Second Session - Thirty-Sixth Legislature

of the

# Legislative Assembly of Manitoba

# Standing Committee on Municipal Affairs

*Chairperson*
*Mr. Mervin Tweed*
*Constituency of Turtle Mountain*

Vol. XLVI No. 1 - 7 p.m., Wednesday, September 25, 1996

## MANITOBA LEGISLATIVE ASSEMBLY
### Thirty-Sixth Legislature

### Members, Constituencies and Political Affiliation

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# LEGISLATIVE ASSEMBLY OF MANITOBA
# THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS

**Wednesday, September 25, 1996**

**TIME – 7 p.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. Mervin Tweed (Turtle Mountain)**

**ATTENDANCE - 11 - QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Derkach, Downey, Gilleshammer

Ms. Barrett, Messrs. Dewar, Evans (Interlake), Helwer, Laurendeau, McAlpine, Struthers, Tweed

**APPEARING:**

Mr. Jack Penner, MLA for Emerson

**WITNESSES:**

Mr. Rhine Olyniuk, Canadian National Railways Company
Mr. Ike Zacharopoulos, Chairman, Western Chapter, Canadian Property Tax Association Inc.; Manager, Taxation, Canadian Pacific Railway
Mr. John Nicol, President, Union of Manitoba Municipalities
Mr. David Sanders, Colliers Pratt McGarry
Mr. Jay Eadie, Deputy Mayor, City of Winnipeg
Mr. Garth Steek, Councillor, City of Winnipeg, River Heights
Mr. Charles Chappell, Private Citizen
Mr. Guy Whitehill, Centra Gas Manitoba Inc.
Mr. Lance Norman, Manitoba Chamber of Commerce
Mr. Barry Prentice, Director, University of Manitoba Transport Institute
Mr. Henri Dupont, Rickard Realty Advisors Inc.
Mr. M.S. Khan, Westcan Property Tax Consultants
Mr. Jack Nelson, Professional Property Managers Association
Mr. Paul Moist, Local 500, Canadian Union of Public Employees
Mr. Richard Weind, Regional Technical Operations Unit, Canadian Union of Public Employees
Mr. Michael J. Mercury, Private Citizen
Mr. O. William Steele, Private Citizen
Mr. Dan Kelly, Canadian Federation of Independent Business
Mr. Ken Wong, The Hong Kong-Canada Business Association
Mr. Thomas Frohlinger, Private Citizen
Mr. Don Smith, Private Citizen
Mr. Joe Diner, Aronovitch and Leipsic Ltd.
Mr. Warren Baldwin, Private Citizen

**WRITTEN PRESENTATIONS:**

Bill 43–The Municipal Assessment Amendment, City of Winnipeg Amendment and Assessment Validation Act

City of Brandon
Union of Manitoba Municipalities

**MATTERS UNDER DISCUSSION:**

Bill 2–The Municipal Assessment Amendment and Assessment Validation Act

Bill 3–The Surface Rights Amendment Act

Bill 43–The Municipal Assessment Amendment, City of Winnipeg Amendment and Assessment Validation Act

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**Mr. Chairman:** Good evening. Will the Standing Committee on Municipal Affairs please come to order.

This evening the committee will be considering a number of bills, those being Bill 2, The Municipal Assessment Amendment and Assessment Validation Act; Bill 3, The Surface Rights Amendment Act; and Bill 43, The Municipal Assessment Amendment, City

of Winnipeg Amendment and Assessment Validation Act.

I should note for the benefit of presenters that several bills which had initially been referred to the Municipal Affairs committee for consideration are now being considered by the Standing Committee on Public Utilities and Natural Resources taking place right now in Room 254.

The bills which have been transferred over are Bill 16, The Charleswood Bridge Facilitation Act; Bill 19, The Dangerous Goods Handling and Transportation Amendment Act; Bill 34, The Contaminated Sites Remediation and Consequential Amendments Act; Bill 44, The City of Winnipeg Amendment and Consequential Amendments Act; and Bill 56, The Manitoba Investment Pool Authority Act.

To date, we have had a number of presenters register to speak to the bills referred for this evening. I will now read aloud the names of the persons who have preregistered to all of the bills.

Bill 2, The Municipal Assessment Amendment and Assessment Validation Act, persons registered to speak: David Sanders, Deputy Mayor Jae Eadie and Councillor Garth Steek, Charles Chappell, Dr. Barry Prentice, Guy Whitehill, Lance Norman.

Registered to speak on Bill 43, The Municipal Assessment Amendment, City of Winnipeg Amendment and Assessment Validation Act: David Sanders, Henry Dupont, M.S. Khan, Jack Nelson, Paul Moist, Richard Weind, Rhine Olyniuk in place of Scott Roberts, Ike Zacharopoulos, Deputy Mayor Jay Eadie and Councillor Garth Steek, John Nicol, Michael Mercury, Charles Chappell, O. William Steele, Dr. Barry Prentice, Dan Kelly, Ken Wong, Lance Norman and David MacMartin.

If there are any other persons in attendance today who would like to speak to one of the bills referred to the committee and whose name does not appear on the list of presenters, please register with the Chamber branch personnel at the table at the rear of this room, and your name will be added to the list.

In addition, I would like to remind those presenters wishing to hand out written copies of their briefs to the committee that 15 copies are required. If assistance in making the required number of copies is needed, please contact either the Chamber branch personnel or the Clerk Assistant and the copies will be made for you.

I would like to point out to the committee that we have a number of registered presenters who are from out of town, and we also have two who are from out of province. I would like to ask the committee, what is the committee's wish to deal with these persons? Shall they be heard first?

**Mr. Gerry McAlpine (Sturgeon Creek):** Mr. Chairman, may I suggest that we hear the presenters from out of town and out of province first, with the committee's agreement?

**Mr. Chairperson:** Is that agreeable to the committee? [agreed]

You will notice on your list that the presenters from out of town are designated by a star. I would like to now ask the committee, what order shall the bills be considered for the purpose of hearing presenters?

**An Honourable Member:** In order.

**Mr. Chairperson:** In order? [agreed]

Does the committee wish to establish a time limit on presentations heard this evening?

**Mr. McAlpine:** In view of the number of presenters that we have this evening and in fairness to all of the presenters so that we are not here till the wee hours of the morning and, as time wears on, I would suggest that we limit the presentations to 10 minutes and then five minutes for questions after presentation.

**Mr. Chairperson:** Is that agreeable by the committee? [agreed]

I would just like to inform the committee that a written submission to Bill 43 has been received from the City of Brandon. Copies have been distributed for

committee members. Is there agreement that the written submission appear in Hansard? [agreed]

We also have received a written submission to Bill 2 from the Union of Manitoba Municipalities, which has also been distributed. Is there agreement that this vritten submission appear in Hansard? [agreed]

At this point, I would like to ask the minister to make a few comments.

**Hon. Leonard Derkach (Minister of Rural Development):** Thank you very much, Mr. Chairman, and, good evening, ladies and gentlemen. As the sponsor for Bills 2, 3 and 43, I would like to welcome the participants here this evening and also the presenters.

I would like to just make a few comments with regard to Bill 43. We do have four areas of amendments that we would like to present this evening. I would just like to make mention of them at this time, because I know that some of the presenters that are here this evening have been in consultation with staff from my department. To perhaps avoid any unnecessary debate perhaps or comment, I would like to indicate which areas we are prepared to bring amendments in, Mr. Chairman.

The first area that we have an amendment to bring is with regard to the limitations on the parties eligible for appeal. As proposed, Bill 43 limits the parties eligible to make an application for revision to the person whose property is the subject of the application or his or her authorized agent or the assessor. We are prepared to expand that particular section to include the amendment that would indicate that a mortgagee in possession would be allowed the privilege of appeal, as well as a tenant who is responsible for the payment of property taxes would also be given the right to appeal as well.

The second area is with regard to the four-year cycle on business closures. In this particular area we have prepared an amendment which would allow the owner of a commercial operation that has been closed for 12 months the same right of appeal as enjoyed by Resident 1 property owners where factors external to that property affect its value.

The third area of an amendment that we would bring in is with regard to the authority for appeal tribunals to raise and lower assessments. In this particular area, Mr. Chairman, in keeping with the premise that an appeal body should be given the authority to determine a fair and just assessment, it follows that increasing an assessment where warranted should be part of that Board of Revision's mandate.

In the fourth area, it is not a difficult amendment. It is simply to validate the assessment notice and rules for 1997.

With those few opening comments, I am prepared to carry on with the presentations.

* (1910)

**Mr. Chairperson:** As previously agreed, we will call on the out-of-town presenters first. So I refer to Bill 43, The Municipal Assessment Amendment, City of Winnipeg Amendment and Assessment Validation Act.

We have three out-of-town presenters to this bill. We will listen to them and then refer back to the order of bills as they are brought to us.

On Bill 43 I would like to call Rhine Olyniuk. Will you please come forward to make your presentation to the committee. I would ask you now if you have written copies of your brief for distribution. Thank you.

**Mr. Rhine Olyniuk (Canadian National Railways Company):** Mr. Chairman, I have two parts in my brief. I would like to submit one part first, and then as I go through my brief I would like to submit a map midway through the brief. Is that okay?

**Mr. Chairperson:** Sure. I would ask you to proceed.

**Mr. Olyniuk:** Thank you, Mr. Chairman. Good evening everyone. At this point we would like to thank the Chairperson and members of the committee for

providing us this opportunity to bring forward the concerns of Canadian National Railway Company in regard to Bill 43.

At present the railway is working hard to maintain the level of service it has offered the shippers of Manitoba and other provinces. However, severe competition from highway carriers operating on public infrastructure and increasing taxes placed on the railways by government in Canada are imposing financial constraints on the company's ability to remain viable.

CN pays approximately $7 million in taxes per year in the province, and if Bill 43 is passed, the cost to CN will be an estimated $537,000 per year. We wish to bring to your attention aspects of the bill which would have a negative effect on the railway, particularly the proposed amended definition of railway roadway and the validation which is Part 3 of Bill 43.

The Municipal Assessment Act enacted on January 12, 1990, applies to all railway property in Manitoba. Assessment jurisdiction is divided between the City of Winnipeg as to all property line within the city of Winnipeg and the provincial government as to all properties in the rest of the province of Manitoba.

It is necessary to classify the property between railway roadway on the one hand and all other railway real property on the other because different assessment criteria apply to each. Railway roadway is defined by the act, and if property it is not within the definition of railway roadway, then it is simply railway real property other.

The value of railway roadway is determined by assessment rate schedules prescribed under Clause 61(a) of the act. Railway roadway property in a municipality is to be assessed on the basis of (a) the tonnage carried on the tracks in a subdivision of a railway roadway property, and (b) the land that comprises the railway road property.

The land comprising of railway roadway is to be assessed at the average assessed value of all land in a municipality in the reference year. For the years 1990 to 1993 inclusive, the reference year is 1985. For the years 1994 to 1996 inclusive, the reference year is 1991. The tonnage rates are fixed by regulation, and the rates are prescribed per mile of track according to various tonnage quantities carried on the tracks on the railway roadway. Additional trackage is assessed at 50 percent of the mainline track, and it is considered railway real property if it falls outside the railway definition. The City of Winnipeg, for the most part, has considered that additional trackage and the land beneath the tracks does not fall within the railway roadway definition and is therefore railway real property.

Railway real property in Manitoba that does not consist of railway roadway property is assessed in accordance with the general provisions of the act and is assessed at its value to mean market value. Railway roadway has a portioned rate of 25 percent, and all other railway property, other, has a portioned rate of 65 percent.

Prior to 1990, the definition of railway roadway was as follows: Railway roadway and suprastructure thereon means a continuous strip of land not exceeding 100 feet in width in villages, towns or cities, except where additional land is acquired and used for the railway roadway and the safe and efficient operation of the railway, and used by the railway companies as a roadway or right-of-way and the rails for a single line of track and the grading, ballast, embankments, ties and the fastenings, miscellaneous track accessories, switches, poles, wires, conduits, cables, fences, trestles, bridges, subways, culverts, tunnels, cattle guards, cattle passes, platforms, scales, turntables, cinder and service pits, hoists, signals and signal towers, grade crossings, protective appliances, dams, spillways, reservoirs, wells, pumping machinery, pipelines and bins situated in or under the right-of-way and used in the operation of the railway, but does not include first of all the land used by the railway company for station grounds, terminals, freight yards or stockyards; secondly, the land used by the railway company for sidings, wyes or spurs not included in the roadway of the railway company; thirdly, stations, freight sheds, dwellings, houses for employees, offices, warehouses, hotels, roundhouses, machine repair or other shops, water tanks and coal docks, whether situated on the roadway

of the railway or not; other building structures, erections and improvements belonging to or situated on the land of the railway company; or land in excess of the land acquired and used for railway roadway and the safe and efficient operation of the railway.

On page 4, the definition was changed somewhat, and it goes on to state: Railway roadway means a continuous strip of land. The area that is bolded here is the item that would be added in Bill 43, which would be restricted to, not to exceed 100 feet in width, and the definition goes on to say that is used by a railway company as a roadway or a right-of-way and includes the rails, grading, ballast, embankments, ties and fastenings, miscellaneous track accessories and switches, poles, wires, conduits and cables, fences, trestles, bridges, subways, culverts, tunnels, cattle guards, cattle passes, platforms, scales, turntables, service pits, hoists, signals and signal towers, radio towers, grade crossing, protective appliances, hot boxes, dragging equipment detectors and other stationary equipment, appliances and machinery used in the operation of trains, dams, spillways, reservoirs, walls, pumping machinery, pipelines and bins situated in, on or under the right-of-way and used in the operation of a railway, and does not include land that is used by a railway company for station grounds, terminals, freight yards or stockyards.

Now in Bill 43, in the bill, land and improvements that are used by a railway company for station grounds, terminals, freight yards, stockyards, intermediate terminals or marshalling yards would be added and the other part of it would be deleted. The definition goes on to state that land that is used by a railway company for sidings, wyes or spurs that are not included in a roadway, stations, freight sheds, dwelling houses for employees, offices, warehouses, hotels, roundhouses, machine repair shops or other shops, whether or not situated on a roadway, other buildings, structures, erections and improvements that belong to, or are situated on land belonging to, a railway company, or land other than land as used for a roadway or for the safe and efficient operation of a railway.

CN maintains that the railway roadway definition, as set out in Bill 43, is too restrictive as it has been CN's position that the trackage is required for safe and efficient operation of the railway and that the trackage and the land under it is railway roadway, and that the land lying beyond points 50 feet from the outside trackage is railway property other and that it is not required for railway roadway purposes. The best way to describe CN's position would be to use an example of a yard located in the city of Winnipeg. The Fort Rouge yard, bounded by Pembina Highway on the southwest and Osborne Street on the northeast, is a good example. This yard is used for train make-up, the assembling of cars into a train to be hauled to another destination and the disassembling of trains as required.

At this point, Mr. Chairman, I would like to hand out my map.

* (1920)

**Mr. Chairperson:** Carry on.

**Mr. Olyniuk:** I can go ahead now? Okay.

This is the map of our Fort Rouge yard which is basically bounded on one end by Pembina Highway and Osborne Street on the other. The area that is bordered in red, which shows the CN's ownership in this case–the yellow, as far as the yellow is concerned, the position of CN is that the trackage and the land lying to a point 50 feet outside the outermost tracks is necessary for safe and efficient operation of the railway and should be railway roadway. So this would be the area bordered in yellow.

The land lying beyond points 50 feet from the outside trackage: All leased land and buildings is railway property other, and that is not required for railway roadway purposes. So this would be shown as the hatched red on the map. So just to double-track on this, the area that is bounded in yellow would be the area that, as far as CN is concerned, should be railway roadway, and the area that is hatched in red should be railway real property.

CN objects to Part 3 of Bill 43, as well, whereby retroactive legislation to 1990 has been introduced. The only appropriate manner for this to be resolved is either through future negotiation or adjudication by the Municipal Board. It is therefore suggested that the

current railway roadway definition remain in the act and that CN work with the provincial department and the City of Winnipeg Assessment Department to introduce a new railway roadway definition effective for the next reassessment.

In conclusion, on behalf of CN, we wish to thank you for considering the issues we have raised.

**Mr. Chairperson:** We thank you for your presentation, and I would ask now if the members of the committee have any questions they wish to address to the presenter?

**Mr. Derkach:** Mr. Olyniuk, you state in your proposed changes to Bill 43 that the definition should be, all railway roadways and lands that lie within 50 feet from the outside trackage should be considered as railway property. Is that your proposed definition, if you like, that you would like to see incorporated in the act?

**Mr. Olyniuk:** That is correct.

**Mr. Derkach:** Okay. In your last statement then, you say, it is therefore suggested that the current railway roadway definition remain in the act.

**Mr. Olyniuk:** That is CN's position as far as we are determining the definition of railway roadway as it is in the act presently.

**Mr. Derkach:** Okay. Thank you very much.

**Mr. Chairperson:** Are there any other questions? We thank you for your presentation.

I would like to now call Ike Zacharopoulos. Will you please come forward to make your presentation, and I would ask at this time, do you have copies of your presentation for distribution?

**Mr. Ike Zacharopoulos (Chairman, Western Chapter, Canadian Property Tax Association Inc.; Manager, Taxation, Canadian Pacific Railway):** Mr. Chairman, thank you for seeing us today. I am here representing the Canadian Property Tax Association. What I would like to do at this time, I was registered to speak before you as the chairman in that the letter was forwarded from my office. We have a very learned member of the Canadian Property Tax Association before you here today who is registered to speak on his own, Mr. Michael Mercury. At this point, I would like to defer the Canadian Property Tax Association presentation to Mr. Mercury, who will go ahead at his appointed time at your pleasure.

**Mr. Chairperson:** Okay then, we thank you, and we will move on to the next presenter.

**Mr. Zacharopoulos:** Thank you, Mr. Chairman.

**Mr. Chairperson:** Thank you.

I would like to now call John Nicol. Please come forward to make your presentation, and I would ask that if you have copies to be distributed, please hand them out. I would ask you to please proceed.

**Mr. John Nicol (President, Union of Manitoba Municipalities):** Mr. Chairman, the Union of Manitoba Municipalities appreciates the opportunity to appear before the standing committee considering Bill 43, The Municipal Assessment Amendment, City of Winnipeg Amendment and Assessment Validation Act.

Bill 43 makes a number of significant amendments to the property assessment system in Manitoba. Changes to The Municipal Assessment Act are always important matters for municipalities. This legislation is no exception. The UMM has had the opportunity to review Bill 43, both at the board of directors' level and with our member municipalities during this year's series of district meetings. Following these discussions, UMM is confident that the amendments contained in the legislation serve to improve property assessment in the province.

One of the main provisions in Bill 43 is the extension of the reassessment cycle from a three-year to a four-year period, thereby moving the next reassessment to 1998. This is an important amendment for a number of reasons. Providing an additional year will give municipalities more time to hear assessment appeals

and more time to plan and undertake budgeting activities with a stable revenue base. An equally important benefit of a longer reassessment cycle is the saving of time, money, resources for the province and local government.

Province-wide reassessment is a large undertaking for the Assessment Branch, and the processing of property reassessments and the accompanying appeals is also a considerable task for municipalities. Therefore, we anticipate that our longer cycle should improve the assessment system by allowing additional time for accurate reassessments to be conducted and for assessment appeals to be heard. In addition, we hope that with the introduction of a four-year cycle, resources at the Assessment Branch can eventually be redirected towards conducting more physical inspections of property.

We believe these benefits outweigh concerns which have been raised over the possibility that lengthening the time between reassessments will perpetuate any inequities existing between the assessed value and the market value of property. We know property values in Manitoba generally do not experience rapid or dramatic fluctuations, and the UMM is satisfied that this will not be a serious problem.

Bill 43 also makes a number of positive amendments aimed at streamlining the assessment appeal process. For instance, we support the elimination of third-party appeals under the legislation. Property owners will still be allowed to appeal their assessment or authorize another party to appeal; however, appeals undertaken without the consent or approval of property owners will no longer be allowed. The UMM agrees that the onus to appeal an assessment should be on the property owner and should not be unilaterally undertaken by a third party.

Another important measure introduced in Bill 43 is that assessment appeals will be limited to once every four-year cycle, thereby ensuring that municipal boards of revision will not be revisiting the same assessment appeals year after year.

At the same time, it is important to note, the legislation still protects the rights of property owners by allowing more than one appeal if a property changes ownership or if a property experiences significant changes during the four-year period. These amendments to the appeal process will prevent many of the frivolous or unfounded appeals which consume the time and resources of the boards of revision and the Municipal Board. The legislation also makes other amendments such as strengthening requirements for commercial property owners to supply information needed by the Assessment Branch in clarifying the definition of railway roadways.

In conclusion, UMM believes the lengthening of the reassessment cycle, together with the streamlining of the assessment appeal process, will result in a more efficient, accurate property taxation system. Therefore, the UMM encourages the committee members to pass the amendments contained in Bill 43. I once again thank you for your consideration of our comments.

* (1930)

**Mr. Chairperson:** Thank you, Mr. Nicol. I would ask now if there are any committee members who have any questions of the presenter. Being none, I thank you again.

**Mr. Nicol:** Thank you very much.

**Mr. Chairperson:** Thank you.

Now, as previously determined, we are going to go back to Bill 2, The Municipal Assessment Amendment and Assessment Validation Act. I would like to call on David Sanders. Will you please come forward to make your presentation to the committee and, as you are coming up, I will ask you if you have any written copies for distribution. Please proceed.

**Mr. David Sanders (Colliers Pratt McGarry):** Mr. Chairman, my name is David Sanders. I am Director of Real Estate Advisory Services for the firm of Colliers Pratt McGarry, a Winnipeg commercial real estate firm, and we have been active in handling property tax assessment appeals for our clients and commercial property during the past two years.

With respect to Bill 2, I wish to speak only to Section 4. The brief that is being distributed contains comments with respect to Bill 2, Bill 43 and Bill 54 but, at this moment, I will limit my remarks to Bill 2 and, perhaps, I might refer the committee members to page 5 of the submission.

