Fourth Session - Thirty-Ninth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee
on
Social and Economic Development

Chairperson
Mr. Tom Nevakshonoff
Constituency of Interlake

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Ninth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON SOCIAL AND ECONOMIC DEVELOPMENT

Monday, June 14, 2010

TIME – 6 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Tom Nevakshonoff (Interlake)

VICE-CHAIRPERSON – Mr. Gregory Dewar (Selkirk)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Mr. Mackintosh, Hon. Ms. Marcelino

Messrs. Altemeyer, Caldwell, Dewar, Dyck, Faurschou, Jennissen, Nevakshonoff, Pedersen, Mrs. Taillieu

APPEARING:

Hon. Jon Gerrard, MLA for River Heights

WITNESSES:

Bill 22–The Credit Unions and Caisses Populaires Amendment Act

Mr. Fernand Vermette, La Fédération Caisse Populaire
Mr. Garth Manness, Credit Union Central of Manitoba

Bill 35–The Condominium Amendment Act (Phased Condominium Development)

Mr. Frank Bueti, Private Citizen
Ms. Olga Fuga, Private Citizen
Mr. Doug Forbes, Canadian Condominium Institute

WRITTEN SUBMISSIONS:

Bill 35–The Condominium Amendment Act (Phased Condominium Development)

Neil J . Childs

MATTERS UNDER CONSIDERATION:

Bill 22–The Credit Unions and Caisses Populaires Amendment Act

Bill 34–The Consumer Protection Amendment Act (Negative Option Marketing and Enhanced Remedies)

Bill 35–The Condominium Amendment Act (Phased Condominium Development)

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Clerk Assistant (Ms. Monique Grenier): Good evening. Will the Standing Committee on Social and Economic Development please come to order.

Your first item of business is the election of the Chairperson. Are there any nominations?

Mr. Gerard Jennissen (Flin Flon): Yes, I'd like to nominate the member for Interlake, Mr. Nevakshonoff.

Clerk Assistant: Mr. Nevakshonoff has been nominated. Are there any other nominations?

Hearing no other nominations, Mr. Nevakshonoff, will you please take the Chair.

Mr. Chairperson: Thank you, good evening. Our next items of business is the election of a Vice-Chairperson. Are there any nominations?

Mr. Jennissen: I nominate the member for Selkirk, Mr. Dewar.

Mr. Chairperson: Mr. Dewar has been nominated. Are there any other nominations? Hearing no other nominations, Mr. Dewar is elected Vice-Chairperson.

This meeting has been called to consider the following bills: Bill 22, The Credit Unions and Caisses Populaires Amendment Act; Bill 34, The Consumer Protection Amendment Act (Negative Option Marketing and Enhanced Remedies); Bill 35, The Condominium Amendment Act (Phased Condominium Development).

We have a number of presenters registered to speak this evening as noted on the list before you. Before we proceed with presentations, we do have a number of other items and points of information to consider.

First of all, if there is anyone else in the audience who would like to make a presentation this evening,

please register with staff at the entrance of the room. Also, for the information of all presenters, while written versions of presentations are not required, if you are going to accompany your presentation with written materials, we ask that you provide 20 copies. If you need help with photocopying, please speak with our staff. As well, I would like to inform presenters that, in accordance with our rules, a time limit of 10 minutes has been allotted for presentations, with another five minutes allowed for questions from committee members. Also, in accordance with our rules, if a presenter is not in attendance when his–when their name is called, they will be dropped to the bottom of the list. If the presenter is not in attendance when their name is called a second time, they will be removed from the presenters list.

We have a written submission on Bill 35, from Neil J. Childs. It has been received and distributed to committee members. Does the committee agree to have this document appear in the *Hansard* transcript of this meeting? *[Agreed]*

Order of presentation. On the topic of determining the order of public presentations, I will note that we have a request from Fernand Vermette, presenter No. 2 for Bill 22, to make a presentation in French. We do have translation staff on hand to accommodate consecutive translation.

With this consideration in mind then, in what order does the committee wish to hear presentations?

Mr. Gregory Dewar (Selkirk): I suggest we listen to the French presenter first, and then the rest.

Mr. Chairperson: It's been proposed we listen to French presenter first. Is the committee in agreement? *[Agreed]*

I would like to inform all in attendance of the provisions in our rules regarding the hour of adjournment. Except by unanimous consent the standing committee meeting to consider a bill in the evening must not sit past midnight to hear presentations unless fewer than 20 presenters are registered to speak to all bills being considered when the committee meets at 6 p.m. As of 6 p.m. this evening, there were five persons registered to speak to these bills; therefore, according to our rules, this committee may sit past midnight to hear presentations. How late does the committee wish to sit tonight?

Mr. David Faurschou (Portage la Prairie): Until we conclude the business before us.

Mr. Chairperson: It's been proposed we sit until we're finished. Is that the will of the committee? *[Agreed]*

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

Thank you for your patience.

Bill 22–The Credit Unions and Caisses Populaires Amendment Act

Mr. Chairperson: We will now proceed with public presentations. I call Mr. Fernand Vermette, La Fédération Caisse Populaire.

Good evening, Mr. Vermette. Do you have any written materials for the committee.

Mr. Fernand Vermette (La Fédération Caisse Populaire): Yes, I do.

Mr. Chairperson: Okay. The Clerk or our staff will help you distribute them. Okay, sir, you may proceed when you're ready.

Mr. Vermette: Monsieur le Président, Monsieur le Vice Président, chers membres du comité, je suis Fernand Vermette et je vous adresse ces commentaires au nom du conseil d'administration de la Fédération des caisses populaires du Manitoba, ainsi que ses caisses membres.

À titre de directeur général de cette organisation, j'aimerais vous remercier de nous permettre de vous communiquer de vive voix notre appui au projet de loi n° 22 qui prévoit la modification de la loi des caisses populaires et des credit unions.

