occupant comfort and well-being, community development and economic construction and operations. Sustainable design requires an integrated design approach in which architects and engineers bring their specialties to the design as a whole.

Again, the issue that I would like to speak to is in reference to Bill 7 which delegates the exceptions from the architecture act to the Manitoba Building Code. It deals with amendments to subsection 15(1.1) and amendments to the building and mobile act, 25.1.

Bill 7 is of critical concern to the architectural association and potentially to other self-regulating professions. It will set a precedent which will allow others outside the profession to define the scope of work of that profession. As one of the province's self-regulating professions, this proposed amendment will weaken public protection offered by The Architects Act by converting architecture from a legislatively entrenched restricted scope of practice, which every other self-regulating profession in the province is, to a profession that has been broken up by a board comprised largely of business interests and stakeholders. This is an inappropriate structure for any self-regulating profession in that it diminishes the independence of the profession and its ability to protect the public by ensuring that only those qualified to practise architecture are allowed to practise.

The Building Standards Board, again, is responsible for making recommendations to the minister about the content of the Building Code. As written in Bill 7, the amendment will effectively give the Building Standards Board control over what is the practice of architecture.

There is no other profession in Manitoba which has its scope of practice defined by a group made up of industry stakeholders. As noted earlier by my colleagues, the Building Standards Board has a valid role to play in the administration of the construction industry, but it should not have a role in determining the activities of an architect, whether they are required or not. That decision is to be made by government in consultation with the experts in the area and the members of the profession. Once a decision is made about the scope of work of the architect, it belongs in legislation which overrules regulations such as the Manitoba Building Code. To place such an important matter into an impermanent code circumvents the legislative process.

The full parameters of the scope of practice, including exceptions, must continue to be set out in The Architects Act. The code should only provide clarity for authorities having jurisdiction.

* (16:30)

Lastly, I would like to state again that I support the positions of my colleagues and call upon the minister and the committee to delay Bill 7 from proceeding to third reading. Thank you.

Madam Chairperson in the Chair

Madam Chairperson: Thank you. Are there questions from the committee? Seeing no questions, thank you very much.

For the information of the committee, we have had two individuals submit written submissions. They are Bill Burrage, No. 36 on your sheet of presenters, and Ron Hambley, No. 66 on your sheet of presenters. These submissions have been distributed to committee members. Does the committee agree to have these documents appear in the transcript of this meeting? *[Agreed]*

I would also like to inform all in attendance that subsequent meetings have been announced for this committee. If necessary, this committee will also meet on Wednesday, November 23, from 9 a.m. to noon; on Wednesday, November 23, from 3 to 5; on Wednesday, November 23, at six o'clock; and, if necessary, on Thursday, November 24, at six o'clock.

The committee calls William Schellenberg, private citizen. You can proceed, Mr. Schellenberg.

Mr. William Schellenberg (Private Citizen): Honourable Minister Allan, honourable members of the committee, ladies and gentlemen, thank you for your time and attention for this presentation this afternoon.

My name is William Schellenberg. I have been a registered architect in Winnipeg for almost 20 years and I am a member Royal Architectural Institute of Canada. I am here to support the position of my colleagues Don Oliver, Robert Eastwood and the others that have presented and call upon the minister and this committee to delay Bill 7 from proceeding to third reading so that its full implication can be assessed.

You have heard many eloquent and heartfelt presentations from architects, from architectural students and others supporting the position to have a temporary solution put forward and this bill delayed and reassessed. I would simply highlight a few key issues.

The presentations have clearly shown that only architects have the education, training, testing, experience and continuing education that is necessary to practise architecture. It is a stringently

regulated profession requiring the force of The Architects Act to remain effective. Some engineers want to practise architecture. They assert that they are qualified to do so simply by their self-assessment of competency. It surprises me that the engineering profession can make such a ridiculous claim. It also surprises me that Bill 7 will allow this to happen without any testing or evaluation. It is clear that those engineers and the individuals consulted to draft this legislation do not understand, let alone value, what architects do.

On the other hand, architects do value what engineers bring to the table. It was mentioned in one of the early presentations that after the turn of the century when The Architects Act was written, architects did most of the work in-house. As buildings became more and more complex it was necessary to have engineering specializations take over the detailed work of structural systems, mechanical systems, electrical systems, et cetera. Architects have welcomed this development, knowing that for the public good these specializations were necessary. Architects recognized that their role was the overall planning, design and to integrate the various engineering systems.

The existing Architects Act remains valid because architects are educated, trained and tested to provide this critically important overall building design and duty of care to the general public. Therefore, if we refer to the draft Table 2.3.1.3(1) where it reads "architect or engineer," it may as well read "architect and engineer" because the architect will most definitely engage engineers as key components of an integrated design team to carry out these projects. Conversely, the engineers will likely not engage an architect if they are not obligated to do so.

It appears from these proposed amendments that government wants to give the authority having jurisdiction wide latitude and discretion to decide whether an architect or an engineer or both should be required on a building project, but with a great deal of discretion comes a great deal of responsibility. What happens if an authority having jurisdiction makes the determination that only an engineer or perhaps a non-professional is all that is required on a project and there is a serious failure in an architectural system such as a fire separation wall or fire-rated hardware? Had an architect been involved, they would have known the requirements and acted accordingly. He or she would also have professional liability insurance and having that liability insurance

is a reminder to the architect to take even greater care in making sure that there are no deficiencies.