Section 4 of Bill 2 stands alone. It proposes to authorize municipal councils to approve rules of practice and procedure for boards of revision, and that is the sum total of the amendment. We would definitely support an effort to codify, authorize and publish board procedures and policies on the interest of public understanding and fairness in procedures on these very important matters.

However, we are concerned that this legislation in Bill 2 not be taken to authorize certain rules and practices possibly considered by the City of Winnipeg as suggested in recommendations which were considered by City Council during their 1993 and '94 sessions. I have attached copies of the minutes of council from December 15 of '93 and April 27 of '94. It is immediately following the text of the submission. Kinds of things which council considered at the time and which are not otherwise covered in the legislation before you are such things as charging a fee for filing of appeals; giving the Board of Revision the authority to an increase in assessment under appeal; giving the chairperson of the Board of Revision the authority to approve certificates of agreement without a panel hearing.

Going beyond that, there was a suggestion that with regard to refunds and so on, a number of things which were contained in those recommendations which were considered by City Council, some of which were approved, some not approved, but nevertheless suggest an interest in changes which, in our view, would go definitely beyond the scope of rules of procedure.

Because of the importance of the procedure with respect to fairness, whether appeals are allowed, considered, how they are scheduled and what discretion boards may have, we would suggest that by all means let us authorize councils to approve rules of practice but to have consistency and fairness in procedures followed by all boards of revision throughout the province. Particularly to minimize the potential for future court challenges, which none of us need, we would recommend that all such procedures be approved by regulation either by the Lieutenant-Governor-in-Council or, because it would be simpler, perhaps by the minister. That way the minister, at least, would have the ability to ensure that the rules of practice and procedure are, relatively speaking, consistent throughout the province or at least appropriate to the different requirements of municipalities, but not to go beyond the scope of the intention of this Legislature in authorizing the adoption of rules of practice and procedure.

I raise it here tonight in the hopes that I may be assured either by the minister or, perhaps, by representatives of City Council, who are to follow, that their intentions do not go beyond what we would consider to be rules of practice and procedure, not including the kinds of things which were discussed in council's resolution earlier.

That is the sum total of my recommendations to you with respect to Bill 2.

**Mr. Chairperson:** Thank you for your presentation. I would now ask the committee members, do you have any questions to address the presenter? If not, I thank you.

I now call upon Deputy Mayor Jae Eadie and Councillor Garth Steek, and I would ask, as you come forward, if you have any written copies for distribution? I take it that is no. Please proceed.

**Mr. Jay Eadie (Deputy Mayor, City of Winnipeg) :** My name is Jae Eadie, Mr. Chairman, deputy mayor, and I am accompanied by my colleague Councillor Garth Steek, chairman of Finance and Administration. We do not have a prepared brief because we thought we would only like to take about two minutes of the committee's time to simply indicate to the committee on behalf of the city, and so that it is on the record here, that the City of Winnipeg is supportive of the measures contained in both Bill 2 and Bill 43.

If I can simply take this opportunity to make those comments on both bills, we understand the premise behind Bill 2, we are supportive of it. We are aware of the many changes in Bill 43. We are supportive of those. I heard the minister announce at the beginning of the committee meeting that he was going to be bringing in some additional amendments to Bill 43 and, from what we heard in the description, I do not think there is any problem as far as the city is concerned.

So we simply wanted to indicate our support for the measures contained in both of those bills and, certainly, would encourage the committee and eventually the whole House to approve those measures. I do not need to give any more chapter and verse than that, and my colleague Councillor Steek may simply want to add one or two final words.

**Mr. Chairperson:** Thank you.

**Mr. Garth Steek (Councillor, City of Winnipeg, River Heights):** Just one footnote. As some of you will be aware today, there was a motion passed on council requesting that the four-year term for reassessment in this particular instance be moved to five years, to the year 1999, as per the Scurfield report. The rationale for the city's request is quite straightforward. We simply feel that we need the additional time to make absolutely certain that the reassessment that we will bring forward, the roll will be accurate and it will instill confidence in the citizenry.

Suffice it to say, it has been made abundantly clear through the media the type of difficulties that we have incurred thus far with reassessment appeals and the appropriate refunds that have been filed. Accordingly, we would request respectfully of this committee that we would like to see the next general assessment delayed until the year 1999. That would allow our own assessor to ensure a high level of hearings of appeals, and we would also be able to introduce the COMA system, which is the computer mass appraisal system that we believe would ensure additional accuracy.

Those are my comments and other than that I endorse the commentary by my colleague Deputy Mayor Jae Eadie. Thank you.

**Mr. Chairperson:** Thank you, Mr. Steek. I will now ask if the committee has any questions.

**Ms. Becky Barrett (Wellington):** Mr. Chair, I appreciate the comments of Councillor Steek. I want to ask clarification, though. When you said to have the assessment be five years, you meant for this one time only, correct?

**Mr. Steek:** Absolutely correct.

**Ms. Barrett:** Thank you.

**Mr. Chairperson:** Are there any other questions?

* (1940)

**Mr. Derkach:** Perhaps this is an unfair question. However, I would like to refer to the comments made by Mr. Sanders with respect to Bill 2, and it is to do with Section 4 of Bill 2 regarding the rules and practices of the Board of Revision, and I am wondering whether or not as councillors there would be some objection to having within regulations of the bill some limitations codifying at least the areas in which the board, or the council if you like, may make rules and procedures with regard to boards of revision.

**Mr. Steek:** It is a fairly broad and sweeping question. I am not really sure what it is that Mr. Sanders is asking for.

**Mr. Derkach:** Mr. Steek, I think Mr. Sanders did point out the areas that he had some concern about, and I think he pointed also to the fact that, to avoid future court challenges with respect to rules and procedures that might be outside the scope of what is intended, it might be prudent to, by regulation, limit the scope of the rules and practices of the boards of revision. I am wondering whether or not there would be some strong objection by city councillors with respect to that kind of limitation.

**Mr. Eadie:** Mr. Chairman, again, the minister is right. It is questions we were not prepared for. There has been some discussion in times past about appropriate rules and regulations. I guess we would have to see

what is being proposed. If you are going to create a framework that is perhaps identical to the framework in which the Municipal Board conducts its business, maybe that would be appropriate. The Board of Revision might not want to have different regulations or that are more restrictive than what the Municipal Board presently has when it is conducting appeals on the same kinds of items, but I guess we would have to see it and have the opportunity to understand what is being proposed. I think I know where you are getting at. There might not be an objection, but I think we would have to see it to clearly understand it.

**Mr. Derkach:** Thank you very much, Mr. Eadie.

**Mr. Chairperson:** Are there any other questions from committee? Thank you, gentlemen.

I would now like to call Charles Chappell. Please come forward to make your presentation to the committee, and as you are coming forward I would ask if you have written submissions to hand out.

**Mr. Charles Chappell (Private Citizen):** Unfortunately not, Mr. Chairman.

**Mr. Chairperson:** Then I would ask you to proceed.

**Mr. Chappel:** Mr. Chairman, I would like to advise that with respect to Bill 2, I object strongly to the clauses validating the assessment imposed by the assessors respecting gas distribution systems and railways. To validate is to take away any right of appeal. Why is that necessary? The principle when the legislation was first brought forward in 1990 was to have a current system of value, to have a full right of appeal for every property owner to create equity. We have an equitable system. Now, when we proceed to have interference in the system–and that interference can take many different shapes. There is interference in the equity system when we have our classifications. We have portioned assessment, and that is social engineering. We have interference when we place exemptions from assessment or liability to taxation, and that is principles of Legislature as adopted.

Now we have one further task that would come to bear, that being validation. Why is it necessary to have validation? Why not let the appeals proceed? Let the determinations be made by the appropriate tribunals, and a conclusion is reached, but to go and validate and take away a property owner's right of appeal, I suggest, is most offensive, Mr. Chairman. The committee should seriously consider the issues.

With respect to Bill 43, I support–I am sorry.

**Mr. Chairperson:** We are just dealing strictly with Bill 2 at this point.

**Mr. Chappell:** Thank you, Mr. Chairman. Those are my remarks.

**Mr. Chairperson:** I would ask if there are any questions of the presenter.

**Mr. Derkach:** Thank you for your presentation, Mr. Chappell, but would you agree that the validation of the gas pipelines is done in conjunction and in consultation with the gas companies? It is not something that is done independently by the assessors, and therefore there is some agreement by, in this case, the gas distribution company with regard to the rates of assessment on the various pieces of equipment that are assessed under the gas distribution system.

**Mr. Chappell:** That may be the case, Mr. Minister. I do not know any of the particulars. What I am more concerned with is the principle, Sir, that to validate and take away that right of appeal, I think, is a fundamental wrong, and I think we should be very careful in doing that. There is no question that the Legislature has the authority to do it, but, as a principle, I think it is fundamentally wrong.

But, in answer to your question, yes, perhaps the gas distribution companies and the railways do agree and come to some consensus with the assessors as to what the quantum of assessment is. I do not know.

**Mr. Derkach:** I just wanted to point that out for clarification because the reason for this amendment is as a result of the fact that we do not have an assessor coming in to property and assessing it independently. As a matter of fact, in all of these cases, the assessor

does consult with the distribution company, and there is some agreement with respect to the levels of assessment on the various pieces of property.

**Mr. Chappell:** Mr. Chairman, in response to the minister's question, I again do not know any of the specifics, but, if there is agreement, then why do you need to validate? I do not understand the issue.

**Mr. Chairperson:** Are there any other questions?

**Mr. Edward Helwer (Gimli):** Mr. Chairman, Mr. Chappell has some comment on Bill 43. Why does he not complete his presentation on both bills and be done with it?

**Mr. Chairperson:** Is that the agreement of the committee?

**An Honourable Member:** Agreed.

**Mr. Chairperson:** Continue on Bill 43.

**Mr. Chappell:** Mr. Chairman, I support the principles the minister has announced as the four amendments. I support, in general, the bill. I question, however, fundamentally, two issues. The first issue is this: For many years, our legislation in Manitoba has required a triannual general assessment or called a reassessment, whatever terminology you want.

We never did those. In 1990, we finally got legislation in place. The concept was to have a reassessment every three years. Because of a number of difficulties within the system, it was then extended for a fourth year. The reassessment was conducted and, I think, well conducted.

Now we have legislation saying we will go four years. Have there been swings in property values? Yes, probably, but not perhaps that great to cause concern. But what is the real concern? When the legislation was first enacted in 1990, we were three years, with an aim to go to a current assessment. That is one year. Through computerization and through advances in the system, we would get a current situation.

The bill before us today says, no, we are going to scrap the three years and go four years, not just for this cycle but four years generally. Mr. Chairman, that is regressive. Other jurisdictions are going to current years or as close as they can get to current years. We are now prescribing four years. Why? It is not necessary.

Having then done that, you then hear a submission from the earlier speakers, my deputy mayor and Councillor Steek, saying no, we want to go to five or six. Well, we are ruining the system again. We have a system in place, let us perfect it. Let us make it work to create the equities we need. But to go and continue extending this, we are back to the 1980s with Bill 101, you run to the Supreme Court and we did not have an assessment in Winnipeg from 1962 until the late 1980s. That defeats the whole purposes of the assessment. Similarly, extending it is defeating the objective of achieving equity. That is my objection as a principal objection to the four-year cycle as against three. I think we should be going the other way.

The second issue is, restricting the rights of a taxpayer to appeal his assessment or to be heard in an appeal once every four-year cycle is, I suggest, again wrong. We want a system of openness. What is your neighbour's property worth? What are other properties worth? Compare it. If you do not like it, appeal. What is wrong with the right of appeal to each taxpayer every year? The reference year changes. Decisions could be made at the Board of Revision or boards of revision or at the Municipal Board that may affect neighbouring properties. People should be entitled to have a fresh look and appeal their assessment in each assessment year.

* (1950)

The purpose, I understand, to have one appeal in each four-year cycle is to prevent multiplicity of appeals. That may be wise, but again we are infringing the rights of the taxpayer to be heard each year because he is taxed each year, to look at his neighbour's property each year and to come forward and make his case. Suppose he makes an error the first time? He has lost the right for the balance of the four years or whatever cycle the Legislature determines. I suggest to

you that is fundamentally wrong, and again I suggest is against the principle that the Legislature has been trying to have adopted in the policies relating to municipal assessment.

Yes, we have gone through some problems in the past, but we are getting better at it, everyone, and I think we can have a very good system. Thank you, Mr. Chairman.

**Mr. Derkach:** Thank you very much, Mr. Chappell. With regard to the four-year assessment cycle, as you know, there have been some extenuating circumstances that have resulted in the amendment to extend the reassessment cycle to four years. But I would like to just I guess inform everybody present that in extending the cycle to four years, we will allow for boards of revision to be held in that final year of that four-year cycle so that municipalities, both urban and rural, will then be able to more accurately reflect the numbers of their budgets so that indeed there are no fluctuations from what is budgeted and what the actual reality is as a result of revisions that have to be held in a very short period of time.

Now, our long-term objective, of course, is to compress that cycle, but I think, given the situations that we have before us today, it is prudent for us to move carefully and cautiously and ensure that taxpayers are protected in the long term so that we do not have boards of revision make awards which cost municipalities dearly on an annual basis.

**Mr. Chappell:** Mr. Chairman and to Mr. Minister, I support that 100 percent, that I think we should compress the cycle. I think we should compress the procedures and the timing of our Board of Revision's hearings so that we know what our assessment base is prior to the budgetary cycle coming in. I support that 100 percent. But I still suggest that to have the rights of appeal, whatever time we have them, even in the summer, as long as there is right of appeal then the taxpayer can be heard. That is really my whole point.

**Mr. Derkach:** On the issue of the right of appeal, we certainly endorse the right of appeal for every taxpayer. We think that is a very important principle. However, if there has been no significant change to the property within that assessment cycle, because you are appealing an assessment–you are not appealing your taxes, you are appealing the assessment–and if there has been no change to your property or situations that might affect the value of your property, then we feel that it is pointless to have the individual come before the Board of Revision, and we see that there are so many who file their appeals without any basis to them. It is just a matter of filing on an annual basis because we have that right, and some of these issues are very costly to handle and it also reflects the backlog of revisions that we have before the Board of Revision and the Municipal Board.

**Mr. Chappell:** Mr. Chairman, Mr. Minister, I would also agree that there are many–I will not use the word frivolous, sir–but many appeals that may be without merit that are heard by the boards of revision and the Municipal Board, but there are simple ways to deal with that. You can impose fees respecting your application for revision to get rid of the frivolous or needless but, to take away in an absolute sense the right of appeal to once every four years I disagree with fundamentally. You and I know we are in agreement in terms of appeal and nobody wants to take away the taxpayer's right of appeal, but you have to deal with the frivolous or nonmeritorious appeals in some way. I agree with that. It is a waste of assets almost.

**Mr. Chairperson:** Thank you, Mr. Chappell.

**Mr. Chappell:** Thank you very much, Mr. Chairman.

**Mr. Chairperson:** I would now like to call Dr. Barry Prentice. Please come forward to make your presentation and I would ask–okay, Dr. Barry Prentice is not here at this point. We will move on to the next presenter, Guy Whitehill, and I would ask that as you come forward if you have copies for distribution.

**Mr. Guy Whitehill (Centra Gas Manitoba Inc.):** Yes, I do.

**Mr. Chairperson:** Thank you. I would ask that you please proceed.

**Mr. Whitehill:** Thank you, Mr. Chairman. What I have distributed to members of the committee is a summary document that outlines Centra Gas's position with respect to Bill 2.

My name is Guy Whitehill, and I am the Controller of Centra Gas, and I am here to represent Centra's position on that bill. I would like to just take a minute and read through the document that I have distributed and then, with your leave, Mr. Chairman, expand upon our position with my comments.

Centra Gas Manitoba Inc. opposes Bill 2 on the grounds that it is unfair, unjust and discriminatory to Centra Gas Manitoba Inc. and its customers.

If Bill 2 is enacted, Centra will lose the right of appeal on assessments of its natural gas distribution system. The gas distribution system accounts for approximately 75 percent of the property that Centra owns which is taxable under the laws of Manitoba. Centra pays in excess of $11 million annually in municipal taxes, of which approximately 70 percent to 75 percent is paid to the City of Winnipeg, making us the No.1 taxpayer in Winnipeg and a significant taxpayer in the other municipalities that we serve. As such our customers bear a significant portion of the total property tax burden through their consumption of natural gas.

Centra believes that all taxpayers should be treated fairly and equally and without discrimination. Without the right of appeal, Centra will lose its fundamental right as a corporate citizen to ensure that the principles of fairness and equity are available to it and to ensure that the taxes it pays on behalf of its customers are fair and just. If Centra is overassessed and as a result pays too much tax, then Centra's customers will bear this additional burden in the cost of their natural gas supplies. Centra neither profits nor loses from the payment of taxes. Rather it is our customers who lose when assessments are artificially inflated.

This is the basis of Centra's opposition to the bill, and I would now like to provide a more thorough review of our position in that regard.

Let me continue by stating for the record that Centra Manitoba has a long-standing record of providing valued natural gas service to customers in Winnipeg and throughout many cities, towns and communities throughout this fine province. In so doing, Centra accepts its corporate responsibility to contribute to the economic needs of the municipalities it serves, a great deal of which is met through the payment of property taxes on our gas distribution system. We have no opposition to our obligation to pay our fair share of property taxes. We do not, however, support paying taxes that are greater than our fair share, and that, members of the committee, is why I am here today.

* (2000)

Centra believes that, as a result of the current assessment method and the proposed amendment, Bill 2, to The Municipal Assessment Act, we are and will continue to pay a greater share of the tax burden than is fair. As I will discuss in greater detail in a few moments, the additional tax burden charged to Centra is recovered directly from our customers. In turn, any saving that would accrue from a successful appeal of Centra's assessment will flow directly to those same customers, not to the shareholders of this company.

Turning specifically to the assessment of property in Manitoba, Centra believes in the underlying principle that the market value approach for determining the assessment value of all properties subject to taxation is fair. Under a market value approach all taxpayers are generally treated the same. The assessment authorities both for the province and City of Winnipeg determine an assessment and the taxpayer, be they an individual or a business enterprise, has the right to challenge that assessment before the appropriate authorities if they believe that their property has been incorrectly assessed. Put very simply, Centra wants to be treated the same as any other taxpayer. This legislation, however, will discriminate against Centra by removing that fundamental right of appeal. Not only is this fundamental right being removed, it is being removed retroactively. Centra contends that this is extremely unfair and unjust.

If you will allow me a few minutes, I would like to briefly review some background, both with respect to Centra and with respect to the assessment and taxation

of our property. As most of you know, Centra is the distributor of natural gas to consumers throughout the province of Manitoba. Although we serve many classes of customers, our major customer base consists of residential and small commercial customers. Centra is a regulated company, regulated by the Public Utilities Board of Manitoba. As such its revenues and sales rates are designed to recover all costs incurred in providing natural gas and related services. When Centra pays taxes, such as property taxes, the tax payments are included in its cost of service, meaning that Centra recovers these taxes through its sales rates from the customers that we serve. If our taxes are too high, then the rates charged to our customers will also be too high, too high because our customers will pay more taxes than those who do not use natural gas.

Centra does not profit in any way if property taxes are reduced, and that is so important I want to say it again–we do not profit in any way if property taxes are reduced. Any savings which flow from lower taxes are returned completely and fully to our customers, and while we do not profit from lower taxes, we do have an obligation to our customers to do everything in our power to ensure that the taxes we pay are appropriate and prudent, and we take this obligation very seriously. For this reason, when we learned in 1994 that the method used to determine Centra's assessment and therefore its resulting tax liability resulted in a tax liability that was too high, we were obligated to do something. That something was to depart from the accepted practices of the day and to appeal the assessment of our natural gas distribution property.

As I have stated earlier, this action was predicated on our right as a corporate citizen, the same right that other corporations and citizens in this fine province enjoy. Our appeal in 1994 for the city of Winnipeg and then in 1995 from most of the municipalities that we serve was supported by a detailed appraisal of our gas distribution property. This appraisal was filed with the province and the City of Winnipeg assessment authorities in March of 1995. This was then followed by meetings between Centra representatives and the assessment authorities for the city and the province in August of 1995.

The report indicated that Centra's property was overassessed in the order of 30 percent, and therefore our property taxes were also overstated in the same order of magnitude. Nevertheless, being sensitive to the financial hardship that could result if our appeal was fully successful, Centra offered to forgo the tax savings that would occur in 1994 and 1995 and to move forward with a more appropriate assessment approach for 1996. This offer was flatly rejected by the province and the City of Winnipeg. Since then, we have been involved in a number of discussions, meetings and, unfortunately, some disagreements with legal counsel representing the province and the city. Despite this, Centra remains willing to forgo the tax savings that would result if the 1994 and 1995 appeals are successful. Indeed, given the long delay in resolving this issue, Centra is also receptive to forgoing some of the savings for the 1996 tax year if our appeals are successful, particularly for those municipalities that would be unduly impacted if our appeal is indeed successful.

Centra is more concerned with the future, preferring to work with the assessment authorities in a spirit of co-operation, but Centra also believes that its right to appeal must be preserved.

Given our sensitivity to the financial hardship that a successful appeal could create for some of the municipalities that we serve, Centra proposes the following: that the amendment, Bill 2, either be withdrawn completely with the understanding that Centra will voluntarily forgo any savings resulting from a successful appeal of the 1994 and 1995 assessments and also with the understanding that Centra will be prepared to forgo some of the savings for the 1996 taxation year. Alternatively, although Centra finds retroactive legislation extremely unfair and unjust, we would not object if Bill 2 were amended from its current form to be effective only for the years 1994 and 1995. Following that, Centra's right to appeal must be reinstated. Additionally, as I have already stated, Centra would endeavour to discuss the impact for 1996.