Ce projet de loi nous est particulièrement important car il prévoit entre autres un nombre de modifications afin de permettre et faciliter les changements souhaités par notre réseau de caisses suite à la décision de leurs membres de fusionner l'ensemble des caisses au Manitoba.

Ayant été impliqué à un nombre de révisions à la loi des caisses populaires et des credit unions au courant des années passées, je peux vous confirmer que le processus a toujours été respectueux des organisations et personnes impliquées. Il y eût un

constant souci de prévoir des modifications qui sont à la fois éprouvées et avant-gardistes.

Les modifications présentement contemplées par la loi n° 22 n'y font pas exception. Les membres du comité de révision à la loi, composé de représentants de la Direction de la réglementation des institutions financières de la Province du Manitoba, la Fédération des caisses populaires, la Société d'assurance-dépôts des caisses populaires, ainsi que les organisations homologues anglophones, ont travaillé ensemble afin de prévoir les modifications souhaitées par les systèmes respectifs et le gouvernement du Manitoba. Le processus consultatif emprunté permet à tous et chacun de s'exprimer et de faire prévaloir l'opinion de l'organisation qu'il représente ainsi que ses membres.

Lors des premières discussions du comité de révision à la loi, nous discutions des modifications qui seraient nécessaires pour permettre deux initiatives qui étaient contemplées, soit le fusionnement possible de l'ensemble du réseau des caisses en une caisse populaire et le fusionnement possible des Centrals des Credit Unions de l'Alberta, Saskatchewan et le Manitoba. Nous laissons aux représentants de Credit Union Central la responsabilité de vous adresser sur leur initiative, mais pour le réseau des caisses, ce n'est plus un projet contemplé, mais bel et bien un projet qui a déjà reçu l'aval des membres des caisses du réseau via les réunions de vote tenues en décembre dernier. C'est pourquoi les modifications à la loi nous sont indispensables afin de réaliser la volonté des membres des caisses.

Il y a déjà plusieurs années que ce projet se discute. Je me souviens personnellement de commentaires émanant de discussions lors de réunions de planifications stratégiques il y a déjà une vingtaine d'années, où ce concept était mentionné.

Tout au long des années, le réseau des caisses au Manitoba s'est transformé par le truchement de fusionnement de caisses. En effet, il y a trente ans, le réseau comptait plus de trente caisses indépendantes membres de la Fédération. À la fin de 2008, lorsque le réseau des caisses s'est sérieusement engagé à ce processus, il n'y avait que quatre caisses membres de la fédé, malgré que nous desservions un vaste territoire manitobain par le truchement de nos 26 points de services.

Les modifications contemplées par la loi n° 22 sont essentielles pour réaliser la volonté des membres des caisses, qui ont voté à plus de 90 pour cent en faveur des changements structurels proposés lors des réunions spéciales tenues l'an dernier.

La base fondamentale des changements sollicités peut se résumer en 3 chantiers.

Le premier, la création d'une nouvelle corporation d'assurance-dépôts regroupant les deux sociétés actuelles de Credit Union Deposit Guarantee Corp. et la Société d'assurance-dépôts des caisses.

Deux, permettre à la Fédération des caisses populaires d'être fusionnée avec l'ensemble des caisses fusionnantes au 1er septembre 2010, ainsi que prévoir les structures opérationnelles de la nouvelle caisse à l'intérieur de la loi malgré la disparition de la fédération et ce, tout en maintenant son statut de mouvement.

Trois, le maintien des droits linguistiques auxquels le réseau des caisses s'est mérité via l'ouverture d'esprit des divers gouvernements manitobains qui ont historiquement reconnu l'importance des services financiers dans le choix de langue que les membres souhaitent l'obtenir.

Malgré que certains détails découlent des règlements à la loi et que ceux-ci sont présentement en rédaction, nous sommes confiants que les amendements prévus par la loi n° 22 nous positionnent bien pour orchestrer un fusionnement de réseau selon la volonté de nos membres. Nous sommes persuadés que la loi nous permettra de maintenir la place qui nous revient dans l'économie manitobaine et nous serons bien positionnés pour continuer à livrer les services financiers que nos membres exigeront de nous pour les années à venir.

En terminant, il ne me reste qu'à réitérer nos remerciements aux membres du comité pour l'opportunité de vous adresser la parole. De plus, nous tenons à remercier les fonctionnaires avec qui nous avons œuvré dans le processus de la révision de la loi. Leurs engagements à rencontrer nos besoins sont fort appréciés.

Il me ferait plaisir de prendre vos questions dans le choix de votre langue préférée.

Translation

Mr. Chairperson, Mr. Vice-Chairperson, committee members, my name is Fernand Vermette and I am making this presentation on behalf of the board of directors of La Fédération des caisses populaires du Manitoba and its member caisses.

As general manager of the organization, I want to thank you for giving us this opportunity to express our support for Bill 22, which deals with amendments to The Credit Unions and Caisses Populaires Act.

This bill is particularly important to us because it provides for, among other things, a number of amendments that would allow and facilitate changes sought by our network of caisses following their members' decision to merge all caisses in Manitoba.

Having been involved in a number of reviews of The Credit Unions and Caisses Populaires Act over the years, I can confirm that the process has always been respectful of the organizations and people involved. A consistent effort has been made to draft amendments that balance the need for a tried-and-true approach with the desire for innovation.

The changes currently being considered in Bill 22 are no exception. The members of the law review committee, which is comprised of representatives from the Financial Institutions Regulation branch of the Province of Manitoba, the FCPM, the Société d'assurance-dépôts des caisses populaires and the English-speaking counterparts, have worked together to design the amendments sought by each respective system and the government of Manitoba. The consultation process adopted gives all parties a voice and allows them to express the views of the organizations that they represent, as well as those of their members.

