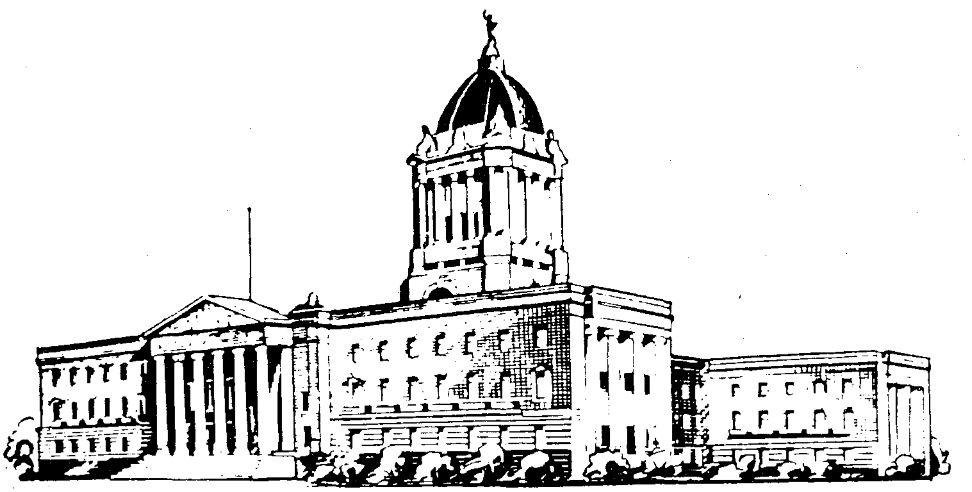
Legislative Assembly of Manitoba

HEARINGS OF THE STANDING COMMITTEE

ON

LAW AMENDMENTS

Chairman
Mr. William Jenkins
Constituency of Logan



10:00 A.M., Monday, March 22, 1976.

Printed by R. S. Evans — Queen's Printer for Province of Manitoba

THE LEGISLATIVE ASSEMBLY OF MANITOBA
STANDING COMMITTEE ON LAW AMENDMENTS
10 a.m. Monday, March 22, 1976

Chairman: Mr. William Jenkins.

MR. CLERK: Gentlemen, if I may have your attention. This being the first meeting of the Law Amendments Committee, your first order of business will be the election of a chairman. Are there any nominations?

MR. WALDING: I nominate Bill Jenkins.

MR. CLERK: Mr. Jenkins. Are there any further nominations? Hearing none, I would ask Mr. Jenkins if he would take the Chair, please.

MR. CHAIRMAN: I think the first order of business, we should determine what the quorum of the committee should be for further meetings. There are 30 on the committee, I think what we've been doing in the past is having just one over which would be 16. Would someone so move?--(Interjection)--It's been moved that the quorum be 16. Agreed? (Agreed)

I have a total of 41 names of people wishing to make representation. Before I call for any more, I would say to the committee that we have a Mr. Martin Bergen who is leaving for Europe this afternoon, and would like to be heard before he leaves, and a Mr. Ben Mandell, a school teacher who has taken time off work to be here. Is it the will of the committee that these be heard first?

Now before we proceed, I don't know if the committee wants me to read all these names off, I have 41 here.

Is there anyone present in the audience that hasn't given their names to the Clerk that wish to make representation? Would you come forward and give us your names then, please. At the mikes, please. Your name, please, madam.

MARIENNE BOSSEN: Marienne Bossen, consulting economist.

MR. CHAIRMAN: Right, thank you.

MR. GEORGE CLARKE: George Clarke, real estate broker.

MR. CHAIRMAN: Fine, thank you.

MR. JAMES P. HAMILTON: James P. Hamilton.

MR. CHAIRMAN: Thank you. That all?

MRS. VICTORIA LUCHKA: Mrs. Victoria Luchka.

MR. CHAIRMAN: Thank you. That seems to be it. I then call on Mr. Martin Bergen.

MR. F. JOHNSTON: Mr. Chairman, I believe it requires a motion on transcribing the proceedings.

MR. CHAIRMAN: Agreed? (Agreed) Motion to transcribe the hearings. Would you proceed, please, Mr. Bergen.

MR. BERGEN: Mr. Chairman, I just have a short brief to present. I submitted the brief for distribution there. I don't know if I should read it, if it's necessary. --(Interjection)--It's necessary? Okay.

I am representing Edison Rental Agency.

Edison Rental Agency represents a number of apartment blocks all of which are privately owned and operated. Therefore, we will be greatly affected by any legislation concerning rental controls as outlined in Bill 19 and therefore would like to present the following points which we feel are pertinent to our operation.

I. We think it is essential that the increases should be from a base rent and not from the rent the tenant was paying in June of 1975. The base rent can be very easily proven by the newspaper ads, or in the event there were no ads, by the rate the majority of the tenants were paying at that time. It would be wrong to take the rent a tenant paid in June 1975, for example.

In past years we have given special consideration to senior citizens who claimed they were unable to pay the current rates and were unable to find reasonable accommodation elsewhere. I would like to present a number of rental cards of tenants who fall into this category (more cards can be provided if necessary). In the event of one of those tenants vacating we are then (according to Bill 19 as it now reads) required to re-rent the

(MR. BERGEN cont'd) . . . . . apartment only 10 percent above the special rate the tenant was paying instead of the base rent all the other tenants would be paying. This I feel would create great inequity as they would fall well below the base rate. I might add at this time that 10 percent of our tenants fall into this category or have had longer than one year leases in the past.

II. Parking stalls should be categorized as an added service and not included in the base rent, as some tenants do not require parking facilities and others require 2 or more. Parking requirements may also fluctuate during a tenant's term of occupancy.

III. In newly constructed buildings the rent is set well below market rates for the first year in order to attract tenants and at the same time not to have any complaints re noise and inconvenience due to unfinished services. Many leases in the first year are also signed for a longer period in order to bring them into a uniform renewal period. It usually takes about three years to attain and establish an economic rental rate on a particular building. Buildings at present which fall within this initial three year period should be exempt from any legislation. Obviously you recognize this principle by exempting a new building constructed after January 1, 1976 but it should also apply to buildings constructed in 1973.

I would recommend strongly, that the above statements be considered in implementing legislation which will be equitable to landlords as well as tenants, and ensure further services of the quality tenants in Manitoba have enjoyed and should continue to enjoy.

Enclosed, I file a letter from one of our former tenants, it explains itself when you read the letter and her index card. The lady paid when she moved in $120 in 1972; in 1973 she complained to me she could not make the payments any more, $120 was too much; I reduced the rent to $100. Now, gentlemen, she lived there till March 1st and the letter explains why she moved out. I would be able now to rent that suite for $110, where all the neighbours on the same floor pay $190. That's what I meant by basic rental rates; this should be able to re-rent for $190, the same as any other suite in the building. Just because we did somebody a favour, it should not be held against us.

I also enclose two letters which includes five buildings we operate for the last five years from 1970 to 1975, and if you look at the rent increases during those years and the expenses on three items, taxes, insurance and hydro - In the first instance, the first building, our rent increased by $52,000 over five years. Our utilities, only the three utilities increased by $46,000. The second building, in the last six years, the rent increase was $54,000, the utility increase was $46,000. The third building, in six years the rent increased by $42,000, the three utilities increased by $44,000, and this is a building which had a five year mortgage on it. We had to renew in 1975, the mortgage from 9 percent interest rate to 11-3/4 percent interest rate which jacks our interest rate only on the first mortgage up $36,000. That has to be taken care of slowly, but I don't know how, because that means an increase of $30 per suite on interest rate only.

The fourth building is the same, in six years our rent increased $40,000, the three utilities increased by $54,000 and the mortgage rate increased by $35,000. And finally the sixth building is a five year period, the rent increased by $38,000, the utilities by $36,000 and the mortgage increased by $13,000. Then you take the wages, the increases we had in the last five years: The painter in 1971 had an hourly rate of $3.65. Today, he has an hourly rate of $7.05. The plumber, his hourly rate in 1971 was $5.75. Today it is $8.90. And in May it will go up to $9.70. The bottom remark maybe I shouldn't have made, but I said this to my girl and she had typed it in and I had to leave very early in the morning. I apologize for the one remark on the bottom. That's all I have to say. This proves that we did not do all those things I think we're accused of.

MR. CHAIRMAN: Thank you, Mr. Bergen. There may be some questions that some of the members of the committee may wish to ask. Mr. Turnbull.

MR. TURNBULL: Thanks, Mr. Chairman. Thank you, Mr. Bergen, for a factual presentation. The points you make on the first page of your brief relative to altering the rent as tenants move in and out - you understand that the Bill as it's now drafted does allow, if necessary, the rent review officer to take into consideration all the rents in the building and that in addition to that, the amendment that I mentioned in a general way to the Legislature, would allow the review process to be used by landlords in the initial period. Now I was wondering if this point mentioned on your first page would in fact be

(MR. TURNBULL cont'd) . . . . . dealt with through the review process; in other words, you can go to the review officer and lay out your costs and in fact get equity for the increased costs that you are experiencing.

MR. BERGEN: In my view, if this would be in a bill from the beginning, it probably would eliminate a lot of landlords to go to the review board, because in my case, I probably would have two or three buildings that I would not have to go to the review board if this was in the bill originally, you see it would eliminate some of the work.

MR. TURNBULL: So you think it will deal with most of the problems that you have here with regard to letting out accommodation at a relatively low rental?

MR. BERGEN: Yes.

MR. TURNBULL: It will? Okay, thanks. That's all, Mr. Chairman.

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: Mr. Chairman, on that same point, perhaps some of the members of the Legislature don't understand at this point just what this change in the legislation will entail. I think Mr. Turnbull's question to Mr. Bergen was that, with regard to his first statement, it would look after the problem he pointed out. I'm not sure which problem it was he was referring to. He was probably referring to the case where the rent was set at $100 a month as opposed to $190 for reasons that were special. Is that the case you're referring to?

MR. TURNBULL: Yes.

MR. CRAIK: Or were you referring to the case where, in the overall sense, like one of these examples, block four or three or one of these where the mortgage is increased, where the combined utilities and mortgage increase exceeds the rental increase, in these two cases. Does it include those as well?

MR. TURNBULL: I thought we were supposed to be asking Mr. Bergen questions; but the review process that is now applicable for the period after September '76, will be made applicable to the period during the first 15 months. That's the intention. In other words, the process laid out in the bill is going to be brought forward to July 1st of '75.

MR. CRAIK: Mr. Chairman, just to get it clear, maybe we could . . . either from Mr. Bergen or from the Minister to help the rest of us in understanding it. Do I understand that the review process will take place prior to a change being required of the landlord in his rents in that period prior to October '75? In other words, if someone raised their rents in August or September of '75 and it exceeds the limit but they have some sort of what they think is a justifiable argument for exceeding it, is their argument reviewed prior to them having to go back to their tenants?

MR. TURNBULL: Well that's the point that I would like to get to as we go through these hearings. Clearly, if the landlord is going to be put into a law situation that is not the intent of the bill. I would, you know, like to hear the representations and see if in fact the need is to delay the refund to the tenant while the landlord makes his case before the review board. That is the refund of the excess.

MR. TURNBULL: Well, Mr. Chairman, I think that straightens it. I wonder if Mr. Bergen could indicate here, on these cases such as his block three and block four, he indicates here. What would have been here the percentage rent increase in the last increase in rent?

MR. BERGEN: 15 percent.

MR. TURNBULL: 15 percent?

MR. BERGEN: Yes.

MR. TURNBULL: And would that have covered in, like block three your case where you say it cost you $30 a suite for the increase in the mortgage?

MR. BERGEN: No, it would not take care of the increases in mortgages but maybe in a year from now we could increase a little bit more accordingly. If we would increase the expenses plus the mortgage increase all at one shot we would have an empty block and we cannot afford this. We realize that in the first year of refinancing we would lose money, there's no doubt, but the second and third year you probably go slowly up again in order to offset this sharp increase in one year. I think with this five year mortgage renewal which came up in 1970 strongly that all the mortgages from that day on are renewable in five years, it will hit very many people this year because at that time we did receive the mortgage at 9 and $9\frac{1}{4}$ percent. Today, in one instance I was lucky, I

(MR. BERGEN cont'd) . . . . . received it for 11, but the second instance, I had to pay 11-1/2 and the third became a little bit later, 11-3/4. So they are hefty increases in interest rates. And if you very simply borrow $10,000 per suite, which is two percent or three percent of the mortgage increase, it's $20 to $25 a month; it's as simple as that. And if we would put on the increases, the 15 percent what we need for utilities plus the increase on the mortgage, we would have vacant buildings. There's no doubt . . .

MR. CRAIK: Through you, Mr. Chairman. Do you say that most of the mortgages since about 1970 have a five year term on them?

MR. BERGEN: I would say about 80 percent probably have, yes. At least in my cases.

MR. CRAIK: And that started approximately in . . .

MR. BERGEN: In '69 and '70 they quit giving out 25-year mortgages.

MR. CRAIK: So this would indicate this is common to everybody, not just yourself, anybody that's built after that time will probably be looking at reviews of their interest rate every five years?

MR. BERGEN: Yes, except that CMHC and government subsidize those so they are 25 years, I think. All the ones I have in private mortgages from trust companies - trust companies, definitely, they are all five years, but some insurance companies still went to 25 years or 10 years or 15 years, they vary, but trust companies at that time went out at 5 years.

MR. CRAIK: On your Building III there where you had this happen, what you're saying is you didn't raise it all at once so in that case is your building running in the red for this interim period until you get your rents up?

MR. BERGEN: It will run in the red in '76, yes.

MR. CRAIK: Even at your present increases?

MR. BERGEN: Even at the present increases.

MR. CRAIK: What about these other ones, Block I and II and so on that you've indicated here?

MR. BERGEN: They are more or less all right with the 15 percent increase we had.

MR. CRAIK: And they were 15 as well?

MR. BERGEN: Between 14 and 15, yes. But my understanding was, and maybe I misunderstood it, that before we have to give any money back, to clarify your question there before, we would have the opportunity to go and appeal to the board, that's what I understood before this meeting - was it three or four days ago when the Minister said it - that's why I didn't bring that point into my letter, I took it out, I had it in my letter before.

In Paragraph 1 in my letter, what I wanted to clarify is that if - for instance, this lady on March 1st, she moved out. If I re-rent that suite now, according to the bill if it would come in the way it reads, I only could charge $110 for it; but if that would be on a base rent I then could charge the tenant $190, and because we have 10 percent or more on those basis, it would improve my financial situation for this particular building more and I wouldn't have to go to the board and apply for an extra increase, I probably could get along without that extra increase and therefore the board wouldn't be so loaded with applications. That's what I meant.

MR. CRAIK: One more question, Mr. Chairman. Do you have a financial statement that applies to every building itself or . . .

MR. BERGEN: Yes.

MR. CRAIK: . . . in your business, like for income tax purposes and so on?

MR. BERGEN: For income tax purposes every building is by itself.

MR. CRAIK: So that you have a comparison pretty well on a year to year basis of what the performance of the building has been?