If an architect was not required by the authority having jurisdiction, the authority would then either need to make sure that the engineer would carry full liability for this project or take on this liability itself. As you can see, authorities having jurisdiction will take on extensive liability if the day-to-day operational or administrative decisions are left to their discretion. This is a liability that they would not be exposed to if they were simply following a policy decision that had been set out in the statute.

It is interesting to note that the new 2005 Building Code published this month is an objectives-based code, meaning that it allows architects and engineers to propose alternative methods of meeting code objectives in their respective areas of expertise. However, the minimum qualifications for an authority having jurisdiction reviewing these proposals are simply that they have the capacity to understand technical drawings. Clearly the intent of this new code is to shed the liability to architects and engineers. The Bill 7 legislation appears to go in the opposite direction by making the authority having jurisdiction carry the liability for a decision that he or she may not be qualified to make.

I would also like to highlight that the draft table noted previously, the exemptions to the buildings requiring an architect as determined by the Building Code and the Building Standards Board, the use of the term "building area" versus "gross area," the change in approach to alterations proposed by table 2.1.7, the arena-type buildings exemption and the reference to architect rather than registered architect in the province of Manitoba contained in the proposed Bill 7 will all serve to deregulate the industry. How are astringently regulated architects to compete with those who are not regulated? There is no fairness here.

Many of our architects will have little choice but to leave the province because of the expanding non-regulated design contingent. Your proposed legislation says that architects will still be required on major projects, and I say that this legislation will continue to reduce our role until it is no longer economically viable. The architectural business is already a tough one. An architectural firm cannot survive on the commissions of a few large projects. How can they maintain a practice when they have staffed up for a large project, have that project get delayed and have no smaller projects to fill the void

and provide the needed cash flow to stay in business? Small projects, additions and alterations are a vital component for keeping an architectural practice viable.

The notion that architects add substantially to the cost of the building is a red herring and a myth. Architects compete for projects and submit the lowest reasonable fee possible. If the engineers undercut an architect's fee by a percentage point or two, the client will likely but unknowingly forfeit the full liability insurance coverage and the quality design that could actually lower absenteeism in its employees and increase worker well-being and productivity.

If this Bill 7 is passed, architects will leave Manitoba to find a market where they can survive and hopefully prosper. We have already heard that architectural students—and there will be fewer because of this incentive legislation—will leave to find places where their future has a fair chance. Those who do not leave will not get registered. Why would they? Why pay huge liability insurance premiums for diminishing opportunities? The non-registration of graduate architects is already a problem and this legislation will amplify its effect many times over.

You might say that these non-registered architects will still provide the needed design services. Perhaps, but as an unregulated service, one that does not have the Manitoba Association of Architects to ensure that knowledge of the building technology stays current, that code knowledge is updated, one where there is little recourse if the service is faulty, one that is not covered by professional liability insurance. How is the public good served in this instance?

* (16:40)

One of the engineers who presented suggests that the market system will provide regulation, but architecture and buildings are not simple commodities where the consumer can easily spot a deficiency. Look at the leaky condos in British Columbia. Problems in building surfaced many years after initial construction. The solution in B.C. is greater regulation of the construction industry, not less, as is being proposed by Bill 7.

I urge you to consider the temporary measures that can be implemented to now deal with the apparent backlog and take the time needed to provide the right legislation for such an important issue.

I am a registered member of the Manitoba Association of Architects, fully qualified to practise architecture. You can count on my support and creative abilities to help resolve this issue. Thank you.

Madam Chairperson: Thank you. Are there questions for this presenter? Seeing no questions, we thank you very much for your presentation.

The committee calls John Synyshyn, private citizen. Once again, John Synyshyn, private citizen. Mr. Synyshyn's name will be dropped to the bottom of the list.

The committee calls Andrew Sinclair, private citizen. Once again, Andrew Sinclair, private citizen. Mr. Sinclair's name will be dropped to the bottom of the list.

The committee calls Steve Sebastian, private citizen.

Mr. Steve Sebastian (Private Citizen): Good afternoon, Minister Allan, honourable members, ladies and gentlemen.

My name is Steve Sebastian. I am the chief structural engineer for Wardrop Engineering. From 1976 to 1983, I was a certified engineering technologist. In 1983, I graduated from the University of Saskatchewan with a B.Sc. in civil structural engineering, and in 1991 I obtained a master's degree in industrial systems engineering from the University of Regina. This background provides me with almost 30 years experience in engineering consulting.

I am currently licensed to practise engineering in Manitoba, Ontario, Saskatchewan, Alberta, the Northwest Territories, Nunavut and formerly in the Yukon, and I have carried out many successful projects in these areas. It is interesting to note that until very recently the Northwest Territories had no architectural act and Nunavut still has no architectural act and business is booming.

Wardrop is a Winnipeg-based, multidisciplinary engineering consulting firm, approximately 630 engineers, scientists and building professionals, offering expertise in manufacturing, pulp and paper, mining, nuclear, health services, power and transportation. Wardrop has successfully carried out hundreds of projects locally, internationally and nationally, working with and without architects as appropriate to the project. Wardrop projects have won numerous awards for design and innovation.