Regardless of the approach it has taken, Centra is strongly opposed to a permanent change in The

Municipal Act as is prescribed by this proposed amendment.

In summary, Centra is opposed to Bill 2 on the grounds that it is unfair and unjust not only to Centra but to our customers whom we believe are unfairly treated by this proposed legislation. Centra accepts its obligation to contribute its fair share of the property tax liability, but no more and no less. The accepted and legal requirements of The Municipal Assessment Act call for assessments to be representative of market value for all assessable property. Centra believes it is only fair and just that the same principle apply to our property. Bill 2 will remove the right that Centra shares with other corporate and individual citizens and will in the end result in a discriminatory treatment, an unfair assessment and an unfair share of the tax burden being borne by Centra's customers.

We have indicated our willingness in the past and again today to work with the system and to be sensitive to the economic needs of the communities that we serve, and to this end, I have described that we are willing to forgo the tax savings for 1994 and 1995 and to a lesser extent 1996. We urge you to consider this and to withdraw this legislation.

Mr. Chairman, that concludes my remarks. I thank you for the opportunity to present this, and I would be very happy to answer any questions that the members may have.

**Mr. Chairperson:** Thank you, Mr. Whitehill. I would now ask the committee members if they have any questions of the presenter.

**Mr. Derkach:** Thank you, Mr. Whitehill, for your presentation. I would like to ask a couple of questions with regard to your comments.

First of all, you indicated that you would be willing to forgo some of the tax reimbursement that you would get as a result of being successful before the Board of Revision or the Municipal Board. Can you tell me how much that would be on an annual basis?

**Mr. Whitehill:** Mr. Chairman and Mr. Minister, I believe, if our appeal was completely successful that the annual tax bill on the province would decline by $3 million or in the area of $3 million, with approximately two-thirds of that occurring in the city of Winnipeg.

**Mr. Derkach:** Would it be accurate to say that if Centra were successful in its appeal, the overall impact to the city of Winnipeg would be in the order of $8 million, which would have to be picked up by the other residents of the city of Winnipeg, and about $1.4 million to the rest of the province which in turn would have to be picked up by the other taxpayers of the municipalities in this province?

**Mr. Whitehill:** Mr. Chairman and Mr. Minister, I am not sure what the $8-million figure is determined from. As I have just indicated, Centra is willing to forgo the retroactive impact for 1994 and 1995. If the entire appeal was successful for 1996 and we did not forgo any of the savings, we are talking about $3 million.

What I would also like to add, Mr. Minister, is that those savings then flow to our customers who are also residents in the city of Winnipeg and of various municipalities throughout the province, so that on a net basis there is no change in the economics of the city or the province.

**Mr. Derkach:** I was wondering whether you would agree that industry standards would suggest that the cost approach is the best method to arrive at market value for unique properties such as yours which operate in a regulated environment.

**Mr. Whitehill:** Mr. Minister, I would agree that in many jurisdictions in Canada, that is the case. I do not agree that it arrives at the most representative value of fair market value for our property. In fact, that method is widely unaccepted in the United States, which also practises a fair market form of assessment.

* (2010)

**Mr. Derkach:** I would like to also ask, Mr. Whitehill, if you would agree that this proposed legislation, which simply validates the assessment rates previously agreed to by Centra and the Assessment Branch of my department, is indeed a figure or are figures which have been consulted on and which have been agreed to by

your company and by the Assessment Branch of this government.

**Mr. Whitehill:** Mr. Chairman and Mr. Minister, I would agree that on an administrative practice basis, the assessment authorities tell Centra that they are going to use the cost approach and that they are not going to use any other approach. Then on that basis we have agreed with the determination of cost, and those are the amounts that I believe you are referring to.

There is one other comment that I would like to add, and it pertains to the earlier discussion, Mr. Minister, and that is, you can use whatever approach you like, cost for a market value or any other approach. The mechanics are not as important, I think, as the end result.

**Mr. Derkach:** Mr. Whitehill, is it also true that the only source of income and expense data comes from Centra?

**Mr. Whitehill:** Mr. Chairman and Mr. Minister, that is correct, but that information is also a matter of public record since we are regulated by the Public Utilities Board.

**Mr. Derkach:** Mr. Whitehill, are you telling me now that your company is prepared to openly present its expense and income to the jurisdictions, the municipalities and to the government?

**Mr. Whitehill:** Mr. Chairman and Mr. Minister, we file that information more or less on an annual basis and periodically through the year with the Public Utilities Board, and it is a matter of record. That information is available to anyone who is interested.

**Mr. Derkach:** Mr. Whitehill, I am a little bit confused here because the information that I have suggests that the Municipal Board did request information regarding income and expense. Are you telling me that you have shared that information with the Municipal Board freely and that they have that information?

**Mr. Whitehill:** Mr. Minister, we have shared every piece of historical information that was requested from the company by the parties, including the provincial and city legal counsel and the Municipal Board. The matter of dispute to which you refer, I believe, is the filing of forecast earnings for future periods. As I believe all tax assessments are on the property that we have in effect today, we really cannot understand why that information would be required. It certainly was not required by our appraiser who conducted his review of our property.

**Mr. Chairperson:** As previously agreed, the time for questioning is over, so I would thank you for your presentation.

**Mr. Derkach:** Thank you very much, sir.

**Mr. Whitehill:** Thank you again, Mr. Chairman and members of the committee.

**Mr. Chairperson:** I would now like to ask Lance Norman to come forward, please, to make your presentation and, as you come forward, I will ask if you have any copies to hand out of your presentation.

**Mr. Lance Norman (Manitoba Chamber of Commerce):** I do not. I have a brief for myself and will be brief.

**Mr. Chairperson:** Great. I ask you to proceed.

**Mr. Norman:** Thank you very much, ladies and gentlemen. The Manitoba Chamber of Commerce counts over 260 leading corporations as direct members and represents 63 local chambers of commerce from all over Manitoba and, as such, is the single largest business organization in Manitoba representing the interests of business in the debates like these that determine public policy.

The central beliefs of the Manitoba Chamber of Commerce, I am sure you are well aware, are that the competitive enterprise system that we enjoy is responsible for our social and living standards that we currently enjoy and that there is a greater need for the understanding of the nature of the competitive enterprise, both the necessity for profit and the constant risk of losses.

One of the long-standing policies of the Manitoba Chamber of Commerce that is reaffirmed each and every year at our annual meeting is the principle of fair and equitable taxation of all business enterprise regardless of the nature of ownership, whether it is share capital or partnership, and whether it is privately, publicly or taxpayer owned, and notwithstanding the size of the potential taxpayer. We believe that business, regardless of ownership, should make its full contribution to the tax revenue of the province and of the country.

Further, on the issue of fairness and equity, there exists in our common law tradition a strong and historic aversion to retroactive legislation, and certainly this government has a well-earned reputation in the business community, and I am not going to be saying anything that I am absolutely convinced that this government is well aware of. Of course, this aversion is founded on elementary considerations of fairness, dictating that persons both individual and corporate should know what the law is and conform their conduct accordingly.

Equally as strong in our legal tradition are the principles of due process and unbiased decision making. These two are founded on elementary considerations of fairness. It would appear that government Bills 2 and 43 with respect to retroactivity appear to offend those considerations of fairness, in one sense by eliminating an extant statutory appeal process and in both of those cases by their retroactive effect.

I am certainly not going to get into the debate about what the law should be or ought to be. I will reserve my commentary only with respect to the issue of retroactivity. The particular provisions in Bills 2 and 43, if I may address both of those particular bills at this time, is that they preclude appeals which, again, that is not an issue that I am addressing, but they in fact open up agreements in the case of Bill 43 between taxpayers and tax collectors and decisions of the Board of Revision and the Municipal Board in the case of 43, because the way the wording in the legislation is is that it sets aside those appeals regardless of whether a decision has been arrived at by the Municipal Board or the Board of Revision, as the case may be.

I use an analogy here. Just think of the reaction if the City of Winnipeg issued bills to all homeowners who had successfully appealed their assessments over the past six years for overdue taxes in the amount of the original assessments, no exceptions, no appeals, as a fait accompli. I would submit to this committee that the revolt would make the Boston Tea Party look, well, like a tea party.

We laugh at that because it sounds somewhat ludicrous, but that is exactly the effect of those retroactive provisions in the legislation. The difference, of course, is that businesses do not generally take to the street marching along with placards or camping out in the Legislative Building. The reaction is less obvious, but it is just as predictable, I would submit. Either they go elsewhere or they pass on the cost to the customer or the ratepayer as the case may be.

In sum, the Manitoba Chamber of Commerce urges this committee to reconsider the retroactive portions of this legislation. Let the appeal process, the extant appeal process take its course and, I would submit, reaffirm this government's well-deserved and well-earned reputation in the business community as recognizing those principles. Thank you very much.

**Mr. Chairperson:** Thank you for your presentation. I would ask if the committee has any questions of the presenter.

I would now call Dr. Barry Prentice. I would ask as you come forward if you have a copy to distribute to the committee.

**Mr. Barry Prentice (Director, University of Manitoba Transport Institute):** I do.

**Mr. Chairperson:** I am not too sure if you were here when we first started, but we have agreed on 10 minutes for presentation.

**Mr. Prentice:** I will try and stay within that and less.

**Mr. Chairperson:** Great. I ask you to proceed.

**Mr. Prentice:** I also ask permission of the committee if I could address Bills 2 and 43 simultaneously because the issues I want to talk to are joint re my presentation.

The proposed legislation in Bill 43 and Bill 2 should be amended. The legislation singles out two segments of the transportation community, the railways and natural gas distribution, for retroactive taxation.

* (2020)

Retroactive legislation is undesirable because it creates uncertainty in the business community. How can any business plan its operations when a government is prepared to change the basis upon which these plans might rest?

In the case of the railways, Bill 43 also seems to deny due process. Assistance for hearing assessment appeals exist to deal with the municipal tax disputes. Provincial legislation should not be invoked until all other avenues for negotiation have been exhausted. In addition to what I consider to be questionable administrative tactics, the proposed legislation seems politically unwise. At a time when the Province of Manitoba is trying to encourage the development of our role as a transportation gateway, retroactive legislation sends a contrary message to the railways, to gas pipelines and to other transportation businesses. The timing is particularly bad given the structural changes occurring within the rail industry. Decisions on location of facilities and rail functions can be influenced by the taxation system.

The negative message inherent in Bill 43 hardly seems to be in the long-term interests of Manitoba citizens. The proposed legislation threatens to further distort the economics of transportation, and I would point out that the economics of transportation have been distorted for a long time. We have managed to remove certain subsidies that distort them but the taxation system also is a source of distortion.

The property tax that is imposed on the natural gas utility is significantly greater than the grant in lieu paid by Manitoba Hydro. Such taxes directly find their way into energy prices and hence influence consumption patterns in households and industry. In the case of the railways the distortion created by the legislation seems more severe. We impose no property tax whatsoever on streets or highways that carry motor vehicles. By giving the motor carriers free tax treatment on their roadway the carriage of goods by truck is favoured and the rail transport is discouraged.

We must also be cognizant of the global economy. Taxation burdens of the railways in Canada are higher than taxation of their U.S. counterparts. By adding further to this tax rate differential we risk diversion of economic activity. Similarly, by imposing higher tax rates on our energy utility the industry that relies on this product will be made less competitive. Thank you.

**Mr. Chairperson:** Thank you, Dr. Prentice. I would ask if there are any questions from the committee members?

**Mr. Derkach:** Dr. Prentice, I would like to ask a question with regard to the level of taxation of the transportation system, specifically the railways in Manitoba as compared to other jurisdictions in Canada. As a researcher I know that you would probably have done some research into where we are as it compares to other jurisdictions across this country.

As you know, this government in particular has not only been conscious of the levels of taxation that are imposed on railways. As a matter of fact, to try and encourage the presence of this important transportation industry in this province this government has moved substantially on such things as level of taxation on motor fuel for the transportation industry.

But I would like to ask you where Manitoba sits with regard to taxation levels as compared to other provinces as they relate to the railways in Manitoba?

**Mr. Prentice:** You are definitely correct in pointing out the good record that Manitoba has had in reducing the taxation on fuel for the railways, and I think that we have also been successful in encouraging certain activities to be located here no doubt in part because of the benefits that they see from the good government

they are having in Manitoba. Indeed that is part of the reason I am here, that I do not want to set that process backwards.

In terms of our relative status, we definitely are lower cost in our fuel tax in Saskatchewan, who has not made that move yet. Where we sit with regard to Alberta I think is about the same, but I think the bigger problem is not other provinces but our competitors to the south, because our railways must compete with movements that are going via the Burlington Northern and other railways that could cross through our territory or they could cross through the U.S.

In the case of one prime example, container traffic going to Ontario from the west coast, a lot of that traffic–I do not know the exact numbers, but it is a very high percentage–is going through the U.S. rail lines and up into Ontario instead of across the Canadian lines, and the railways have a legitimate complaint about the taxation levels, which are higher. That is well documented, and there are articles on this.

**Mr. Derkach:** I am sensitive to the issue of retroactivity, and that is an area that I do have some sensitivity about with regard to this legislation that perhaps we need to consider. However, would you agree that the bill itself does not impose greater taxation on the railways? Rather, it maintains the status quo and protects the municipal jurisdictions–and, in this case, the City of Winnipeg is the largest jurisdiction–from losing an appeal process because of the prospect of a successful appeal, moving the other classification of the railway property into railway property because of some perhaps unclarity in the act.

**Mr. Prentice:** I would agree that the taxation system does not seem to be shifting what has been in the past, but I think that is not the point because we had a major overall change in the assessment procedure, which is what they are appealing, and there is a due process that the City of Winnipeg does not seem to want to use where they can negotiate these. My understanding is the railways have been successful outside Winnipeg in negotiating these changes, and I do not see why the City of Winnipeg should not go through that process. Until they have and if that point comes, then the government in its wisdom is certainly right to do what it seeks to do. But I think that the process should be followed through first.

**Mr. Chairperson:** Are there any other questions? Thank you for your presentation. I presume you have covered both bills with your presentation.

**Mr. Prentice:** Thank you very much.

**Mr. Chairperson:** Thank you.

We will now move to Bill 43, The Municipal Assessment Amendment, City of Winnipeg Amendment and Assessment Validation Act. I would like to call on David Sanders. Please come forward and make your presentation. Do you have any written copies?

**Mr. Sanders:** It has already been distributed.

**Mr. Chairperson:** It is the one we had on the first one. All right. I would ask that you please proceed.

**Mr. Sanders:** Mr. Chairman, I will take a little longer on this bill. I, hopefully, will keep within the time limit.

Let me begin by saying that Bill 43 is very important legislation. I know that the agenda of the Legislature is full of important legislation, but assessment does affect literally everyone in this province, directly or indirectly. It affects the distribution of the tax bill, how fair it is and how unfair it is. We must not forget as well that it does have a significant economic impact on the development of our province.

As commercial realtors, Colliers Pratt McGarry, our firm, are well aware of that and we are very concerned about the negative consequences which could flow from failing to maintain assessments in reasonable relation to shifting market values. I am, frankly, aghast that the city would appear here tonight suggesting even a further year extension, a delay to '99. Please realize that, if we continue to base commercial values on 1991 reference year, we will then potentially have properties assessed, if you will, and tax based on values as much as–well, eight years out of date. I can assure you that there have been dramatic changes in commercial

property values in Winnipeg, if not in the rest of the province, and the consequences can be significant. You are unlikely to see many more new buildings built in downtown Winnipeg based on '91 tax values, and you may start to see buildings being torn down if they are being taxed on '91 values. I am sure that none of us wish to see either of those things. No new building–we would like to see new building and we certainly do not want to see good viable properties destroyed because of the tax impact and its failure to become current with current market values.

I would like to deal with six issues which are contained in the bill or, in one case, not contained in the bill, but by way of introduction, I would just like to repeat that with our firm we have been involved in an intimate and on a daily basis with the assessment appeal process for the last two years, appearing almost daily at the Board of Revision, appearing at the Municipal Board and were involved with many of the court cases which are setting precedents in this field, so we have some experience, at least recent experience, to deal with.

* (2030)

As a firm, our objective is simply to ensure that our clients' properties are assessed and taxed in a manner which is fair and just in relation to the assessment and taxation of other assessable property. Our firm is concerned only with commercial properties, but they do constitute in excess of 25 percent of the total assessment base of the city of Winnipeg. We are also concerned to co-operate and assist municipal governments in financing and managing of services efficiently and effectively, not only for the benefit of our clients but the community at large. We are a Winnipeg firm and we are determined to help make our city and our province prosper in the future.

Our greatest concern with respect to the current proposals for reform is that they appear to be motivated by an overriding desire for certainty in assessment at the expense of fairness and despite any adverse consequences for urban, economic and land use policies. Most of the changes in Bill 43 are designed to shield the assessment from revision, not by improving the fairness and accuracy of the assessment in the first place but rather by severely restricting the rights of appeal.

I feel I must say that we read many of the proposals as representing the desire of the City of Winnipeg Assessment Department to return to an earlier day when the method of valuation was incomprehensible to outsiders, when assessments were rarely challenged and when most taxpayers could be intimidated into acceptance of the values assigned by the assessor for fear of threatened possible increases in assessment and taxation.

Previous assessment reform, particularly the move to market value assessment, was properly intended to make assessment methods comprehensible and fair. Rather than restrict opportunities to correct inequities in assessment, as presently proposed in Bill 43, we believe the fundamental objective of further assessment reform should be to improve the accuracy and fairness of assessments in the first place.

I would refer members, going back to the Weir Report, A Fair Way to Share, which was the foundation of our present assessment legislation, and I have attached copies at the back of my brief, a relevant section to the recommendations of that committee which had gone to great trouble to consult and to make representations to the Legislature and to the public as to how assessments should be handled. I might add in passing, it included annual assessments, and it certainly included rights of appeal to all persons, but you may read it at your leisure.

We are particularly concerned that during the past 20 years The Municipal Assessment Act has been the subject of more than 200 court cases, the majority within the last 10 years, and we believe this costly litigation has resulted largely from ambiguities in the legislation and the failure of the provincial Legislature and/or the cabinet to take prompt action to clarify important issues by amendment or regulation. Such clarifications would go far to reduce the volume and length of assessment appeals in a fair and just manner.

I would beg to make passing reference to the Scurfield report, the longer version, the full version. I would strongly recommend to all members of the

committee that you read the whole report in an evening before you actually vote on the bill to appreciate perhaps more fully and accurately the circumstances which give rise to some of the recommendations before you. Once you do that, I think you may want to pause and consider my remarks with respect to the purpose, that is, to shield the assessment which is not standing up to the scrutiny of the appeal process rather than to fix it.

With respect to the problems we are dealing with. I think it is well known now that the problem has been the difficulty in moving to market value, the difficulties that the city of Winnipeg had with respect to failing to deal with the appeals until the horse was well out of the barn and the costs accordingly. Had they been dealt with promptly we would not have been faced with the need to recover monies as we have seen this last year.

Please note that the book is not yet closed. There are still many appeals in the system. The Municipal Board, which handles the appeals from the Board of Revision, we have appeals that have been outstanding for over a year and a half that have not been heard. We have assessments, '94 assessments, the property owner still does not know what really the tax bill is going to be.

It is certainly in the interest of everyone that the assessments be made as fairly and accurately as possible in the first place, appeals be heard and disposed of promptly and preferably before City Council determines the rate of tax to be applied to its assessment base. To that extent the recommendation is designed to ensure that the assessment can be published, that the appeals can be heard prior to City Council striking the mill rate. That is a highly desirable thing to do. We would like to see that happen and, in particular, would reluctantly agree at this time that based on where we stand now in the fall of '96, it is too late for the City of Winnipeg to produce a new '97 assessment roll based on the '95 reference year in time for '97.

Even if they were able to do it, it is too late to hear the appeals beforehand, and there we are again. So we would agree that the general assessment should be delayed by one year to 1998, and the city should be required to produce the new '98 roll by mid-1997 to enable that initial hearing of appeals before the end of '97 prior to setting '98 mill rates by City Council.

Please do not consider allowing a further delay beyond that point and please do reconsider the suggestion that the three-year assessment cycle should be lengthened to four years in perpetuity. I suggest that after '98, given our problems, the present legislation should continue to require a new general assessment every third year. Later, when the province is satisfied that both the provincial and city assessors are both ready, I think most would agree the assessment cycle should be shortened. Indeed, those who are enamoured with B.C. suggest that it be shortened even to one year.

If I may then, with the time available, let me skip quickly to the six issues I wish to deal with. First of all, on page 6 of my brief, I deal with the question of rights of persons to appeal assessments. I would like to say to the minister I appreciate that in our discussions with officials, this is one of the issues that we raised earlier, concern that if going from the unlimited right of all persons to appeal to the language in Bill 43, we might be missing out many people with an interest in property and look forward to seeing the detailed suggestions, but I understand that the intent is to amend that clause so as to ensure that all persons who have an interest in a property would have a right to appeal it.

With respect to extension of the assessment cycle, I have a suggestion that we could achieve the objective of the length of cycle of three years to allow the assessors time to gather data, prepare the assessment and to have appeals, but to stick with three years simply by the adjustment to the reference year to be not the year after the previous general assessment but to be the year of the general assessment. The detailed recommendations on how that would be achieved and the clauses, amendments are contained in my brief. It should be possible to meet the schedule intended but not to go beyond three years.

Now the question of a limitation of one appeal per cycle, we are aware of all sorts of reasons why this would cause unfairness, we think, if the individuals were not entitled to an appeal, if you will, each year on

the assessment. There are all sorts of reasons why circumstances change--methods evaluation change, new information is available–that would indicate that if there is an inability to appeal a new year's assessment much harm will be done. I can give examples if the committee would care to ask me about it, but for that reason I strongly recommend that the right of appeal remain with respect to each annual assessment. Changes will only occur if indeed the assessor or the Municipal Board or the Board of Revision agree that in fact they are in order.