MR. BERGEN: Yes.

MR. CRAIK: So that the people that were reviewing it can take a building and look at it and plot it through and see where the increased costs are coming from without too much trouble then?

MR. BERGEN: Yes. I think the biggest problem was, if you take it over five years, that's why I took it over a five-year period, I don't think we have increased our

(MR. BERGEN cont'd) . . . . . rents more than the utilities were, we only increased the rents every year what the utilities would. When you go back in some of the buildings in 1970, '71, 72 nothing increased, the Hydro stayed the same, the taxes stayed the same and we didn't increase the rents, but in 1973 when the first increase in taxes came, we considered those minor increases and increased our rents only slightly. But then in 1974 we got hit so big, which we first took as a joke and we thought they don't mean it really that way, the taxes and the Hydro, but then in 1975, it seemed to be it would happen the same or even worse. That is in '75 when we raised our rents from 10 to 20 percent because we did not take care of it in '74. We were not prepared in '74 that it would continue that rapidly up and therefore I think in '75 we took a little bigger advantage and we said, now look, we'll all go broke or we have to raise something here now, and that's why we raised it between 10 and 20 percent.

In 1976 we don't know yet what's going to happen, we don't know about the taxes, we know the Hydro is going to go up 20 percent. If you follow the chart here, it clearly states up to '72 we were all right, the rents didn't increase, the taxes didn't increase and the Hydro didn't increase; but then in '73 it started and in '74 they hit us so hard that we just, you know, that's why I took it over a 5-year period, that it would be explained very clearly that the increase we had last year we just needed it to keep up. And be very free, you can have the books anytime you want because this is the facts. In '76, I believe we need, depends whatever the taxes will increase, we definitely need the pass through for taxes, the Hydro and the insurance. The insurance doubled last year for no reason at all. I didn't have too many fires. As you see on the chart here, every insurance increased by 100 percent without too much explanation, they just increased. --(Interjection)--No, they blamed that on the politicians too. I didn't, they did.--(Interjection)--Yes, but I only say what they tell me.

MR. CRAIK: How many apartments do you operate altogether?

MR. BERGEN: About 3,000.

MR. CRAIK: How many of those would be occupied now, or how many would be vacant, let's put it that way?

MR. BERGEN: We have about 3,100 suites and around 600 are senior citizens which are always full, if you take those out we have about 2,400 suites and out of the 2,400 suites we have 212 vacant.

MR. CRAIK: 212, so 9 to 10 percent then?

MR. BERGEN: Yes. Some of the buildings are only a year and a half old so they're not full yet. It takes a while to fill them up.

MR. CRAIK: When CMHC is putting together their vacancy statistics, do they contact you regularly to get information from you?

MR. BERGEN: No. I have no CMHC loans, I'm not with CMHC so they don't. . . I think they only call the ones that are working with CMHC . . .

MR. CRAIK: Thanks, Mr. Bergen.

MR. CHAIRMAN: Mr. Henderson.

MR. HENDERSON: Yes, Mr. Chairman, I'd like to ask Mr. Bergen, in these here sheets that he has where he's related what has happened in certain blocks, what was the percent of occupancy in these blocks at the time that this was done?

MR. BERGEN: The first one would be about 4 percent vacancy on an average. The second one, the first 3 years there was about 5 to 6 percent vacancy and the last 2 years, it's full, no vacancy. The third one we have about 8 percent vacancy, it's not so close to the highway and it makes a difference if it's further away from the highway, the bus route. The fourth one, the first two years we had about 5 percent vacancy, then we had for two years no vacancy, last year there was about 2 percent and now there's about 5 percent.

MR. HENDERSON: Thank you, that's sufficient for that, I see it's a very low vacancy rate. Considering a fair market value for this property, what sort of an investment is this for the people that own it, what percentage are they actually making on their investment in this property?

MR. BERGEN: We have all commercial mortgages, not Central Mortgage and Housing, therefore the mortgages run between $8,000 and $9,000 per suite. So that would be about, between 60 and 65 percent?

MR. HENDERSON: Between what?

MR. BERGEN: Sixty to 65 percent would be mortgage on it, about 35 percent equity.

MR. HENDERSON: Mr. Chairman, I don't think he understood me properly. I I mean considering the total investment on one of these suites or blocks, what return is it giving now - landlords or the owners on their investment. Have you got that?

MR. BERGEN: The highest return up to now was about 3 percent.

MR. HENDERSON: The highest return until now is about 3 percent?

MR. BERGEN: Yes. That's the profit on the mortgage invested.

MR. HENDERSON: That's after you pay your mortgage payments and then there is capital in it besides, of course?

MR. BERGEN: Yes, the capital is very small on high mortgages, it comes later on, you know, when you come in the 20th year or so, but the first five years - like in the first block the capital would be some $10,000 maybe on the whole thing which makes out 2 percent, it wouldn't even make 2 percent.

MR. HENDERSON: And the other question is, you handle many more blocks than what you have listed here?

MR. BERGEN: Yes, I just took the ones that are for sure five years in operation. The other ones are newer ones and haven't got the five year history.

MR. HENDERSON: I'm all finished now, thanks.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I have some questions for Mr. Bergen. On this proposal, the base rent, how would you go about computing it? Would it be done on the basis of individual units and how would it be administered? Would the owner compute each base rent for each unit and then register this with the Rent Review Board or would you just simply do it on your own and assume that . . . How would you go about doing this base rent formula?

MR. BERGEN: In my file I have a letter attached from the Winnipeg Free Press and it sells on June 30, 1975 and we advertised the rates there. Those are our base rates and I think that is what we would like to see as a base rate, because effective as of March 20, 1975 after we had an idea what our taxes would be in 1975 and after we received the 1974 statements from the accountant, we figured it all out and we set the rates at that particular time and said this is what we have to have for 1975. And I would say that is the base rate. You see, there is one point in this thing, too; if you increase your rents by 20 percent in 1975, that doesn't mean you are going to collect 20 percent more that year than you did the previous year because most of the leases come up at various times of the month; so the first ones come up in March like in our case, we have March, April and May, then we have no leases in June, July, then they start in August, September, October and then we have none in November and December, so therefore if you put an increase on for 20 percent that means you maybe collect 10 percent, you increase your income by 10 percent.

A MEMBER: For that year.

MR. BERGEN: For that year, yes. And, of course, by next year the taxes and the Hydro takes up the other 10 percent already, you see, and you have to increase it again, because as you see the last three years creates the whole mess, not before.

MR. AXWORTHY: Could you clarify for me though. Do you mean that you would still attach a base rent to every unit or you would average them out in the apartment block itself?

MR. BERGEN: In the apartment block itself, every one bedroom suite so much, every two bedroom so much.

MR. AXWORTHY: I see, and then you would establish that . . . how would you register that though, how would people know what that base rent would be if it was something he isn't . . .

MR. BERGEN: In my case I would take the ad from June 1975, and I would make a copy of it and give to every tenant; it tells every rate on there and it was established in March 1975. That's my base rate. And I would like that for any purpose because now we're getting forms from the City of Winnipeg, they want to know how much rent we charge, how much we pay and everything. I see the day coming where we have

(MR. BERGEN cont'd) . . . . . probably for each municipality another sheet and it would be very nice for if we have one basic rent and we say we have so many suites at $190, so many suites at $200 and that's it. We even did get away with this $1.00 per floor or anything like it, just for the simple way of figuring, be all even.

MR. AXWORTHY: Mr. Chairman, I ask Mr. Bergen, do I take from those remarks then that you feel you would be prepared to accept or work with some almost central registry system, that you're getting so many requests now for information that if you just had some simple reporting scheme that you'd put down your base rents per unit or per block and register somewhere then that would then act as a basis for figuring out all the rest of . . .

MR. BERGEN: I think it's going to come anyway, we may as well face the music.

MR. AXWORTHY: Okay.

MR. BERGEN: Sooner or later.

MR. AXWORTHY: I'm asking if you want to play that music though . . .

MR. BERGEN: We have to, it doesn't mean we want to, but we go along with it. Be easier to get along with.

MR. AXWORTHY: Okay. Mr. Chairman, I also would want to ask Mr. Bergen about this question of the exemption of the buildings that were built three years prior to the inception of the rent control, prior to January 1, 1976. I take from this that you're saying that you have to absorb a larger number of vacancies or lower rent because of a new construction problem. How large a problem is that with you, you say you have about 3,000 units under you . . . how many units would that affect?

MR. BERGEN: Probably four buildings, about 700 units. The point is that the last building we built, we finished in 1975, you see, we never had full occupancy yet in it, and as I mentioned before, we do rent the first year the suites lower in order to attract people because the important thing is when you build a building to get enough people in there to pay the interest on the mortgage because that is the biggest - if you build a $2 million building, from the day you start taking out mortgage draws or borrow the money from the bank, to the day you have people in there, it could cost you $300,000 on interest only, and the sooner we get some people in there, even for half rent, they help pay this interest, reduce this interest and it won't be that big of an expense.

MR. AXWORTHY: Mr. Bergen, how many of these buildings that you say were built in the last three years would you benefit from the Federal Tax Depreciation Allowance that was off for awhile but was back on last year, I believe. How many would . . . ?

MR. BERGEN: None of them. We were too early.

MR. AXWORTHY: These were too early . . .

MR. BERGEN: This was in between when they took it off and when they put it back on again. None of them.

MR. AXWORTHY: Okay. Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Bergen, I just want to make sure that I understand your previous answers. If you are building an apartment block well for, let us say, which has a total price of $100,000 and you calculate your expenses and your income, what rate of return are you aiming at in order to consider it a viable apartment block?

MR. BERGEN: When we file our papers with the mortgage company we usually show them a 10 percent increase in order to get the mortgage, a higher mortgage if possible. If we show them we will rent the suites at $200, we go in the city and we find a few apartment buildings who have that high a rent, we show them then that we will rent those suites for $200 and we tell them, see building so and so has also the same rent. When it then comes to rent the suites in reality and we finish with the block, we reduce the rent by about 20 percent in order to fill it up and hope that in the future we will catch up and if previous years from 1965 to 1970, we could bring this to that point, in those days we increased every year two to three dollars a suite and by the third or fourth year we were to the point where a guy at least made eight percent on his money returned. Then, of course, in 1969 everybody in the city went crazy to build apartment blocks and we over-built, the vacancy rate was just astronomical, and if anybody recalls, at that time you could go and rent a suite, you signed a two-year lease, the guy would

(MR. BERGEN cont'd) . . . . . give you a coloured television, the first few months free rent; the kids moved in there, two of them wrecked the suite and three months later they were gone, they hadn't paid a month's rent, the television was gone, and you had to fix up the suite. So you didn't make any money in 1969 and 1970 because of that.

MR. GREEN: Yes. I'm aware that there are sometimes problems in tenants that are achieved and at the same time there are still people who over the years have felt that this is a good investment. That wasn't my question. My question was, what rate of return do you set as your objective in determining whether you are going to buy an apartment block or not. I think you said ten percent, but if I'm wrong, I would like to hear what the figure is.

MR. BERGEN: Today if you show them an eight percent return on your money you can sell any block you have on foreign companies, if you get them in here, but I don't think anybody buys either.

MR. GREEN: No. Well when you are looking to buy an apartment building and you had to figure out how much it was going to cost you, how much rent you were going to get in, what your expenses would be, there would be something left over or you wouldn't buy it. When you were first going into it . . .

MR. BERGEN: Up till 1972 it wasn't hard to get investors with no return on their money, because you can find enough doctors and lawyers, they would invest each $20,000 with no return on their money at all. They were satisfied if they would not lose on it, and if you could convince them that in the next five years they would not lose on it but they could take the depreciation, you had an investor. In 1972, that quit completely. From that day on of course the fee climbed and the construction declined.

MR. GREEN: Yes, but Mr. Bergen, I don't take it that you're a doctor or a lawyer?

MR. BERGEN: No.

MR. GREEN: You were not using an apartment block loss to write off against your income, which is what doctors and lawyers were doing and they had the right to do it. You were a person who wanted to invest in rental accommodation and I asked you, not the doctor or the lawyer, what . . .

MR. BERGEN: No, I was the guy who was after the doctors' and the lawyers' money to invest. I didn't have any money to invest. I was after their money. And therefore I was satisfied if I made money in a construction, in a development, in the buying and selling of land.

MR. GREEN: I see. In other words, you were selling the blocks that you were building?

MR. BERGEN: Selling, keeping ten percent or whatever I could with my part in there, whatever I could do. Yes, I was after their money, not to invest my own money because I didn't have any.

MR. GREEN: If you don't make any money now, that will be exactly what you planned to do, so you wouldn't have any complaints?

MR. BERGEN: No. I said that we figured a building three, four years old, we would make any money. That it was just . . .

MR. GREEN: Well, Mr. Bergen, if you're telling me that when you are investing in apartment blocks, you are not seeking a rate of return, then you are not really a normal investor and we shouldn't really consider what you are telling us. Because the normal investor, he is seeking a return on his money.

MR. BERGEN: I think you misunderstood me.

MR. GREEN: Oh, I'm sorry. Well then maybe you will explain yourself again.

MR. BERGEN: I want to make that clear, that in the '60s, the doctors and the lawyers were not concerned how much they made on their money, they were interested on the depreciation of the stuff, and I was interested in getting their money to build apartment blocks to make money on a building . . .

MR. GREEN: On the selling of them.

MR. BERGEN: On the selling, on the construction. On the land development.

MR. GREEN: Did you have any apartment blocks of your own in 1969 which you rented out?

MR. BERGEN: No. I had parts of apartments, ten percent . . . this kind of thing.

MR. GREEN: And when you were investing in those apartment buildings, that you were still an investor in, did you have an objective as to how much money you were to receive on your investment in order to either leave your money in or invest it in?

MR. BERGEN: I did not buy those parcels, I was stuck with them, I could not sell them to other people because in every apartment building I had ten to 15 investors and if I was stuck at the end with ten percent or 15 percent, I then kept it and my investment was my construction part in the stuff.

MR. GREEN: So then your business is not as a landlord, your business is a builder of apartment blocks who then wants to make money by selling it to somebody else, to a doctor or a lawyer, or anybody whose money you can get as you told us.

MR. BERGEN: Up till 1972.

MR. GREEN: Yes.

MR. BERGEN: Yes.

MR. GREEN: All right. That was up till 1972. Now from 1972 to now, have you invested in any apartment buildings?

MR. BERGEN: Yes.

MR. GREEN: When you invested in them, did you figure out how much you want as a return on your investment in order to make the investment?

MR. BERGEN: In 1972 when the law was changed, I was stuck with plans, with land, so I continued and I could not sell those items so I took a chance, whatever I would get out it at the end I would keep.

MR. GREEN: Mr. Bergen, that's not what I asked you. I asked you whether between 1972 and 1976, you made any investment in apartment buildings, new investment between '72 and '76.

MR. BERGEN: I did not go and buy any building.

MR. GREEN: Did you build any buildings?

MR. BERGEN: Yes.

MR. GREEN: All right. When you built them, did you figure out what you were going to have to get in terms of rent as against expenses, and what was your objective in . . .