During the initial discussions of the law review committee, we talked about the amendments that would be required to carry out two initiatives that were being considered: a merger of the entire network of caisses to form a single caisse, and a merger of the Credit Union Centrals of Alberta, Saskatchewan and Manitoba. I will leave it to Credit Union Central representatives to speak to their own initiative but as for the network of caisses, merging is no longer just a possibility being considered; it is a full-fledged initiative that was endorsed by the members at voting meetings held last December. That is why the amendments to the Act are crucial to enable us to carry out the wishes of caisse members.

The idea of merging has been around for some time. I personally recall it being mentioned at strategic planning meetings some 20 years ago.

Over the years, the province's network of caisses has been transformed through a number of mergers. Thirty years ago, the network consisted of over 30 independent caisses, all FCPM members. At the end of 2008, when the network seriously committed to the current process, there were only four member caisses, although we were serving a large area of Manitoba through our 26 service points.

The amendments under consideration in Bill 22 are vital to carrying out the wishes of caisse members, who voted overwhelmingly—over 90 percent—in favour of the structural changes presented at the special meetings held last year.

Essentially, the amendments we are seeking can be summarized in three points: (1) create a new deposit insurance corporation that would combine the Credit Union Deposit Guarantee Corporation and La Société d'assurance-dépôts des caisses populaires; (2) allow the FCPM to merge with the remaining caisses on September 1, 2010, and outline the new entity's operational structure in the act despite the dissolution of the FCPM, while at the same time maintaining its movement status; (3) preserve existing linguistic rights, acquired over the years thanks to the open-mindedness of various Manitoba governments, which have historically recognized the importance of financial services being provided to members in their official language of choice.

Though some of the details will be addressed in regulations rather than the Act, and although the latter are currently being drafted, we are confident that the amendments in Bill 22 will enable us to orchestrate a network merger in accordance with the wishes of our members. We feel strongly that the bill will allow us to maintain our rightful place in Manitoba's economy and put us in a strong position where we can continue to deliver the financial services required by our members for years to come.

In closing, I wish to reiterate our appreciation for this opportunity to address the committee. We also wish to thank the officials with whom we worked during the law review process. Their commitment to meeting our needs is truly appreciated.

I would now be happy to answer any questions you might have, in the language of your choice.

Mr. Chairperson: Thank you for your presentation, sir.

Open the floor to questions.

Mr. Faurschou: Thank you ever so much for your presentation this evening, and I do appreciate your candidness and openness throughout the process of the sometimes lengthily passage of a bill.

The caisse organization, which this bill will provide for, will that then give opportunity for the Manitoba-based caisses populaires to offer branch services in other western Canadian communities?

Mr. Vermette: Our reason for being is obviously to maintain the service to Francophone communities first and foremost, although we are open to general public, so we are not seeking expansion into territories that do not adhere to our philosophy, although the act does provide us the ability to move outside the province in due time if so be. If there are territories in Saskatchewan–I recall a number of communities that were Francophone, years past, that may be looking for French services, it's something we could definitely look at.

Mr. Faurschou: That's precisely what I was alluding to. There are areas within Alberta and Saskatchewan that do have a Francophone history, and this may be very well an opportunity for branch offices to serve the persons of those communities.

The other point that I'd like to ask you is about the regulatory development process. The government and staff have been very consultative to this date. Have you the confidence that they–that that will be the continued relationship through the regulation development stage of the bill?

Mr. Vermette: We have no reason to believe that it will be any different. It has been that way all along. And I've been involved in this for 18 years now, and it's always been a pleasure to work with them.

Mr. Chairperson: Okay. Seeing no further questions, I thank you for your presentation.

Mr. Vermette: Thank you.

Mr. Chairperson: This concludes the list of those who have indicated they wish to speak in French.

Are there any other persons in attendance requiring translation services?

Seeing none, does the committee grant its consent for the translation staff to leave for the evening? *[Agreed]* Okay. I thank the translation staff.

This concludes the list of presenter–no, wait a second.

Some Honourable Members: Oh, oh.

Mr. Chairperson: Sorry. Okay. Just settle down. Settle down.

I call Mr. Garth Manness, Credit Union Central.

Mr. Manness, do you have any written materials for the committee?

Mr. Garth Manness (Credit Union Central of Manitoba): Yes, I do.

Mr. Chairperson: Okay. The speakers' assistant will distribute them. Okay, sir, you may proceed.

Mr. Manness: Well, good evening and thank you. My name is Garth Manness. I am the president and chief executive officer of Credit Union Central of Manitoba. With me this evening are Rob Giesbrecht, our corporate solicitor from Pitblado LLP, and John Hamilton, our manager of communications and public relations.

On behalf of the board of directors of Credit Union Central of Manitoba and Manitoba's credit unions, I am pleased to appear here today to indicate Manitoba Central's support for Bill 22, amendments to The Credit Unions and Caisses Populaires Act.

Manitoba Central is the trade association for the province's 44 autonomous credit unions, which fund the organization through dues and the purchase of services. As prescribed by The Credit Unions and Caisses Populaires Act, the purpose of Manitoba Central is to manage the liquidity reserves of credit unions; to develop and provide financial and other services to credit unions; to promote sound management principles and operating procedures for credit unions; to promote the organization, development and welfare of credit unions; and to encourage co-operation among co-operatives. Manitoba Central also monitors credit-granting procedures and examines loans that are beyond credit unions' discretionary limits.

With over a half a million members, $16 billion in assets, $15 billion in deposits and $13-and-a-half billion in loans, Manitoba's 44 credit unions provide service from 184 branches in 115 communities throughout the province. In 65 of those communities, a credit union is the only financial institution providing loans and other services to consumers, business owners and producers.