The provisions with respect to providing inconsistent or no information, I strongly recommend that the Clauses 8 and 10 of Bill 43 be deleted, because we believe the existing authority in Bill 43 is sufficient if only the assessor and boards of revision would use it. There are provisions requiring people to supply information, to respond and there are penalties for failing to do so.

There has been only a limited effort to use those clauses so far and we would certainly recommend and as a commercial property firm would attempt to comply with those and see no need to add additional penalties.

I am concerned about transitional clauses. There are no transitional clauses in the bill and yet it is an important question whether this bill will affect appeals now in process and to what extent it might apply to '97, which is the last year of the previous cycle and whether or not these changes with procedure would affect that. I would appreciate it certainly if this matter can be made clear again to avoid litigation. I have one last recommendation to you and that is for an additional clause in the bill as an example of a constructive suggestion. If you make it clear to boards of revision that they have the authority to give reasons for the decision if they choose to, that would do wonders for the appeal process and avoid much further appeals because people will understand the basis of the decision. Thank you.

**Mr. Chairperson:** Thank you, Mr. Sanders. Are there any questions of the committee?

* (2040)

**Mr. Derkach:** Not so much a question, but perhaps a clarification. You indicated in your remarks that I guess some of the properties that you represent perhaps have been waiting for a year and a half in front of the Municipal Board.

In my discussions with the Municipal Board chair, there is a feeling of some frustration amongst board members and, indeed, in the chair, in that although on many occasions, boards or panels are put together to hear cases, there is often a postponement by either representative of the property owner or indeed by the municipality, and therefore the Municipal Board has a very difficult time in trying to conclude the many appeals that are before it.

I believe at the present time there are in excess of 400 appeals in front of the Municipal Board, most of them are commercial. Most of them of course are ones that, for one reason or another, ask for delays and cannot be dealt with in an appropriate time. I was wondering whether you had a suggestion on how perhaps we could force or somehow encourage those who represent property owners to have their cases dealt with expediently.

**Mr. Sanders:** I do not have a quick answer, sir, although the board has now introduced to practise in the event that if a postponement is requested of perhaps charging costs to the party requesting the postponement, and this has been done. This is not the case with our firm. This may have been the case that others have requested postponements. We have not done so, and I must admit that over 100 of the applications that you refer to have come from our firm recently, and we are anxious to see them brought on.

**Mr. Chairperson:** Are there any other questions from committee? If not, I thank you for your presentation.

**Mr. Sanders:** Thank you very much.

**Mr. Chairperson:** I would now like to call Henri Dupont to come forward and make your presentation to the committee, and I would ask if you have any distribution papers.

**Mr. Henri Dupont (Rickard Realty Advisors Inc.):** Yes, I do.

**Mr. Chairperson:** I would ask you to proceed.

**Mr. Dupont:** Mr. Chairman and honourable members, I am an accredited appraiser and I am employed by Rickard Realty. Our company specializes in assessment appeals. We have been doing this since 1986. Our firm files appeals against $1 billion in assessment from '94 to '96, so we are probably one of the largest firms in the business.

We are concerned that most of the legislation is stacking the deck in favour of the assessor and that it removes the rights of taxpayers. If you go to page 3 of my submission, the proposed subsection, the first one, it says the "party." We had suggestions that the commercial tenants be allowed, which you are doing. We also had suggestions that the mortgage company or lender should be allowed as a party to appeal. You are allowing mortgagee in possession, and I am stating that maybe you should allow also a lender because a lender may have arrears. It may be a time period before they actually become mortgagee in possession, and they may still have a right to any tax refund before they become mortgagee in possession, so that maybe I should be clarified to just have the lender.

Another problem is that a potential purchaser may have a valid interest but may not be an owner at the time of the appeal period. So that is another potential party which would have valid interest.

Now, to go to page 7 of my brief. The other proposed subsection 6(2) has only one appeal until the next reassessment, and a second appeal allowed by new owner or occupier. That, naturally, we are totally against. That would be for the benefit of the Assessment Department only, who would have to defend the assessment. So that is totally for their benefit. It is not to the benefit of the taxpayers; it is actually a removal of the taxpayers' rights. The assessor's position is that the–we have heard that the second appeal may not be valid, may not be credible, indeed, be frivolous. Then it may not; in the case where it is not, you are denying the right to correct an overassessment.

People in the business like us do not like to risk the credibility, and we are unlikely to proceed with a frivolous case. If you want, you can charge a fee for a second-time appeal, but I do not believe that you can legislate credibility and you do not know whether the case is credible or not until the board actually hears it. So the board should have a right to hear, and there are many, many reasons and we list some of those.

We do state that our firm filed 800 appeals in 1994. We never did file another appeal in the subsequent years. We do not revisit our own case, so it is not an abuse that is widespread of the second appeals. We have reopened somebody else's cases and other people opened our own cases. I have had customers who were dissatisfied with me, and they say, well, I will appeal myself next year. They have the full right to disagree with me, and they have a full right to disagree with somebody else before them.

Now we have had one case where an owner did his own appeals in 1994, and he settled with the assessors based on their mass formulas. Subsequently, the Municipal Board found those formulas to be wrong, and we appealed subsequently in 1996. We had the case where there were three properties very, very similar, and the board and the assessor reduced two properties but they never reduced the third one because it had previously been settled. But if they would have treated it the same way as the other two, it would have created a reduction.

Now we have a system that is proposed that would knowingly leave overassessed properties overassessed and not correct them. So it is totally wrong not to allow the second appeal to proceed or appeal each and every year.

Proposed subsection 8, which is the effect of providing inconsistent information: The wording is shown there on page 10 and the key words are, inconsistent information or substantially at variance.

In essence, they are saying if the information that we provide is substantial enough to cause a reduction in the assessment, it may not be considered if it is different than what the assessor was provided

originally. So in essence we may be restricted to the information the assessor has originally.

We cannot dig up new information. We cannot question. We cannot investigate. We cannot bring in new information that would convince a board that the assessment is wrong. So this particular legislation could actually be a technical loophole for the assessor to win case after case after case by hacking and slashing appraisals by saying: This is new information, we never knew about that. They could just act dumb and say: We never knew this information. All the cases could actually be lost due to that.

There is the effect of providing no information, and we have some comments on that. It is possible that the assessor may ask for information that is improper. They may think a property is a rental property and it is not. They may ask for construction cost, which is not available to the owner. The owner may not know what it cost to build 10 years ago, 15 years ago, and we should not be removing a taxpayer's rights because of that.

Page 13 refers to subsections 3(1) and 3(2) that would extend the next reassessment from '97 to '98 and then extend the time between reassessments. I believe everybody is speaking against that. I do not really object to having the next reassessment in 1998. The assessor apparently is not ready, and it would give the time of six months, one year, to have hearings prior to setting the assessment which means there would be no tax refund for the city, which is fine by me. I have no problem with that, but I do have a problem with extending the cycle from two to four years. All that gives is it gives the city a tax holiday–less appeals, less monies to have to refund. They are very well able to do the three years. Actually, to be progressive, we should be moving towards two years and one year. So I believe that we should be recommending that after 1998 it should go to a two-year cycle. The assessment authorities in British Columbia, P.E.I. and New Brunswick are on an annual basis. Those are what we call progressive systems and we should not be going backwards and going longer.

* (2050)

We see that it has been widely publicized that they had a $200-million refund with the assessment, but ours was for 1990 assessment. For the 1994 reassessment, it was only $6 million in refund. So there was virtually no problem with the 1994 reassessment. It is hardly mentioned in the Scurfield report. So the assessment itself was much improved for 1994 and there should be no problem with the upcoming reassessment. To extend it beyond the three years just simply removes the taxpayers' rights. As an example, it has been said that the values do not change that much and four years does not really matter. It does not even matter whether the values change 5 percent, 2 percent or 3 percent. What matters is some of the properties do not change in the same level as others. So some may go down by 10 percent during that period of time, and if you have a reassessment every four years, you lose the equity for those particular properties that do not follow the general trend.

I have had some examples where a property has been totally vacant and it takes four or five years to lease it up or to improve, and during the four or five years that it is vacant, it is possible that the assessment will never, never change because of the long assessment cycles in between, so those particular properties are totally missed. As of 1991, the reference year, they were occupied. There is no problem. As of 1998, they were fixed up, so there is no problem, but from '92 to '98 they could be totally vacant and they cannot fix that problem. You cannot get a rightful assessment for property like that. So, if you have the assessments more often, you can bring equity to those particular properties. The properties that have problems–and those problems may last only two, three, four or five years, but under the present system you may not be able to correct those. Naturally, the assessment authorities have been supportive of this bill because it suits their particular purposes, and if there are less appeals and less rights to appeal, they gain by this. Thank you very much.

**Mr. Chairperson:** Thank you. I would ask the committee if they have any questions of the presenter. If not, thank you very much.

**Mr. Dupont:** Thank you very much, sir.

**Mr. Chairperson:** I would now call on M.S. Khan to come forward please to make your presentation, and I would ask if you have any written copies to be distributed–and you do. I would ask you to proceed.

**Mr. M.S. Khan (Westcan Property Tax Consultants):** I refer to page 3 of my brief. A1 at the very top–I beg your pardon–page 3 of my brief, A2 at the very top deals with third-party appeals and I would read: Examples are one owner appealing the assessment of a neighbour because of a perceived inequity, municipalities, school boards and other interested parties appealing assessment of properties where they perceive inequity. It is an effective way of ironing out inequities in neighbourhoods. I believe all provinces allow third-party appeals. In Ontario, third-party appeals are not uncommon.

I believe it is the Scurfield report which said there are very few third-party appeals in Winnipeg. Third-party appeals do not clog up the system. There will be court challenges if this right is taken away from taxpayers. There is very little justification for this change. It would open a can of worms. The province should not make the change.

In A3, I deal with unauthorized appeals. How many unauthorized appeals were there? I asked the minister's office. It has no statistics. It was provided with orders of magnitude by the Assessment Department. Now orders of magnitude must require statistics, and they have not got it. I asked the Board of Revision. It does not have statistics but is aware that unauthorized appeals do happen. The board did not request a change in the act. I asked the city assessor. He does not have statistics and says it is the responsibility of the Board of Revision. He says council passed a resolution to this effect in 1993.

I have been working in assessment appeals since 1987. There is only one instance where an owner wrote to the board that I did not have authority, and that was a misunderstanding. Other agents say they file appeals with authorization, but I do understand that there was one agent who filed a handful of appeals without authority. I am of the opinion that this is a situation where a few examples are being blown out of proportion. Unauthorized appeals do not clog up the system. There is very little justification for this change. The province should not make the change.

Page 4, Mr. Chairman, deals with prevailing practice in filing commercial appeals. The owner receives a notice, gets in touch with the agent by telephone and asks for a review of the assessment. The agent does a preliminary review and responds either in writing or verbally and makes a recommendation on filing or not filing an appeal. If the owner decides to appeal, he instructs the agent to do so over the telephone. This provides the agent's authority.

The system is efficient. If written authorization is required, the system would be slowed down. The time allowed to file an appeal is about a month, within which all the tasks above have to be completed. If the system is slowed down by requiring written authorization, many owners would miss the deadline. Written authority is an obstacle to efficient business.

Agents are generally professional people acting under the code of ethics of their association. They are lawyers, accountants, appraisers, property managers, real estate brokers. They could be disciplined for irresponsible behaviour by their associations. There is no need for the policing by the province.

Owners should retain the right to engage agents from the start. The application process is completed, as can be seen from the legal requirements in A1. It is very much in the owner's interest to engage a knowledgeable agent from the start, otherwise the owner runs the risk of having the board reject his application. There have been many court cases on the rejection of applications. Owners must not be forced to file appeals personally. They should have the right to engage an agent to file an appeal as a matter of choice, and not only because of illness, physical handicap or a language barrier. That is a reason for requiring personal appeals by owners.

Mr. Chairman, I refer to page 5. Page 5 deals with not providing assessor with information, providing incorrect information to the assessor.

I will skip and go to page 6 and the second paragraph. The second paragraph: The changes would give the board power to penalize taxpayers who have

submitted incorrect information or failed to submit information to the assessor. The board is an independent court created to deal with fair and just relation in assessment. The board should not be diverted from this important task by other considerations. Other provinces deal with this problem in other ways, e.g. Ontario makes the owner liable to a fine by civil courts for not filing information, and I suggest that is the way to go. Do not clog up the boards who are dealing with justice.

The changes should not be made. They are peripheral matters which would not assist the board in dealing with the all-important consideration of fair and just relation in assessment.

On no account should the board be allowed to reject evidence in an appeal because of the issues discussed above; otherwise, there would be many court challenges.

* (2100)

The information required by the assessor is in a format designed by the assessor. It requires the owner to readjust his figures in order to comply with the format. It could lead to errors in reporting. However, in an appeal an owner generally ensures that the evidence he submits to the board is correct. He may also submit additional information relevant to the appeal but not requested by the assessor. He should not be penalized for discrepancies.

An owner may not have submitted information because there is no information to submit. This occurs in the case of nonrental properties or owner-occupied properties. The owner should not be penalized.

On page 7, Mr. Chairman, it deals with one appeal per assessment period. I refer to the middle of the page. How many people are clogging up the system by having the same appeal made year after year? I asked the minister's office. It had no statistics. It was provided with orders of magnitude by the Assessment Department. There must be statistics before you can have orders of magnitude. I asked the Board of Revision. It has no statistics. However, it says it does happen more so with residential appeals. It hardly happens with commercial appeals.

Since 1987, I have made two repeat appeals. One was successful and the other is pending. Other agents have made the occasional repeat appeal.

I work mainly on a contingency fee basis as do other agents. I get a percentage of the tax savings. I would not repeat an appeal unless there was justification and a reasonable chance of success. The same applies to other agents.

This is a situation where a few examples are being blown out of proportion. There is no backlog of appeals anymore, from my understanding. Second appeals have not clogged up the system in the past. Problems were mainly due to the internal policies of the city.

The taxpayer should maintain the right to more than one appeal within the assessment period. There are valid reasons. There may be new evidence such as a certified appraisal report; change in physical condition such as structural problems; new evidence such as sales or listing activity of subject or comparable properties, new leasing activity; recent court or board precedents; change of valuation techniques by the assessor; undue motivation for a previous settlement such as financial distress or playing safe by accepting the offer of settlement instead of trying to win greater reduction through the boards; a desire to save money by not hiring experts to present a good case in the first instance.

**Mr. Chairperson:** Mr. Khan, you have one minute.

**Mr. Khan:** There is no justification for this change. I would recommend that the province does not change it.

The four-year assessment period, on page 9, Mr. Chairman. In the middle of the page: The reason the city got into trouble in the last decade is its reluctance to meet the assessment schedule specified by law. The city's efforts have been directed towards deferral, delays and getting the law changed. This is another such attempt. Presently there is no backlog in appeals

Mr. Chairman, I move to the second-last paragraph: The assessment period should be maintained at three years.

I go to the last paragraph: I understand B.C. is virtually on a one-year cycle. Ontario is in the process of changing to actual-value assessment, which is close to a one-year cycle.

I refer to page 10, and I say that if the assessor could get its house in order by staying current, it would not have a problem with too much work or falling behind or clogging up the system. All he has got to do is put his house in order like other people have done, and there would not be a problem.

Second to last paragraph, Mr. Chairman, it is false economics to try and save money by going to longer assessment periods. A more certain way is to go to shorter periods to assist in eliminating assessment errors. The city stays on top of things. The workload would reduce for the Assessment Department and the board. From the point of view of the private sector, this is a step backwards. The province should not make the change.

On page 11, I think the assessor should willingly provide information to the taxpayer, and one of the things he should provide is, what are his comparables and what are the sales within the city? The municipal assessor provides a great big roll showing all the sales in rural areas. It would help an ordinary taxpayer to have such a roll in the city of Winnipeg too. The information exists.

Mr. Chairman, in conclusion, all the changes proposed are for the benefit of the city assessor to reduce work. I understand that neither the Board of Revision nor the Municipal Board of Manitoba have requested changes. These changes would not save the city money. Not too long from now it may cost the city more and increase the workload. None of these changes are proposed for the benefit of the taxpayer. On the contrary, they are to the detriment of the taxpayer.

I must say one more thing. The minister's office only spoke to the assessor. I do not believe the minister's office spoke to the private sector or the Board of Revision or the Municipal Board. What you have got here is biased legislation.

**Mr. Chairperson:** Thank you, Mr. Khan. I would ask if there are any questions from the committee to the presenter. Being no questions, I would thank you for your presentation.

I would call forward Jack Nelson. Please come forward to make your presentation to the committee, and I would ask, if you have any written copies, for your brief. I would ask you to proceed.

**Mr. Jack Nelson (Professional Property Managers Association):** Thank you, Mr. Chairman.

I am here representing the Professional Property Managers Association, and we represent approximately 30,000 apartment units in the city of Winnipeg.

With respect to the amendments to The Municipal Assessment Act we have concerns with a number of areas which I will outline.

Extending the assessment cycle from three years to four years– I realize the assessments are to be based on market value, and while we understand that it may be unreasonable for an assessment to take place every year, by extending this time frame we feel that there is the risk the assessments will become more outdated. We do not feel that this is a fair position for the property owners to be in. We see no reason for extending the period other than to make it easier on the Assessment Department, and we suggest that it is not a good reason for the amendment.

The elimination of third-party appeals–we suggest that third-party appeals should be allowed in certain circumstances such as when an owner has hired a fee manager, that manager being able to appeal on behalf of the owner, and when a property has been purchased but the new owner has not taken possession. In both of these cases these individuals who do not necessarily own the property do have an interest to protect the interest of the property.

We have a concern with only one appeal in each assessment cycle, and any number of things can happen

within an assessment cycle which could cause the need for a further appeal. New information could become available that could affect the assessment. The owner may have had someone representing him who did not do a proper job and did not present all of the relevant facts to the Board of Revision on the first appeal, so there should be an opportunity for further appeals within that cycle if new information is available.

The amendment with respect to providing the Assessment Department with detailed financial information–while we understand the need for a procedure wherein the Assessment Department can be assured of getting the information, we feel that if new information that is relevant comes forward during the process that this information should be considered. The job of all concerned should be to determine what is the proper assessment no matter when the information becomes available.

In closing we would like to state that while we understand there has been a difficult transition in moving to market value assessments, there is no substitute for ensuring that assessments be done properly and using all available information on a timely basis. If this is accomplished, there should be no need to restrict anyone's ability to appeal or to provide information, and I thank you for it.

* (2110)

**Mr. Chairperson:** Thank you, Mr. Nelson. I would ask the committee if there are any questions of the presenter? If not, I thank you again for your presentation.

I would now like to call on Paul Moist to come forward and make your presentation to the committee, and I would ask if you have copies for distribution.

I think just to remind everybody that is making presentation that may or may not have been here at the start, we are limiting the presentation to 10 minutes with discussion and question of five afterwards. I would ask you to proceed.

**Mr. Paul Moist (Local 500, Canadian Union of Public Employees):** Mr. Chairman, members of the committee, with me is the next presenter, Mr. Rick Weind, and we will make a joint presentation on behalf of CUPE, if that is okay. I am just going to speak for a moment.

Local 500 is pleased to have the opportunity to make this presentation to the committee. A total of 142 employees of the city's Assessment Department are members of our union, employed as assessors, technical and clerical staff in the department. The events of the past few months have created much pressure on all civil employees, and particularly the Assessment Department staff and the Board of Revision staff.

Like others, we were shocked when the $54-million assessment appeal shortfall was discovered. But the issue is much more than $54 million or the strain tha this places upon the city's 1996 and subsequent current budgets. For us, the real question is the wider issue of how the assessment system we work in has resulted in $200 million in appeals paid out to commercial and residential appellants.

Our suggestions regarding this legislation are to speak to this wider issue and in our view support the business mission of our department, which is to provide, quote, the city and its citizens with an accurate, uniform, up-to-date real estate valuation, classification and information system.

All CUPE-rated staff within the department were asked for their views on this subject and many responded. This submission represents the distillation of the various comments and suggestions from line staff.

I will turn it over to Mr. Rick Weind, who is a member of the Assessment Department and an executive member of our local.

**Mr. Richard Weind (Regional Technical Operations Unit, Canadian Union of Public Employees) :** On behalf of the employees we represent, we are pleased to appear before this committee. We want to speak in support of this legislation. We feel it helps facilitate

the goals as enunciated in our mission statement. We can particularly welcome the change limiting third-party appeals, and we acknowledge the provisions you have made for tenants to appeal, and we fully agree with that. We also welcome the change limiting the number of appeals on a property, one per cycle, not withstanding the provisions for exceptions in Section 42(4).

Having said that, we are also recommending some changes which in our opinion would also benefit a market-value assessment process, and I will just go over it. We have highlighted eight or nine of them, and I will just go over them briefly. You can read what was said in here.

Point No. 1: In Section 54(3.1) we would recommend that "the panel may order" be changed to "the panel shall order." If we are to prepare an accurate assessment roll it is imperative that information be supplied in a timely manner.

Point No. 2: In Section 54(3.2) we would like clarification that these provisions would apply to the subsequent assessment roll year regardless of when the appeal was heard. Again, the demand for information is being driven by the appeal process, and in effect the tail is wagging the dog, and if we are to provide market value assessments, and we were chastised for many years by the assessment appraisal community for not doing market value, it is imperative that we get the information and we get it in a timely manner. That is the only reason we would ask for those changes, that the information be provided.

Point No. 3: We would ask that the burden of proof be shifted from the assessor to the applicant. This was a recommendation which was also made by the representatives of the B.C. assessment authority, which made a provision to the City of Winnipeg, and we have included a copy of that in our brief. The intent is not to put up barriers or obfuscate any issue. The purpose is to deal with legitimate concerns put forth by appellants and do away with frivolous appeals, and we will use that term "frivolous appeals" because, in our estimation, there are a number of frivolous appeals that are filed for fishing expeditions. If you are going to go fishing, bring your own rod, reel and bait and have a reason for appealing. That is the only reason this is in here. The onus is on the appellant in all if not most jurisdictions, as far as we understand.