One of the most recent examples would be the Provencher paired-bridges project, which has won awards and attracted worldwide attention. It is interesting to note that the original concept for the pedestrian bridge was by an engineer.

Before the present court ruling, the bridges in the plaza would not have required an architect. However, because of the historical and social significance of this landmark, an architect was an integral part of the team. Another example would be a radioactive waste storage facility project we recently completed for Ontario power generation. This project was the first design-built nuclear project in Canada. This was a \$55-million fixed-price contract, which did not require an architect and an architect was not used.

Wardrop works with architects wherever their skills are appropriate. Under this bill, we would be required to engage architects more frequently than in the past.

Comments on Bill 7: The inclusion of an exclusion clause in The Architects Act is absolutely necessary. This is an 80-year-old law that could never have envisioned the explosion of technology in the building and construction industry or the roles that engineers and other design professionals would play. The definition of an architect in the act is so general that it includes virtually any activity in buildings. It ignores the roles of engineers, project managers, contract managers, interior designers and other design professionals.

The grandfathering clause: It is understood that the intent was to make provision for engineers who have been practising what has been interpreted to be architecture. The problem is that it creates an impression that engineers are simply second-class architects. We do not want to practise architecture. What we do is engineering, regulated under The Engineering Act, not architecture.

The division of responsibility based strictly on size and occupancy will always be a problem. I brought my Building Code with me. You will thank me for not giving you copies. If we go into parts 3, 4 and 5 of the code, we will see references to combustibility, flame spread ratings, live load ratings, deflections, air leakage rates, relative humidity and on and on. It could be a pretty intimidating document, relatively complex. The reason it is complex is because it is written largely by engineers.

It is appropriate to have the authority jurisdiction decide what expertise is required and appropriate to each project. Like it or not, the trend in North America is away from architecturally led projects to teams led by professional project managers, contract management and design build professionals. Engineers are uniquely trained to manage projects in a technological age.

Engineers have championed many of the advancements in building codes such as building science and energy efficiency. Their background in science and technology and more frequently specialist training in project management and integrated delivery methods such as design build and contract management make them ideally suited to lead project teams in which architects will play a key role.

Architects have a valuable role to play in the future of Manitoba. The proposed changes to the acts are a step forward to allow architects to form partnerships with engineers and other design professionals to respond to new markets and delivery methods. Modern ownership models will allow architects to strengthen their financial position to the benefit of all.

It is interesting to note that the two largest consulting contracts at the Winnipeg airport are held by two large publicly held and traded companies comprised of a large team of multidisciplinary experts. It is recognized that the present changes are a compromise for engineers, but for the public interest it is important to have a resolution. I urge the members to pass Bill 7, as written, in a speedy fashion.

Madam Chairperson: Thank you very much. Are there any questions for the presenter? Seeing no questions, we thank you for your presentation.

The committee calls Brian Everton, private citizen. You may proceed, Mr. Everton.

*(16:50)

Mr. Brian Everton (Private Citizen): First, I would like to thank you for allowing me the opportunity to speak to this committee regarding Bill 7. My name is Brian Everton. I am a professional interior designer and I am a member of the Professional Interior Designers Institute of Manitoba. I am a graduate of the Faculty of Architecture at the University of Manitoba. I have also completed post-graduate studies in industrial design, specializing in health care related products as well as a business

management program. As a sidebar to my written notes, I also would bring to your attention that I also have completed the LEED's accreditation examination on sustainable design.

I have over 25 years of experience in the field of design. I work as an independent consultant with over 12 years of experience specializing in the areas of design as it relates to disability issues, universal design and sustainable design. As a second sidebar to my written information, in this role I have also delivered professional continuing education courses on barrier-free code issues as well as universal design across Canada to both architects and professional interior designers.

I consult on a variety of projects, from single family dwellings to major architectural projects like the Winnipeg airport redevelopment and the new Manitoba Hydro project. I have also been contracted with both the civic government and the provincial government to do accessibility audits on a variety of new and existing buildings.

I am here speaking today solely from the perspective of professional interior designers. There have been a number of speakers to date that have suggested that there is only one profession that has education, experience and examination to be responsible for the design of the built environment. However, building sciences have changed significantly over the past decades and there are a number of professions that work collaboratively to effect change to the environment.

For the record, the profession of interior design is one of the youngest design professions. We celebrated our 50th anniversary last year. We may be the youngest, but we are not new. The education of interior design at the University of Manitoba starts with a shared design education program with all the design disciplines including architecture. The interior design program is an internationally accredited program under the standards of the Foundation for Interior Design Education Research, FIDER. We love our acronyms in this business.

FIDER provides the foundation for excellence in the interior design profession by setting standards for education and accrediting academic programs that meet those standards. FIDER is recognized as a reliable authority on interior design education by the Council for Higher Education Accreditation.

As a self-regulated profession, as defined under an act of the provincial Legislature, we require all

graduates of an accredited interior design program to meet specific experience and examination requirements as set out internationally by the National Council for Interior Design Qualification, NCIDQ. It is very important to note that NCIDQ and the accrediting body for the practice of architecture in Canada and the United States all use the same base standards for accreditation. These standards are based upon the joint standards document that is used by numerous professions. For the record, this document was authored by the American Educational Research Association, the American Psychological Association and the National Council on Measurement and Education. Therefore, the accreditation for professional interior designers must be as credible as that of an architect as we are all meeting those same standards.