Over the past decade, Manitoba's credit unions' assets have increased on average by more than 11 percent annually. Deposits increased at a similar pace, as did loans. Through the recent credit crisis, credit union lending to consumers, producers and small- and medium-sized enterprises grew by 14.7

and 11 percent in 2008 and 2009, respectively. This attests to the strength and stability of Manitoba's credit unions. System equity–another key indicator of financial strength and stability–has steadily increased since 2000, matching the strong asset growth, and now sits just below 7 percent, well above legislated levels.

Manitoba Central's latest research indicates that 44 percent of Manitoba consumers belong to a credit union and 54 percent of small- and medium-sized business owners use a credit union for their business.

***** (18:20)

Effective and enabling legislation and regulation has been, and will remain, critical to our system's ability to operate in a competitive and effective manner for members of all Manitoba's credit unions.

Manitoba centrally high–Manitoba Central highly values the relationship we enjoy with the Financial Institutions Regulation Branch, now of the Department of Family Services and Consumer Affairs, and the Credit Union Deposit Guarantee Corporation. This positive relationship is evidenced by the work of the law review committee, which includes representation from Manitoba Central, the provincial government, the Credit Union Deposit Guarantee Corporation of Manitoba, the Manitoba caisse populaire system and its guarantor. The law review committee provides a regular forum for positive dialogue with government, the regulators and co-operative financial institutions around The Credit Unions and Caisses Populaires Act and regulations, with each party bringing its ideas forward for open discussion. Manitoba Central's process, in turn, is to then take the results of those discussions back to our member credit unions, the organizations most impacted by changes to legislation, for discussion and feedback. We gauge credit union support for proposed amendments and thereby ensure that suggested changes to legislation reflect their needs.

Over the past year, the committee's activities focussed primarily on the examination of legislation and amendments that will be required to facilitate two significant initiatives: the merger of Manitoba Central with the centrals of Alberta and Saskatchewan to create a Prairie Central; and a new business structure and arrangement for the caisse populaire system of Manitoba.

Amendments to enable those key strategic arrangements, as well as a number of housekeeping and other less consequential amendments, are contained in Bill 22.

Throughout its work with the law review committee, Manitoba Central's objectives have been: (1) to respect and accommodate the desire of the Manitoba caisse system to continue to operate independently within their new structure and business arrangement; (2) to ensure that Manitoba Central's transition to a Prairie Central model is accommodated in an effective and orderly manner, if and when it is approved by member credit unions; and (3) to ensure that legislative changes do not weaken or adversely affect the foundational strength and stability of the Manitoba credit union system, should Manitoba Central remain as a provincial central for Manitoba credit unions.

Advances in technology, increased competition, more complex regulatory requirements and more numerous and complex demands from consumers–these are some of the challenges facing Manitoba's credit unions.

In the wake of the recent global financial crisis, the challenges are likely to become more intense, on two fronts in particular: increased levels of regulatory requirements in areas such as fraud, privacy, financial reporting standards, money laundering and liquidity management; and much more vigorous competition from Canadian banks, which are intensifying their focus on the domestic market to fuel their growth and profitability.

For decades now, many Manitoba credit unions have been dealing with change by pursuing amalgamations. Ten years ago, there were 67 credit unions in Manitoba; today, there are 44, with more mergers in the offing. Over the same period, assets have gone from 5.3 billion to $16.3 billion. The largest Manitoba credit union, in March of 2000, had $860 million in assets. Today, five credit unions have more than a billion and one has nearly reached the $3-billion in asset mark. Based on current trends, there could be as few as 25 credit unions in Manitoba by 2015, many of them multibillion-dollar organizations.

The mergers that credit unions have undertaken to better meet their members' needs have created organizations with more complex needs themselves, needs with the–needs which the current provincial centrals are challenged to meet on their own, while

also continuing to provide the products and services that smaller and mid-sized credit unions require.

Nationally and regionally, all centrals in Canada have been through a decade of studies to determine how to best serve this changing credit union landscape. All these efforts were valuable in that they made the centrals examine how they each operate and consider how, by working together, they could more effectively serve member credit unions. In 2008, those efforts resulted in Ontario and B.C. merging into Central 1, and, in 2010, the Atlantic centrals put the final touches on an agreement that will bring them together in 2011. As Manitoba Central considered the credit union environment it would be seeing in the next decade, we determined the best option for us to meet the changing needs of our credit unions was to pursue a merger with the credit union centrals of Alberta and Saskatchewan.

We have been able to develop a strategy based on foundational principles that will expand many of the successful features of Manitoba Central's operations to the Prairie Central while gaining efficiencies through the removal of duplication in services and the benefits of economies of scale.

By having an entity with greater capacity in place to provide key services to member credit unions, a Prairie Central would provide: improved efficiency and economies of scale through volume aggregation; improved capacity to serve all sizes of credit unions; improved ability to attract and retain talent; a stronger voice through collective action; better alignment of subsidiaries; and increased responsiveness to credit union needs.

We are satisfied that the amendments contained in Bill 22 will enable Manitoba Central to migrate to a Prairie Central if and when all remaining work on the merger is completed and credit unions vote to move in this direction. If the Prairie Central does not proceed and Manitoba Central remains in its current form for the foreseeable future, we are also comfortable that the proposed amendments protect and preserve the fundamental provisions in the existing legislation that have contributed to the strength and success of Manitoba's system of financial co-operatives.

I would like to conclude by restating our system's appreciation for both the process followed in the development of the proposed amendments contained in Bill 22 and our support for these amendments, and I welcome any questions the committee may have.

Mr. Chairperson: Thank you, Mr. Manness. I open the floor to questions.

Hon. Jon Gerrard (River Heights): Thank you for your presentation. Just so that committee members can have a good understanding of why the need to move to a Prairie Central, can you give us a couple of specific examples of where you would need–is it because–the capacity to make larger loans? Is it in terms of providing sort of automatic banking services, or, you know, what's the specifics of the change that you will have to address that you need to go to a Prairie Central?