Point No. 4: Section 46(2), make dismissal mandatory for failure to appear. Again, change "may" to "shall." If appellants do not show up at the hearing there should be no question in our mind, dismiss it.

We have some miscellaneous recommendations.

Section 11(4)–we recommend that that section be deleted and properties earned by railways be assessed in the name of the owner. Presently under Section 11(4) the city is in effect the property manager, to a certain extent, for all leased railway property which involves billing all leaseholders individually and adjusting all leaseholds in the event of change. Many of these are seasonal. Information and documentation has to come from the railways regarding the above, and it is a service that is probably part of an outmoded, outdated assessment system which should no longer be part of the legislation.

We ask that written legislation be enacted requiring a written explanation , and I think that has been dealt with as well, if I remember correctly, at the beginning.

Point No. 7: We also recommend that consideration be given to re-examining the definition of market value. Again, the B.C. assessment authority identified two areas of concern which we would ask that you look at. The B.C. authority defines value as the market value of the fee simple interest in property. We would ask that this definition of value, as in the B.C. model, be used as a model for our legislation.

The last point is, we recommend that the assessment originally scheduled for 1997 be delayed until 1999. Following 1999, we would recommend a four-year cycle be implemented as proposed in Bill 43. Again, that would not be hard and fast, and we could see evolving into a three-year or two-year cycle down the road. But for whatever reason, it is imperative that we provide a stable tax base. Again, for whatever reason, we are in a situation where it would be in the city's

interests and the province's interests to delay that reassessment until 1999.

As we stated in the preamble, our members have had ongoing concerns with the assessment process. To this end we have presented briefs individually or collectively on four separate occasions, and we go on to list them there. We have supported many recommendations made in this report. This is our fifth attempt to express our views, and the employees of the department have been pretty consistent in what they have recommended over the years.

We have made reference to the external review conducted by the B.C. Assessment Authority–Mr. Scurfield refers to them. I mentioned we included a copy with ours. They have had a system that has evolved since 1978. We think we can probably learn some things from them. We have included it for your perusal. We make these recommendations in good faith and ask that these committees receive and consider them in the same way. We feel our recommendations legitimately and logically complement the bill and ask that you consider them. Thank you for your time.

**Mr. Chairperson:** Thank you, Mr. Weind, Mr. Moist. I would ask the committee if they have any questions of the presenters.

**Ms. Barrett:** Mr. Chair, so my understanding is then that CUPE, and the members in the Assessment Department that CUPE represents, are in favour of the scope of Bill 43 and are asking for these amendments to carry on and further the principles that are incorporated in Bill 43. Would that be correct?

**Mr. Weind:** That is correct. Yes, we feel that these items we have identified, while you may not be prepared to implement them right away, they should be considered. We see the assessment legislation in a process of evolution. From our perspective, we do not see these as getting in the way of taxpayers' right to appeal or any such thing. We see it in a way of facilitating a stable equitable tax base.

* (2120)

**Mr. Chairperson:** Any other questions? Thank you, gentlemen.

I would now call on O. William Steele. Pardon me. I am sorry. I missed one here. Michael Mercury to come forward and make your presentation, and ask if you have written copies for distribution to the members. I would ask the presenter to now proceed, please.

**Mr. Michael J. Mercury (Private Citizen):** Mr. Chairman, I prepared a brief. I was speaking as a private citizen who has been involved in the assessment, taxation field in terms of fighting the assessors for a period of about 20 to 25 years. I am a lawyer and I am also a member of the Canadian Property Tax Agents Association, an association to whom I have spoken on the lecture circuit. Mr. Isaac Zacharopoulos is a senior officer of the Canadian Property Tax Agents Association, and he read my brief and he adopts it as his own. Therefore, I will speak on behalf of the Canadian Property Tax Agents Association and also on behalf of what I would like to consider is the taxpayer to the province of Manitoba.

First of all, let me say, the Canadian Property Tax Agents Association is an association of over 300 major Canadian corporations that pay real estate taxes, and they have a vital interest and concern in this bill.

Now, if I could characterize Bill 43, I would characterize it as the triumph of the bureaucrat over the taxpayer. I say this with all due respect to the members sitting in this committee. I studied assessments for a number of years, it is a difficult subject, but I know one thing, and that is that there is a conflict between making life easy for the bureaucrat and the right of a taxpayer to seek equity in assessment.

I do not fully understand the subject, and I say that in all modesty, because it is an odd subject. There are certain people who do and certain people who have influence over the government of Manitoba, but you, as the representatives and the trustees of the taxpayers of this province, have got to be very careful about trampling on the rights of the taxpayer.

As a forward I would like to say that I was surprised, but perhaps not so, to hear representatives of the taxing authority say they want to extend the cycle now to four years and now to five years. Five years? World War II was fought and finished in less time than it takes the Assessment Department to produce a proper roll. Think about that.

I have attended conferences in the United States and Canada, and I am a member of the IWAO, which is the International Association of Assessing Officers, and I went on one occasion to Pinellas County in Florida. Pinellas County takes in St. Petersburg, Tampa and Clearwater. They have over 800,000 assessable properties. They are on a market-value system. They have yearly assessments, and I asked the senior assessor, how many appeals do you have a year? The answer was approximately 700 a year. Now, if Pinellas County, with 800,000 assessable properties, can do an assessment yearly, which was what this legislation was intended to do, then why is it that this department cannot do it? All right?

Now, there are firms in the United States who, for a fee, will do the assessment of every municipality and every city for a fee, and they will come in and they will defend the assessment. If our people cannot produce a proper roll then they should be fired. I am sorry, Mr. Chairman, Mr. Minister, they should be fired.

Now, it is very easy for people to say that they made a mistake and run to the minister and say, oh, we goofed, you know, these are the rules, we play by the rules, but the rules are not going to work for us. Well, change the rules, but do not just change the rules, change it retroactively. You tried to do that for the Winnipeg Jets, close a loophole, and you found out the hue and outcry that appeared in the press and by the business community. Retroactive legislation, lady and gentlemen, does not work in this day and age. You cannot do it in the United States because you would be lynched if you tried to do it. Secondly, there is some merit in the American practice of electing the assessor because he has to be on his toes.

Now, let me deal specifically with Bill 43, and I will try to be brief. I think I will need double time because I am now speaking for the Canadian Property Tax Agents Association. [interjection] All right. Thank you.

Section 2 proposes to eliminate third-party appeals. I think this is wrong, and I will tell you why it is wrong. It is wrong because every person has a vested interest in the assessment of every other person, but that can be–if the process is properly applied it can be worked to preserve justice, and if it is abused it creates a great injustice. The injustice is when we have so-called tax consultants acting in a nonethical way coming into the province, filing massive appeals, going and getting property owners to sign up on a contingency fee–50 percent of one year's tax savings–and then maybe getting some and the rest not proceeding with them. The poor assessor has to prepare an assessment appeal. He prepares it, comes to a hearing, and lo and behold, they do not show up.

All right. I have a solution to that, but you cannot–and I will talk with the solution, and I have some proposed amendments to fix that practice. I would like to pause here and say, it is too bad that the administration does not talk to lawyers such as myself and others in the practising bar and certain others who deal in this field to find out how we can solve this problem, because we are here to assist not here to tear the system apart.

* (2130)

The reason why we have third-party assessment appeals is to fight the Assessment Department. I will tell you why, and I will tell you about a case. In the 1960s, there was an appeal of Portage Avenue property, and the Assessment Department came and said, these other properties on the north side of Portage are assessed just like the subject property, it is fair. Well, the next year the taxpayer went to the comparables and said, you know what, they are playing one off against the other. Why do we not go as a group? Second year they went as a group. Well, the Assessment Department did not like that.

They went to the Municipal Board, and the Assessment Department said, these properties on the north side of Portage may be assessed fairly, it is just that the south side may be too low, but the south side is not an appeal so you cannot do a darn thing except

order a reassessment. Leon Mitchell, chairman of the board, said, we will order a reassessment. The Assessment Department said, that is not fair. We are going to court. We are going to throw it out. It exceeded its jurisdiction. The court says, no, it is fair. Go back and do the assessment. They did the reassessment. What happened? The Assessment Department did not change one cent of all the properties in downtown Winnipeg, not one cent. So the group said, well, let us go again next year.

So next year what they did do is they appealed not only theirs but everybody on the north side of Portage and said, if we are too high, but if everybody on the north side is fair and everybody on the south side is too low, so jack them all up. The Assessment Department panicked. They went to court and said, you cannot do this. The Court of Queen's Bench said, yes, you can, get on with it. So there was a seven-day hearing before the Board of Revision and the taxpayers, and the people now, the big boys from down eastern Canada, Eaton's, The Bay, the banks came and said, look, our assessments are high on the south side of Portage. But if we are high, these people on the north side of Portage are in orbit, reduce them. They were reduced.

Now, if the taxpayer does not have the right to do that, and that is a legitimate use, then those taxpayers would not have had justice. There are other similar situations. That is where the taxpayer has a vested interest in the assessments of the other person, because the courts have said, even an assessment at market value, your assessment of market value, may be inequitable if others are assessed below market, and you have the right to put those properties into appeal and have the assessor come and account. So I say, third-party appeals should be allowed.

That was done with the Wellington Crescent appeals. Recently the Wellington Crescent appeals went through. There were eight properties that were appealed, but they also said, we have got to appeal all the rest of them to show the board that something is wrong. Well, of those eight, only two got reduced, but 60 others were reduced, but because we as counsel could not charge for that, they got the benefit. But justice was done. So he could not play one off against the other.

**Mr. Chairperson:** You have one minute's time.

**Mr. Mercury:** One minute? Well, my solution to that problem is that Section 42(1) should be added to discourage an abuse by saying that: No person shall be entitled to charge a fee for making an application for the revision of an assessment roll where the application was made without prior written authority of the owner of the property named in the assessment roll.

I have spoken briefly on the three-year cycle. It should not be four years. It should be three or less. The reason I say this is this, and perhaps you are not aware of these problems, and that is, when the 1990 assessment came in at 1985 values, there was not going to be another reassessment till 1993, and we heard the same argument, we need a further amendment. We have to go to 1994. South Portage was thriving in 1985. North Portage came into effect in 1987, and property values dropped on the south side of Portage and people started to hurt. They could not get any relief until 1994. Now, that is too long a time, gentlemen, seven years, and you kill your development. So I say, if they want to have a three- or four- or five-year cycle then you have to have an amendment.

The amendment I show on page 7 of my brief would say this, because we always talk about market value, but Section 18–excuse me, Mr. Chairman, may I have some grace on this?

**Mr. Chairperson:** I am sorry, your time is up. If you would like to state your amendment, and then I will ask the committee to ask questions.

**Mr. Mercury:** Well, the amendment is that Section 18 which says, and I will read it, notwithstanding any other provision of this act, an assessment is presumed to be properly made and the assessed value to be fixed with a fair and just amount where assessed values bear a fair and just relation to the assessed values of other assessable property, and I would add these words: in each year of assessment and taxation.

To clarify the words, because no one has ever clarified. One speaker says the legislation is ambiguous. I would add another section. What do we mean by fair and just? The addition would be, an

assessment will be deemed to be fair and just when the ratio of the assessment to the current market value of the assessable property is in proportion to the general level of assessment in the municipality.

Now, your experts know what that means, but that is he type of legislation that is in Nova Scotia. So if you want to have a three- or four- or five-year cycle, that is fine, but put that provision in there because equity has got to be done in the year of assessment and taxation not as of 1990 or 1991 for 1997 current budgets.

**Mr. Chairperson:** I thank you for the amendment, and unfortunately, because of the guidelines that allow 10 minutes of discussion–I have allowed you a little bit of leniency.

I would ask if there are any questions of the presenter from the committee?

**Mr. Mercury:** Mr. Chairman, there was one further amendment which–

**Mr. Chairperson:** I am sorry.

**Mr. Marcel Laurendeau (St. Norbert):** I think I have two questions. Mr. Mercury, there was one area that you have not really touched on very much, that is on the one appeal per cycle, and I think where you had reflected on it was the issue around they would have to hire professional help to do their appeals. Could you expound on that just a little bit?

**Mr. Mercury:** Yes, Mr. Laurendeau and members of this committee, it is this, if you have ever gone through an assessment the first time, you will find that the whole process is very, very confusing. In some of the material which I passed out was a typical assessor's brief that a taxpayer gets, and I would suggest that you look at it. So this one is 680 Wellington Crescent. It starts off by swearing in the assessor and also the taxpayer, and the assessor gets up and he gives this to the board.

Now, the board knows what all these symbols mean; the taxpayer does not. The assessor says, well, I have looked at all these, they are fair and equitable, and you get these figures, and you are an unsophisticated person who has a property in the north end of Winnipeg, you are not paying much in taxes, but you think you are overassessed.

Let us say you come and you get this brief, you lose. You do not know what questions to ask and, therefore, as a result, you are puzzled and you go away and you lose the case. So next year you say, well, I better go and get some advice if I can afford it.

I have had situations, Mr. Chairman, where senior executives have decided not to hire lawyers. They went once, they went twice, and each time you get a new assessor and new information, and they lose. The third time they may get it. So what is wrong? He has paid high taxes in a year that he should not have. He paid it again the second year that he should not have. What is wrong with the person going the third time and asking for equity? Are we not here to do equity?

So the city has collected taxes they should not have had. That is proven in year No. 3. So what are we doing, conveniencing the bureaucrat because he has too much work to do? You know, as John Scurfield said in his report, Mr. Laurendeau, he said, the Assessment Department for many years was a very comfortable place to live and there is an atmosphere of, and I quote, "institutional arrogance".

Now, you people have not gone before the assessment and have dealt with that and seen what happens to the little guy who cannot afford me or Mr. Nugent or Mr. Farstad or other lawyers or other appraisers. What do they do? It is smoke and mirrors.

* (2140)

So I say, it is an educational process, so what have we got to hide? It is a little bit more expensive, but what is wrong with that? Are we not here to do fairness and equity? Is the system geared to protect the bureaucrat, give them less work to do, or is it here to do fairness? It was fairness and equity.

This is what the Conservative government put out in 1990 when Mr. Penner was minister, Assessment Reform: A Commitment to Fairness.

Bill 43 is not fair.

**Mr. Chairperson:** Are there any further questions? If not, I thank you, Mr. Mercury, for your presentation. I would now call on O. William Steele to please come forward to make your presentation to the committee, and I ask if you have any copies for distribution to the members. Mr. Steele, I would ask you to please make your presentation.

**Mr. O. William Steele (Private Citizen):** Mr. Chairman, thank you for the opportunity to make this presentation. You are looking at now the manifestation of a tough act to follow, but I cost a little less.

My interest in Bill 43 is due to a concern that there appears to be a swing away from the protection of rights for citizens to greater accommodation for government bureaucracy and municipal management responsibility and accountability. While my main interest is commercial real estate for the city of Winnipeg and my comments reflect that fact, many of the points addressed in this presentation affect both residential and commercial real estate assessments for the province of Manitoba.

In reading The Municipal Act and the proposed amendments, one is quickly drawn to the conclusion that property owners and tenants in this province are an enemy. Assessment legislation appears to say that government has little regard and little concern for those who create jobs, provide goods and services and pay taxes. Rather, the purpose of the legislation is to make an easy task for the bureaucracy and provide an alternative to competency in municipal management.

In contemplation of both the act and amendments as it relates to commercial property, it is worth noting that the legislation affects both property owners and tenants. However, tenants are frequently less knowledgeable and financially capable of appealing inappropriate assessed values. Many thousands of tenants are at the mercy of property owners to appeal overassessments. The motivation for property owners to appeal realty assessments is absent in many situations because tenants pay all realty taxes. In that context, for the protection of commerce in this province, legislation should demand a higher degree of competency and accuracy from assessors.

It is apparent that significant portions of the act in the proposed amendments exist at the behest of government bureaucracy. I appeal to the committee that there are more than enough roadblocks and frustration thrown into the paths of citizens and commerce regarding Winnipeg realty assessments.

With respect to the proposed amendments through Bill 43, I make the following comments. I am just going to move down to Part 1, subsection 3(1). Where I show that Part 1, that means in the amendments.

The purpose of this amendment to subsections 9(2) and 9(2.1) of the act is to change the general assessment cycle from the current three years to four years. The data resource and computerization facilities available to the City of Winnipeg Assessment Department are second to none. The capacity of the City of Winnipeg to do a general assessment every year with significantly reduced staff is, in my opinion, beyond question. With computerization, the leaning of Assessment Departments across Canada and the United States is toward annual general assessments. Any move to maintain a three-year cycle let alone moving to a four-year cycle is regressive, unnecessary and widens the gap of fairness and inequity. Even under current circumstances at the City of Winnipeg, a general assessment should be produced, as currently provided, in 1997.

Part 1, Section 4–the intent of this amendment to subsection 16(1) of the act is to oblige the property owner as one who " . . . uses or occupies assessable property," to supply the assessor with information relative to property sale, construction costs and income and expenses. The implication of this amendment and indeed subsection 16(1) of the act is very troubling. There are many areas of The Municipal Assessment Act and the proposed amendments through Bill 43 which cause concern, but there are few sections which cause greater concern than subsection 16(1).

While the definition of value in the act appears to be market value, the reality, as established by various court decisions, is that value is the value of the absolute

fee simple estate, that is, value without any regard whatsoever for any other interests. In that context, value is to be based on market rental value not contract rent, market vacancy not actual vacancy, market expenses not actual expenses. In fact, actual sale price does not enter into the equation.

As the act now stands through subsection 16(1), the property owner is obliged to supply information and documentation to the assessor, but the assessor is not obliged to provide information and documentation to the property owner.

The requirement for the one-directional supply of information and documentation to the assessor is patently unfair and unjust to the property owners. The requirement for supply of information to the assessor is unnecessary for the evaluation process. In my opinion, subsection 16(1) should be repealed.

Part 1, subsection 6(1)–the intent of this amendment to subsection 42(1) of the act is to restrict the filing of an application for revision of an assessment roll to the assessor and the property owner. Implementation of this amendment is unfair and impractical. Under Section 18 of The Municipal Act, it states: an assessment is presumed to be properly made and the assessed value to be fixed at a fair and just amount where the assessed value bears a fair and just relation to the assessed values of other assessable property.

Subsection 54(3) and subsection 62 implies essentially the same thing. However, in a case where an applicant is of the opinion that the assessment for the other assessable property is not properly made, the applicant must have the right and be given the opportunity to make application for revision of the assessed value of the other assessable property in order to prove his or her own value. Realty assessments in Winnipeg are currently in a terrible state. Where a property has not been assessed fairly and equitably according to the act, it is absurd that the property should be assessed by comparison to another property which is also improperly and inaccurately assessed. This is one of the fundamental reasons why anyone must have the right to appeal any assessment.

Part 1, subsection 6(2): This addition, to be subsection 42(3) of The Municipal Assessment Act, is to restrict an applicant from making more than one application for revision in each general assessment cycle. This addition causes an unfair and unreasonable limitation to the rights of the property owner. Property owners, particularly homeowners, frequently file applications for revision without professional assistance. The assessor may appear at the Board of Revision with information and statistics which have nothing to do with the subject property. The property owner without the information resources of the assessor could not possibly be prepared to counter the unrelated information presented by the assessor, and the board is obliged to make a decision based on information and statistics unrelated to the applicant's property.

If there is no opportunity for the property owner to file another application for revision, the process lacks reasonable justice. It is interesting to note that this subsection applies to the applicant only. Does the assessor have a sacrosanct position? Is there a reason why the assessor has three, maybe four, bullets and the applicant has only one? The provisions of this proposed amendment are offensive in the extreme. The assessor has an open season for three, possibly four years to seek an exclusive second, third or fourth opportunity for retribution against a proper decision of the Board of Revision and/or the Municipal Board.

As a matter of interest, the proposed addition to subsection 42(4) allows a new owner of a property to make a second application. This provision begs the question, does a new owner create new value? This is an interesting quirk, a strange twist of logic.

Part 1, subsection 8: The proposed additions of subsections 54(3.1) and 54(3.2) to the act relate to the proposed amendment Section 16(1)(c) where the property owner or one who uses or occupies assessable property provided income and expense information or documentation that is at variance with information presented at a hearing. The implication of these additions are both impractical and extremely unfair. The drafting of assessed value based on information and documentation received from someone who merely uses or occupies assessable property is impractical.

Subsection 16(1), again, is inappropriate and unfair because the right to request information and documentation is exclusive to the assessor. The proposed addition of subsection 54(3.2) extends and magnifies the unfairness because the property owner may be penalized where information supplied in writing is at variance with information which is presented at a hearing. As a minimum, the obligation to provide information and documentation are relative to property value and under subsection 16(1) should apply to both the assessor and the property owner, and subsection 64 setting out a fine of $25 per day for refusing or failing to supply information should also be made applicable to both.

Definition of value: Value is defined as the amount that a property might reasonably be expected to realize if sold in the open market in the applicable reference year by a willing seller to a willing buyer. While you and I might understand value to mean market value, and The Manitoba Assessment Act says just that, there are a number of judges in this country who interpret it differently. Market value to most people means the value of a property subject to easements, mortgages, leases and a number of other limitations. However, many judges I refer to understand market value to mean the value of the absolute fee simple, subject to no limitations whatsoever.

* (2150)

Inasmuch as legislation is for common people, it should be stated in terms and definitions to be understood by common people. While I believe the act defines value just as the legislators intended, certain judges see it differently. Therefore, I ask that The Manitoba Municipal Act have a complete and appropriate definition of value.

Definition of reference year, these are just comments that I have made. The function of assessments is to develop and maintain a fair and equitable basis for business and realty tax. The function of the legislation is to create the standards and outline the process with equity and fairness to all parties, including homeowners, commercial property owners and tenants.