MR. BERGEN: My objective was ten percent to get on my money.

MR. GREEN: Thank you very much.

MR. BERGEN: But I explained . . .

MR. GREEN: Thank you very much. I mean, I thought maybe you didn't have any idea at all.

MR. BERGEN: It takes five years to get it.

MR. GREEN: All right.

MR. BERGEN: . . . on a new building . . .

MR. GREEN: Mr. Bergen, I merely asked you whether you had an objective and I'm glad to see . . .

MR. BERGEN: Naturally you have to have an objective.

MR. GREEN: Well I'm glad to see it. For a while I thought you had no objective. But I see that you had an objective. After '72 when you were investing your money, not to get it from the doctors or the lawyers but to have a return yourself, that you were seeking ten percent.

MR. BERGEN: Yes.

MR. GREEN: And that ten percent was, I gather, including depreciation or after depreciation.

MR. BERGEN: No, the depreciation is not taken in effect in an investment.

MR. GREEN: You don't take into effect your depreciation in calculating your income?

MR. BERGEN: No.

MR. GREEN: In other words, you want ten percent clear after depreciation?

MR. BERGEN: No, before depreciation. If you take the depreciation, you wouldn't make a nickel.

MR. GREEN: Mr. Bergen, I take it that depreciation means that you are writing off as an expense some of the cost of running the apartment block, which you say, to the income tax department in any event, was worth $100,000 but is worth only $95,000

(MR. GREEN cont'd) . . . . . because it's depreciated after one year, if you take it at five percent, and you're telling me that you want the ten percent after the $5,000 . . .

MR. BERGEN: Before depreciation I said. Before depreciation.

MR. GREEN: Well I still want to figure out. When you are calculating the ten percent that you are taking as your objective . . .

MR. BERGEN: You don't consider any depreciation at all.

MR. GREEN: Well then you are making ten percent plus what you have depreciated if you subsequently sell the block to a doctor or a lawyer whose money you want. If you sell it for $100,000, you recapture your depreciation, you pay some to the income tax, and the rest you get. Isn't that right?

MR. BERGEN: After you sell it - you had it ten years . . .

MR. GREEN: Let's say you sold it after one year. Let's say that after one year you bought a block for $100,000, sold it the next year for $110,000 after depreciating it down to $95,000. You will then recapture $5,000 which you've depreciated . . .

MR. BERGEN: Yes.

MR. GREEN: You will pay part of it to the income tax department and the rest you will earn as a profit.

MR. BERGEN: Yes.

MR. GREEN: You don't calculate that as part of your ten percent? That's more than . . .

MR. BERGEN: I haven't sold anything, I couldn't tell you what the figure, but I know very well, if you recapture the depreciation, you have to pay income tax on it, you won't have much left.

MR. GREEN: Yes. But, Mr. Bergen, the fact is that what you are doing is you're saying that your objective, and I don't want to argue about what you made, because I would have to see your books, I don't want to see your books. Your objective is to make ten percent and you also want to depreciate at five percent a year?

MR. BERGEN: I don't want to depreciate. I forget the depreciation. I have nothing to do with it.

MR. GREEN: Maybe you forget it, but do you depreciate?

MR. BERGEN: If I have a profit, yes.

MR. GREEN: Yes. All right. So you depreciate on your . . . and that means that if that depreciation is recaptured and your objective is right, you will make ten percent plus whatever you earned on the depreciation.

MR. BERGEN: Yes, naturally.

MR. GREEN: So that means, Mr. Bergen, that you will be earning, if your objectives work out right - and I know that they don't always work out right - you will be earning the ten percent which was your objective plus whatever you made on the depreciation, which would be more than, let's say 12 or 13 percent.

MR. BERGEN: If I can sell it on a profit base or if I can sell it for the depreciated book value, that depends. Whatever profit there is. Anybody who buys a house and sells it a day later for $1,000 profit, it's a profit.

MR. GREEN: Mr. Bergen, I would hope that you don't have to explain that to the members of the committee. We are merely trying to find out whether you do the same thing, and nobody is complaining about it, we're just trying to find out. So you make in addition, or you're trying to make, and believe me, I have nothing against you trying to do this, you're trying to make ten percent and you're also hoping that you'll be able to get some doctor or some lawyer, anybody else, to buy you out and give you your depreciation plus a profit if you can.

MR. BERGEN: Naturally.

MR. GREEN: Nothing wrong with that. But that is what you are trying to do?

MR. BERGEN: Naturally.

MR. GREEN: All right. So then if you happen to be successful in doing that, you will make ten percent plus your depreciation, which will be, if you're depreciated at five percent, which will give you something like 15 percent.

MR. BERGEN: Yes, okay.

MR. GREEN: Now, if you're going to get 15 percent, Mr. Bergen, on the sale, getting it from some doctor or some lawyer, you're welcome to try, then why are you

(MR. GREEN cont'd) . . . . . including in your cost figures, which you have been giving to us, the increase in interest charges after five years. Isn't that business in money rather than business in apartment blocks. If you owned the entire block, and there are some people who do own it, who have clear title to their block, should they be entitled to less rent than a person who has a mortgage on the block?

MR. BERGEN: No.

MR. GREEN: No. So therefore, what your interest charges are isn't business in apartment blocks; you may make money on the interest or lose money on the interest.

MR. BERGEN: That depends what the committee would like.

MR. GREEN: Right. But if the interest that you are being charged is 11 percent and the money that you are earning after you go through all of your objectives is 12 percent, then you've made one percent on every penny that you've got from the mortgage company, haven't you?

MR. BERGEN: Yes.

MR. GREEN: So then why are you giving interest charges as a cost through? The interest charge is your cost of dealing in money, not in dealing in apartment blocks.

MR. BERGEN: If I could explain this. I build an apartment building for $1 million and I borrowed $1 million from the insurance company for seven percent ten years ago.

MR. GREEN: Yeh.

MR. BERGEN: Now that insurance company, if I would make ten percent, I would make three percent on the insurance company's money.

MR. GREEN: On every cent that they have loaned you.

MR. BERGEN: But if I took, five years ago, and built a $1 million apartment block and took out the mortgage at 11-1/2 percent, then I would have to subsidize 1-1/2 percent if we have the same . . .

MR. GREEN: I agree with you, Mr. Bergen, but isn't then your business loss not in dealing with apartment blocks, your loss then is in dealing with money, in your transactions in loaning and paying back money, that it has nothing to do with the apartment block.

MR. BERGEN: Oh naturally it does. If you have a lower mortgage and we know our mortgage will not increase, we have lower rents. You don't rent every suite for the same amount of money.

MR. GREEN: Well, Mr. Bergen, I gather that if there was a perfect market that you would not be able to get more rent with a mortgage on your apartment block than the man next door who had the same exact apartment with no mortgage. Yet you would have to get the same amount of rent.

MR. BERGEN: That is an accusation you're making without justifying it.

MR. GREEN: Well, I believe that it is justified. Now I'll ask you one more question and then I'll leave you go back and hope you can get money out of doctors and lawyers. The time when your rents went down the lowest, regardless of how much money you had invested, was when there was a flood of suites on the market and you had to give the television set and two months free rent etc., that was what reduced your rents by the greatest amount than you would have to reduce them under any other circumstances. When the vacancy rent went the highest, that's when your rent was the lowest. Wasn't it?

MR. BERGEN: Naturally.

MR. GREEN: No other questions.

MR. BERGEN: The only things you can do. Flood the market and you have the lowest rentals . . .

MR. GREEN: Thank you very much, that's a good idea.

MR. CHAIRMAN: Mr. Barrow.

MR. BARROW: Mr. Chairman, Mr. Henderson asked the question I was interested in, thank you.

MR. CHAIRMAN: Mr. Cherniack. Will you come to one of the mikes, please.

MR. CHERNIACK: Mr. Chairman, I'm sorry I was late coming. I had another meeting. If I repeat the question then by all means cut me off and I'll leave it for later. I have only two matters I'd like to have a better understanding of, Mr. Bergen, resulting from your discussion with Mr. Green.

(MR. CHERNIACK cont'd)

Mr. Bergen, as I understand it, you seem to say that there might be a differential in rent based on what is the interest rate payable on the property, so I want to make sure that I understand you. Let's assume that we have three apartment blocks side by side, identical, and let's say they're eight years old, and one has no mortgage and one has a mortgage at seven percent interest and one has a mortgage at 11 percent interest. Are you suggesting that the identical suites would be different in rental after eight years, of the two?

MR. BERGEN: In my case, yes.

MR. CHERNIACK: They would be the same?

MR. BERGEN: I have buildings side by side, one is seven years old and one is five years old and the rents are different, between $15.

MR. CHERNIACK: You mean after five years, you have identical suites and the tenant is lucky or unlucky depending on whether or not you have a high interest rate on that mortgage?

MR. BERGEN: The building where I have seven percent mortgage interest rate, the suites are bigger, the appliances are bigger, everything is more and the rent is $15 lower than the new buildings at 11 percent interest.

MR. CHERNIACK: Mr. Bergen, is that because you're a poor businessman?

MR. BERGEN: I don't think so. I just don't want to take advantage of anybody.

MR. CHERNIACK: Well how is it taking advantage if people coming to you wanting an apartment and you know what the value of an apartment is, you know what comparable rents are, you say to that person, well you can have this suite in this block or this identical suite next door and the difference in rent is $15, and you wouldn't adjust between the two, it wouldn't be harder for you to rent . . . ?

MR. BERGEN: With $15 less the building is filled, and people live there between five and six years, it's quiet in there, they don't do any damage in there and they stay there because it's lower, then I save that way some money, but if they . . .

MR. CHERNIACK: I'm talking about new tenants.

MR. BERGEN: New tenants, we have a base rent, we stay to the base rent, we don't charge one tenant more than the other.

MR. CHERNIACK: I thought you said you had different suites with different rentals. I thought you just said that to Mr. Green.

MR. BERGEN: Only if you give them special deals as shown in my letter.

MR. CHERNIACK: You mean in different buildings though? In one building you establish a rent and you don't change it?

MR. BERGEN: Only on senior citizens and on people who are unable to pay the rent. We give them special rates.

MR. CHERNIACK: All right. Now the other question . . .

MR. BERGEN: No friends.

MR. CHERNIACK: No friends? You don't put friends into your apartments.

The other question I had, Mr. Bergen, was in relation to your 10 percent that you expect as a return. Of course, that's after all payments, all expense payments?

MR. BERGEN: Naturally, yes.

MR. CHERNIACK: After interest payments?

MR. BERGEN: Yes.

MR. CHERNIACK: After principal payments?

MR. BERGEN: No principal.

MR. CHERNIACK: Well now let me understand that, too. You invest $100,000 in a million dollar apartment block. How much do you expect to take home?

MR. BERGEN: $10,000.

MR. CHERNIACK: $10,000, that's 10 percent on the $100,000?

MR. BERGEN: Yes.

MR. CHERNIACK: And you're not expecting to make any profit on the $900,000 of borrowed money?

MR. BERGEN: If you have a 7 percent mortgage you probably can take one percent out of it or so, but now it's all 11, so you don't make anything on it, no.

MR. CHERNIACK: You actually lose one percent.

MR. BERGEN: No, like if it's an 11 percent morggage, we add the full 11 percent to it.

MR. CHERNIACK: Now, Mr. Bergen, are you saying that you, in that calculation, do not consider the principal payments as an expenditure?

MR. BERGEN: Not the equity, no.

MR. CHERNIACK: So you are saying that . . .

MR. BERGEN: The interest only.

MR. CHERNIACK: . . . therefore the moneys - I said the money you take home, but you don't take home the principal payments, so when you make 10 percent you include in that 10 percent the moneys which you have paid on principal, and if your principal payments are, let's say, amortized over 10 years then you may not take home money at all?

MR. BERGEN: After the 10 years, you're in trouble; up to 10 years, you're all right.

MR. CHERNIACK: No, up to 10 years you have no money?

MR. BERGEN: Up to 10 years you do have a little bit left because your principal is very low; after 10 years the principal is higher than that 10 percent would be and then, of course, you have to adjust the rent without, you know . . .

MR. CHERNIACK: But your interest has gone down?

MR. BERGEN: Not that much.

MR. CHERNIACK: Mr. Bergen, if you have an amortized mortgage then your payments of principal and interest are identical right through the term of the mortgage, aren't they?

MR. BERGEN: That's right, the interest payments stay the same; that's why I say after 10 years you have to adjust or you have to bring money along. The first 10 years you're all right.

MR. CHERNIACK: But surely for the first day since your interest and principal are identical right through the whole term of the amortization, then that kind of money you are earning it but you don't see it. You are earning the principal part but you don't see it because you're paying it.

MR. BERGEN: For the first 10 years you do see some of it, half of it maybe, but after the 10 years then you have to adjust here because then the principal is higher than the 10 percent.

MR. CHERNIACK: Mr. Bergen, you're really saying that, that you see a difference in the money you get into your pocket? I'm saying that the payments are identical whether they are interest and principal, whether it's 10 percent interest, 90 percent principal or the other way around. Are you saying that that payment money is different in your pocket in the first 10 years?

MR. BERGEN: Well naturally. The first year my principal would be $3,000 roughly and the tenth year it would be maybe $13,000.

MR. CHERNIACK: But you don't get it in your pocket. You're paying it out, aren't you?

MR. BERGEN: The first year I make $10,000, 3,000 is principal and I don't get, but I still can keep the $7,000. Whereas the tenth year . . .

MR. CHERNIACK: And that principal is part of your $10,000?

MR. BERGEN: Yes, that's what I'm saying.

MR. CHERNIACK: You only take home what?

MR. BERGEN: Seven.

MR. CHERNIACK: You're only taking home seven?

MR. BERGEN: Right.

MR. CHERNIACK: In 10 years time your amortization is still identical, your payments are identical. How much do you take home?

MR. BERGEN: The tenth year nothing; that's why I say at that time you have to adjust your rent higher up that you do take something home.

MR. CHERNIACK: Well, Mr. Bergen, if you really think those are your figures I'll leave them with you with only one other thought.

MR. BERGEN: Can I invite Your Honour to my office and go over my books?

MR. GREEN: If you do you'll take his money.

MR. BERGEN: That's all right . . .

MR. CHERNIACK: Mr. Bergen, if you do I'll take your money because I understand your figures better than you do.

MR. BERGEN: He told me he's retired, he wouldn't charge so much now.

MR. CHAIRMAN: I wouldn't take that for granted.

MR. CHERNIACK: Mr. Bergen, now you're saying you're expecting a 10 percent return on your equity investment only?

MR. BERGEN: I'd be satisfied with it, yes.

MR. CHERNIACK: And not on principal?

MR. BERGEN: I'm satisfied with 10 percent on my investment only.

MR. CHERNIACK: What about depreciation?

MR. BERGEN: Depreciation has nothing to do with it, but the principal - taking off the principal, yes.

MR. CHERNIACK: But taking off the principal?

MR. BERGEN: Yes. Like the 10 percent and the profit could be part of the principal, that doesn't matter, yes. I'm only speaking for myself, not for the rental industry.