Mr. Manness: We have defined one of the primary reasons as, in fact, greater capacity, and that greater capacity would be in a number of areas. One is the size of the liquidity pool itself that we manage on behalf of credit unions. One of the purposes of the liquidity pool is actually to provide lending support to those credit unions that may require liquidity, i.e., they may have loan demand higher than, in fact, their deposits. As credit unions get bigger, it takes a larger liquidity pool to be able to meet those demands.

As well, what we're finding, our members and those that we provide services to, are declining. As I indicated, we've gone from 67 credit unions to 44 credit unions in 10 years. That means the number of customers that we have has declined, and it becomes more and more difficult for us to be able to provide services to a reducing number of our members.

Therefore what we believe will happen if we merge with the prairie credit unions instead of having prairie centrals, instead of having 44 credit unions, we'll have in the range of 150 to serve, and, therefore, all sizes of credit unions, small, medium and large, will have greater demand to be able to afford the services that are required and provided by a central.

So it's greater capacity to meet the needs of the small, medium and large because as–credit unions are not just merging and getting bigger. The gap between the sizes of credit unions is also getting much bigger and, therefore, the gap in needs is getting much bigger, and it is far more difficult for one central to be able to meet those needs.

Mr. Blaine Pedersen (Carman): In this bill–*[interjection]*–pardon me–allows you to merge into a Prairie Central for the credit unions but–and we see Ontario and B.C. merging in a central one and the Atlantic centrals are putting together an agreement

out there. You would need–will this legislation, Bill 22, allow you to merge with Ontario and B.C. centrals down the road, or does that take separate legislation?

Mr. Manness: It's my understanding that this would allow us, down the road, to be able to create a national central should we choose to do so.

Mr. Faurschou: Thank you very much for your presentation this evening, and, undoubtedly, the long hours and various meetings too numerous to count in preparing a bill of this magnitude. It's a lot incorporated into Bill 22.

***** (18:30)

Can you give us, as committee members, an idea as to the other two regions, how large they are? Like, if we're managing in–if you're managing $16-million–billion–worth of assets in Manitoba, what would be Saskatchewan, Alberta? Are we going to be the lightweight here or are we going to be full partners when we come together?

Mr. Manness: Alberta has assets just under $18 billion, and the assets in Saskatchewan are about 13.5 billion and, as I said, ours–earlier–ours are about $16 billion in assets.

Mr. Faurschou: Indeed, speaks volumes about the health of the credit unions here in Manitoba for our population base, one-third that of Alberta, and almost on par with them on their assets.

The regulatory component, as I asked Mr. Vermette, have you been contacted, or do you anticipate to be contacted, by the department personnel to continue the working relationship so that stakeholders have a viable contribution, or are afforded a viable contribution towards the regulation development stage of the bill?

Mr. Manness: We have already been in communication with the department with respect to the regulations. There have been a number of discussions around that, and they will continue until they're finalized.

Mr. Faurschou: With the additional personnel that you have here this evening, is there any further comment that they would like to make to committee before further consideration. Have you–

Mr. Manness: It appears not.

Mr. Faurschou: Well, before leaving your presentation, then, is there any further concerns or considerations that you'd like to leave with committee as to either amendments that one might consider or future legislation, or do you believe that this is going to prepare the credit unions for the next decade or more?

Mr. Manness: Yes, we believe this is appropriate legislation to prepare us for the future.

Mr. Chairperson: Time has expired. Sorry, Mr. Jennissen.

Thank you, sir, for your presentation.

Bill 35–The Condominium Amendment Act (Phased Condominium Development)

Mr. Chairperson: We'll now move to Bill 35, The Condominium Amendment Act (Phased Condominium Development).

I call Mr. Frank Bueti, private citizen. Mr. Bueti, do you have any written materials for the committee?

Mr. Frank Bueti (Private Citizen): No, I do not. I just have a few comments. Thank you.

Mr. Chairperson: You may proceed.

Mr. Bueti: Mr. Chair, members of the committee, I'm here before you as a private citizen. I'm one of the members of The Condominium Act review committee and have participated in a number of discussions pertaining to amendments to The Condominium Act generally and the phasing legislation in particular.

And, in my private practice as a lawyer, I do a great deal of work in the area of condominium law, in particular, development work. And I could tell this committee that it is very important that this phasing legislation be passed. But my comments are that it needs to be passed. When we get it in, we should do it right, and there are some concerns about where the legislation is at, as of today's dates–concerns which, in my view, could be easily rectified, but there would need to be a little time for Legislative Counsel, together with the committee, to address the issues of concern.

And, if I may take a moment, I'll just give you a little background. The amendments to The Condominium Act have been in a review process for about four years now. There have been numerous meetings that have been chaired by Ian Anderson from the Province of Manitoba and a number of members of the Winnipeg Land Titles Office and others. And they've done a very fine job, because it is a complex piece of legislation, and it's going to be

totally rewritten and, hopefully, will be passed in the next year or so.

The phasing provisions of the legislation–the original legislation never contemplated phasing as–at all. And, as a result, the Land Titles Office created a process which is rather cumbersome and very difficult because of various needs for documentation, particularly amending agreements which are hard to obtain. So the need for the legislation is clearly there. What occurred was about two years, Rick Wilson, the former registrar general, had actually circulated a draft of the legislation to the committee. That was in April of 2008, and then the draft sat as the committee was dealing with numerous other aspects of the condo act. And, about a month and a half ago or so, the committee was suddenly advised that legislation would be put forward–and, when I speak to the committee, I mean The Condominium Act–the new committee was advised that legislation was coming forward rather quickly, and the new legislation was brought to the attention of the committee for comment.

And the new legislation certainly has most of the principles and parameters right, but there are a few areas that I think need to be reflected on a little further, need to be considered more carefully because it can create some unexpected problems.