It is also important to note that all of the practising members of the Professional Interior Design Institute of Manitoba must be indemnified in order to practise within the province. This is a mandatory policy that was instituted nationally by the interior designers of Canada. Therefore, all practising designers must have professional liability insurance coverage. It is also important to note that unlike some other professions, the individual PIDIM member, not the design firm, must be indemnified, therefore offering an even higher level of protection for the public good.

Having addressed this issue from the macro perspective, I also want to address this issue for my own personal practice. The current situation, as it stands today, is untenable and flawed. The practice of interior design has been caught in the crossfire of two professions. Although we did not want to interfere, it is incumbent upon us to speak up as it is affecting our work.

Within my practice, I am called upon to seek accessibility solutions. In the vast majority of these situations I am dealing with, there are very extremely limited budgets. At this point in time, if one of my clients wants to widen a bathroom door or to install a power-door operator on an apartment building, it quite likely will require an architect to supervise the design and installation of simple modifications. I would never expect any professional to work for zero dollars. So the cost of this must be borne out of someone's pocket. This will prevent accommodations from being implemented.

To suggest that these small modification projects are not being affected is not the case. I have recently

been in touch with a contractor who has, in order to obtain a building permit, had to hire an architect to draw and supervise the construction of a 5-by-5 platform at the rear of a commercial building.

I was involved with the MAA and the PIDIM when there was a need to expeditiously replace the existing non-compliant wheelchair ramp at 137 Bannatyne, the offices of the MAA and the PIDIM. The existing ramp was not able to provide proper barrier-free access for a prospective employee, and without replacement an alternative candidate for the job would have to have been selected. I met with the contractor at site, developed a plan to replace the non-compliant ramp in a timely fashion. Under the current situations, we would need to hire an architect to draw and supervise the project. Is there value-added under this new process?

As an interior designer, I do not ever intend to design buildings. However, the Building Code and design is more than just building new structures. The vast majority of work of professional interior designers is the alteration of existing structures. Do not be mistaken, however. Absolutely, we are involved in new structures as well as a part of a collaborative team of design professionals, which include architects, engineers and other experts. But there exists a large portion of work that is involved with the manipulation of interior space which is the specialized field that is the domain of interior design.

Bill 7 sets apart the area of practice in a new table format to be an amended regulation of the Manitoba Building Code. It is the one section within that table that is critical to professional interior design: the ability to modify existing environments with the recognition that if there were any significant changes to the building envelope or any of the life-safety infrastructure, it would require an input of one of the other design disciplines.

I choose not to comment on the other aspects of Bill 7 as they do not directly affect the practice of the vast majority of my peers, the professional interior designers within Manitoba.

I urge the government to quickly act to end this juggernaut that has been brewing over a great number of years. The time for negotiation seems to have passed a few years ago, and we need a resolution. If there is going to be change to allow us all to move on quickly, then any changes must include the timely changes to the Manitoba Building Code regulation that will allow myself and my peers to continue to practise here in Manitoba.

Madam Chairperson: Thank you.

Mr. Schuler: Thank you very much, Brian. This is more a comment than a question. I just wanted to thank you and Jason Kasper on behalf of the committee. You were willing to meet us anytime, anywhere and share information with us and certainly did help in leading up to this point in time. We know that you are very busy, and you all have businesses to run. However, we also wanted to know what the feedback was from the groups that are going to be very impacted by this. So, once again, thank you very much on behalf of this committee for the fact that you were willing to meet with us on a regular basis and at very short notice. We appreciate that very much.

Madam Chairperson: Thank you very much. Seeing no other questions, and the time now being almost five, what is the will of the committee?

An Honourable Member: Rise.

Madam Chairperson: Committee rise. Before the committee rises, I just wanted to ask if you could please leave your copies of the bill here, the act as well. If you could please leave copies of the list of presenters behind because there will not be time to produce another list. Yes, Mr. Schuler?

Mr. Schuler: Will the doors be locked? Will it be secure so we can leave all of our papers here?

Madam Chairperson: Yes, you can leave all your papers here, committee members if you wish, because the room will be locked in between. For the information of the presenters here, we will be having our third meeting of the day today at six o'clock back in this room. So we will see you then. Thank you for your patience.

Committee rise.

COMMITTEE ROSE AT: 5 p.m.

**WRITTEN SUBMISSIONS PRESENTED
BUT NOT READ**

Re: Bill 7

Statement of Support

My name is Jerry Semerak, and I am a Registered Member of the Manitoba Association of Architects and have been practicing architecture for over 25 years.

I support the position of my colleague, Don Oliver, and call upon the Minister and the Committee to delay Bill 7 from proceeding to third reading.

If there is a "backlog" or any other crisis, which I do not believe that there is, it can be accommodated by asking the court to temporarily suspend its order in the City of Winnipeg case in order to allow government, with the assistance of the MAA where possible, to address any outstanding issues.

Bill 7 creates more problems that it purports to solve. The need to protect public health and welfare in the built environment is too important to allow this legislation to rush through without resolving those problems.