MR. CHERNIACK: Oh, I know that. But, Mr. Bergen, you and I know that you could lend your money out at 11 percent?

MR. BERGEN: Yes.

MR. CHERNIACK: You'd rather make 10 percent on the investment in the apartment block with management problems, vacancy problems and all that, rather than 11 percent from a trust company?

MR. BERGEN: I think I have proven in the past that I am ready for that, yes, and that I have done it.

MR. CHERNIACK: Why is that, Mr. Bergen?

MR. BERGEN: I like that.

MR. CHERNIACK: You like that?

MR. BERGEN: I have to do what I like in life. This is what I like.

MR. CHERNIACK: Do you agree that according to the way I understand you, you could make more money by just putting the money into a trust company than managing the blocks?

MR. BERGEN: If the government would buy my suites today, what I own personally, for even below market value, and I would take the money to the trust company, I would live definitely better than now.

MR. CHERNIACK: So you would rather do that?

MR. BERGEN: Yes.

MR. CHERNIACK: But you can't sell your apartment block, is that it, for what you paid for it? Is that what you're saying?

MR. BERGEN: I wouldn't say what I paid seven years ago; I said not the market value today, I would say below the market value today I would sell probably.

MR. CHERNIACK: Mr. Bergen, you say that when you built the block, when you bought the block, when you set up the block, you were satisfied to earn 10 percent on your investment?

MR. BERGEN: Yes.

MR. CHERNIACK: Now, are you saying that if somebody comes to you and replaces your investment in cash . . .

MR. BERGEN: Plus 10 percent interest from Day One on my money.

MR. CHERNIACK: Didn't you make ten percent up to now.

MR. BERGEN: No. I said before I only made 2 percent.

MR. CHERNIACK: I missed that one. Thank you, Sir.

MR. CHAIRMAN: Order please. There will be no applause, please. Mr. Craik.

MR. CRAIK: Mr. Chairman, on that last point. I think before the inquisition started at the far end of the table here that Mr. Bergen was asked what his objective was and he said his objective was 10, and I think that it was translated into a fact of life as the inquisition proceeded.

MR. GREEN: Mr. Chairman, I am going to, on a point of privilege, tell the honourable member that I resent the word "inquisition". I'm entitled to ask questions of these people, if the Tories don't want to ask questions and want to say that they can have

(MR. GREEN cont'd) . . . . . whatever they want, that's up to them, but I am entitled to ask questions and I am entitled to have answers, and I don't want it characterized as an inquisition.

MR. CHAIRMAN: The point is well taken.

MR. GREEN: --(Interjection)--Well you don't have to put up with it.

MR. CHAIRMAN: Order please.

MR. CRAIK: Mr. Chairman, on the same point of privilege. I think that if other people are going to be subjected to this type of, what I call inquisition, they ought to be warned that they should bring their lawyers with them. These people stand here as individuals and don't come down here to be subjected to those kind of questions.

MR. CHAIRMAN: Order please.

MR. GREEN: I think that if people are going to come to the committee and try to sell fantastic information, they had better be prepared to back it up.

MR. CRAIK: Mr. Chairman, I would like to ask some questions now, Tory's questions if you like, and if the Minister had come on time he'd have heard the other questions I asked as well.

MR. GREEN: I was here.

MR. CRAIK: So, Mr. Chairman, I'd like to ask Mr. Bergen if he can advise, was there a significant impact on the apartment construction in the . . . well in the Winnipeg area, what you're familiar with, in 1972 when the federal law was changed regarding depreciation against normal income?

MR. BERGEN: As soon as that law came into effect, of course, we couldn't get any more investors. I think the past showed us that . . . we prepared, we bought a site, the land, we prepared the drawings, we prepared the plans and everything, then we went to go and look for investors, and it wasn't so hard to find ten investors with each $20,000 to $30,000. But in 1972 when you had everything ready to go, mortgage arranged and everything, then you went to the investors and you found out you were stuck, nobody would invest anything any more. So that didn't mean that you could stop right there too. If you have $200,000, $300,000 invested on a piece of land, you have the plans ready and the mortgage arranged and all the stuff, you are a little bit far already, and I think everybody at that time took the spillover and tried to make as good as he could on it. But I think definitely in '74 then it slowed down dramatically. And I think in '75, I don't recall even government subsidized Central Mortgage and Housing was building. I don't think anybody in '75 built an apartment block without any kind of subsidization, from the Provincial or the Federal Government.

MR. CRAIK: I'm just trying to get some idea, we're heading more towards a tight market for rental accommodation. What are the basic reasons? You've indicated taxes have gone up, Hydro's gone up and so on. Has this also been a real impact of removing this ability from an investment point of view to bring in the so-called doctors and lawyers that you refer to or other people who are trying to shelter their normal income. What's the basic problem in the last few years that it's slowed down so much?

MR. BERGEN: I think the main one was taking the depreciation on your investment that was valued in '73 and '74. In 1975 the construction costs and everything else was that high and that the government came up with subsidizing on rent, subsidizing on mortgage costs and the private thing went completely out of it, whenever they built they could only build under government - we cannot compete with an apartment block which the government subsidized.

And if you take today, I finished the last building in '75, where my rents are $190 for a one-bedroom suite; later in '75 somebody else built under the Federal CMHC subsidized grant; their rents are for the same suite $130, on top of that the Provincial Government guarantees them 25 percent of the suites, the rent for it, so we can't compete with those kind of things any more, and that's why we just quit.

MR. CRAIK: Mr. Bergen, the Federal Government has brought back in this write-off, depreciation against normal income in the last year, they have it in now for a trial period of a couple of years, I believe. Are people starting to get back in because of that incentive or . . . ?

MR. BERGEN: I think there were two buildings in Winnipeg under that system but I think the main thing they are looking for, smaller places with wood construction that

(MR. BERGEN cont'd) . . . . . gives them more depreciation, this kind of thing, not on big apartment buildings and so. I think it's more the townhouse type, an investor wants it strictly for investment now, he looks for townhouse sites, this kind of thing where the depreciation is 10 percent.

MR. CRAIK: Thank you.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I just wanted to see if we can get back to the point of how this bill might affect people and away from the theory of the rental market. Could you estimate over the 3, 000 units that you manage and that you consider that you have a certain equity in, what assessment could you give at this time as to what kind of rate of return on equity investment would other investors or yourself be expecting to make if the 10 percent stabilization comes in over the 15-month period?

MR. BERGEN: If the bill comes in the way it is right now we would all lose money.

MR. AXWORTHY: You can say that with the same sort of accuracy that you've answered Mr. Green's questions. In fact, you don't think you're going to make any money at all if the bill is the way it is now?

MR. BERGEN: We wouldn't make any money, we would lose money, no doubt.

MR. AXWORTHY: And that is balanced over all the individual units, even those that, either a lower mortgage rate where you've already amortized out and you've got a lot of principal into it?

MR. BERGEN: In the lower rates, since we were lower with the rent there we're not quite that badly affected, the buildings which are ten years old. But any one younger than ten years would affect it.

MR. AXWORTHY: You are going to lose money on your current account but what happens, at the same time are your buildings appreciating in market value, are you developing some gains that way and . . . ?

MR. BERGEN: The building itself probably depreciates but then you talk in value of money, it goes up. I mean inflation goes up, as long as inflation goes up your suite goes up. I think depreciation has very little to do with this. You only use the depreciation when you make profit and if you don't make any profit you don't need any depreciation.

MR. AXWORTHY: Okay, well let's go back to the bill then. You're stating that from your perspective you are going to lose money and you expect most other people will under the present bill. Now there's been a proposal for an amendment to allow an appeal procedure that would allow you to include certain costs, we don't know what that amendment is yet but there's some vague outline of it. If that appeal procedure is implemented and amended, would that change your financial position, your fiscal position?

MR. BERGEN: Oh, definitely. We believe that the government would be fairer with us, that we could come and present the books and if they see we lose money that we'd be able to keep the raise we made or we can increase it higher . . .

MR. AXWORTHY: Well do you think that under the appeal procedure . . . what sort of rate of return are you going to be, let's say in some of these apartments that you've been requesting, what are you going up to on the equity? What legitimate rate of return would you present to the Review Board to say, this is to justify my increase in cost. What would you ask for?

MR. BERGEN: I have mentioned that to the Minister before, I'd be satisfied - I'm only speaking for myself, not for the rental industry . . .

MR. AXWORTHY: That's right, okay.

MR. BERGEN: I'd be satisfied with 8 percent.

MR. AXWORTHY: With eight percent. So if you could show that when you made an appeal for an increase above the 10 percent, all you wanted back was 8 percent on your money, that would be satisfactory to you?

MR. BERGEN: Yes.

MR. AXWORTHY: Okay. Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Minaker.

MR. MINAKER: Mr. Chairman, through you to Mr. Bergen. You indicated that it was difficult to compete with government subsidized facilities and you cited, I think, an example where a one bedroom suite was $190 per month and the CMHC backed similar

(MR. MINAKER cont'd) . . . . . type of suite was advertised at $130. Is that correct?

MR. BERGEN: Yes.

MR. MINAKER: Can you advise me, Mr. Bergen, that's a recent construction, the $190 suite, what kind of return would you be getting on that particular apartment block this year?

MR. BERGEN: If I can keep the $190, that I have no rollback on it, I still will make about 6 percent.

MR. MINAKER: Six percent, eh? Also then that block would be pretty well filled, would it, the vacancy rate fairly low?

MR. BERGEN: Right now I have 8 percent vacancy still.

MR. MINAKER: Eight percent. The other thing is would you consider that with the legislation before us being proposed that would the market value of that particular block have gone up or down?

MR. BERGEN: Oh, with the inflation rate it definitely goes up.

MR. MINAKER: But you think right now if you were to try to sell the block, do you think with the legislation before us now, whether it had any effect on what you might have been able to sell it for without the rent control versus with the rental control in?

MR. BERGEN: I don't know. You never can tell if there is an . . . excuse me for the expression . . . we always say if there's an Arab comes in to Vancouver, every salesman is on the door and says I have money, from Arabs bringing in the money, and you can sell your block; and you ask them, give me an offer and give me some down payment, they never show up with it, and the same thing applies . . . The fact is, I think on Grant Avenue there was an apartment block for sale for five months and they were asking $14,000 a suite and they couldn't sell it, so that proves the selling is not so hot in Winnipeg, never been.

MR. MINAKER: The other thing, I wonder, you had indicated in your presentation that the mortgage money per suite on one of the blocks was somewhere in the order of $10,000 per suite.

MR. BERGEN: Yes.

MR. MINAKER: Has the cost of construction in higher trade wages affected this, what would be the average mortgage money required to build say, a similar suite today, have you any idea, Mr. Bergen?

MR. BERGEN: What I hear now, they give up to $18,000. I haven't applied anything in the last year.

MR. MINAKER: How would that affect the rent comparison between the two?

MR. BERGEN: That explains why the government subsidize, is now charging $235 for a one bedroom suite and they only have an eight percent mortgage.

MR. MINAKER: What would you feel you would probably have to charge without the subsidy, and went on your own with private money, what do you think the comparable rent would be for the private suite?

MR. BERGEN: $300.

MR. MINAKER: $300 for one bedroom?

MR. BERGEN: Yes.

MR. CHAIRMAN: Any further questions? Hearing none, thank you, Mr. Bergen.

MR. BLAIR: Mr. Chairman, I can't stay very long. My name is on the list. Harry Blair. Should I be called up?

MR. CHAIRMAN: I think so. Your name is . . .

MR. BLAIR: Harry Blair. We have been here an hour and fifteen minutes with one speaker, and due to health reasons - I have lived in Winnipeg for 70 years, so you can understand that I can't stay too long, so it may take too long. If my name is on the list . . .

MR. CHAIRMAN: What is your name, Sir?

MR. BLAIR: Harry Blair.

MR. CHAIRMAN: Well I don't know, I don't determine who the committee hears, I mean it's entirely up to . . . we had agreed to hear Mr. Ben Mandell if he is here and if the other members of the people here don't mind, I have no objection I'm sure.

MR. MINAKER: . . . an urgency, and if Mr. Blair was here first . . .

MR. CHAIRMAN: I don't know if Mr. Mandell is here today or not. He may be

(MR. CHAIRMAN cont'd) . . . . . here tomorrow or the next day, whenever we hold the next meeting. Well, if he's not here . . . is Mr. Mandell here? Then Mr. Blair.

MR. BLAIR: It won't take long because it's only the case of a tenant and I have a photostat copy with the rental's board, and if whether I should tell it to you or you have the records . . . The building was built about a year and a half ago. The rent started at the first lease year for $141 for a one-bedroom apartment. For the second lease year, it was increased to $166 plus an escalation clause that would include extra taxes, utilities, etc. Now people had difficulty in the block where I live renewing their leases and what happened, if they were late, the one next to us is now paying $199 because they weren't able to renew their lease. Other people in the block have received notices because the lease was expiring, that it will rise to $220 or around $222 for a one-bedroom apartment.

If you are willing to let the Act 19 stand as it is, and there are many tenants, they're afraid to come up for fear that the landlords will not renew their leases. You have a large representation here from landlords I can see, because I'm not prepared with a brief, and the only reason I came forward was that I've lived so long in Winnipeg and during my years, I spent my earlier years teaching school at rates as low as $90 a month and I withdrew my pension money twice during the period from 1920 until I retired in 1969. During the years I used to teach senior high school, substitute for quite a number of years in the Winnipeg School Division, I was appointed at one time, but in between, during the bad years in the thirties, I had to drop out and I turned to something else. I worked at the Federal Government for five years, so that my income and that of my wife is low and it does not exceed $7,000 for both of us at any time. Now if this bill were to go through, it affects many tenants whose income range, because they're old, they're retired, and it is no more than $8,000 or $7,000 a year, for a couple, that is, which includes their old age security or their CCP, depending when they retired.

You've given the landlords quite a lot in the bill, because I haven't a brief, I wasn't able to go through your Act, but I heard the Honourable Mr. Turnbull speak on TV and I was quite impressed, although I don't belong to any party, but I was impressed because for the first time, here was a government that was trying to do something for the majority of the people. There are many tenants, very few landlords, and you can see very few tenants are here and I personally, although I was involved with high rent, I went to the rentalsmen, gave him a photostat, yet fearing that the landlord might do to me what he would do later, but luckily, I received the renewal of the lease a week before they refused to give it to others. This bill as it stands - although I didn't go into detail reading it, I glanced at it briefly, someone showed it to me - it protects the landlord and even the small landlord. I have no property during the 70 years I've lived in Winnipeg. My income is low, and there are many tenants, and luckily I would ask that this government that is in power now be helped by both the Conservatives and the Liberals, because we're facing a terrible crisis now and we're trying to do the best we can, and for the first time, everyone should unite and see if you can help, and rather not listen where the person is making two percent or ten percent, but listen to the majority of the people whose income is low who will be hard-pressed if you change the bill. If you base it later they'll start telling you about old blocks or new blocks. Let the bill stand as it is and this will protect the majority of the people. And the tenants are few here, the majority are landlords. Here, they're putting pressure on you. I would ask the Liberals and the Conservatives to help the government in power now on this bill, whatever your policies or whatever your politics are, this is a bill for the sake of the majority of the people of Winnipeg especially, where I've lived for 70 years. This is all, thank you.