The first comment I would make is that transition provisions have now been put forward, I understand, to be added to this bill which are extremely important and which, in my view, are very good and need to get passed with the legislation. So I'd like to thank the legislative drafts people who worked on this on a really rushed basis along with the people from the Land Titles Office to make sure that we had some provisions that deal with existing projects.

The first area where I would suggest to this committee there are still concerns is the definition of phasing and phasing unit. They are, in my respectful view–and this is shared by the other development lawyers on the committee–overly broad. And I'll just give you one example. I don't want to bore this committee with a really technical presentation which, unless you do a lot of work in this area, will probably be a little bit difficult to follow. But, for example, if you do what is called a bare land condominium project where you build buildings on units that are parcels of land–let us say you register your plan as a developer and, while in the course of construction you come to realize that there are needs to amend that plan because some of the things that you originally thought would work in the marketplace don't work. In the past that wouldn't be considered phasing; it would really be considered a plan amendment and you would need 80 percent approval of the voting rights of the unit owners to get that amendment done. But as a developer, you would be able to vote your own units and therefore would normally–in the early stages, especially–be able to make the amendments that would be needed to get the plan through.

Because of some of the changes that this legislation brings forward in dealing with phasing and, in particular, changes that exclude developer voting rights in certain scenarios, in the early stages now it would be almost, in my respectful view, impossible for a developer to amend a plan to deal with changing market conditions and/or error. It becomes extremely difficult.

So I would suggest to this committee that one of the things that still needs to be addressed is the definition of phasing, the definition of phasing unit to make sure that it only deals with what I would call true phasing, which is, really, the concept where you take a parcel of land and where you wish to build buildings in series on that parcel of land. And the reason you're doing it in phases is that, because of marketplace conditions, because of financing considerations, because of sale considerations you are not able to put up a building with, say, 300 units in one single swoop and just build it, but rather you would proceed and say, we'll develop, say, 60 units in phase 1, 60 units in phase 2 and sell it sequentially over a period of years.

So that's the whole–what I call true phasing, which is the primary concern this legislation is intended to address. And I would say to this committee that there has to be some work done on the definition of phasing and phasing unit to exclude other situations which are not really–fall within those parameters but get caught by the overly broad language.

The second thing I would say is that this legislation's concept of exclusion of developer voting rights is inappropriate. What this legislation does is it creates, in effect, two scenarios. Scenario one is where the developer is proceeding with a material condominium phasing amendment after the turnover meeting has been held where the condo corp has been turned over to unit owners. In that scenario the developer has the right to vote its units. But where

the developer is proceeding to make a material amendment to the condominium project before the turnover meeting, developers' rights to vote those units is excluded, which creates, in my respectful view, an imbalance.

The mischief that this legislation, in my view, is trying to address is developers who are acting in an oppressive manner or in a manner that unfairly prejudice unit owners' rights, and that is what the legislation should address. It should address that, you know, if a developer uses their voting power to oppress the others by creating a plan that is unfair to them then that developer should be subject to a claim for damages or, in appropriate cases, even to be prohibited from proceeding. But where–you have to understand in condominium development, especially in phase condominium development, changes will be necessary from time to time.

***** (18:40)

Marketplace circumstances change. Changes occur within the environment in which you are building, you know, for example–and I just use as an example, a client of mine is currently developing a four-phase condominium project adjacent to the Victoria General Hospital. When they started that project and when they built phase 1, the Southwood golf course was still in existence and operating. During–when the developer reached towards the end of phase 1, Southwood golf course announced that they were selling their golf course to the University of Manitoba, which is a very material change to the community.

Then, about a year later, while the developer was in the middle of phase 2, the university, together with the Winnipeg Blue Bombers, announced that they were going to build a new stadium very close to this project. These things happen. The marketplace is not static. The physical circumstances in which you build is not static. So there is a need for change and the legislation does reflect that, but I would suggest to this committee that rather than having provisions which exclude developer voting rights, rather there should be provisions in this legislation that say that the developer has an obligation to deal with the other unitholders in a manner that does not unfairly prejudice them, or language to that effect, because I think the developer has a very substantial financial investment and that investment ought to be respected by way of recognition of their voting rights.

So my comments are simply that this legislation is good legislation. It does need to get passed, but I would suggest to this committee that it would be appropriate to perhaps defer the passing of this legislation to the fall session and to allow Legislative Counsel, together with The Condominium Act review committee, to review those areas that are still of concern and make sure that we get it right the first time, as opposed to passing it in a format that might cause some problems and then, obviously, we'd have to come back before the government for changes.

And I would like to add that I've been advised that, in fact, there is an intention on the part of the legislative drafting department and the government to look at these provisions again in the total Condominium Act amendment so that they will be looking at it again when that particular legislation needs to get passed. But unfortunately, time lines there are not clear yet and I'm not sure whether they're in a position to do that by this fall or whether it would be next spring or possibly later. So I would recommend to this committee that consideration be given to delaying this to the fall to allow Legislative Counsel to work with the drafting committee to revise those things that are a concern. Thank you.

Mr. Chairperson: Thank you, Mr. Bueti.

Open the floor to questions.

Mr. Faurschou: Mr. Bueti, the legislation, as you have stated yourself, has been more than two years in development. It may have come to the floor of the Legislative Assembly in–only a month ago, but were you informed of its introduction into the Legislative Assembly? When did you first learn of the legislation before us this evening?

Mr. Bueti: It would have been towards the end of April that the condominium review committee members were informed of this legislation, and we would have seen a draft version of it–at least I saw a draft version of it–towards the very end of April.

Mr. Faurschou: So the changes that you propose are to the definition of phase and also, too, you're speaking of developers' weighted interest be reflective in the legislation in order to accommodate the dynamics of the marketplace. Is it your unequivocal statement to that extent you're asking all of us to set aside this legislation for the summer months and to–for those two considerations have you got specific language already available or–?