I would like to speak briefly on scope of practice—exemptions in the Manitoba Building Code:

The proposed amendment gives control over what the exceptions are to be carved out of architecture's restricted scope of practice (those activities that, by law, only architects are permitted to do). This effectively gives the control over what is the practice of architecture to the Building Standards Board. There is no other regulated profession in Manitoba which has its scope of practice defined by a group made up of industry stakeholders, including business and private interests.

The Building Standards Board has a valid role to play in the administration of the construction industry, but it has no proper role to play in making decisions about a regulated profession. With the exception of one MAA representative out of 12 people on the board, it has no expertise to enable it to do so.

This move circumvents the legislative process and thereby transparency and accountability.

While it is a valid objective to provide clarity for the authorities having jurisdiction about what activities can/must be done by which professional (and which require none) the full parameters of the scope of practice of architecture, including any exceptions, must continue to be set out in The Architects Act.

It is in the public interest to restrict the practice of certain professionals to those who have been educated and trained in certain skills and have demonstrated an objective qualification to practice. Self-assessment as competent is not enough.

Architecture and Engineering are two such professions.

Architecture and Engineering are two equally important but different professions. Architects are educated, trained and tested on the skills relating to the very specific field of the design of buildings. The education required to become an engineer does not include the principles of building design. Instead some engineers are educated and trained to design the engineering systems in buildings (structural, mechanical and electrical engineers).

The National Council of Architectural Registration Boards (NCARB), a non-profit corporation comprising the legally constituted architectural registration boards of the 50 U.S. states, published a report called *Architecture as it Differs from Engineering* in August of 2004 (a copy of which I am including). This paper was published to assist member boards in their continuing effort to prevent unlawful practice of architecture by unlicensed persons.

I urge all members of this committee to review this document to attain a better knowledge and understanding of the difference between what architects do and what engineers do. Good legislation cannot be written without a proper understanding of the educational training and licensing differences between the professions.

This paper demonstrates how the education, training and examination required for architects for registration differs substantially from that required of structural, mechanical, electrical and civil engineers. This comparison illustrates why most legislatures in Canada and the U.S. have assigned the responsibility for designing buildings for human habitation and occupancy to architects rather than members of the engineering profession.

The conclusions reached noted that a registered architect should be involved in the design of buildings intended for human occupancy and habitation, and that a registered architect is the only design professional prepared to coordinate all other disciplines required for the project. With respect to projects of any complexity, the architect should engage appropriate engineering consultants to assist in design.

The eminent structural engineer Mario Salvadori has written: "A good architect today must be a generalist, well versed in space distribution, construction techniques and electrical and mechanical systems, but also knowledgeable in financing, real estate, human behaviour and social conduct. In addition, he is an artist entitled to the

expression his aesthetic tenets. He must know about so many specialties that he is sometimes said to know nothing about everything. The engineer, on the other hand, is by training and mental makeup a pragmatist. He is an expert in certain specific aspects of engineering and in those aspects only."

In closing I wish to say that I have been licensed to practice architecture in the province of Manitoba not because I believe I am competent, but because I have fulfilled the specialized education requirements and the internship requirements which are a prerequisite to practice the profession. I have completed nine years of "building specific" design education and training and I have been tested on "building specific design principles" and have satisfied the national qualification standards to practice architecture that are required by every jurisdiction in this country.

You can count on me. When you see Registered Architect beside my name, it is your assurance that I have satisfied the national standards for the profession. You need look no further to assess whether I am qualified to design a building. "Registered Architect" is your assurance that I am. You can count on a Registered Architect.

Jerry Semerak (and Peter Hargraves)

* * *

Re: Bill 7

I formally request that Bill 7 be reconsidered.

This bill attempts to deal with the backlog of building projects requiring approval by building officials that has been created due to an injunction prohibiting approval of projects not prepared according to the current Architects Act of Manitoba.

This problem is a temporary one that has been exaggerated and as a result permanent legislation is proposed that is fundamentally unsound and presents greater problems than those that it attempts to solve.

I propose that the injunction be lifted to solve the temporary problem and a reasonable solution be proposed through an inclusive process between stakeholders in this debate, many who are presenting before committee: Architects, Engineers, Interior Designers, Developers and Building Officials. In order to clear up the backlog the MAA has agreed they would be receptive to have a consent variation order from Judge McCawley. This would provide temporary relief from the injunction and relieve the

pressure on all to avoid hasty adoption of problem-riddled legislation.

The immediate problem is the backlog of projects designed by non-architects that are not being approved by building officials due to the injunction. This is a temporary problem that should be expected when those who are operating illegally are called to task. While the public is being communicated that a local construction boom is being threatened, the Minister of Labour has informed the MAA that only twelve engineers have been practicing architecture illegally and city building officials have reported that they are working through the problem. I also understand that interior designers and developers are upset by additional unforeseen costs due to requiring an architect to achieve approval as well as issues of project control. A problem has been identified that it costs more time and money to do things for some individuals according to The Architects Act than by ignoring it. The Architects Act is intended to serve the public at large not just some individuals or architects. Surely there must be a better approach to this situation than changing legislation designed to protect the public by restricting the practice of architecture to those qualified to do so.