MR. CHAIRMAN: Just a moment, Mr. Blair, there may be some questions some members may wish to ask you on your brief.

MR. BLAIR: Well you have a photostat copy with the rentalsman of the apartment, the suite, and there are other details in the advertisement in the paper, you have income qualifications, etc. This really doesn't make sense - income qualifications. What about a person that has an income of $9,000. It's limited. What advantage has a person of an income of $5,000. Both are living there. What is the sense if income qualifications come in in the advertising of the different landlords. So don't change, leave it as is, the government has made provisions for these landlords, they're putting pressure on you, but the tenants are many, the landlords are few.

MR. CHAIRMAN: Just a moment, Mr. Blair, Mr. Axworthy has a question, I think the Minister has a question.

MR. BLAIR: I don't know who Mr. Axworthy is, I don't know what politics he belongs, and I've expressed . . .

MR. AXWORTHY: I take it from your description that you're living on a pension now?

MR. BLAIR: Right, correct.

MR. AXWORTHY: What percentage of your income would you be paying for your housing right now.

MR. BLAIR: I figured it out, with a new increase for the new lease, it was $141, I'm paying $166 for the last five months, this works out to 17 plus percent on the $141 if you figure it. Now this doesn't include the escalation. If I would have been unfortunate not to get lease renewed, I would have been paying $199, that means another $33.00 as of January 1st, because my next suite number is paying $199 because she wasn't fortunate enough to get the lease, she asked for it, they wouldn't give it to her. Now all the other two parties, remember that there are many tenants, help out this government in a bill which I believe is fair and if a landlord who has made much during the years when property went up, if he is taking a little loss now, there will be very few of them. The rest know that the inflation in the last two years has given them a warning and when they began renewing the leases, they knew what they were doing.

MR. AXWORTHY: Mr. Blair, the question I had was not the increase, but without talking in specific dollar terms how much of your own income that you get would you be paying out for rent - 20 percent, 30, 50, what percentage of your income?

MR. BLAIR: It would be, if I were to pay, let's say if I didn't have the lease, $166 over $6,000, what percentage would it be? Together with the wife.--(Interjection)-- Right. Of course, I'm not trying to press it because the government has been kind enough, you can see from the income tax purposes there will be forthcoming about $460 which will reduce the rent. But the danger is what will they do if they're allowed to roll it up and let the leases start three months later, this means that our $166, they'll add all the percentages to it, they knew what was coming, they knew what inflation is, they were protected because they had invested in property. What protection have the majority of the people, that have no money.

MR. AXWORTHY: Thank you, Mr. Blair.

MR. CHAIRMAN: Mr. Turnbull.

MR. BLAIR: Is that all?

MR. TURNBULL: Yes it is, Mr. Blair, I would just like to thank you.

MR. BLAIR: Thank you and I'll leave you. Thank you Mr. Turnbull. I enjoyed your TV appearance.

MR. TURNBULL: Mr. Blair, Mr. Craik wants to ask you a question.

MR. CRAIK: Mr. Blair, how long have you lived in the apartment building that you're in?

MR. BLAIR: A year and a half, they built it a year and a half ago, they finished building it.

MR. CRAIK: Were you in one spot prior to that for a long time?

MR. BLAIR: Prior to that, I lived without a lease and I was paying $110 plus electric light, meant $115 a month. Prior to this, we were living in property which actually belonged to relatives and this reduced our income.

MR. CRAIK: Your rent didn't go up in your previous location, your rent was fairly stable then.

MR. BLAIR: The rent a year and a half ago, it was $110 and it was near a gas station and I have emphysema and I couldn't take the gas and I moved there because I wasn't on a lease. They had also raised the rent there. So the difference between $141 and $125 which I would have been paying had I lived there was only $16 and the change was important.

MR. CRAIK: In the one you're in now, is it owned by an individual or is it. . .

MR. BLAIR: It's owned by a group, I believe, I don't know who are the owners, but they have quite a number of buildings. There is only I believe one that will be a new one that will not be affected by your regulations. All the others will be prior and they won't be able to increase the rent. They only have one in which there will be no controls over them.

MR. CRAIK: Well did you talk to them about . . .

MR. BLAIR: I wouldn't talk to them, because the way they are acting, if I didn't have this lease today, I would be paying $199, $141 plus $58 more. I was only fortunate enough they brought it over a few days before, because the others that were away or didn't get it, they wouldn't give them a lease.

MR. CRAIK: Do the other people know who to talk to if they have to?

MR. BLAIR: There's a photostat copy with the rentalsman, I took a chance because I'll be kicked out, they'll find out now knowing my name, who I am, although they promised me they can't do anything as long as I pay my rent.--(Interjection)--Well you have a photostat copy and you have all the details with the rentalsman - Harry Blair.

MR. CHAIRMAN: Mr. Minaker has a question.

MR. BLAIR: Some more?

MR. MINAKER: Mr. Blair, I wonder if I could ask you, do you have any objections to say the landlord passing on any increase in taxes for say schools, and municipality tax that maybe they're taxed for their apartment block, have you any objections to them passing on those costs to you, as long . . .

MR. BLAIR: I would object strongly because provision in the Act, you will hear out the landlord and he will tell you he deserves an increase. He will have to show you your cost. I see from your questioning of the previous one that was on that you know, how to checkmate them. So I have no fear that anyone that will come up here, and there will be plenty coming up here with sob stories who have quite a lot of money which I haven't got, and you will be able to check them.

MR. MINAKER: Mr. Blair, the reason I asked the question is, I represent an area that has quite a few senior citizens not only as apartment dwellers but also homeowners, and why I asked the question in sincerity was that, then if you don't believe in transferring on the land or transferring on the costs of increased taxes in say a school and municipality, then what would the person similar to yourself that owns a little house in my constituency, should they have to pay the increased taxes, because they are stuck with them.

MR. BLAIR: There is provision made where they receive, there is an allowance made, there is an extra tax, education tax, there is a provision for that, you don't know when they bought the property, what they paid for it, how much it's worth now. If it doesn't pay him to live there, sell it.

MR. MINAKER: Mr. Blair, maybe you misunderstood my question. The question was . . .

MR. BLAIR: I can't answer that. I can't answer your question. You have provision in the Act to protect anyone who will come up with a complaint that his cost has increased.

MR. MINAKER: Mr. Blair, what we were talking about was say, an example, my mother and father live in a home they own and they are 70 and 75, and they are faced with increased municipal tax and school taxes that they have to pay. Now if I understand what you . . .

MR. BLAIR: Do they live alone?

MR. MINAKER: Yes, they do.

MR. BLAIR: And their income doesn't allow them to meet the cost?

MR. MINAKER: Well what we're talking about is, if I understood you correctly, Sir, was that if you don't allow a transfer of taxes across to the tenants, then really, if I understand then, you're suggesting that the landlord should pay for this. So you have two cases where you have senior citizens living in accommodations where one pays the tax increase but the other one wouldn't so, you know . . .

MR. BLAIR: A person is helped out because in the first place it depends on their income, it depends on the income of your parents. If their income is low, they receive $300, plus $182 for cost of living.

MR. MINAKER: But they don't get any increase in tax recoveries . . .

MR. BLAIR: If their income is high they won't benefit very much out of the $40 a month that the government has given them.

MR. MINAKER: Thank you very much, Mr. Blair.

MR. BLAIR: Anyone else? Thank you very much. I used to meet you at Sisler, if you will recall, when I used to substitute.

MR. CHAIRMAN: Mr. C. N. Kushner.

MR. KUSHNER: Mr. Chairman, I don't know what time this committee is going to adjourn because I may be a little while.

MR. CHAIRMAN: 12:30.

MR. KUSHNER: 12:30.

MR. CHERNIACK: Don't worry, if we adjourn, you keep on.

MR. KUSHNER: Thataboy.

Mr. Chairman, the last speaker, Mr. Blair, did more than anybody else can do to point up the problem that's facing the committee. I think Mr. Blair's quite sincere, I think we all recognize he's got a problem. But the problem unfortunately in the case of Mr. Blair and others in the same position is being directed by the tenant towards the landlord. That's where the problem arises and I'm hoping that the Minister of the Committee here will go along with some of our suggestions to see that this problem is dealt with where it should be. Because remember if you build a government-subsidized facility you are building it in the interests of the tenant who cannot afford to pay more, but the landlord is not doing that. He is building a facility with the idea of getting a return on his investment. Then the problem arises, are you going to ask the landlord to subsidize the tenant or are you going to find another way of subsidizing the tenant and leave the landlord alone. Now that's the problem, so I suggest, Mr. Chairman, as we go through the brief that we keep that in mind.

Now, I am here, Mr. Chairman, to speak to Bill 19 on behalf of the owners or building managers of approximately 80 percent of the rental units in Greater Winnipeg.

At the outset I may tell you that my clients and I - Ian I think you would be interested in this statement because it's directed to you - that my clients and I want to commend the Minister for bringing in the bill when he did - after Manitoba had signed an agreement with Ottawa in their joint effort to control inflation.

On an open line radio program the other day the Honourable Ian Turnbull, the Minister stated that "the Rent Control Bill is one small piece of a total nation-wide attack on inflation, it is not designed to put landlords out of business".

We accept that statement by the Minister and assume that it represents government policy, and we offer our complete co-operation in the national fight to get inflation under control.

My clients have been concerned for some time about the increases which they were being compelled to pass on to their tenants, and hope that with a joint effort on the part of the government and those engaged in operating rental units in Manitoba that some control over the continuing increase in rents may result to the benefit of all.

To begin with - let us clear the air. Let us not approach this subject from an emotional point of view. Let us look at Bill 19 and try to rationalize what the Bill is trying to achieve. There are undoubtedly many tenants who are having difficulty in meeting the ever-increasing cost of their accomodation, and there are undoubtedly many landlords who are having difficulty maintaining that accomodation at an acceptable level, and still make a nominal return on their investment.

I will not attempt to deny that there may be landlords who have raised their rent unduly, or who provide substandard rental accomodation for which any level of rent may be too high. These landlords are probably the ones that the Minister had in mind when he stated that a rent review process strong enough to "zero in on gougers" is being considered for Manitoba.

However, let us make certain that while we are attempting to weed out the "gouger" that we do not do an injustice to the vast majority of landlords who simply seek a reasonable return on their investment.

Although my clients would prefer the law of supply and demand be allowed to operate they are nevertheless realists and accept the fact that from British Columbia to Ontario and Quebec each province has passed a statute of rent review, Manitoba could not avoid doing the same. So we accept Bill 19 as a piece of legislation, as part of a nation-wide attack on inflation but we do not accept the concept that rents have been too high in relation to the cost of operations and a nominal rate of return. This does not deny the fact, that some tenants may have had, and still may have, great difficulty

(MR. KUSHNER cont'd) . . . . .meeting the rent that the landlord is compelled to levy.

There is a fundamental difference between housing built by government and housing built by the private industry. In the case of Government housing, the rent is related to the income of the tenant, and in most cases the government - whether Provincial or Federal - subsidizes the occupant.

Private industry, however, invests in rental units with the hope that the occupancy rate of the accommodation provided will be high enough so that the total income will be sufficient to enable the owner to provide both service and accommodation to the tenants' satisfaction, as well as a fair return to the owner on his investment.

My clients have been concerned for some time with the ever rising cost of rental accommodation, and I am informed that the vast majority have simply been increasing their rent by the increase in costs, and that the rate of return on their investment has not only not been increased but has actually dropped in many instances. In effect, the investor builds the rental accommodation, establishes a level of rent for each unit based on the actual cost of maintaining that unit, and adds on a nominal rate of return. Where the costs are increased the owner then adds the increase on to the rental unit and uses the increase to pay his own increased costs of operation.

The total income from a multi-family unit, however, varies with the rate of occupancy, and furthermore, leases do not start and finish all at the same time. The result is that each owner of an apartment building or a multiple family unit can only guess at what his net income position will be at the end of each year, and if he finds at the end of the year that he has lost money then he is compelled to increase the rent for the following year in order to recover his loss and still maintain his position of a nominal return on the investment.

A further complicating factor is that mortgages have to be renewed every five years, and if the rate changes at the end of the five year period the owner is compelled to pass on this added cost to the tenant.

All the owner seeks is a fair return on his investment, but my clients have been criticized each time they were compelled to raise the rent, when in reality they were simply passing on the added cost of operation.

Now you have in front of you a book that I prepared and in that book there's an item called "HUDAM Review" where you'll find a table. Now this table incidentally is now attached to the brief in front of you as the last page. If you look at the very last page, Mr. Chairman, of this brief, you will notice a schedule of figures, and this is an analysis prepared at the national level, and I understand it applies to Manitoba as well, showing what the individual items are that make up the total rent for an apartment dwelling, and you will note that more than 80 percent of it is totally beyond the control of the landlord; actually I'm told it's closer to 83 percent.

Now if we really want to control the rent that a tenant has to pay, then we should be directing our mind to the ingredients that make up that 80 percent of the uncontrollable cost; if we find a way of doing that then we will be in a position to control rent.

It is because we hope that the agreement with Ottawa and Manitoba will result in some control that we offer you our co-operation now. However, any attempt to set a ceiling on the rent which an owner can charge, without at the same time controlling the 80 percent which he cannot control, will result in putting some landlords out of business - an objective which the Minister stated was not the purpose of the legislation.

Now let us take a look at Bill 19. Under Section 2(2)(b) the Act does not apply to tenancies under the National Housing Act or those tenancies which are provided by CMHC agreements. As you are undoubtedly aware, the agreements with CMHC for the operation of limited dividend residential accommodation allow the owner to apply for an increase in rent when the costs of operation are increased. The rate of return on his investment, however, remains constant, and is not allowed to increase. I suggest to you that the principle that's embodied in the agreements with CMHC to allow increased costs to pass through from the owner to the tenant by way of an increase in rent, should be applied to all accommodation to which Bill 19 applies and not only to those which are subject to CMHC agreements.

We expect the Board to ask any landlord who applies for an increase to prove

(MR. KUSHNER cont'd) . . . . .that there has been an increase in costs, and the landlord who cannot justify an increase shouldn't get it. But I suggest to you that there should be a provision in the Act that where a landlord has incurred costs over which he has no control, then this added cost, upon satisfactory proof to the Board, should be passed on by way of an increase. In other words, I suggest that it would be easier to administer if the bill clearly stated that any increase in costs should automatically be allowed to be passed on. The onus of course must be on the landlord, but the decision whether to allow the costs to be passed on or not should be contained in the bill and should not be subject to an arbitrary discretion of someone who is going to administer the Act.