Mr. Bueti: No, I do not have any specific language and I didn't feel it was my province as a private citizen, albeit a lawyer who does this work, to draft the amendments to the legislation, especially where

Legislative Counsel's involved, and there's a committee of lawyers from the Land Titles Office and Real Property section who are frankly more expert than I at drafting legislation, and we have discussed these concerns in some of our discussions very recently but have been advised that due to timing constraints and the complexity of the issues, that it wouldn't be possible to address appropriate amendments at this point in time.

Mr. Faurschou: Very specifically, you have stated you are here as a private citizen but you have alluded, within your presentation, to clients that you represent. So would you–would the committee then be advised to consider that your presentation was that of your clients rather than yourself, as a private citizen?

Mr. Bueti: Yes, that's an excellent question. I have to confess I didn't specifically discuss my presentation with any one of my clients. I have, however, generally discussed it with clients. And I would say that this is reflective of certainly their general needs, although the exact language is not necessarily their language.

Mr. Chairperson: Any further questions?

Hon. Jon Gerrard (River Heights): Part of what you're looking for is some alterations or changes to the definitions of phasing and the phasing unit. But I have a sense that, in addition to that, that there was, when you were discussing the Southwood and that situation, you were suggesting that there could be some ways of including wording in the legislation that would allow for when you've got a very big change in the environment. Can you elaborate on that a little bit?

Mr. Bueti: Well, this legislation basically runs along the line that if there is a need to make material changes to the condominium development, then it's necessary to obtain the approval of 80 percent or more of the voting interests that are allowed to vote. And I use that language deliberately because, in certain circumstances, the developer's rights are not allowed to be voted; in others they are.

And what I'm suggesting is that the 80 percent approval process in general terms is fine. But the concept should be built into the legislation, especially because there is a mechanism where you can go to court–that it be clarified in the legislation that it's only in circumstances where the changes would be oppressive or prejudicial to the interest of the unit owners, that the court would either award damages and or prohibit proceeding with the development because there are many changes that can be made that, although they are material changes, aren't necessarily prejudicial or harmful to the interest of unit owners.

So the language on court approval, from my perspective, doesn't really set any test for the court to consider when it makes its decision whether to grant approval or not. So it’s a bit of a wildcard and, from a developers' standpoint, puts the developer in a situation where if they are not absolutely certain at the outset of a project of how they're going to proceed, there's a significant risk that if they need to make changes because the market circumstance has changed or because the environment around the project changes, or because, quite frankly, the developer perhaps might have missed the mark and thought that unit types A, B and C are really going to be sellable in this market, and when they actually go to market, and hit the real litmus test of will the market accept those units, they discover, to their chagrin, that they've missed it a bit and they are too expensive or too large or whatever, that they need to have an ability to change it so long as they don't prejudice others, or they compensate others if there's prejudice.

Because you have to remember that, you know, using the example of a four-phase project, undoubtedly the interests of those unit owners who are in there should be respected, but you also have the interests of the developer and the financier to the developer, to deal with the balance of the land that needs to get developed. And there's a balance here and that's why this legislation is complex. This is not a simple piece of legislation to craft, to balance all these interests.

***** (18:50)

So I would say that it would be, in my opinion, beneficial if the legislation had some expressed language about the test that the court has to apply in determining how they're going to deal with the application where there is a material change.

Mr. Chairperson: Okay. The time has expired. Thank you for your presentation, sir.

Mr. Bueti: And thank you for hearing me.

Mr. Chairperson: I call Ms. Olga Fuga, private citizen.

Good evening, Ms. Fuga. Do you have any written materials for the committee?

Ms. Olga Fuga (Private Citizen): Just personal notes.

Mr. Chairperson: Okay, you may begin. Is that the correct pronunciation of your name?

Ms. Fuga: Fuga, yes.

Mr. Chairperson: Fuga, okay.

Ms. Fuga: I'm here as a citizen and I'm here as–have I got my microphone on?–*[interjection]* And I'm also here as a condominium unit owner. I own a condo in a phased-in unit, and I fully support this act. I think that it provides transparency, disclosure and accountability.

I'm a first-time condo owner. I bought a condo in October of '05, preconstruction, in the northwest section of the city. It was a very beautiful looking project, and I like it and I'm not sorry I bought it, but there have been many concerns that all the unit owners have. I'm speaking on my own behalf, but I know that we all have had problems, particularly with transparency and to closure–disclosure–and accountability.

I knew that the complex would be phased. I knew that there would be three buildings. There would be 59 units, or 60 in rounded figures, because–but 59 units in phase 1. It was completed in December of '06, just a little over a year after I bought it, and it sold out very quickly. There was a need in the community and people liked what they saw, and they were really happy that this condominium unit had been built.

Phase 2 was completed in '08. They had planned–they thought that it would be completed earlier, but, as we know, construction was very busy. There is a busy season, and it took a little longer than anticipated. So the new phase opened in June of '08.

Since that time the condominiums have not sold very well. There are still quite a few condos available in that phase. And now we come down to phase 3: completion date is unknown; number of units is unknown. And I will try and explain that to you. It is the personal presentation. It's not based on any legalese; it's just what we've been going through in the last, well, almost five years.

The prospective buyers did not know at the time that the developer had applied for a zoning by-law variance. This variance was considered and approved by City Council or by the community committee on January 17th, '06. There has been no disclosure of this fact either to those of us who had purchased a condo on October 10th, October to December of '05. In fact, the purchase agreement for phase 2 indicates that there would be 60 or 59 units in phase 2 and 60 units in phase 3 for a total of 180 units. So, even though they received a variance–and I'm going to tell you what the variance is.