An objective of the legislation should be to increase the expectations for all parties involved and to improve the system. The tendency of the proposed amendments is to penalize and create inequity for one side while lowering the standards and expectations of competency for the other. Some sections of the act and the proposed amendments violate the rights of those who deserve it least, the taxpayer, while lowering the standards for those who need it most, the assessors.

In my opinion, some of the proposed amendments constitute regressive measures and are damaging to the province of Manitoba and the city of Winnipeg.

**Mr. Chairperson:** Thank you.

**Mr. Steele:** Did I do it?

**Mr. Chairperson:** Right on time. I would like to ask the committee if there are any questions of the presenter. Being none, I thank you again, Mr. Steele.

I would like to now call on Dan Kelly to come forward to make your presentation to the committee, and I would ask if you have any written copies of your brief for distribution. Mr. Kelly, I ask you to proceed.

**Mr. Dan Kelly (Canadian Federation of Independent Business):** I thought I would begin by saying it is not often that the CUPE union comes before this committee supporting a piece of government legislation, and the CFIB comes before the government and opposes a piece of legislation, but in fact that is what is happening here this evening.

I have given you a graph just by way of background, and I wanted to let you know that the reason that I am here before you tonight is to discuss one of the issues that the small business community in this province has cited as being one of the most harmful to the operations of their own business and, in fact, to the competitiveness of the entire province. As you can see by the graphs, they are not related to this piece of legislation itself but only indirectly, commercial property and business taxes are viewed by our members as the single most harmful form of taxation in the province. Almost 60 percent of our members, in fact, cite that commercial property and business taxes

are extremely harmful to their own business. The direct relationship between this result, the 60 percent of our members that say that commercial property and business taxes are harmful to their business and this piece of legislation, is something that I want to discuss.

I want to tell you that in fact the legislation that promotes a more accurate assessment system for government–the most accurate assessment system for government is one that never changes. This bill and the city's request to delay the reassessment system even further attack the very fundamentals of a market-based assessment system. These amendments are motivated, in my mind, by a desire to create certainty for government, but by doing this we are ignoring the accuracy and fairness of the assessment to the individual taxpayer. Rather than trying to improve the way assessments are done, this legislation simply makes the problem worse by freezing in place ongoing inequities. Admittedly, due to the nonsense at the City of Winnipeg, it appears improbable for the city to conduct an accurate reassessment in 1997. However, rather than change the entire assessment system to suit this one problem, we should simply delay it for one year.

Our view is that rather than trying to make the system worse permanently, if there is a problem and admittedly there is, we should delay the reassessment for this one given year and then move back to the three-year assessment cycle. In the province's rush to help the city, which is something obviously I support you doing, you are proposing to delay the system to a four-year cycle. Our view is that if there is that need to help the city by delaying the reassessment for one year, it should be done one time only. For example, I guess, the reassessment should be delayed until 1998 and then the system should start all over again with a three-year cycle.

I think it is also important to consider that since this bill was introduced, the public has benefited greatly by the work done in the Scurfield report. There are many recommendations and ideas in this report that need to be given careful consideration prior to the passage of any new legislation.

If you must delay the reassessment system for one year, do it this one time and then continue with the three-year cycle. All other changes, I believe, deserve some careful consideration in conjunction with the Scurfield report. These changes should be reviewed with a group comprised of business, government and property tax specialists to ensure that any amendments are well-thought out and vetted. In fact, I believe that there are many good suggestions that could come forward by property tax specialists or by individual business owners that could serve to limit the number of appeals that are going on to accomplish the same goal that you have set out for yourselves, but in a different way. Ideas such as limiting the appeals to once per assessment cycle needs some additional time for review, and this time must be taken to consult with all of the interested parties.

I think it is also opportune for the government to consider the merger of the assessment departments in the province and at the City of Winnipeg. It is a good time to examine the contracting-out of the entire assessment function to private forces. Certainly, if the department cannot fulfill its mandate of a three-year assessment system, it should suggest to us, to us in government and to those of us in the business community, that this is a prime example for some help from the private sector.

Those are the brief remarks that I wanted to bring to you this evening. I think one of the most important elements to consider is the delay from three to four years in the assessment system is going to freeze in further inequities into the system and, in fact, put at jeopardy our small- and medium-sized business community that is in fact the creator of almost all of the net new employment in this province.

I urge you to give careful reconsideration to this bill. I also urge you to put on hold any additional amendments that you may be considering until they can be properly considered by the people of Manitoba and some consultation, given the fact that the Scurfield report has just come out this past summer. I think that is a very good reason for you to put this entire proposal on hold. Thanks very much for your time.

**Mr. Chairperson:** Thank you, Mr. Kelly. Are there any questions?

* (2200)

**Mr. Derkach:** Thank you very much for your presentation, Mr. Kelly. You agree that the assessment cycle should be lengthened by one year to assist the city with the situation that they are facing.

**Mr. Kelly:** In this one time only.

**Mr. Derkach:** But on the other hand, Mr. Kelly, would you not agree that there has to be a balance? I know you are a proponent of the independent business people–and I do not think there is anybody who is a greater proponent of the private sector and business sector than I am–however, there has to be a balance when one considers what is prudent, I guess, in approaching a fair and equitable taxation and assessment system. It is obvious that if we rush into a three-year cycle and impose it on the City of Winnipeg that indeed this is going to perhaps evolve as a system that does not have equity in it, and that is what we have seen over the last 25 or 30 years. We do not want to perpetuate that.

I think in some discussions with the city–and you suggested that we should consult and we have–there has been a decision by our government to move to a four-year assessment cycle, understanding that that last year, that fourth year, is reserved for appeals so that municipal governments can, at the end of the cycle of boards of revision, then set their budgets in an accurate way so that we do not have liabilities or exposures of $54 million or $200 million or whatever it might be.

To my way of thinking, this is probably the best move we could make in ensuring that there is some equity to the taxpayers whom we have to respect as the people who carry the costs of running our cities and our province. So although our long-term goal is to compress the assessment cycle, for the immediate future we are moving to a four-year cycle so that we can get our house in order, get the assessment house in order, if you like, in the city, but for the rest of the province it seems to be functioning well. As a matter of fact, the tax rolls were produced for a three-year cycle. However, we want to ensure that the whole system functions appropriately and properly.

**Mr. Kelly:** I certainly appreciate those comments, M. Minister. I know that your government has been very cognizant of the taxes that have been imposed on the small- and medium-sized business community, and on the taxes that you directly control has done an excellent job of freezing them on our behalf. However, I would put to you that the Achilles heel of the taxation system has been property and business taxes which, in fact, have gone up very rapidly over the last decade.

What I urge you to consider, though, is that under this piece of legislation we cannot always go to the lowest common denominator. Certainly, I would admit fully that the incompetence shown by the City of Winnipeg in their Assessment Department has been the largest reason for this piece of legislation to be put forward. What we should not do, though, is make legislation that basically enshrines into law the incompetence of an assessment department in one municipality. What we should be trying to do is move all municipalities, through whatever means we can as a provincial government, to support all property taxpayers across this province, and if that means committing extra resources to the appeal system, well, then what I would suggest to you is that we have not investigated those third alternatives.

There are many other alternatives that I would suggest need to be considered, like I suggested merging the provincial and municipal assessment systems. I would be the first to admit, and I know in correspondence that I have sent to you on previous occasions I have noted the fact that the provincial assessment function is operated far more efficiently than that of the City of Winnipeg. What we should be trying to do is to take the talent that we have within our provincial Assessment department and share that with our municipal Assessment department through some form of a merger. If that, in fact, does not necessitate the savings, then what I would suggest is that we investigate contracting with the private sector to fulfill these needs. As you have heard other presenters say here today, there certainly are those private sector companies out there that have done that and have leaped to the defence of assessment systems in the past.

I do not think that we have necessarily captured all of the advice and input of the business or tax specialist community when drafting this piece of legislation, and that is why I urge you to give it some careful reconsideration.

**Mr. Derkach:** On what basis do you make your comments with regard to consultation?

**Mr. Kelly:** My comment on consultation is that on some of these smaller issues, we have recently seen the Scurfield report come into effect. The recommendations have only come down in July and your bill was already tabled prior to that. I think that, through no fault of its own, there has been a new piece of evidence brought into the system that requires some additional level of consultation based on the recommendations of the Scurfield report. I do not think the government should feel embarrassed by the fact that a very good, well-written report has come down in the middle of an assessment bill, and I think that that gives the government, and in fact all legislators, the cause to give this bill some careful reconsideration and take more time than has been taken at this current moment.

**Mr. Derkach:** Mr. Kelly, are you aware of Mr. Scurfield's remarks with regard to Bill 43?

**Mr. Kelly:** I am not aware of his specific comments but what I am aware of is that the comments have, I think, awoken a new interest on the part of many in the business community to this piece of legislation. It is, in fact, those people who I feel the government should be working with in terms of incorporating some new ideas because, I can tell you, there are those out there in the business community that have some new ideas that are not in this piece of legislation, and I think that we can work together towards coming up with some new alternatives.

**Mr. Derkach:** In doing your research for this presentation, Mr. Kelly, did you consult with the Municipal Board or the Board of Revision or the Assessment Branch of the City of Winnipeg or, in fact, any of the staff of the City of Winnipeg?

**Mr. Kelly:** The minister will appreciate that in fact I do know the assessment function fairly well from previous occupations within the public sector, and what I would be very interested to do is to work with your department in terms of bringing together some interests on the part of the private sector to your department to provide these kinds of ideas and advice to you.

**Mr. Derkach:** Thank you very much.

**Mr. Chairperson:** Are there any other questions from the committee? Thank you, Mr. Kelly. I appreciate it.

I would now call Ken Wong. Would you please come forward to make your presentation to the committee. I ask if you have any written copies of your brief for distribution to the committee members. Please proceed.

**Mr. Ken Wong (Hong Kong-Canada Business Association):** Mr. Chairman and members of the committee, we have had a long evening, and I do appreciate the opportunity of coming before the committee.

I am just going to paraphrase, because a lot of what I have to say has been already said, but I think the reason I am here is that I would like to emphasize two problems that I see in the legislation. The two items have been already mentioned but I would like to emphasize them. One is the right of the citizen to appeal an assessment or a taxation matter and the matter of the retroactivity of the legislation which in actual fact not only imposes the lack of the right of appeal but goes really against the due process that we have established as part of the appeal process of taxation.

* (2210)

We all know that the situation of the assessments and the taxation issues of the City of Winnipeg have been in less than an orderly state, and what I see here is an effort, as I look at it from the outside, on the part of perhaps city officials to ask the Legislature to come and help, and that is okay. I do appreciate and respect the right of the Legislature and governing bodies to legislate at any particular time and to change laws at any particular time. That is part of our democratic process. But the retroactivity part of it really goes

against the grain of our democratic process and the lack of right of appeal, and I am going to give you an example.

In 1980 the City of Winnipeg requested and received provincial legislation under Bill 100. At that time they had the same problems. This is 1980; we are now in 1996. They wanted the Legislature to freeze all Winnipeg assessments because in that time the assessments were in a mess, and they wanted to really prevent any appeals related to that current assessment.

The Downtown Winnipeg Association, which is the forerunner of the Downtown BIZ, of which I was then the president, launched an appeal on behalf of all downtown landowners. That eventually went all the way to the Supreme Court of Canada. The Supreme Court of Canada was very clear in favour of the property landowners, and their judgment stated very clearly that every taxpayer should have the right of appeal and the right of due process and that legislation cannot and at that time it felt it did not prevent the fundamental right of appeal, nor did it negate, even on a temporary basis, the right of due process.

So I think that to try to make legislation retroactive in a taxation matter and to try to prevent the right of citizens to appeal goes to the very, very heart and core of our democratic process.

As we know, the rest of the city assessments is an ongoing saga. I do not think that the province and the Legislature should, in my opinion, try to legislate to hold things and to assist in a way that will be detrimental to the taxpayers of the province. I think they should perhaps put their heads together to try to encourage the city, and in the instance of the railways, the CP and CN, I understand that all the other municipalities outside of the Perimeter have already negotiated a settlement on the assessment and the taxation, and the City of Winnipeg has been refusing to continue the negotiations, and the City of Winnipeg has been refusing to go to the Municipal Board.

Now, refusing to go to the Municipal Board goes to the heart of the process. It is interfering in the process that we as citizens have the right, and I regard I guess the CP, like everyone else, they are citizens as well.

I think that if we are not cognizant of some of the other factors relating to the government legislating and making legislation retroactive, I think it gives a perception on the part of investors that the government at any time could put in legislation that could be detrimental and, not only that, it could be retroactive. I think that is very, very nearsighted. It really has no vision, that kind of approach to it, and I think we have to really work together with corporations, work together with governments to try to encourage and try to enhance the outlook and the taxation problems that we have in the city.

I think that the vision that we have of the city, as an investor and as a business person, is that the city is in a complete mess as far as their assessments are concerned. I think that perception really goes really beyond the Winnipeg boundaries, and I think that if we encourage that kind of a continuation of the process, whether it is delaying, and we have been at it for 20 years–we are talking back, Michael Mercury is talking back to 1962, then we are talking to 1980, now it is 1996 and we want to delay it to 1999. I do not know what the solutions are, but I think the Legislature has to take a more proactive and a more visionary approach to this situation.

In conclusion, Mr. Chairman, and members of the committee, I urge the Legislature not to be used by the City of Winnipeg for a quick-fix solution to the city's continuing dilemma. I urge the Legislature to encourage the City of Winnipeg to arrive at a negotiated settlement, therefore exercising the established due process, and I am specifically talking about the railways, who are prepared to negotiate a settlement rather than having an imposed solution that is retroactive.

In the minimum, I urge the Legislature to amend this legislation by removing the retroactive portion. Thank you, Mr. Chairman and members.

**Mr. Chairperson:** Thank you very much. Does the committee have any questions of the presenter?

I would now call on David MacMartin. Mr. MacMartin is not here. I will call Thomas– Mr. MacMartin, I will just advise you. I know you just walked in the door but we are–

**Mr. Zacharopoulos:** Mr. Chairman, Mr. MacMartin could not be with us tonight. My name is Ike Zacharopoulos. I am with Canadian Pacific Railway, and I will be handling our submission for you tonight.

**Mr. Chairperson:** Okay. You are aware of the guidelines that we have set down earlier then? Thank you. Please proceed.

**Mr. Zacharopoulos:** Thank you, Mr. Chairman, and good evening, ladies and gentlemen. Let me begin by introducing myself. My name is Ike Zacharopoulos. I am manager of taxation with Canadian Pacific Railway.

Canadian Pacific Railway is pleased to appear before you to comment on Bill 43, specifically Sections 2 and 12 of the bill. We appreciate, it has been a busy evening, so I will attempt to summarize our submission for you.

Mr. Chairman, let me begin by stating the principal point contained in our submission. Firstly, Bill 43 proposes to change the intent of the 1990 definition of railway roadway found in The Municipal Assessment Act. The definition of railway roadway found in the MAA has been clarified through due process. The CPR and Rural Development have been consistent in their application of the definition of railway roadway. The City of Winnipeg has been inconsistent in its application of the definition of railway roadway. Bill 43 proposes a retroactive solution to the city of Winnipeg's assessment and tax situation.

The CPR proposes a consultative-co-operative approach be progressed as a solution instead of retroactive legislation. Lastly, the CPR urges the committee to consider recommending the removal of Sections 2 and 12 from Bill 43.

It is apparent that a number of amendments contained within this legislation are intended to strengthen and clarify The Municipal Assessment Act. The CPR agrees with and supports such efforts.

I believe we all accept that legislation is most effective when it is clear, understandable and supportable. CPR's concern is that some of the proposed amendments contained in Bill 43 would change rather than simply clarify the original intent of the MAA with respect to the definition of railway roadway.

* (2220)

In order to illustrate this, we propose a review of the history of the legislation. The definitions which I will be referring to are appended under Tabs 1 or 2 and 3 in the end of our submission.

In 1990, when The Municipal Assessment Act was adopted, statutory rates utilized in assessing railway roadway were updated. The impact of these changes can be seen under Tab No. 1.

If you will turn to that, what the chart shows us is the tax level of Canadian Pacific Railway from year 1988 to year 1995, and you will note the substantial increase from 1989 to 1990 in the tax dollars that were paid by the Canadian Pacific Railway, from $3.65 million to $5.38 million.

The chart clearly indicates that the railways did not receive any favourable treatment as a result of these changes. Prior to 1990, the definition of railway roadway included a hundred-foot restriction.

If we turn to Tab 2, we will find that definition. Now Tab 2 includes two definitions as we could see, first being railway company, the second being railway roadway under (b), and, if we look in the second line of that definition, we will see the limitation that we are referring to, not exceeding one hundred feet in width in suburban municipalities, villages, towns or cities.

This definition was in place up until tax year and assessment year in 1989. In 1990, the new Municipal Assessment Act came into being, and railway roadway definition was revised. Within that revision, the restriction to the width of the roadway was deliberately removed.

If you will turn to Tab 3, you will see the definitions that we are currently dealing with found in The

Municipal Assessment Act. Again, two definitions, the first being railway company, the second being railway roadway.

If you would quickly look at the definition of railway roadway, you will notice that there is no restriction to the width, to the possible width of railway roadway found in that definition.

Mr. Chairman, we suggest that this is a confirmation, the realities of the railway environment, and that is, the railway roadway does, in many cases, extend beyond a hundred feet in modernizing the definition and the act, in fact, for tax year and assessment year 1990. That was one of the realities that I believe we dealt with.

From 1990 to 1993, the railways and the assessment community entered into numerous discussions, as is the case any time a new piece of legislation is introduced, in order to better understand and deal with the intent and the effects of the legislation. The CPR appealed its assessments in seven Manitoba municipalities where it was deemed the railway roadway was improperly assessed. In six municipalities, Brandon, Portage la Prairie, Minnedosa, Souris, Emerson and the R.M. of Springfield consensus was reached, and when I say consensus was reached, the appeals were settled. The seventh municipality is the City of Winnipeg.

How was this consensus reached, you may ask. What took place was the review of the definition of railway roadway, a review of the actual railway holdings, and this was done by Rural Development assessment staff, their solicitors, and the CPR. The consensus that was reached between the parties resulted in recommendations by the assessors to the appropriate tribunals to have the assessments corrected. Having undertaken a full review of the issues, the Municipal Board of Manitoba upheld these recommendations through its decisions on the CPR assessments at Brandon, Minnedosa and Emerson.

Should Section 2 of Bill 43 be approved and passed as it now stands, it will once again impose an arbitrary restriction to the width of railway roadway which would be counterproductive to the changes made in 1990. It is our suggestion, Mr. Chairman, for you and your committee, that railway roadway definition has in fact been clarified, and this has been done through due process and the expertise of all those involved–the railway, Rural Development assessors, the tribunals, boards of revision and the Municipal Board. It is our experience that legislation and regulations are be t defined by the quasi judicial and judicial bodies empowered to review such matters. This process has worked to date in Manitoba, and it is our submission that it would be inappropriate to circumvent it at this time.

The government's proposal of retroactive legislation found in Section 12 communicates a concern for the City of Winnipeg. Now there are two distinct differences between the resolved and the unresolved appeals, resolved being the six municipalities in the province of Manitoba, the unresolved being the City of Winnipeg. Firstly, the resolved appeals were handled on a timely basis. By tax year 1993, the six municipalities were all confirmed. In other words, the decisions had been rendered on those appeals. The second difference is that the size, but not the nature, of the holdings in Winnipeg is larger than that of the other municipalities. In other words, our plant here is larger but not different than what we have found in any other jurisdictions.

We wish to state that the CPR's position throughout this matter has been consistent. We have identified an issue. We have participated to the utmost of our abilities in clarifying the issue, and we have co-operated with the assessment authorities in resolving the issue. The CPR has maintained its position that railway roadways should be defined by the outermost continuous tracks found at any location. No excess lands nor buildings have been pursued for inclusion within railway roadway. It is strictly the trackage and the land directly underneath the tracks.

Now what we have found is that Rural Development assessors have been consistent also in that they have followed the decisions that have been rendered by the boards of revision and the Municipal Board of Manitoba. In contrast, the City of Winnipeg has varied in its handling of railway roadway over time. Upon consideration of the Scurfield report, it is our submission that the outstanding appeals in Winnipeg are the product of the way in which the current act is

being implemented by the city and not with the act itself. The CPR recognizes the current financial position of the City of Winnipeg. You and your committee, Mr. Chairman, should be aware that the CPR is prepared to again meet with the city to pursue methods of addressing the city's concerns with any tax refunds which may be forthcoming to the CPR.

Alternatives the CPR is willing to consider include receiving any tax refunds as credits through time as opposed to a one-time, unbudgeted, lump-sum payment. Now, you may ask, why is it that we bring this before you? It is our submission that such a solution is far preferential to the legislation or to any legislation which may retroactively infringe on a ratepayer's right of appeal.

Our conclusion is that the changes proposed in Section 2 are unnecessary and counterproductive to the intent of the 1990 legislation. We therefore request that the committee consider recommending the removal of said Section 2 from Bill 43. Insofar as Section 12 is concerned, it is our submission that we have offered better solutions to the city's concerns than retroactive legislation. We therefore request that the committee consider recommending the removal of Section 12 from Bill 43.

We would like to thank you for the opportunity to express our views on Bill 43, and we are available to answer any questions you may have for us.

**Mr. Chairperson:** Thank you very much. Are there questions from the committee?

**Ms. Barrett:** Two questions on dealing with page 3, could you tell me what the consensus was with the six municipalities where you did not have a problem over the definition of railway roadway and what that definition is for those six municipalities?

**Mr. Zacharopoulos:** A formal definition has never been established outside of what appears in The Municipal Assessment Act. The consensus that was reached revolved around defining railway roadway by the outermost continuous tracks that are found in any location. That is, if a train could get from point A to point B on that track and that track is continuous, then it is a roadway.

**Ms. Barrett:** Secondly, are there marshalling yards in any of the six municipalities where consensus has been reached?