Now the same bill under 2(c) which I've not dealt with in the written brief, you allow for a period of five years, that the first five years of a new building should not come under the application of the Bill. Now you heard Mr. Bergen say to you that it takes three years before they can begin to approach anywhere near economic sense for a building, and I suggest to you we support that, that this section 2(2)(c) should be for a period of five years but commencing from January 1, 1973. That will give them a chance to get those buildings up to date and in effect will be the same as you've got only the date has to be changed.

Now under Section 2(2)(h) there is also an exemption for all tenancies where the regulations will exempt them. Now we do not quarrel with such a provision, and firmly believe that the Board should have some flexibility, but we are concerned how this regulation will be interpreted. The Board should bear in mind that we are offering our cooperation, we hope that when the regulations are being considered, and before the Executive Council approves them, my clients will be consulted to make certain that all possible inequities be avoided.

Now Section 12 of the bill establishes the principle that rent payable for residential premises shall not be increased before the expiration of twelve months from the date on which the previous increase was first payable. I think I can understand this provision, Mr. Chairman, but I suggest to you that there may be inequities if this provision becomes a statute and binds the Board in its operations.

There are undoubtedly many tenancies of much shorter duration than twelve months, and it may very well be that due to circumstances beyond the control of the owner certain costs escalated shortly after he signed the lease with the tenant for less than twelve months, and it appears to me that it would only be reasonable to allow him to pass on this extra cost to the next tenant or at the expiration of the short-term lease. If the increase is not allowed when the short-term tenancy expires, then the Board may have to approve a larger increase at a later date, which may be even more difficult for the tenant. I suggest that instead of a fixed period of twelve months that the Bill be changed to read, that if a landlord wishes to increase the rent at the end of a lease, whatever the length it may be, then he must apply to the board for such an increase.

The Minister may say that we are encouraging the creation of a bureaucratic establishment by the various changes we are suggesting on a much larger scale than he anticipated. I fail to see how we can avoid this and at the same time be fair to both landlord and tenant and maybe this is the price we of a community has to pay as part of our attempt to control inflation.

I now come to Section 13 which I think we'll all agree is probably the most important section in the bill. Before dealing with Section 13 however, I want to take this opportunity to comment the Minister who is piloting Bill 19 through the House, and who, when closing debate on second reading stated that he would bring in an amendment which would allow a landlord the right of appeal before being compelled to make a refund.

The automatic rollback or refund which was originally set out in Section 13 was of grave concern to my clients. Without exception, each one of them felt that the section as originally drafted assumed that any increase over 10 percent for the period July 1, 1975 to September 30, 1976 prior to July 1 was unduly excessive, so that in effect all landlords who raised their rent by more than 10 percent would automatically have been considered to be "gougers".

By amending Bill 19 to provide the right of appeal, the Minister relieved the minds of the landlords whom I represent and will now have an opportunity to justify any

(MR. KUSHNER cont'd) . . . . .increase which they felt compelled to pass on. I firmly believe that amendment will establish that co-operation to which I referred earlier.

Now on that point, Mr. Chairman, may I also add this. However, while an appeal is pending the moneys that may or may not have to be refunded, I suggest to you not be ordered to be paid to anybody even in trust. I don't think anybody's suggesting that any landlord is going to run away from Manitoba or leave the jurisdiction of our courts. It will be less of a headache for the landlord, for the board if you like, if you simply leave it alone, give the landlord a chance to appeal and pending that appeal nothing is done. And then of course if a rebate has to be made, then the landlord will simply have to make it in accordance with the order of the Board. I think by doing that you will not disturb the cash flow situation that each landlord has to face every month and I'm sure it will bring the co-operation that I hope will come about as a result of what we're trying to do.

The Minister also stated in the House that he appreciated statements made by the Members of the Opposition throughout the debate; he was particularly pleased that Bill 19 was debated by members on both sides of the House on a non-political basis.

I, too, Mr. Chairman, wish to commend the members of the House who participated in the debate, for their fairness, objectivity and apparent sincerity in trying to advance the bill in a manner which would be fair to both landlords and tenants alike. I hope, Mr. Chairman, this co-operation which was evident in the House will be evident in this committee as well. And I regret, Mr. Chairman, that the Honourable Sid Green this morning felt obliged to say what he did, and I don't blame him. I think he was perfectly justified in asking Mr. Bergen the questions that he did. Mr. Bergen, being a layman, may not have understood them, but I think the spirit of the question was misunderstood and I think that any member of this committee is entitled to ask anyone questions and not be treated that way. --(Interjection)-- Yes, Saul, I'm congratulating him, I think he was right.

The continuing increases have been of grave concern to my clients, and as I mentioned earlier, as 80 percent of their cost is uncontrollable they have no choice but to pass on the increase, and because of their concern they offer you their co-operation.

Now back to Section 13. I have no idea why July 1, 1975 was selected as the effective date and I hope that the members of the committee will accept our recommendation that the effective date should be October 14, 1975, although my clients would have preferred the date to be January 1, 1976. And incidentally, Mr. Chairman, I understand, I'm informed that in Saskatchewan they have changed their date from January 1, 1975 to January 1, 1976. I haven't had a chance to check it but I was told that.

It was decided that in order for us to be consistent we will agree on October 14, 1975 which is the effective date of the guidelines of the Anti-Inflation Program.

Since we accept the Minister's statement that this bill is intended to be a small part of the total Anti-Inflation Program, it seems to me that if the Minister means what he says, then the effective date of the bill should be tied in with the effective dates of the agreement which Manitoba and Ottawa have signed together.

Most leases fall due on October 1st and it would be somewhat easier to administer if October would be used as the effective month, and as I have already stated, October 14th as the effective date. Not only should October 14th be written into the legislation as being the effective commencement date, there should also be written into the legislation the effective date when this piece of legislation will automatically be repealed.

Manitoba is one of the last provinces to bring in a form of rent control. This simply proves that the Provincial Government did not want to deal with rent control in isolation but rather as part of the total effort to control inflation. And the most effective way to do that is to make this part and parcel of that total control program; that is to make certain the legislation provides that it will operate from October 14th to whatever date the agreement between Manitoba and Ottawa extends.

My clients would have preferred that you set a specific time limit when the bill will automatically be repealed, but I think it would be more consistent if you simply linked the effective dates of Bill 19 commencing with October 14, 1975 to the effective

(MR. KUSHNER cont'd) . . . . .dates of the agreement which Manitoba recently signed with Ottawa. Unless we do this, I can assure you, Mr. Chairman, that it is going to be very difficult, if not impossible, to take this legislation out of our statute books at a later date.

I don't have to tell any member of this committee what political pressure means, and I am sure you know that I know something about political pressure myself, and it is for that reason that I urge you that you now put in not only the starting date of October the 14th but also the effective date when this legislation will automatically be repealed.

If this committee cannot agree on a definite date for the automatic repeal then tie in the self-destruct provision to the agreement between Manitoba and Ottawa, so that when that agreement comes to an end this bill will automatically come to an end. However well-intentioned you may be today, believe me when I tell you that unless there is provision in the legislation now as to when the legislation will automatically be repealed, it will be practically impossible, politically, to remove it from the statute books at a later date. Furthermore, if the attack on inflation will be successful then there is no need to worry about rent control, because hopefully the 80 percent that constitutes the major uncontrollable portion should be under control, and the marketplace will look after itself. The last effective date in Ontario is August 1, 1977, and in Alberta the legislation is effective to June 30, 1977.

And incidentally, in looking at legislation for Saskatchewan, I was surprised to find a provision that the board, the equivalent of the Rent Stabilization Board we're talking about here, the Saskatchewan Board passes its own regulations. Now frankly they lost me completely when I saw that because I don't know what it means in effect, I tried to get the effective dates there and I can't follow it.

So that, Mr. Chairman, in line with that we suggest to you that Section 34 of the Bill which gives the Lieutenant-Governor-in-Council the power to suspend the operation of the Act in whole or in part, as he may see fit, we suggest that that power be taken away from the Lieutenant-Governor-in-Council and spell out in the legislation what the effective dates are both at the commencement and the end of this legislation. As I said before, however well-intentioned we all are today, I fail to see how a political body with the numbers that Mr. Blair referred to will be able to take away legislation even though the times may call for it.

I am also informed, Mr. Chairman, that mortgage money from the insurance companies and other institutions for medium income tenants in Ontario has virtually disappeared. Funds are available from private sources, insurance companies and so on, to build condominiums and high rental apartments with rents starting at $1,000 a month, but there is no mortgage money available in Ontario today for middle income and certainly not for low income tenants.

May I also point out, Mr. Chairman, however well-intentioned our own Minister of Housing may be, the Government of Manitoba does not have capital enough to supply all the rental accommodation required in Manitoba and must encourage private investment to assist.

I am informed that neither British Columbia nor Ontario have been able to provide enough capital funds from provincial sources for all the low rental accommodation that they need and they must depend on the private sector for the major part of the investment, and I think it would be foolhardy for Manitoba to think that it could do better in the provision of low-rental housing than either one of those two provinces.

It may very well be that the time has come in Canada where government will have to undertake the provision of low rental accommodation, and private enterprise will have to be left on its own to deal with the middle income group, but in the meantime let us not do anything that will discourage the private investor from entering this field in Manitoba. Please remember that while investment by government is geared to the income of the tenant, investment by the private sector is geared to the rate of return on his investment.

I have not seen anywhere a comment by the Premier of Manitoba or the Minister that it is the intention of the government to compel the landlord to subsidize his tenants, but I suggest to you, Mr. Chairman, that unless you make the changes we are recommending, that you will be forcing many landlords to subsidize their tenants, with the result, (MR. KUSHNER cont'd) . . . . . and this has happened in other jurisdictions, that private investment in rental accommodation will disappear.

I suggest that Section 13(2) which follows the provision of sub (1) should also be changed, so that July 1, 1975 in the various lines should be changed to October 14, 1975. (Applause)

MR. CHAIRMAN: Order please.

MR. KUSHNER: Mr. Chairman, I can assure you that was not rehearsed.

The changes which we are suggesting will make it clear to everyone that Bill 19 is not an attempt to control one segment of investment in Manitoba, but rather a small part of the total national effort to control inflation. I am sure, Mr. Chairman, that this will serve to reassure not only the investment community in Manitoba but also the investors outside of Manitoba. This, of course, will be even more evident if the effective dates of the bill, both as to its beginning and as to its end, will be tied in with the Anti-Inflation Program with the Federal Govermnent.

We hope that the appeal provisions for the initial period which the Minister will insert in Bill 19, will enable the board to allow any increase which was justified, and that the allowable increase of 10 percent will not be applied across the board indiscriminately. Legislation should make the above clear, so that in dealing with initial appeals the board will have a broad guideline to work with.

The 10 percent which is allowed in the bill may satisfy some landlords, but, Mr. Chairman, how about the landlord who does not require 10 percent? He is the one who is probably supplying substandard housing, and I can assure that this 10 percent maximum will in that case become a 10 percent minimum. How about the landlord that the Board may have to deal with who is trying to cover previous losses and where 10 percent may not be enough. I would say that in the initial period the Board should be allowed enough flexibility in order to assess each case on its own merits.

Now this again may lead to a large bureaucracy but maybe again, this is the price we have to pay.

There's one other matter, Mr. Chairman, which I wish to draw to the attention of this committee which somehow has been overlooked by everybody. I refer to the subsidy directly to the tenant to assist him in meeting the ever-increasing cost of rental accommodation. The principle of such a subsidy has already been adopted in Manitoba in the form of a rebate directly from the Provincial Government to the homeowner or tenant. Unfortunately, not enough attention has been paid to the intent behind this subsidy. Whether the rebate is given to the homeowner to assist him in meeting the rising municipal taxes, or to the tenant to assist him in meeting the rising rent for his accommodation, the principle is the same and that is, that the Provincial Government by giving a tax credit to the homeowner or to the tenant, is attempting to meet the rising costs of home ownership or rental accommodation.

At the back of this brief you will find a page showing the effect of this subsidy on a taxpayer with two dependents and a taxpayer with one dependent (presumably the wife may be working) with gross incomes of $10,000, $15,000 and $18,000. You will note in the examples which are set out on this page, that the annual subsidy which Manitoba is giving ranges in those cases from a minimum of $175 to a maximum of $241, and the net result is that the Government of Manitoba is now giving to the tenants in the categories I set out, a monthly rental supplement ranging from $14.58 a month to $20.00 a month. So that, in effect, you are now assisting the tenant but, unfortunately, this subsidy, like most other government subsidies, has apparently been forgotten and is not fully appreciated either by the homeowner or the tenant. However, the committee here must take that into account.

Now it may very well be that there are tenants now living in rental accommodation who should not be there and who cannot afford to be there, and hopefully the programs that the province has now embarked upon in the amount of approximately $70 million will provide accommodation for the tenant who has difficulty.

The Premier assured us that the amounts allowed for rent increases will be sufficient to recover the costs of operations, return on investment and inflation, and the Minister stated that landlords have a right to cover legitimate operating costs and to a

(MR. KUSHNER cont'd) . . . . .return on investment higher than that offered by the bond market.

These statements reflect an understanding of the position of my clients and have served to bring about our offer of co-operation. Now if you accept our recommendations you'll be legislating along the lines expressed by both the Premier and the Minister, and we support what they both said; but if you do not, then you may be compelling a small segment of our community to subsidize another segment of our community, and in the long run all of us, including the tenants will be the losers.

Some of my clients have suggested that a simple way to deal with this whole issue and at the same time hopefully avoid building up a bureaucracy, is simply to set a rate of return on the investment to the landlord, and any amount of profit that he realizes at the end of a year over that amount should be taxed off. Although this was not the unanimous view of all of my clients, it certainly is worthy of consideration if you're anxious to avoid a large bureaucracy.

Others suggested that rent control of any kind should not apply to a tenancy where the monthly rental is $500.00 or more and some suggested $300.00 or more, but if this were to be seriously considered then one would have to consider the provincial program of subsidy to every homeowner with a minimum of $175.00.

I have no opinion one way or the other about using the income tax return as a method of controlling the income of a landlord or applying a means test which is suggested by the $300.00 or $500.00 limitation, I am simply telling you my clients tried to find a way of achieving what the intention of the Bill appears to be, and at the same time avoid building up a large bureaucracy.

We commend the Minister for not bringing in his Bill before he signed the agreement with Ottawa but we urge you, gentlemen, not to report the Bill to the House without making the changes we suggest.

Rent control will undoubtedly discourage investment, but if we co-operate we may succeed in retaining the confidence of the private investor. Rent control, without co-operation, drove private investment out of the rental industry. This has happened in other jurisdictions. In London, England, the experience with rent control has been disastrous. In New York City the same experience has been an equal disaster. And I am informed that the experience in British Columbia might be considered to be a disaster. I am also informed that in Ontario, where the legislation has just been introduced, the mortgage moneys available for rental accommodation have dried up completely.

There is an old saying, Mr. Chairman, that he who fails to read and understand history is bound to repeat the same mistakes.

I have therefore prepared this book, "Bill 19, Rent Control", which you have in front of you, which consists of material gathered from many sources. I hope you gentlement will take the time to study the documents I have put together, so you will have the benefit of the experience in other jurisdictions and hopefully avoid the mistakes which they made.