Lifting the injunction will allow these issues to be addressed in a forum that addresses these issues in a mutually respectful manner to all without threatening the livelihood of stakeholders and protecting the public by ensuring the self-regulated profession of Architecture is operating in their best interests.

Legislators charged with passing judgment on Bill 7 should consider the following:

1. Legislation will be passed based on the lowest possible moral grounds. Given all possible opportunities legislation is based on those who are guilty of breaking the law being rewarded and those who are operating within the law being punished.
2. A precedent will be set for those illegally practicing a regulated profession to be protected from penalty, exonerated and grandfathered.
3. A two-tiered regulation profession of architecture will be set up that will be difficult to administer and sets up different expectations of performance, education and training for the public.
4. The specialized disciplines of architecture, engineering and interior design will be degraded by some practitioners attempting to keep up with the

education, training, legislation, and constantly changing and extensive day-to-day requirements of more than one profession.

5. The rigorous education, training, testing and certification requirements for architects in Manitoba will be circumvented by those who choose to take engineering only as the path of least resistance in order to practice both architecture and engineering.

6. Architecture is not a casual science. I spent six years at university, interned for several years, am required to maintain my credentials with the MAA through continuing education and carry on a constant self education process to keep current with what is required to practice architecture in a competent manner in the best interest of the public. I work full-time at this profession. It is not something that can or should be done on a part-time basis.

7. Architects are the only profession that is specifically trained to design buildings. Engineers are trained to design parts of buildings. Among other things our training includes analyzing and describing project needs, budgets, schedules, to suit the particular circumstances of clients' needs for the site, time and civilization it is part of. To assist in doing this effectively we study the significant buildings that man has created and is in the process of creating, not parts of them. We draw, think and write to develop concepts from the macro level down to the smallest detail while constantly processing and evaluating project needs and making judgment on conflicting requirements. We avoid problems and provide opportunities and options for our clients to do things on a daily basis that others are not trained to consider. Architects communicate, organize, synthesize and coordinate the work of others into a cohesive whole. We help form communities and cities and forge the future.

Victor Kolynchuk

* * *

Re: Bill 7

My name is William Burrage. I have been a registered Architect in this province for 17 years. I support the position of my colleague, Don Oliver, and call upon the Minister and this Committee to delay Bill 7 from proceeding to third reading.

First of all, let me express my outrage at the introduction of this bill. The court had ruled clearly that a handful of engineers and the City of Winnipeg

had been in violation of The Architects Act by issuing permits based only on an engineer's seal on architectural drawing whereupon an architect's seal is clearly required and have issued an injunction for them to cease this practice.

I believe the government has been misled by the misinformation and unsubstantiated claims perpetuated by APEGM and some developers and design/build contractors: that this ruling will threaten to bog down this province's construction; that development projects will cost more and take longer to complete. It is insulting to insinuate that the architecture profession is some sort of parasite sapping life out of the building and developing industries and whereas engineers, developers and builders are saints protecting and safeguarding the health and welfare of the people of Manitoba. It has been two months since the judgement was rendered and where are the proofs that this province's building boom has bogged down and development costs have skyrocketed? The sky has not fallen. Regardless, if this is really a bottleneck and severely impacts the construction and development industry and forms the basis of the introduction of this bill, the City has an immediate viable option to request a temporary suspension of the injunction to allow them time to clear the bottleneck and time to adjust. The MAA has indicated to the Deputy Minister of Labour and the Office of the Fire Commissioner that we will not be an obstacle to this application. Why has the government chosen not to if the delay and bottleneck is an issue?

Contrary to what APEGM claims of almost 3000 engineers registered in this province, there are only around 120 consulting engineering firms in the city of Winnipeg with less than two thirds practicing within the construction disciplines such as structural, mechanical and electrical. Out of the engineers throughout the province, only a handful (12, according to the debate in the Legislature) are involved in illegally sealing architectural drawings thereby contravening The Architects Act. Indeed, all the consulting engineers that I have personally collaborated with have told me they do not support APEGM executive's position and have no intention to practice architecture. They have recognized the complete distinct difference between our two professions.

I would like to rebut what has been said in the Legislature by Mr. Schuler during his petition of amending of the Architects Act. First of all,

regarding the notion that the architects enjoy an exemption from the engineers act while engineers are not exempt from The Architects Act puts the two professions on unequal terms. The exact wording of exemption from the application of The Engineers Act are as follows: ". . . a person who is registered, licensed or certified under or has otherwise acquired rights pursuant to any enactment of Manitoba or Canada which licenses, governs or regulates the practice of a profession, or the carrying on of an occupation or trade from practising that profession or carrying on that occupation or trade in accordance with the provision of such enactment." This engineers' exemption does not just apply to architects but any other profession that was regulated by statute. This could also mean if the engineers decide that biomedical engineering included design, manufacturing and supervision and installation of pacemakers into patients, their act cannot prevent a heart surgeon from diagnosing, prescribing and installing a pacemakers, or that they can design a new type of pacemaker and if the medical act prevents anyone other than licensed surgeons to perform this operation, the engineers cannot then say they can perform the installation of this pacemaker. Let me remind the committee prior to the change of the engineers act in 1997, the definition of "professional engineering" did not include any activities that fall within architecture as per decision of then-Justice Monnin, now Chief Justice. Indeed it defined clearly the different disciplines of engineering practices. When the change of definition of "professional engineering" was proposed in 1997 of the engineers act by deleting references to the different disciplines, our association expressed concern that the new definition of the practice of professional engineering would be interpreted as expanding the scope of practice of professional engineering into the practice of architecture and sought assurance from both the government and the engineering profession. The president of APEGM at that time assured the MAA the scope of engineering activity was not being expanded and that the new definition being proposed was "more restrictive of the practice of professional engineering with respect to the practice of architecture than the one in the current act." Consequently when the bill was passed amending the definition of the practice of professional engineering in The Engineering and Geoscientific Professional Act in 1998, the APEGM's position was read into the legislative record. It is clear there was no legislative intention to expand the definition of the practice of professional