**Mr. Zacharopoulos:** Yes, there are. There are marshalling yards in all of these locations, and part of the problem that we may be facing is, what in fact is a marshalling yard? Perhaps a quick explanation of what a marshalling yard in fact is is that is where the railway makes up its trains. There is continuous flow. Cars are dumped on one track, picked up on another, but there is continuous flow. A marshalling yard is another roadway because a train needs to move back and forth to realign itself and to put traffic on the rails.

**Mr. Derkach:** I would like to ask you a question with regard to the intent of the legislation back in 1990. Would you agree that at that time the railways did participate in the valuation of their properties within the province?

**Mr. Zacharopoulos:** Sorry, Mr. Chairman. Would I–

* (2230)

**Mr. Derkach:** Would you agree that the railways did participate in the valuation of the properties for assessment purposes in the 1990 reassessment?

**Mr. Zacharopoulos:** Yes, through the chair, the mode of assessing railways is that we report what is there and that in turn is assessed and we co-operate with the department in setting the actual statutory rates.

**Mr. Derkach:** In addition to that you would also agree that the railways were given some preferential treatment in the province through the level of taxation or the level of assessment, 25 percent for the class of, what is it, Class 52, for those railway roadways?

**Mr. Zacharopoulos:** I do not know that I would agree that there was preferential tax treatment. I think if we were to look at Table 1 and we see the increasing taxes in tax year 1990 I would fail to find any special treatment for the railways when in fact we see our taxation go from $3.65 million to $5.38 million. Now, if the question is that there is a separate apportionment

rate for railways, then yes, there is; however, I think the effect of the reassessment is clearly identified in the tax levels that we incur.

**Mr. Derkach:** Mr. Zacharopoulos, can you tell me with regard to the marshalling yards, was it your understanding back in 1990 that these properties were to be assessed as railway roadways or were they to be assessed as other properties?

**Mr. Zacharopoulos:** Through the Chair, in all fairness, in 1990, the term "marshalling yard" was not considered. Would you like me to–

**Mr. Chairperson:** No, continue.

**Mr. Zacharopoulos:** The term "marshalling yard" in fact arose out of our meetings and negotiations with the assessment staff, both Rural Development and the City of Winnipeg, where we identified the modern plant that the railways have in place at this time.

**Mr. Derkach:** Prior to the 1990 assessment or the assessment bill, was the area–now considered the marshalling yard area–in the railway class or was it in the other class?

**Mr. Zacharopoulos:** Prior to the 1990 reassessment, railway roadway was confined to a hundred feet, so there was no opportunity for the assessor to make a judgment call on whether marshalling yards should be inside or outside that roadway. The definition clearly restricted that width to a hundred feet.

**Mr. Derkach:** So the intent of the legislation in 1990 was to continue with the other properties that are now marshalling yards or are defined as marshalling yards in the other classification rather than in the railway classification?

**Mr. Zacharopoulos:** Respectfully, I would submit to the committee the fact that in the legislation, the definition that was changed in 1990 is difficult for us to accept, that it was assumed or anticipated that the old rules would be continued when in fact the definition was changed.

So if I am being asked that it is acceptable or that I would accept the fact that everything would be treated now as it was then, my answer would have to be no because the definition in fact changed.

**Mr. Chairperson:** Because of the previous agreement, I will allow one more short question.

**Mr. Derkach:** So you would find it acceptable then in changing the classification from what it was in 1990 to railway now, which reduces your level of taxation which has to be then picked up by other residents in the city of Winnipeg and in the province for that matter?

**Mr. Zacharopoulos:** I am sorry, but I fail to see where the two tie in. I guess in explaining what our position would be on the legislation, if there was legislation in place, and it is interpreted by the tribunals who are there to do exactly that, and the result of their decisions is that certain assessment adjustments are made, then we obviously live with that. That is what the system is about.

**Mr. Chairperson:** Thank you for your presentation today.

**Mr. Zacharopoulos:** Thank you, Mr. Chairman.

**Mr. Chairperson:** Thanks again.

I would like to now call on Thomas Frohlinger to come forward please, and make your presentation. I would ask if you have any written copies.

**Mr. Thomas Frohlinger (Private Citizen):** Mr. Chairman, I do not have a written brief, and I am sort of an add-on to the list.

**Mr. Chairperson:** Excuse me. For the committee members, Mr. Frohlinger registered as a walk-in tonight and has been added to program. We also have two other people to introduce.

Mr. Frohlinger, please continue.

**Mr. Frohlinger:** Mr. Chairman, members of the committee, I appreciate the opportunity to address you. I am here in my capacity as a private citizen, although I do practise law and I practise before the Municipal

Board, as well the Board of Revision, and have for a number of years. I do not claim to have the standing or the authority that Mr. Mike Mercury has or perhaps some of the other speakers, but I want to share with you some of the practical problems that the amendments might create as we move forward.

By way of background, it is my view, and it is a personal view, that the legislation is a bit of an overreaction in respect of current issues facing the City of Winnipeg Assessment Department. I am not here to bash the City of Winnipeg Assessment Department–they have taken enough shots–but I think the city was woefully unprepared for the changes that occurred from the 1990 assessment through to the 1994 general assessment, and they are before you again asking for additional time. So it is clear that they are also unprepared for the next general assessment.

But have heart, the process is getting better. I have seen a very significant change in both the approach of the city Assessment Department and the ability to respond to issues that are raised by appellants, and I think the Scurfield report says as much as I have said. I think, to that extent, there is light at the end of the tunnel and it is not a speeding freight train.

The legislation is unwarranted because the process is self-healing. As we go through several assessment cycles, the process has improved greatly. It is my view from having practised before the boards that the process will be right after this general reassessment. The inequities have been worked out of the system; the data base has been improved; much information has come forward, and the years of inequity that have built up from the '60s through the '70s and the '80s have essentially been ironed out.

So, to that extent, I would submit to you that the legislation is not necessary nor is desirable. Now, I am only speaking with respect to the assessment appeals in the city of Winnipeg. I am not making any commentary regarding the railway lands and the associated amendments to that. I am not an expert and I do not deem to address those.

But let me focus on the practicalities now that the amendments will bring to bear. I want to address three issues: firstly, the right of appeal being limited to once in each assessment cycle; secondly, the amendments relating to provision of information through the Assessment Department; and, thirdly, the question of the timing of the next assessment or general year of assessment.

Most important is the fact that to restrict the appeal of a taxpayer to only once in an assessment cycle will work a tremendous unfairness against the taxpayers, and let me give you a practical demonstration. In 1994, when the assessments came in with the 1991 base year, the City of Winnipeg put forward a statistical model that simply did not make commercial sense. Their position, very simply, was that real estate taxes paid by a commercial property owner are not an expensive property and therefore should not be taken into consideration in valuation. They moved it outside the process, and then they had a proforma assessment of 40 percent in expenses for all properties.

Mr. Chairman, that was a laughable position, but the City of Winnipeg stood steadfast and made presentation after presentation before the Board of Revision to make those appeals.

* (2240)

It took a considerable period of time for the appeals of the taxpayers to move from the Board of Revision to the Municipal Board and to be heard by the Municipal Board, and the Municipal Board agreed with the taxpayers that the city's position was unsustainable. Changes were made.

It was only at that time the city took a different approach. Now, more than a year had elapsed. A number of taxpayers whose appeals were turned down by the Board of Revision or who had settled with the city based on indications before them in that year now had a brand new different approach to valuation of their properties, and to the extent that if this legislation had been in place, Mr. Chairman, those taxpayers would have been denied the right to appeal their property again because there was no physical change to the property.

What has happened, there was a change in the approach used by the Board of Revision. There was a change in the approach used by the City of Winnipeg Assessment Department, and there was a mandated change through the Municipal Board.

Now you can add another level of appeal to that, the Court of Appeal, which is the ultimate or semiultimate, the penultimate jurisdiction for appeals, and they take their time. So it is quite conceivable that we could move through two years of an assessment cycle and still have new and different and radically different approaches to valuation of property notwithstanding that we are dealing with value in the index year, which in 1994 was 1991.

So I suggest that taking the taxpayers' right to come back will work a manifest unfairness, and it is a manifest unfairness that this system ought not to countenance in any way or form.

I know that I am running out of time, and I could dwell on this again, and I will not. Moving on to the next point, the question of information, there are some very punitive sections being proposed in the proposals because what it seems to do is if, for some reason, the present owner or past owner of the property has changed hands, did not provide information to the assessor as demanded, one of two things will happen.

Number one, the Board of Revision or the Municipal Board can completely disregard sworn evidence before it because it contradicts unsworn evidence provided to the city assessor perhaps in a careless manner. I mean, that simply does not make any sense. How can you compare sworn testimony with some statistical information provided to the city? With all respect, I think the appropriate weight of the evidence should be left to the panel that hears the evidence, and they can make their decision. The information will be before them, and they can assess it. I do not think we need legislation to demean and diminish sworn testimony.

Secondly, there is a requirement that, even if the taxpayer is able to demonstrate to the hearing body that there is an inequity in the tax, the taxpayer somehow be penalized for not providing that information, and the penalty is one year's overtaxation. I think that begs the issue of tax fairness. I think that begs the issue of trust by the citizens in the system. You are penalized by being overtaxed because you did not provide information or somebody on your behalf neglected to provide information.

Finally, my third point is the timing of the next general reassessment. I have heard evidence that the city would like five years, the Assessment Department would like five years. Everybody, generally speaking, said, no, that is too long. I do not have a problem with five years provided they can get it right at the end of the process, but there are no guarantees, so I am not sure that going to 1999 is really going to change anything

If the department could provide adequate assurances to the Legislature that they can get it right, give them the five years, but only do it once. After that go back to a more proper assessment cycle because property values change. They go up; they go down. To the extent they go up, somebody benefits by paying less taxes. To the extent they go down, somebody is paying more than their share. That is not a fair system. Those are my remarks, Mr. Chairman.

**Mr. Chairperson:** Thank you. I would ask if the committee have any questions of the presenter? Then I thank you again for your–Mr. Penner, I am sorry.

**Mr. Jack Penner (Emerson):** You mentioned, sir, that once in a lifetime a five-year provision would be acceptable, and then you made the statement that they then should go back to a more acceptable assessment period. What in your view would be an acceptable assessment period?

**Mr. Frohlinger:** Mr. Chairman, Mr. Penner, my personal view, Sir, is that having an ad valorem system, which is what we have, instant changes in value should be responded to by instant changes in levels of taxation. However, we do not live in a perfect system. I understand there is some fiscal need to do assessments on a more regular basis than annually. I would say that, speaking for myself and perhaps some people that I represent from time to time, three years would be adequate, but it is three years that has to be properly

adhered to and the system has to work. Three years of scrambling will not assist either the taxpayer or the department.

**Mr. Chairperson:** Are there any further questions? Thank you for your presentation. I would now like to call Don Smith. Will you please come forward to make your presentation to the committee, and I ask if you have any written copies.

**Mr. Don Smith (Private Citizen):** No submissions.

**Mr. Chairperson:** All right, then I would ask you to proceed.

**Mr. Smith:** Mr. Chairman, I was told some time ago by the Assessment Department, if I did not like their decisions to go over to the province, pay $50 and they would hear you out. I did not do that, so I am here tonight at no charge, and I am concerned about the amendments. They seem to be totally in favour of the Assessment Department. I would wonder if this committee discussed the appeal process is the only route that the taxpayers have to the Assessment Department. If you do not appeal, you do not get a chance to meet them. You can be in your home 24 years and never see an assessor until you appeal, and then you see him three weeks before the appeal comes up. That is two years after you made the appeal. I think it is still that record. It takes two years to get heard after you put in your appeal, and if you are not smart enough to realize that you must appeal every year, you will only get a credit for the year that you appealed.

And never once has this legislation asked the Assessment Department to send the taxpayer a notification saying, we have assessed your properties or business or whatever at X number of dollars. If I am in agreement with it, I will sign an affidavit that I am in agreement with it and return it within 90 days, if that is what they state on there. If I am not in agreement with it, there will be a place on that form to ask why and my reasons for the adjustment and send it back promptly, and hopefully have some communication with the Assessment Department before those figures are handed over to the City of Winnipeg or whoever, municipal government, to tax the taxpayer at a rate on a figure that is totally incorrect, and which I am not going to be able to approve until two years after my appeal.

* (2250)

You lose your school taxes regardless. Most of the taxpayers appealing, and it is 10,000 to 15,000, I believe–it is still heavy–most of those people appealing are getting back anywhere from $50 to $100, when they feel they should be getting back $200, but the school tax wipes out half of it. You do not get interest on it. The big businesses have a lot of money tied up in it. I can understand their pressures, and they have been here tonight voicing their concerns, but when is this legislation going to give the taxpayer the opportunity of signing a piece of paper saying, yes, you are correct, I value my property at that amount or within $2,000 of it and I sign it and I send it back?

I cannot make an appeal after I sign that form, and a lot of people would like to do that. They would like to have that opportunity of seeing that figure not on their tax bill, but from somebody who assessed your home and had the guts to send you out a notification saying, this, Mr. Smith, is what I value your property at, and I hope you agree. Please sign it and send it back to me. And that is all you need to stop all these appeals that are going on. There will be some appeals that may have to be settled, but they will be darn few.

When you go into the–to take out the third man. I have been in the appeal process in the morning and there have been seniors in there, 70-, 80-years-old appealing on their own behalf, and not really knowing the process. So, until you give the taxpayers the opportunity of signing an agreement, then you had better leave the third man to work for those that need the help. For those of us that think we know our value, we do not need a real estate company to tell us what our homes are worth. We are depending on them to carry us through our pension years and whatever, but we want the opportunity to agree with the Assessment Department, yes, you are correct. If I underassess it purposely, I have no qualms about the City of Winnipeg, if that is who is my tax person, to come back and say, you sold your home for $10,000 more than what you have been telling us it was valued at. You are going to pay us the additional taxes and that would

have to be paid, because I signed an affidavit that my figures were true.

Until that happens, more people are finding out; they are learning how to appeal. Before, we were all too timid. Pay your taxes or else you will lose your property. You are not going to fight with the City of Winnipeg. We were not fighting with the City of Winnipeg. We wanted to fight with the Assessment Department, the person that was assessing our home. The city was not assessing our home. They were getting figures by somebody that we did not know, never met, and that is wrong.

Waiting two years, again that is wrong, and if you do not know the rules of the game, as I said, if you do not keep appealing, you do not get adjustments. Really, on your home property, the adjustments, as I said before, are a small amount, and really you waste three people on the board, two assessors, your time down there, and have an assessor come out to your home, and is it worth $50, $80? I got $81.71 and two years and a lot of hassle.

The assessor that came out, when he phoned and said he was coming out, I did an assessment of why I felt it had to be reduced, and it was to do with repairs, and I put it on paper, and when he came out I took him and showed him what I was concerned about, never mentioned any figures. He came up with $8,000. I had $10,000. If you want to check that in the records it is there for 1989, so we were close enough that I was happy that he was that close and my figure could have been a little high, and it was settled in the appeal for $8,000, but after two years of waiting.

But to get the Assessment Department operating properly and helping them out, let the people that are paying the bills help them out by having a little part of the assessing process sign the paper or give us the reasons why. Just what we are doing here tonight. We have been here four hours appealing, that is what we have been doing, and that is what is going to happen year after year after year unless you involve us. If we can meet you, besides coming to this table, then we will have 90 percent of the appeals eliminated, I am sure of it.

So that is my request tonight and to ask this committee, if they have considered it or if they will consider it. I am not sure of this amendment. How quickly they go through after this process tonight. But from what I have heard from other people here tonight, they are concerned about what you are doing, the last defence that we, the taxpayers, have. That is all I have to say. Thank you.

**Mr. Chairperson:** Thank you, Mr. Smith. I would ask, are there any questions of the presenter? Thank you. I appreciate your time.

I would now call Joe Diner to come forward, please, and I would ask as you come forward if you have any written copies of your presentation?

**Mr. Joe Diner (Aronovitch and Leipsic Ltd.):** No, Sir. No written copies.

**Mr. Chairperson:** Okay. Then I will ask you to proceed.

**Mr. Diner:** Thank you for the opportunity to appear here. I happened to be reading this evening's Free Press and decided to attend. The eloquence of the previous speakers saves you from listening to too much of me.

My name is Joe Diner. I, two years ago or a little over two years ago, bought and became the president of a company that operates a commercial brokerage business. The company is Aronovitch and Leipsic. Prior to that I had no personal exposure to these issues and left it to our appraisal department. But after buying the company I discovered a circumstance that I since– you could not possibly imagine. So I am here to try and bring it to your attention. The circumstance is that the frivolity of claim is not the problem, the problem is the City of Winnipeg.

I will illustrate that quickly. When we took over the company, we moved into new premises, signed a lease and had our property manager call the city to get an expectation of what we should budget for a business tax. I promise you, we were dramatically underfinanced and still are and work very close to the bone and have to know what our bills are and where the money is coming to pay for them.

When the business tax bill came, it was triple what we had budgeted for. It was in fact one-third of our rent. The circumstance was so patently obviously nonsensical that I thought it was a simple error we could remedy in conversation with the City of Winnipeg. So I phoned and I said, look, a simple error here, clearly it is a misunderstanding. Let us talk about this and solve this problem. This is just obviously a simple error.

The conversation became heated and the fellow from the City of Winnipeg Assessment Department hung up the phone on me. I phoned back and I said to the lady who answered the phone, this cannot be the way we solve problems, put me in touch with someone else that I can talk to. A nice lady appeared on the phone. I had took her name and phone number to call her back, and I explained the situation. She said, oh, yes, it is a mistake. She said, we will send out the appeal forms. Clearly this does not make sense to me either.

I said, great. They sent out the appeal forms. I filled them in, heard nothing back. I phoned her back, and I said we have not heard anything back yet. She said, I will look into it. Three months later I had heard nothing back. I sent a letter with a copy of my lease and I said, I have not heard anything back. I am trying to solve this problem. Ten days after sending that letter the bailiff appeared to shut down my business for nonpayment of business tax.

I have left out one issue. The nice lady of the City of Winnipeg said to me, it is clearly an error. Send in what you think is the appropriate figure based on your understanding of the legislation, and when you go to your appeal, we will saw it off. You either owe us more money or we owe you some refund, and we did that. We sent in a cheque for our understanding of the business side.

When the bailiff appeared to shut down my business, I said to her, this cannot be right, there is a mistake. We have paid, as instructed by an appropriate person as we understand it from the Assessment Department, what we think is an appropriate amount with the assurance that we will be dealt with fairly. This makes no sense at all.

* (2300)

I phoned back to the city and was told that it was the legislation that I pay the full amount and worry about the appeal later. I called a lawyer and was told that it would take me thousands of dollars to save hundreds of dollars and it was nonsensical. I phoned back to the city, got no progress, wrote letters, got no progress, and the bailiff appeared again.

I called the City of Winnipeg legal department, and I said, look, this cannot make sense, this is an irrational program here. I am doing the best I can to talk to someone to achieve some fair resolution of a simple situation. I said, I have a suggestion, I will send you the balance of the money in trust on the promise that you look into the situation. If you, as the legal department, are satisfied that I am in breach of whatever the correct reading of the law is, call me back, I will apologize. If you are not, refund to me what you think is the appropriate money. She said, we cannot take trust funds from nonlawyers. I said, no problem, I will trust you to look into this. I will send you the money. Look into it. The money is being couriered to you today. Get back to me.

I couriered the money on her promise that she would respond in the morning. I got a signed receipt for the courier. Three hours later I was phoned by the bailiff who said she coming down to close down my business. I said, no problem, I have sent the money due to the legal department of the City of Winnipeg and they will look after this. I will do whatever they tell me. Her answer was: I know you have sent the money; the legal department of the City of Winnipeg sent me over your cheque; I am now instructed to bailiff you for my bailiff fees. I called my lawyer back again. He said, you cannot fight with people like the City of Winnipeg.

I am saying to you, the public cannot fight. I am in the business of doing these appeals now. Our company has always done this. This is what we do for a significant part of our money. The City of Winnipeg is not to be taken as a responsible entity dealing responsibly. I have heard the chairman say with conviction, and I accept that there are problems here that are real, that if we interfere with the cash flow of

the City of Winnipeg, we do really run some significant risks.

I promise you, if you work with the assumption that people are being fairly treated and that businesses are being respected and that there are people to deal with in a responsible fashion with the City of Winnipeg, you are dealing with misinformation. I would have shared that naivete–I apologize for the word–had I not had this personal experience.

Due to the retirement of Harry Behr, who normally handled all of these kinds of issues for Aronovitch & Leipsic, I have suddenly found that I have to come in and help do these appeals. Harry Behr will be replaced in our appraisal department by Ted Cunningham. He will take over these processes and I will be relieved of these responsibilities sometime in October, but in the meantime I took over.

So I did another appeal for a client and discovered that the nice lady from the City of Winnipeg who came into that Board of Revision hearing came in with different information than she presented to us to prepare our case with, used arguments that were in extreme opposition to the standards that the City of Winnipeg's own documents say should be used for assessment, and when challenged by the Board of Revision as to where she got those numbers, her answer was, I was directed by my superiors to present this argument.

There is no rational way to deal with the City of Winnipeg. There is no safe assumption that by taking away the public's right of appeal, there is any remote chance of justice being done or fairness being achieved in your taxation process.

I apologize for the intensity that I feel on this issue, but I could not have possibly imagined my real experience with the city. I did everything that any citizen could have done. I phoned the mayor; she did not return my phone call. I phoned the councillor, laid out the scenario and said, help. His answer was, do not tell anybody I said this, but if I were you, I would sue the city. I tried to talk to bureaucrats. I tried to talk to city councillors. I tried to talk to the legal department. I tried to talk to the Assessment Department. I wrote appropriate letters. I sent appropriate cheques.

If you support a process that assumes that the public can lose their position, their right of appeal, the damage is just patent.