In the section entitled 'Excerpts from B. C. Study' you will find excerpts from a study headed 'Landlords and Tenants in Danger' which is extremely enlightening. I have read this study and selected those parts which I thought would be helpful.

Premier Schreyer stated he is skeptical about the success of the program which the Federal Government has adopted to fight inflation, but he felt that Manitoba should at least give Ottawa a chance and therefore Manitoba signed the agreement. I am inclined to support the stand taken by Premier Schreyer although I, too, am skeptical about the success of the Federal program especially when no serious attempt has been made to control prices.

However, since we are committed as a Province to help Ottawa in its efforts to control inflation, and since "this bill is part and parcel of that program, I repeat my offer of complete co-operation".

Mr. Chairman, before closing that, I would like to add this, which is not contained in the brief. Last Friday I had my last meeting with my clients to discuss the presentation and in the process it was suggested that I present you with another approach entirely to this whole bill. There is no avoiding a large bureaucracy whether we proceed

(MR. KUSHNER cont'd) . . . . .the way the bill is or whether you accept our recommendation you can't avoid it. The experience in Ontario, frankly, I was there the other day, is absolutely a shambles, where you have landlords and tenants sitting in little rooms with the Review Officer - I don't know how many thousands of these little offices are scattered over Ontario now, and I don't know where they're going to get off it, it's just no good. Frankly, we are concerned about that, because I told you we are going to cooperate. Now this may be a change in direction. I hope the Minister will take it seriously because it was thought out very carefully. We suggest to you (a) instead of what you have done in the bill here, freeze all rent as of October 1st, 1976. Whatever the leases call for, freeze it at that. That any change after October 1st, 1976 --(Interjection)-- I said '76 Saul. Instead of doing what you have done in the bill, freeze all rents as of October 1st, 1976. Whatever the leases call for, freeze it at that. That any change after October 1st, 1976 --(Interjection)-- I said '76 Saul. Freeze it at October 1st, 1976, let all the existing leases carry on the way they are. Just let me finish.

Any landlord who wants to increase the rent after that date will have to go through the process of appealing to the Board and so on, which you have in the bill. Now any tenant whose rent was raised between October 1st, 1975 and October 1st, 1976, by more than 10 percent over the previous 12 months has a right to launch an appeal. And if he does, then of course the board must deal with it.

Now the objections to that, I understand is as Mr. Blair pointed out this morning, that a tenant will be reluctant to come forward for fear of the repercussions. And I suggest this to you. Although it may sound politically, that's not what I had in mind. A simple coupon in the Press that any tenant can fill out, without signing his name, this is the accommodation, my rent has been increased, let it go to the Board and then let the Board call in the landlord, because he has that power now under the act to initiate his own investigation.

You will find first of all that there are many tenants who are not interested in the refund, many tenants who probably work a lot more, and the landlord owns the apartment they live in, and we can name quite a number of them. You will also find that there are many tenants who are satisfied even though they would like to get the money, they think they are getting value for their money. It would at least provide the opportunity for the tenant like Mr. Blair - he appeared this morning, but he wouldn't have had to appear - to send in the coupon, apartment so and so, in this and this building, charged me 50 percent over last year. The rental officer can then proceed to examine what went wrong and the landlord will have to justify it. By doing that you are minimizing the number of bureaucrats you're going to have to build in, and I suggest to you gentlemen that those of you that have been close to the bureaucracy, and I'm sure you all have, know exactly what I mean, that if you have too many bureaucrats, you're going to have a shambles. You're going to have Mr. Blair appearing, who has got a legitimate claim, a legitimate grievance, but he's directing it to the wrong party. Now this is the story. Now I was urged to do that, Mr. Chairman; I urge you to consider seriously the idea of a freeze. No other jurisdiction in Canada has done it and that's why I suggest Manitoba should do it. Let's be the first to do a thing right, and not simply do it because somebody else has done it.

May I close, Mr. Chairman, by simply advising you that although I speak for many landlords and building managers, I have only dealt with Bill 19 in principle, and I advised my clients, and Mr. Bergen was one of them, that I would not be dealing with any individual cases and how Bill 19 may affect any particular landlord. This brief is the result of a consensus at a meeting of a representative group of owners and building managers.

In other words, I chose to deal with Bill 19 in principle and advised my clients that you will allow each one of them to do it in detail. I'm sure, gentlemen, you will give them that opportunity. Thank you very much.

MR. CHAIRMAN: Thank you, Mr. Kushner. Mr. Cherniack has a question, then Mr. Turnbull and Mr. Craik.

MR. CHERNIACK: Mr. Chairman, I would like to congratulate Mr. Kushner for a very positive co-operative attitude and for a number of suggestions he made, (MR. CHERNIACK cont'd) . . . . .which I think certainly are worthy of consideration. I note that he suggests that somewhere in his brief that before regulations are passed, they should be reviewed with his clients. Could he give us a list of who his clients are? - representing 80 percent of the owners.

MR. KUSHNER: Well, Mr. Chairman, it would be very difficult because what I had in mind really was a representative committee of maybe two or three people selected by this group to me, because I don't know how many there are; I haven't met them all, I only met their executives.

MR. CHERNIACK: Well, Mr. Chairman, it seems to me that when a presentation is made, we should know who is making it, not who the council is, and I think in any event it would be well for the record to know who the clients of Mr. Kushner are.

MR. KUSHNER: Well I met with the executives of the Multiple Family Council, they consist of a number of corporations possibly individuals. I met with the executive committee of the building managers, and between the two of them I'm told they represent 80 percent of the accommodation. I only met the executives, as I said Mr. Bergen was one of them. I don't know the individual members that make up the organization. But in any event, if . . .

MR. CHERNIACK: Well I just wondered, Mr. Chairman, Mr. Kushner said he represented 80 percent, so I assumed that he knew who his clients are but . . .

MR. KUSHNER: I don't know them individually, I just know they're executives.

MR. CHERNIACK: I don't want to press it, it just seems to me that the committee should know, who are the people who are here to speak on the brief, not who their counsel is. And maybe Mr. Kushner will want to provide that information.

MR. KUSHNER: I was going to say, Mr. Chairman, I will be happy to provide you with a list of the membership for those two bodies, but I don't have it myself.

MR. CHERNIACK: Mr. Chairman, Mr. Kushner, you've referred to nominal return as being, and I think once you said fair return, but mostly you talked about the investors who are looking for a nominal return. Would you say that at the time they acquired the premises, that their investment then, and the rentals they charged at that time, would have represented what they would have considered a nominal return?

MR. KUSHNER: Well, Mr. Chairman, you're now getting into a field that's ... it's not a black and white area. I am informed, and you heard this morning from one of the owners, that the initial stage of three years is usually a losing period so regardless of what they may want to do when they start off with their construction, they never know until the fourth year where they're going to wind up, there's so many variables, but hopefully, I'm sure that hopefully they will get a return at least as much as they would get in the bond market, the Minister himself said that. They're entitled to more than they would get on a bond market. Government of Manitoba bonds for example, would give them a better return, and quite frankly, Mr. Chairman - I think it was Mr. Cherniack that asked Mr. Bergen this morning, why we went into this instead of buying bonds, and frankly I was surprised he didn't say immediately, "I wish I had" because right now you're not going to get anybody building apartment buildings for this very problem, because they're not sure of their returns.

MR. CHERNIACK: Mr. Chairman, therefore, understanding as I do what Mr. Kushner said, I'd still like to get some idea because he's talking about cost pass through. He's commending the government for its fight on inflation and says however, the cost pass through should be taken into consideration.

MR. KUSHNER: Right.

MR. CHERNIACK: Well then I want to know, does Mr. Kushner then mean that if we go back to some dates and fix or freeze the rate of return, then only cost pass through should be allowed. Because if he says October '76, are you not, Mr. Kushner, talking in terms of cost pass through over and beyond an established acquired return, which may be different for . . .

MR. KUSHNER: Mr. Chairman, I think, and I didn't consult my clients, but to be clear, when I suggested the freezing of October 1, '76, I don't care if you go back to January 1st, '74. Go back to some period, grant them a fixed rate of return, and they'll watch the cost pass through. The return should be frozen as it under . . . dividend schemes.

MR. CHERNIACK: Well then you say the return could be frozen as of a date, some date prior to what we're talking about.

MR. KUSHNER: Oh yes.

MR. CHERNIACK: Which could even be say three or four years after the building was occupied.

MR. KUSHNER: Could be. I think the board would be in a better position to deal with that. I think that that's right.

MR. CHERNIACK: So in each individual case, they would require the landlord to. . .

MR. KUSHNER: To bring his books forward.

MR. CHERNIACK: . . .present all the information but that would be of the prior owners as well, wouldn't it?

MR. KUSHNER: Well, frankly I don't know what an accountant would tell you, but it seems to me a fixed date should be established and everybody should comply with that, whether it's a prior . . .or not, I don't know.

MR. CHERNIACK: I'm looking at this analysis of costs that you have given us and recognizing that it adds up to 100 percent. Then I'm wondering the extent to which gross rent would relate to value or investment.

MR. KUSHNER: Well, Mr. Chairman, when I first saw this table - I will be quite candid with the committee - I asked some pretty clear questions, and I can tell you, Mr. Chairman, if Mr. Green was thought to be an inquisitor, believe me that was applied to me in worse language by the time I got through with my clients --(Interjection)-- It's hard to believe but it's a fact that there are plenty more words. However, Mr. Chairman, I didn't want to appear before this committee unless I had some feeling of what it's all about, and I questioned these figures. They were produced by the National Association of the Housing and Urban Development Association of Canada, HUDAC, and HUDAM of Manitoba is a branch of this same association. These figures apply nationally, and I understand they are pretty well the same here in Manitoba. And the question that I asked, Mr. Cherniack, was this. When you show a return on an investment of two percent, how do you relate that to the 45 percent immediately above that in payment of a mortgage where the tenant in effect is building up your equity. Now you can imagine this is the kind of question that it's nice to have a witness on the witness stand in open court and ask him that. But I asked this question and they told me very bluntly that the two percent is based on the gross amount. If a building costs a million dollars, the basic two percent of a million dollars, but if you're going to relate it to the hundred thousand dollars cash that they would be putting in, then the rate would be much higher than the two percent, of course. What it is, I don't know but this is the breakdown. So in effect what's happening, and I think in fairness, Mr. Chairman, we should recognize this, even though the landlords may not want to tell you that, I feel you should be aware of it, that one of the reasons that I see why a sound businessman would go with a sound head into a sick bed, would take money that he can buy bonds with and build an apartment building, is simply because although he's got a lot of headaches connected with it, over a period of time that 45 percent is being built up for him by the tenant. So at the end of 10, 15 or 20 years, when the building is paid off, he's got an asset, whatever the market value may be at the time, that the tenant helped pay for, and I think he's got an inducement there which he wouldn't have in the ordinary market and until 1973 or 4, whatever it was, this worked and I think that that's why they were investing in apartment buildings all the time.

MR. CHERNIACK: Mr. Kushner, you have confused me very quickly by making it appear to me that you think that the 45 percent is the principal payment, whereas I feel sure it's got to be interest and principal.

MR. KUSHNER: I said interest and principal.

MR. CHERNIACK: Ah, so that he doesn't acquire the full 45 percent?

MR. KUSHNER: Oh no, no, that's interest and principal.

MR. CHERNIACK: The next thing you confused me on was the impression I got that the investment returned, you thought was two percent of the value of the building. It's two percent of the gross.

MR. KUSHNER: Right.

MR. CHERNIACK: That's why I asked you if you knew how total rents, gross rents would relate to value or cost.

MR. KUSHNER: I have no way of telling you that answer, Mr. Cherniack.

MR. CHERNIACK: Well then we have no way of knowing what the two percent means in relation to investment.

MR. KUSHNER: Right, . . .

MR. CHERNIACK: . . . or equity or anything like that.

MR. KUSHNER: Right now, I don't know. These are average figures and I don't know.

MR. CHERNIACK: All you're saying here is that an apartment block which turns over say a million dollars - I'm going to be trapped in a minute - should produce $20,000. Is my figure right, it maybe . . .

MR. KUSHNER: I think it's right.

MR. CHERNIACK: . . .$20,000 as investment returned, regardless of whether the apartment block cost a million or $100,000. There's no relationship to these figures.

MR. KUSHNER: I don't think so.

MR. CHERNIACK: Yes. Do you know how the maintenance breaks down? Does it include depreciation?

MR. KUSHNER: No. Depreciation is one thing I questioned them on and there's no depreciation. The maintenance is strictly maintaining the buildings.

MR. CHERNIACK: What about capital repairs, a new roof . . .

MR. KUSHNER: Well, Mr. Chairman, it may be treated as an operating expense or capital, I don't know, but in any event, there are others here following me who are building managers, they can give you this information much better than I can.

MR. CHERNIACK: Well there's one other question only, Mr. Chairman. I'm looking at Mr. Bergen's statement of suite income and certain expenses. I don't see anywhere here where he tells us what the value of the blocks are, so I'll leave that aside, but the insurance cost as against the suite income on his sheets - I'm looking at the first sheet - are substantially, maybe 25 percent of two percent. In other words, again on this figure, it says insurance two percent, fixed cost, which you say is beyond the control of the management, yet in Mr. Bergen's cases it seems to me that it's substantially less than two percent, it's more like half a percent. I'm wondering if there's some obvious explanation.

MR. KUSHNER: Well the percentage figures that he gave you, I didn't give you . . .

MR. CHERNIACK: He didn't give me percentages, he gave us actuals.

MR. KUSHNER: All right. Let's arbitrarily say the insurance went up by 50 percent. Let's say it went up by 50 percent. Right?

MR. CHERNIACK: I took his latest figures which would be in some cases doubled, I think in every case more than doubled.

MR. KUSHNER: Let's say it went up 100 percent. So it will be 100 percent of the two percent.

MR. CHERNIACK: It ought to be but in this case, it's about 25 percent of the two percent.

MR. KUSHNER: Well I can't relate that. I'm just giving you the figures I've got.

MR. CHERNIACK: I'm just trying to understand the figures which you gave us and on which you had an inquisition in finding out, in understanding them. I still don't understand them.

MR. KUSHNER: Well . . .

MR. CHERNIACK: You don't either then on the insurance figures.

MR. KUSHNER: I think we're both a little bit confused. Let's ask somebody else who's more knowledgeable than I am, Mr. Cherniack.

MR. CHERNIACK: By all means.

MR. CHAIRMAN: Mr. Turnbull.

MR. TURNBULL: Mr. Chairman, I would like to thank Mr. Kushner for

(MR. TURNBULL cont'd) . . . . .recognizing that this Rent Control Bill is really a part of a program to attempt to curtail the rate of inflation and it would not have been introduced I don't believe in isolation. Inflation has caused a number of problems and it seems to me on Page 14, you allude to one of those problems, namely, the drying up of mortgage money which you mention has occurred in Ontario. Now it's my understanding, Mr. Kushner, that the problem in Manitoba, and in many other places, has been that over the last number of years there just hasn't been money available, or rather money hasn't found a suitable return in building multiple housing starts, so I'm curious as to whether or not this paragraph on Page 14 here, is meant to describe a situation that has been developing over a number of years or whether you see this as a development that occurred suddenly with the passage of the Ontario Rent Control Bill.