engineering into architecture. It was so ruled in the decision by Justice McCawley.

In terms of perceived negative effect on the province's building and construction industries, brain drain and increased red tape and delay because of architects, there were simply no facts to back up these misinformation spins. Some design build contractor or developers would like to get rid of architects altogether. They do not need an architect telling them their building will have to provide handicap access, it certainly will cost more to have to conform the code and safety designs. An architect will not simply just sell his seal without direct supervision of the project, otherwise how can we deliver our professional service ethically and safely? And yet there are a lot of reputable and successful developers that know the value an architect can bring to their project.

Yes, indeed over the last 12 years there were numerous attempts between our two associations to try to come to some agreement to resolve this. Let me remind the committee as recently as June of 2004 the Minister of Labour initiated a process, which was supposed to resolve this issue of engineers illegally practicing architecture. It was our understanding from the Minister of Labour, that if the two sides failed to reach consensus on the issue, she will implement the recommendation of the Chair. A Chair who was endorsed by both associations at the start of the process. However, after the delivery of the Chair's report, known as the Witty Report, APEGM rejected both the report and the Chair. My association supported the report even though we have serious concerns. However, the government failed to implement the recommendations of the Witty Report as promised (which left the MAA no choice but to proceed with legal action against the City of Winnipeg and ask the court to declare what the law meant).

Make no mistake; engineering and architecture are two completely different professions with different schooling, training, internship and examinations to quality. Engineers are a diverse group of professions. Where their practice when applied to building construction, they design, within their discipline, the systems within buildings, such as structural, mechanical, electrical, geotechnical, civil etc. Architects are specially educated, trained and tested on the design and coordination of the complete building and its systems, including integration of the building's structural, mechanical and electrical systems. We do not, however, undertake to engineer

these systems even though during our schooling and testing, we are required to study these disciplines. As far as I know, there is no engineering school anywhere in the western world that has architecture in their curriculum. Simply put, there is no architectural engineering. So why do some engineers think they can practice architecture? In fact, since APEGM do not even license their members by discipline, how can the public health and welfare be protected if we have an agricultural engineer sealing architectural, structural, mechanical and electrical drawings and submitting it to the authority having jurisdiction for building and occupancy permit.

The MAA has always advocated for the involvement of the appropriated licensed professional on building projects, both architects and engineers based on their relevant expertise. This interpretation has been supported by all other jurisdictions in this country.

I would like to know how the public's interest is served by allowing someone to practise a profession they are not trained or qualified for. Will you advocate allowing Registered Nurses to diagnose, treat patients and prescribe medication? Surely you can argue with enough experience they can treat minor ailments just as well as doctors and it will save a pile of health care money.

The message this bill is going to send to the people of Manitoba is that if you break the law long enough and if you belong to a large organization that now is making a lot of noise, even if the court has rendered a clear ruling on the law, and have said explicitly, ". . . it would also be a perverse result to find that clear legislative intention could be overridden by a controversial practice, even one of some duration, that is directly in conflict with it." It really meant nothing because we will just change the law to appease the crowd even if it goes against the most fundamental principle rule of protecting public health and welfare as is the mandate of every democratically elected government.

Under this proposed legislation, our scope of practice will be removed from our act and will now be put into the Building Code, under the control of the Building Standards Board, who can recommend changes to the minister. This effectively gives the control over "what is the practice of architecture," to the Building Standards Board. There is no other regulated profession in this province and indeed in this country which has its scope of practice defined by a group made up of "industry" stakeholders

including business and private interests and be subservient to it. By analogy, this amounts to a board comprised of representatives from the Regional Health Authority, the Manitoba League of Persons with Disabilities, the Association of Manitoba Municipalities, pharmaceutical suppliers, medical equipment suppliers, insurers, plus one medical practitioner, being given authority by the Minister of Health to report on what the scope of practice should be for various medical professions. The Building Standards Board has a valid role to play in the administration of the construction industry, but it has no proper role to play in making decisions about a restricted scope of practice-regulated profession. With the exception of a single MAA representative out of the twelve, it has no expertise to do so. This move circumvents the legislative process and thereby transparency and accountability. Remember the first and foremost role of any regulated restricted scope of practice profession is to ensure public health and welfare and in the case of architectural practice, to ensure buildings and built spaces are constructed with the protection of health and welfare of the public for occupancy and assembly. Any business and private interest group will not have this as their first priority.