I have one more issue to address. I do agree that blanket appeals are dangerous. I do agree that unauthorized appeals are inappropriate. We have that experience. We once, not too long ago, for a substantial client, approached the substantial client's property manager for information to proceed with an authorized appeal, only to find that that property manager, a major substantial player in our system, rushed to beat us to file the appeal.

So the irresponsibility is not only within the City of Winnipeg. There is an irresponsibility within our industry in handling these appeals. I apologize if I am over time.

Some of what you are doing in this bill, we support. We do not go chasing for work in this field; we respond to requests from clients, but we have learned and I implore you to understand that our experience with the City of Winnipeg is not unique, that it is very, very difficult especially for a private citizen or a business person trying to handle the situation himself to get any kind of reasonable response.

I thank you for your time and I apologize for reading the paper at six o'clock and appearing here. Thank you.

**Mr. Chairperson:** Thank you, Mr. Diner. I would just ask if the committee members have any questions.

**Mr. Derkach:** Just perhaps a clarification or a form of question. First of all, on the third-party appeals, the amendment we are proposing, as you may be aware, is not to limit third-party appeals, only in cases where they are not authorized. In other words, if it is an agent of the property owner or that person has been authorized by the property owner to file the appeal, then that is quite legitimate.

Secondly, with regard to the one-time appeals, in the amendment that is being proposed, we are proposing

that any property owner has the right of appeal, but that appeal should only happen once every cycle unless there are circumstances that cause change to the property which would cause a decrease in the value of the property or a change in the value of the property which can then be appealed.

What you are saying is because assessors have come with erroneous information, residents of the city of Winnipeg have to appeal on several occasions to get the right assessment on their property. Is that correct? Am I paraphrasing you correctly?

**Mr. Diner:** Yes, sir, exactly. Our experience is that the assessors will, in fact, not come as you would expect them to these hearings with responsible, reliable information, but they come as if they were a Crown prosecutor trying to convict or a defence lawyer trying to defend someone he knows is guilty. They come with an extreme adversarial position expecting that you take the other extreme adversarial position, and if you are not equal–you are responsible and there is no effort to be responsible here–their information will win the case.

That is the problem. The city is not what you expect. It is not coming in good faith with honest information, trying to be fair. It is coming to maximize its tax position, and without you balancing that with an equally aggressive argument, it will then win an unfair position. We have seen that. It is shocking to me. I was naive. I assumed that I was coming to talk to reasonable people and discovered that there is either a siege mentality or an absolute direction to just win the biggest number you can get, and either event is dysfunctional.

**Mr. Derkach:** Thank you.

**Mr. Diner:** Thank you.

**Mr. Laurendeau:** Mr. Diner, I will try and put two questions into one. Maybe you can just answer them for me. Within your business, I would like to know if you have dealt with the provincial Assessment Branch on any of their appeals.

**Mr. Diner:** No, I have not.

**Mr. Laurendeau:** The second part of the question would be, do you think that might be more appropriate, but I guess you would not know.

**Mr. Diner:** I have had the experience of dealing with provincial Government Services people, with provincial appraisal people, and I have always found that there is an understood responsibility for accuracy, entire professionalism, just a consistent, positive experience. None of that is consistent with any of my experience in dealing with anyone at the City of Winnipeg. It is just a totally different world.

**Mr. Laurendeau:** I think that answers my question. Thank you.

**Mr. Chairperson:** Are there any other questions? Mr. Diner, I thank you for making the presentation.

**Mr. Diner:** Thank you very much.

* (2310)

**Mr. Chairperson:** I would call Barry Prentice, if he is still here. He has made a request earlier to come back on for a brief presentation. He is obviously not here. Before I close the committee I would ask if there is anybody else that has not been brought forward. One more? Would you come to the microphone and introduce yourself, please?

**Mr. Warren Baldwin (Private Citizen):** My name is Warren Baldwin. I am a real estate appraiser; I am a real estate broker. I am a residential property owner in Winnipeg, and I am a commercial property owner in downtown Winnipeg.

I really did not want to speak to you people tonight, Mr. Chairman, but in all honesty, if the City of Winnipeg does not get their act together soon, with the declining values that Winnipeg has got, I think when the next tax bills come out that the assessed values are going to be higher than the property values and there is going to be a real concern for what is going on, because in some cases I can tell you of a property on Portage Avenue which is now listed for 75 percent of what it was 20 years ago. I can tell you that the higher-priced homes, the prices have shrunk maybe 20 percent, 30 percent.

You have the Manitoba Health Organization building on Broadway here. That building is assessed for $1 million higher than what it is presently listed for. I can tell you of office buildings where the appraised value is less than the mortgage value by millions.

The city downtown area has got some real bad problems, and I would not invest any more money into real estate in Winnipeg until the city gets their act together. I am tired of losing money. That is all I have to say.

**Mr. Chairperson:** I thank you for your comments. There are a few questions.

**Mr. Derkach:** The comments that I am hearing are of some concern, as you can well imagine, and I guess my question is, if these properties are overstated in the previous assessment, have you as property owners or people that you represent, have they filed appeals, have they been successful in their appeals and have the appeals been dealt with in a reasonable length of time?

**Mr. Baldwin:** I do assessment appeals. I am presently waiting with Michael Mercury for a Municipal Board hearing which we had four and a half months ago. I do not know what the status of that one is, but I want to see what direction that one presents. We have had some appeals which have not even been considered, as far as I am concerned, because we have had them back in a day. I doubt whether they have even been looked at.

I look at every sale that goes through the City of Winnipeg, and I can see where the property value in some cases is one-third of the assessed value. You know, I am concerned about property values in Winnipeg. They have slid quite a bit. I have been in this business 33 years, and I have never seen property values slide like they have.

If you want to go and take anything the Real Estate Board publishes, you will find that in some cases the market value is now 1985 and in some cases it is 1980. The Real Estate Board does not have records that I have. My records are very good, and I can immediately tell you what the previous sale was on anything that sells in the city if it sold in the last 30 years. Because of the way I file my stuff, a lot of people do not have that access for information.

At the corner of Donald and Portage, that property sold in 1976 for $1,275,000. You can buy that today for under five.

**Mr. Derkach:** Is that a reflection of the inaccuracies of the assessment process or is that a reflection of the taxation regime?

**Mr. Baldwin:** It is a reflection of how people see downtown Winnipeg from a security point of view. Part of it is related to assessment. The longer you wait for a reassessment, you are going to have inaccuracies. I do not know why Winnipeg cannot have an assessment that is done on an annual basis, like B.C. If you take Kelowna, with a population of a hundred they had 400 building starts last year, and Winnipeg, with six times the population, had 664 building starts. So why can they not do it? If B.C. can do it with 45,000 people moving in a month and they can do it on an annual basis, why can we not do it? I do not know. I get frustrated by the system. It has to be changed. You have properties on Wellington Crescent that assess for nearly $600,000 just the land alone, and there is not a river lot in town that has sold over $200,000.

**Mr. Chairperson:** Are there any more questions?

**Mr. Penner:** Can you define for me market value?

**Mr. Baldwin:** In most cases it is what a willing purchaser will pay for a piece of property.

**Mr. Penner:** How would you determine a market value on a residential property such as an apartment block in the city of Winnipeg?

**Mr. Baldwin:** I would look at the suite makeup, the age of the structure and the income and expenses for operating that type of property. The city has access to that information.

**Mr. Penner:** Simple revenue derived from a given property on any annual basis, would that determine market value?

**Mr. Baldwin:** Yes, CMHC publishes information on rental values; information on expenses are readily available from Hydro. The city has a water department; the city has a hydro department; maintenance repairs. You can get that from the building managers as to what the averages are for certain buildings.

**Mr. Penner:** Is it your view that the assessors in the City of Winnipeg or for that matter the province are applying the term market value fairly during the assessment process?

**Mr. Baldwin:** I too have not had any experiences appealing provincial assessment numbers but, based on my education with the City of Winnipeg, we are dealing with a 1950 cost factored up many, many times to present market value, and it is about time we had a more current basis on which we are applying factors. You cannot go from a 1991 building cost back to 1950 and bring that figure back up by a bunch of numbers, and then you multiply it times a type code and times a neighbourhood code to come up with a market value. We have got to get current with our base in which we are applying all these numbers to; 1950 was 46 years ago.

**Mr. Chairperson:** Mr. Penner, with a short question, please.

**Mr. Penner:** We rewrote the act in 1990. I was the minister when we rewrote it. There is a very simplistic term contained in that act. It simply states, market value. It means exactly what it said.

**Mr. Baldwin:** Well, it is my understanding the City of Winnipeg is not giving a market value assessment. Thank you.

**Mr. Chairperson:** Mr. Baldwin, I thank you for making that presentation.

**Mr. Baldwin:** Thank you very much for your time, and I hope we see some change before it is too late.

**Mr. Chairperson:** Thank you very much. At this time I would like to ask the committee if it is the will of the committee to take a short 10-minute break to stretch. We will resume here at 11:30 to do clause-by-clause. Thank you.

*The committee recessed at 11:16 a.m.*

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**After Recess**

*The committee resumed at 11:31 a.m.*

**Mr. Chairperson:** We call this meeting back to order.

We are going to start with Bill 2, The Municipal Assessment Amendment and Assessment Validation Act, and I would ask if the minister responsible has a brief opening statement.

**Mr. Derkach:** I am sorry, Mr. Chairman, I am not paying attention to you right now. Would you please repeat?

**Mr. Chairperson:** Bill 2, do you have any statement?

**Mr. Derkach:** No, I do not.

**Mr. Chairperson:** We thank the minister. Does the critic from the official opposition party have an opening statement?

**Mr. Clif Evans (Interlake):** No, I do not.

**Mr. Chairperson:** We thank the member. The bill will be considered clause by clause. During the consideration of the bill, the title, the preamble and the schedule are postponed until all other clauses have been considered in their order by the committee. I am under the understanding there is an amendment to Bill 2.

Clauses 1, 2 and 3–pass; Clauses 4 and 5–pass.

Clause 6(1).

**Mr. Derkach:** Mr. Chairman, I would like to propose an amendment to Clause 6(1),

THAT subsection 6(1) of the Bill be amended by striking out "1994, 1995 and 1996" and substituting "1994 to 1997".

**[French version]**

Il est proposé que le paragraphe 6(1) du projet de loi soit amendé par substitution, à "1994, 1995 et 1996", de "1994 à 1997".

**Mr. Chairperson:** Amendment–pass. Clause 6(1) as amended–pass.

Clause 6(2).

**Mr. Derkach:** Motion:

THAT subsection 6(2) of the Bill be amended by striking out "1994, 1995 and 1996" and substituting "1994 to 1997".

**[French version]**

Il est proposé que le paragraphe 6(2) du projet de loi soit amendé par substitution, à "1994, 1995 et 1996", de "1994 à 1997".

**Mr. Chairperson:** Amendment–pass; Clause 6(2) as amended–pass; Clause 6(3)–pass; Clause 7–pass; Preamble–pass; Title–pass. Bill as amended be reported.

Consideration of Bill 3, The Surface Rights Amendment Act, does the minister responsible have a brief opening statement?

**Mr. Derkach:** No.

**Mr. Chairperson:** We thank the minister. Does the critic have an official opening statement?

**Mr. Clif Evans:** No.

**Mr. Chairperson:** We thank the member. The bill will be considered clause by clause. During the consideration of a bill, the title and the preamble are postponed until all of the clauses have been considered in their proper order by the committee.

Clauses 1, 2 and 3–pass; Preamble–pass; Title–pass. Bill be reported.

I would now call Bill 43, The Municipal Assessment Amendment, City of Winnipeg Amendment and Assessment Validation Act.

Does the minister responsible have a brief opening statement?

**Mr. Derkach:** Mr. Chairman, may I ask that committee rise in view of the hour and also– [interjection] Now the Clerk is instructing me. Excuse me.

Mr. Chairman, I ask that the bill be set aside at this time and not be dealt with, and that committee rise and the bill be dealt with in the future.

**Mr. Chairperson:** Is there agreement to that? [agreed]

The time now being 11:35, committee rise.

**COMMITTEE ROSE AT:** 11:35 p.m.

## WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

September 13, 1996
Manitoba Legislative Assembly
Clerk Assistant
Room 249
Legislative Building
Winnipeg, Manitoba
R3C OV8

Re: Bill 43–The Municipal Assessment, City of Winnipeg Amendment and Assessment Validation Act

It is our understanding that the Municipal Affairs committee of the Manitoba Legislature will sit in the near future to receive representation and written submissions on the statutory changes proposed by Bill 43. We would ask that the attached material from Brandon city council be provided to the committee members for consideration.

You will note that this correspondence was previously submitted to the honourable Len Derkach

in August of this year. However, we were unsure if our concerns would be brought to your committee's attention in the review of these legislative changes.

Thank you for the consideration of our submission. We will not be in attendance at your hearing on this matter.

Respectfully,

W. I. Ford
City Clerk
City of Brandon

* * *

September 5, 1996

His Worship Rick Borotsik
Mayor
City of Brandon
410 9th Street
Brandon. Manitoba
R7A 6A2

Your Worship:

On behalf of the honourable Len Derkach, Minister of Rural Development, I would like to acknowledge receipt of your letter dated August 29, 1996 regarding Bill 43, The Municipal Assessment Amendment, City of Winnipeg Amendment and Assessment Validation Act.

Please be assured that your correspondence will be brought to the minister's attention.

Yours sincerely,

Grant Hackman
Executive Assistant
Minister of Rural Development

* * *

August 29, 1996

The Honourable Len Derkach
Minister of Rural Development
301 Legislative Building
Winnipeg, Manitoba
R3C OV8

Re: Bill 43–The Municipal Assessment Amendment, City of Winnipeg Amendment and Assessment Validation Act

The council and administration of the City of Brandon have undertaken an extensive review of the above legislative bill and wish to submit the following comments for your consideration.

Section 6(2) of Bill 43 restricts a property owner to one application, appeal, of assessed value during an assessment cycle. Currently, this assessment cycle is three years. Bill 43 proposed to lengthen the assessment cycle to four years. We can see no reason to lengthen the existing assessment cycle outside the City of Winnipeg and feel that the lengthening of the cycle will increase the potential discrepancy between the assessed market value and the true market value of a property. Limiting a property owner to one appeal per cycle, if the cycle is three years, is easier to accept than a single appeal during a four-year cycle.

It is therefore our opinion and request that the three-year assessment cycle be maintained or, in the event the government of Manitoba chooses to adopt the four-year assessment cycle, that the property owner be allowed two appeals per assessment cycle.

Your consideration of our concerns in this regard would be sincerely appreciated.

Yours truly,

R. N. Borotsik
Mayor
City of Brandon

* * *

August 14, 1996

Mr. R. W. Singleton, QC
Acting City Manager

Civil Administration Building

Re: Provincial Bill 43–The Municipal Assessment Amendment Act

This is to confirm that City Council at its meeting held August 12, 1996 considered your report dated July 31 and adopted the following resolution with respect to the above:

"That a written submission be made to the Manitoba Legislature with respect to Bill 43, The Municipal Assessment Amendment Act requesting that the three year assessment cycle be maintained or, in the event the government of Manitoba chooses to adopt the four year assessment cycle, that the property owner be allowed two appeals per assessment cycle."

Your further action in this regard would be sincerely appreciated.

Yours truly,

C. R. Arvisais
A/City Clerk
City of Brandon

* * *

July 31, 1996

Mayor and Council
City of Brandon

Re: Provincial Bill 43–The Municipal Assessment Act

The province has proposed a number of amendments to The Municipal Assessment Act, Assessment Act, as outlined in the attached June 6, 1996, letter and May 30, 1996, news release. A copy of Bill 43 is also attached as is a copy of the affected portions of the assessment act. The draft legislation is expected to go before the legislature at the fall sitting.

The mayor, city manager, city treasurer, city clerk, by-law co-ordinator and I met to consider the draft legislation prior to my preparation of this report for your consideration.

Section 6(2) of Bill 43 restricts a property owner to one application, appeal, of assessed value during an assessment cycle. Currently this assessment cycle is three years. The province proposes to lengthen the assessment cycle to four years. Administration can see no reason to lengthen the existing assessment cycle outside the city of Winnipeg. In our opinion, lengthening the cycle increases the potential discrepancy between the assessed market value and the true market value of a property. Limiting a property owner to one appeal per cycle, if the cycle is three years, is easier to accept than a single appeal during a four year cycle.

In the opinion of administration, Bill 43 will have a limited impact on the city of Brandon. Most of the impact of the act will be upon the city of Winnipeg. The rights of property owners in Brandon to contest assessed property values will be limited by the legislation, although an appeal to the Municipal Board will remain possible.

Given the limited impact of Bill 43 on the city of Brandon, I recommend that a written submission be made to the Legislature requesting that the three year assessment cycle be maintained or, in the event that the province chooses to adopt the four year assessment cycle, that the property owner be allowed two appeals per assessment cycle.

Yours truly,

R.W. Singleton, Q.C.
City Solicitor

* * *

July 30, 1996

To: Robyn Singleton, City Solicitor

From: Rod Burkard, City Treasurer

Re: Municipal Assessment Act Amendments

Treasury has reviewed the information circulated with the city manager's memo of June 12, 1996.

We have no concerns with the proposed amendments as, in fact, they appear to have little or no effect on the city of Brandon, from a Treasury perspective. In fact, the amendments seem to be written to assist the city of Winnipeg with its current set of assessment-related dilemmas.

One item may be worthy of comment, and that is the matter of strengthening requirements for commercial property owners to supply information required by the assessor to arrive at fair assessments. Dave Weiss's daughter will be appearing as a delegation to council on August 12 to request a reduction in assessment of apartment buildings, retroactive to January 1, 1996. Assessment advises that Mr. Weiss did not supply the financial statements requested some years ago, and as a result the assessment was inaccurate. In this case it was in the city's favour, but it could have been the reverse. I have asked Doug LeBoutillier to be at council in case details are requested. With all the press on the Winnipeg situation, this agenda item could expand into something much broader. I would not be surprised to see some councillors wanting an explanation from Doug as to what process they follow when the requested information is not forthcoming.

In conclusion, while we may have no concerns regarding the proposed amendments, as I mentioned to the city manager and mayor in the summer of 1994, as a result of some unsatisfactory discussions with Mr. Eslinger, we have some general concerns in terms of how reliable, accurate, and timely the entire assessment process is in Brandon. Our confidence has certainly risen with the arrival of Doug LeBoutillier, but there still may be areas where the city is getting less revenue than it should, especially incases of adding new construction to the roll. Or, on the other side of the coin, there could be weaknesses in the system that could open the city to some of the appeals that have hurt Winnipeg financially.

As well, there is also the matter of the federal government grants-in-lieu which we are dealing with at the moment in terms of review of the assessment classification assigned to a portion of the Brandon Experimental Farm. The federal government seems to have a great deal of flexibility in this matter. Perhaps this area is worthy of some comment, since FCM is pressing the governments to change the terminology from grants to payments.

Yours truly,
Rod Burkard, City Treasurer

* * *

The Union of Manitoba Municipalities

Presentation to The Standing Committee on Bill 43, The Municipal Assessment, City of Winnipeg Amendment and Assessment Validation Act

September 25, 1996

The Union of Manitoba Municipalities appreciates the opportunity to appear before the Standing Committee considering Bill 43, the Municipal Assessment Amendment, City of Winnipeg Amendment and Assessment Validation Act.

Bill 43 makes a number of significant amendments to the property assessment system in Manitoba. Changes to the Municipal Assessment Act are always important matters for municipalities, and this legislation is no exception. The UMM has had the opportunity to review Bill 43 both at the board of directors level and with our member municipalities during this year's series of district meetings. Following these discussions, the UMM is confident that the amendments contained in the legislation will serve to improve property assessment in the province.

One of the main provisions in Bill 43 is the extension of the reassessment cycle from a three-year to a four-year period, thereby moving the next reassessment to 1998. This is an important amendment for a number of reasons. Providing an additional year will give municipalities more time to hear assessment appeals and more time to plan and undertake budgeting activities with a stable revenue base.

An equally important benefit of a longer reassessment cycle is the saving of time, money and resources for the province and local government. A province-wide reassessment is a large undertaking for the Assessment Branch and the processing of property

reassessments and the accompanying appeals is also a considerable task for municipalities. Therefore we anticipate that a longer cycle should improve the assessment system by allowing additional time for accurate reassessments to be conducted and for assessment appeals to be heard. In addition, we hope that with the introduction of a four-year cycle, resources at the Assessment Branch can eventually be redirected toward conducting more physical inspections of property.

We believe that these benefits outweigh concerns which have been raised over the possibility that lengthening the time between reassessments will perpetuate any inequities existing between the assessed value and the market value of property. We know that property values in Manitoba generally do not experience rapid or dramatic fluctuations, and the UMM is satisfied that this will not be a serious problem.

Bill 43 also makes a number of positive amendments aimed at streamlining the assessment appeal process. For instance, we support the elimination of third-party appeals under the legislation. Property owners will still be allowed to appeal their assessment or authorize another party to appeal. However, appeals undertaken without the consent or approval of property owners will no longer be allowed. The UMM agrees that the onus to appeal an assessment should be on the property owner and should not be unilaterally undertaken by a third party.

Another important measure introduced in Bill 43 is that assessment appeals will be limited to once every four-year cycle, thereby ensuring the municipal Boards of Revisions will not be revisiting the same assessment appeals year after year. At the same time, it is important to note that the legislation still protects the rights of property owners by allowing more than one appeal if a property changes ownership or if a property experiences significant changes during the four-year period. These amendments to the appeal process will prevent many of the frivolous or unfounded appeals which consume the time and resources of the Boards of Revision and Municipal Board.

The legislation also makes other amendments, such as strengthening requirements for commercial property owners to supply information needed by the Assessment Branch and clarifying the definition of railway roadways.

In conclusion, the UMM believes that the lengthening of the reassessment cycle, together with the streamlining of the assessment appeal process will result in a more efficient and accurate property taxation system. Therefore, the UMM encourages the committee members to pass the amendments contained in Bill 43. Once again, thank you for your consideration of our comments.