MR. KUSHNER: Well, Mr. Chairman, I was talking the other day in Toronto to a former deputy minister to the Minister of Housing, and a copy of one of his addresses is in that book, by the way. He's the one that told me that the insurance companies and the other mortgage company funds have dried up in Ontario for low dividend or low income tenants and middle income tenants, that the only money available that those institutions will lend will be for condominiums or the high rental buildings. Ontario are putting 500 . . .

MR. TURNBULL: Are they exempt from the Ontario bill?

MR. KUSHNER: I beg your pardon?

MR. TURNBULL: Are the high rental places exempt from the Ontario controls under the Ontario bill?

MR. KUSHNER: I really don't know. I haven't studied it but frankly I wasn't concerned with the fellow paying $1,000 a month or more, but the Ontario Government put up $500 million, and I think the Federal Government put up either two or three hundred million to pump into the housing industry. This money has found its way to other places rather than the low rental places. There's an acute shortage of funds there now. . . . insurance companies won't touch it with a ten foot pole and he tells me he attributes it entirely to this bill to that rent control that they have in Ontario, although there, and this is a twist that I can't explain, in the course the deputy minister reported to his minister, and you've got a copy of it in there what the staff recommendations were. The Minister of Housing in Ontario made a statement, and it's there as well, then an election came along and the impossible happened, Mr. Davis found himself in a minority position. Now in the course of the campaign, Mr. Lewis, the leader of the NDP opposition in Ontario was asked, and made a statement that he'd be satisfied to see a return to the investor of 12 percent, 12 percent, this was Mr. Lewis, but after the election the Liberals apparently got a hold of this thing and said, no it's got to be eight percent. Although Lewis was prepared to accept 12. This is what happens in the give and take of politics. But at least down there, they froze it as of June 30th, 1977. They weren't going to go beyond that and the opposition didn't oppose that.

MR. TURNBULL: Well are you saying then that the drying up of money is a result of legislation and not inflationary conditions?

MR. KUSHNER: No, no. No, no.

MR. TURNBULL: You admit then that inflation has caused a curtailment of funds . . .

MR. KUSHNER: Oh, definitely. Inflation has definitely been the major cause, but the rent control legislation put the cap on it.

MR. TURNBULL: Yes. And that's the case right across Canada.

MR. KUSHNER: Oh, definitely. And I'm very glad, Mr. Minister, that you waited, unlike British Columbia that moved in long ago and disaster struck immediately. At least you waited until you signed an agreement with Ottawa. I think it's more statesmanlike.

MR. TURNBULL: In your brief you mentioned that it would only be reasonable to allow the landlord/landlady to pass on extra costs to the next tenant. Now the bill is designed to control the rents on premises, and I gather that you were addressing yourself to that point.

MR. KUSHNER: Yes.

MR. TURNBULL: How do you think rent control would be effective if every time a tenant moved out, the rent could be jacked up? Do you think that there is some, if that were the case, if the tenant coming in had to pay an increased rent, do you think that would tend to put tenants in a kind of disadvantageous position vis-a-vis the landlords. Wouldn't the landlord, if he can get an increase in rent, as soon as the one-month lease period expires by kicking out the tenants, wouldn't he be inclined to try to keep the tenants moving along?

MR. KUSHNER: Well I don't know, Mr. Minister. What I had in mind was this. Take the situation right now. There is a lease, they have with us until October 1st, let's say or until June 1st. The City of Winnipeg taxes are coming out any day now. Now he cannot do anything about it until this lease is up, but it seems to me if you're not going to allow the landlord to pass on whatever the proportionate amount should be to an apartment at the end of this particular lease, and not wait until the end of October, then when he raises his rent at that time, it will be raised by a larger amount. It seems to me it's easier to take it in small doses. Now it may be that you should leave it. I threw out as a suggestion, that if you're going to consider the principle of allowing costs to pass through, it cannot allow the landlord the opportunity to change it at the end of each lease; the tenant goes out, so whatever the costs are let it go up, otherwise they're going to bump it up at one time.

MR. TURNBULL: Wouldn't the temptation then be really to move tenants - I'm advised it is happening now - wouldn't the temptation be to move tenants off of year long leases, if the law allowed that, and get them on to one-month leases?

MR. KUSHNER: Yes but the law doesn't say you have to have a 12-month lease. I mean if you want to do that, Mr. Chairman, it's a different story. For example, I could tell you this now, I've talked to some of the landlords who want to reduce their vacancy rate so they have short term leases, or they have no leases, monthly tenancies that come in and go out. This type of tenant is not the best tenant for a landlord because it calls for much more maintenance and much more headaches. They don't want the short terms if they can help it, but the legislation doesn't demand a long term lease, doesn't say 12 months. All you say is that he can't change it during the 12-month period.

MR. TURNBULL: I didn't say this legislation.

MR. KUSHNER: No, I'm sorry. Looking at this legislation is that rather than allow six or 12 months periods before he can change the rent, gives the Board some flexibility. The Board may want to turn it down, it's up to them, but give him that opportunity if he can possibly use it.

MR. TURNBULL: In passing here, you mentioned that any excess in rent that may have to eventually be refunded to the tenant should not be paid into a trust account. Now I'm not overly knowledgeable of just exactly who your clients are, but I'm reasonably certain that one of them at least has sent me a brief in which they do suggest that the money be paid into a trust account.

MR. KUSHNER: Mr. Chairman, in preparing this brief, I had a number of meetings with my clients, discussed the whole thing. I put it all together in a way that I thought would be helpful to the committee and certainly helpful in administration. I don't know the brief that you're referring to because I encouraged them to prepare their own briefs, but I suggest that however well-intentioned that particular client may be, that it would be simpler if you simply left it alone and then whatever refund has to be made will be ordered to be made and that's all, that the less bureaucracy you build up in handling moneys the easier it will be to administer and the less complications there will be.

MR. TURNBULL: And you speak for the clients on that point.

MR. KUSHNER: Oh definitely.

MR. TURNBULL: With regard to the tenants having the right to appeal, you feel that that would be a practical alternative?

MR. KUSHNER: I'll tell you how practical it will be, Mr. Chairman. The other day I believe that you mentioned to me the fact that many tenants will be afraid to come forward; but it seems to me that the problem you're trying to meet is to the tenant who can't afford to pay. You're not concerned that the rent is high, but you're worried about the fact that the fellow living there can't pay it. That's the problem. So I say to

(MR. KUSHNER cont'd) . . . . .you, if that's the objective, and I'm sure it is, let him know - look, we have not prepared a situation where - you've got a board here, you can appeal and have your case heard. If you don't want to mention any names, sign the coupon and that's all; or put down the address and so on, the Board will look into it. Now by doing that, you've then given the fellow who's got a problem a chance to be heard. You've eliminated all those that couldn't care less whether they get their refund or they don't get their refund; you've invited every landlord who may have been compelled to raise, like Mr. Bergen, who may have been compelled to raise the rent; you're not putting them in a position where they all have to go before some bureaucrat to prove his case, you've narrowed it down to the few, at least to the few landlords who may have raised unduly and the landlords and the tenants are complaining. Well deal with those cases. You don't have to have the name of the tenant but the rental officer calls him in and says, let's see your books, and if it's bad roll it back and then he gets the benefit of it.

MR. TURNBULL: So you feel that appeal by the tenant, or application - really application by the tenant - against a rent increase should be allowed. Well is it against any rent increase or just against the percentage amounts that are allowed in the bill or against the cost pass through?

MR. KUSHNER: I don't know how you arrived at the 10 percent in the first place because one could ask you, why didn't you make it five or make it 15, but whatever percentage . . .

MR. TURNBULL: Depends which block you look at I suppose.

MR. KUSHNER: Well, and it depends which side you're on too I suppose. But if you go back to October 1st, 1975 . . .

MR. TURNBULL: Like Ontario's side, it's eight percent.

MR. KUSHNER: Ontario is at eight percent, now I think Saskatchewan it's ten and nine, I'm not sure. But in any event, whatever percentage you want to put, I don't care what it is, maybe an average of 10 is right, but whatever you're going to do, any increase over that fixed percentage, over the rent paid before October, 1975, a tenant has a right to come forward.

MR. TURNBULL: Against it all, the 10 percent, the next amount that will be allowed, the contracts, everything . . .

MR. KUSHNER: Anything at all. Anything at all. First of all, you're going to give that tenant a safety valve, a chance for him to be heard, which is important; an explanation to be given why it was done, and if it was done wrongly or unduly let the Board rule, the landlord pays back the money. That's all there is to it. And you'll really minimize your bureaucracy, and incidentally satisfy the tenant, who all he wants is a forum, and you're giving it to him.

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: Thank you, Mr. Chairman, I think your book here will be of great assistance to us as we go along.

MR. KUSHNER: I hope you read it.

MR. CRAIK: I want to thank you for putting it together. It will be helpful.

I've two or three questions. Before we leave that last one the Minister has asked you here, I would have asked I think the same question as to whether or not we might not have gotten into more bureaucracy with a tenant appeal rather than what you're advocating here or suggesting is a tenant appeal type system. I would question whether we might not be getting into more bureaucracy under that type of thing.

MR. KUSHNER: No, Mr. Chairman, for this reason. First of all, when you talk about a tenant, and I'm talking about a multiple family unit, be it 20, 30 or 40 suites there, I don't know - when the tenant appeals, there may be 20 tenants, but it'll be one hearing, because it will deal with one landlord. And there may not be too many of those, I don't know. There may be a lot in some of the older units, some of the old duplexes, the old four, six, eight-suiters, I don't know. These are going to be a problem anyway. But it seems to me that by accepting my suggestion, you'll direct the fellow who's complaining to go to a specific place and look for redress. Now he's the fellow that wants help and you're giving it to him. On the other hand, if you're going to do it the way the bill sits now, every landlord, whether he was justified or not, will have to

(MR. KUSHNER cont'd) . . . . .appeal to the board to present his justification. Now if there's no appeal against him, why bother him at all, why burden bureaucracy with it? All I'm saying to you, there'll be a bureaucracy built up anyways, but there'll be less of a bureaucracy if the appeal rests with the fellow who's really complaining.

MR. CRAIK: I've perhaps missed your point; that if a tenant appealed out of a particular building, that whole building structure would be reviewed then?

MR. KUSHNER: Well, Mr. Chairman, if I were a member of that board, and I got a complaint from a tenant, the first thing that I would say to the landlord, "give me your books for the whole building, you can't take a suite in isolation."

MR. CRAIK: Earlier on, in Mr. Bergen's presentation, he made some issue of the fact that there were, following '69 - '70, there's five-year terms on mortgages that have a very important impact on rent increases. Do your other people that you're representing have the same problem?

MR. KUSHNER: Exactly the same experience, Mr. Chairman. Now the mortgages are only five-year mortgages, they have to be renewed every five years and invariably the rate of interest is higher.

MR. CRAIK: What happens in the case where someone owns a building that has no mortgage on it, it's completely paid off? How do you calculate in that case the rate of return that is due to a person?

MR. KUSHNER: Mr. Chairman, as a matter of fact, I have one case that I looked at very closely where there are two apartment buildings, one of them is about three or four years old, another one right beside it where the mortgage was paid off last year, both owned by the same landlord, by the same company. The question that I asked in dealing with those figures at the back of the brief, I said, how do you apply the rate of return to a building where 45 percent of the rent goes towards paying off a mortgage and to another building where the 45 percent doesn't go anywhere, you've already got it built up. And I threw this out to my clients, and I'll be candid with the committee, I didn't make it any easier for them, because I wanted to try and get the answers. I said, it seems to me if you had initially invested $100,000 in a million dollar building, and the CMHC guaranteed the other $900,000, that at the end of 20 years your rate of return should be still in the original $100,000.00. And, oh, they just went through the roof. I said, wait a minute, you can sell your building now, which is probably worth more than that, and the other fellow said, do you want to buy it, I'll sell it to you. I mean you get on that kind of a merry-go-round, and it was left up in the air. And I don't know, Mr. Craik, how to deal with it. I really don't.

MR. CRAIK: The intent of the federal guidelines, it seems that if it's wage, price and profit control - if you apply a profit control which appears to be the equitable thing to do, if you can do it somehow, and if you say set it at an equivalent to bond return or ten percent or whatever bonds are bringing - well ten's probably a representative rate - how do you handle it in that case where you have a person who has no mortgage, has it all paid off, as opposed to a new block where it's pretty easy to determine what a person's equity is and what the mortgage is? Would the approach of applying a ten percent increase as a rate of return create a problem that when you look at all different types of mortgage versus . . .?

MR. KUSHNER: Mr. Chairman, through you to Mr. Craik, I tried to get across that the regulations should be very flexible and that each case should be built within its own merits instead of a ten percent across the board setup, because the very problem you're mentioning is bound to arise, and somebody - I can't give it to you at the moment - somebody will have to make a decision how to deal with this particular problem. If I have a paid up building, paid up this year, at least on paper, it's worth X hundreds of thousands of dollars, do I get a return of the total amount or just my initial investment? I don't know which way you can bounce this thing. I think a case can be made for a return of the total value of the building, total market value, but this is a decision that has to be made by somebody more qualified than I am at the moment. This is why I ask, be careful about a ten percent across the board, because although it may be attractive to some landlords, it may be unfair to others, I don't know. I haven't got the answer, Mr. Craik, I don't know at the moment.

MR. CRAIK: Are you familiar with the CMHC control dividend type of housing? They have a formula, five, five and four, something; five for maintenance, five for return and four for whatever it is, it seems to me it's return on investment, management fee and depreciation or . . .

MR. KUSHNER: All I know about the limited dividend scheme is this: They give you - it used to be five percent, now I understand it's going as high as ten percent on new construction - but they give you a fixed rate of return and you can apply for any changes in the rent depending on whether your costs have gone up. If you can satisfy them costs have gone up, they usually approve to pass on those costs to the tenant. But the five percent is fixed for the life of the contract, for the life of the mortgage. If that could be done in Manitoba, that would be a major step forward, but I don't know whether. . .

MR. CRAIK: Well that's the question. You know, your view expressed a concern about the size of the bureaucracy that would be created. CMHC has been doing it in their special type of financing. Has that led to a burdensome bureaucracy in that administration?

MR. KUSHNER: No. No. As a matter of fact, in one of the documents you'll find there, there's a recommendation that we should use CMHC, their staff, as a guide, let them carry on and do it for us. Oh no, they have a minimum bureaucracy in their system, really.

MR. CRAIK: Mr. Chairman, I guess I'll leave any other questions for . . .

MR. CHAIRMAN: The hour of adjournment has arrived. I have three more questioners here; is it the will of the committee to continue or ask Mr. Kushner to come back?

MR. KUSHNER: I'll come back --(Interjection)-- Thursday morning?

MR. CHAIRMAN: Thursday morning at 10 a.m. Committee rise.