Under this proposed legislation, you will allow these "grandfathered engineers" to practice in a profession they have no training in. They will not be subjected to very same rigorous qualification and examination that the other architects who wants to practice in this province will have to go through to prove their competency. They will not be monitored or regulated by either the MAA or APEGM on the practice of architecture. Essentially it will be a "free for all" for these individuals with no consequences for malpractice or incompetence on the practice of architecture. I would suspect if any insurance policy will cover any malpractice by these individuals as any sane insurance company will not cover someone to practice a profession he is not a trained and tested expert in. How will this be a champion of protection of public health and welfare?

Under this proposed legislation, it will be possible for all alterations, which is defined in the new National Building Code as including additions to existing buildings will be exempt (solely at the discretion of an authority having jurisdiction) from requiring an architect. It would have included the recently completed renovations to the Millennium Library or to complete additions and renovations to a new cardiovascular wing to the St. Boniface Hospital

without the involvement of an architect. How is it that overnight an engineer will miraculously gain all the expertise needed to safely take on these complex projects? Is this the intent of the government?

In our current act, buildings not requiring architects were very limited and relegated to smaller buildings (ie: less than 400 m² or three storeys), or those intended for low human occupancy (ie: single family houses, business occupancies, etc). The new legislation increases the 400 m² to 600 m² and does not define it as gross building area, as was done in most other jurisdictions. It in fact ties it to the definition of building area in the code. The result of this is that it will now allow buildings of 1800 m² to be done without the involvement of an architect, and by utilising firewalls, could allow a building to grow infinitely. In addition, all industrial occupancies, including high human occupancy buildings such as Nygard or Western Glove Works, can be completed by an engineer with no involvement of an architect, again without any credible expertise or qualifications. Is this the intent of this government?

There are other articles of this proposed legislation that has serious consequence on the high quality of professional service provided by the dedicated architects of this province. My fellow architectural colleague will be elaborating on them. It will degrade our profession to the lowest denominator of non-professionals. It will seriously affect the protection of health and welfare of the people of this province enjoyed by every corner of this country.

It is obvious the proposed legislation is ill conceived and rushed. It is putting public health and welfare at risk. It does not respect the intent of The Architects Act that our forefathers and subsequent legislators envisioned and has served this province so well.

Consequently, I call upon the Minister and this Committee to delay Bill 7 from proceeding to third reading and give it the proper attention and time frame it deserves to ensure all the shortcomings can be worked out, that public health and welfare are not jeopardized. And if the government is serious about improving the delivery of both the architectural and engineering professions in this province it must be willing to invest the time and energy to research what works throughout the world, to abide by the guiding principles of all restrictive scope of practice professions and have the integrity to assign an

impartial expert panel to work with parties to come to an amicable solution. Thank you.

William Burrage

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Re: Bill 7

The Winnipeg Construction Association is a regional construction association representing the interests of the commercial and industrial contractors in the Province of Manitoba. Formed in 1904, the Association has a membership of almost 500 companies. The WCA has represented this membership in matters of government advocacy, human resources, procurement practices and standards. WCA representatives are active on all major boards and committees having to do with workplace issues, employment standards, fair wages, building code development, safety and injury prevention.

We want to say first of all, that the Winnipeg Construction Association has worked extensively and cooperatively with the design community in the areas of standard industry practice and project information sharing. We have worked to develop model construction contracts, guides, and recommendations that have served this industry well. In addition, WCA has operated a construction plan room information service for over 100 years. On behalf of our membership, the services of the Planroom are provided without charge to architects, engineers, and public or private owners seeking competitive bids on construction services. These services are keystones in the construction industry.

We have followed, with interest, the prolonged dispute between the Architects and Engineers and looked forward to a resolution through the work of the Engineering, Geoscientists and Architects Relations Joint Board. The apparent dissolution of the Joint Board and the recent court decision, in our view, has been a serious set back. The resulting disruption of the building permits approval process that we have worked so hard to streamline has serious implications for our members and their clientele, hence our concern.

Where do we stand on this issue? Our Association and its members have a profound respect for all disciplines in the design community. We do not, however, support continuation of a contest between the architects and engineers.

The mantra of our builder members is "Build to Code" with the ultimate goal of upholding sound building practices and providing for public safety. The National Building Code and the processes that guide its evolution have served us well. Canada is recognized world wide for the high, ever improving, uniform building science standards enforced throughout the country. The Code recognizes that there are different skill sets in the design community and simply provides that the appropriate skill set should be brought to bear when needed.

Our builders support the approach of the National Building Code. In our view, all relevant legislation should encourage the design professions to evolve and grow their skills for the benefit of the public and the rest of the construction industry, which must rely on them. Our members and the purchasers of construction need the ability to call upon the most appropriate participants for the design team of every given project and we are encouraged to see this notion reflected in the legislation.

In discussions with the Department of Labour and the City of Winnipeg, we understand that the Architects and Engineers have made some significant headway coming to an agreement in the weeks preceding this legislation. While the Bill 7 may not completely satisfy the parties—and dispute resolution efforts seldom do—we feel they represent a reasonable compromise and a clear set of rules that the construction owner, the builder, and the authority having jurisdiction can interpret with certainty.

Manitoba, and its design and construction communities are experiencing the busiest several years in history and this is forecast to continue. On behalf of the building community we welcome the resolution of this issue so that the building of Manitoba can continue.

Ron Hambley