The variance obtained by the developer belies this fact. On January 17th of '06, an order was granted for a five-storey building as opposed to a four-storey building, and the total number of suites were to be increased to 192 for the three phases. The variance was valid for two years and subsequently extended until January of '09. It has now expired and the land has reversed–reverted back to a C2 designation. And advertisements in newspapers and on the Net continue to refer to three four-storey buildings as recently as Friday, June 11. If you go on the Net, you'll find that they're still saying that there would be four units so it has–or four storeys rather, three units of four storeys as opposed to two units of four storeys and one unit of five storeys.

In May, '09, a meeting of unit owners was called to consider a proposal by the developer for phase 3. The market was soft, not likely a condo would be built. This is according to the developer. They had a plan, or they suggested that it could become this third parcel of land–there's one parcel of land left–that this could be a rental apartment building. It could be assisted living or–but independent living building would be preferred. The land–or the land could remain vacant for three to four years or whatever until such time as the market became amenable to a new condo–sorry, I'm a little nervous–new condo construction. There was no plan presented, but developer wanted approval in principle for independent living. Obviously, we didn't give that approval at the time. We had nothing to consider other than a proposal that had no plans.

We move, fast forward, to April the 10th. The developer met with the outgoing board, of which I was a member, and showed plans for a five-storey, 120-unit, assisted independent living building. That was materially changed from the condominium unit of four storeys and 59 units. In June the 10th of this year, just a couple months later, the new board, and subsequently unit owners, were presented with plans by the developer for a six-storey, 120- to 140-unit building, including a main floor restaurant that would be very close to phase one. Very close–in fact, I think it would be about 15 feet, and it would be on the main level. And this was really going to impinge on what these people had not anticipated would be

there when they bought the condominium in November of '05.

The developer wanted a show of approval; a formal vote was not taken. Then the developer indicated it might take one-and-a-half, two years to complete this building. However, if unit owners turned it down eventually, they would have to live with the vacant lot, which we describe as a war zone, for four to five years, until the condo market is more favourable.

Information provided to prospective buyers for phase one, in retrospect, was primarily good marketing. It really was beautiful; it was beautifully presented. We had beautiful brochures and a beautiful picture showing us that there was going to be a park in the middle, and we bought in. I bought in. And I'm still, as I say–I repeat, I'm not sorry, but I am upset, as are the other people, that we have not had disclosure or transparency or information provided to us by the developer as changes had to be made.

A drawing of the site was included in our presentation initially, including the buildings phase one, two and three, parking stalls, a park, even the names of trees and shrubs and locations of the fountain and barbecue pits. Everything was provided in information. So it made a nice picture. There were plans given to us for individual units and an outline of specifications which included two five-stop electric transaction elevators. The first time that we saw the units at an open house, which would have been September of '06–although the date the people started to move in was December–we found that there was only one elevator. And I phoned the City of Winnipeg planning department and inquired if there had been a change order. The head of planning department was not aware of it, but he said he'd call me back. And he called me back in two days and said that they had no record of a change order saying that there would only be one elevator. So that was the first step; that was the first time that I really got a little angry and upset, as did the other people who had bought in.

Then we received, the same time that we put down our down payment, a draft by-law and a draft declaration. The declaration and the by-laws that are currently in play were registered documents. They were registered in December of '06. I got my new declaration and my by-laws the day before I put down–or the day before I took possession of the house–the condo–in January. So there was no time for me to compare the old by-law or the draft by-law or the draft declaration with the new by-law or declaration.

***** (19:00)

And members of committee, I can tell you that there were significant differences from the registered documents in that by-law, and I'd like to give you one of them. For example, the common elements in the draft declaration, under exclusive common elements, they go through a list of the balcony and all the standard things that you would expect, and the last item is: It is intended that the majority of outdoor parking areas are to be used for the purpose of visitor parking only.

The declaration–may I read it, Mr. Chairman, or am I going on too long?

Mr. Chairperson: You have about a minute left, so you could always ask for leave, or the committee members could. Proceed.

Ms. Fuga: The exclusive–now, as I indicate, I'm sorry: It is intended that the majority of the outdoor parking area to be used for purpose of visitor parking only.

I'd like to read this to you and just leave it with you, because I don't understand what it means: Under exclusive common elements, subject to the provisions of the act, this declaration, the by-laws, et cetera: (a) the corporation shall provide a non-revocable licence to the declarant for the exclusive right of the declarant who is also the owner, to utilize–to develop or to utilize all parking stalls not sold to a unit owner, the remaining stalls prior to the registration of this declaration. The licence shall include the right to lease, assign and obtain profits and rents from the remaining stalls on the terms and conditions solely determined by the declarant, and the corporation shall have no right to dispose of any interest in the remaining stalls without the prior consent of the declarant and its owner. Further, the corporation shall deliver to the declarant any agreements necessary to give effect to section 302 and the declarant's rights and benefits hereunder, and the property shall be that of the corporation. Notwithstanding that this declaration will be filed with the Winnipeg Land Titles Office and the property shall be that of the corporation, the declarant will continue to enjoy the rights and benefits under the subject licence until such rights and benefits and the remaining stalls are transferred in accordance with terms of the section 302.

There is no transfer shown here. What this really says, or the way it's been interpreted, and we've gone–sought legal counsel on it, that the declarant/owner will be able to sell–and, in fact, he has sold many of the stalls and rented the stalls until such time as phase 3 or unit 61 is built. That has been the effect of it. As I say, I had a hard time understanding that, but he was, as a declarant, he was able to give himself a licence as an owner, and that's where we stand. So that is–that's one of the concerns that I have.

May I continue or–?

Mr. Chairperson: Well, your time has expired.

Floor Comment: Okay.

Mr. Chairperson: Mr. Faurschou, you had your hand up.

Mr. David Faurschou (Portage la Prairie): Well, I was just going to ask the leave for her to conclude her presentation, but she has done so.

Floor Comment: She's not.

Mr. Chairperson: Does the presenter have leave to continue for a moment or two more?

An Honourable Member: Leave.

Mr. Chairperson: Leave has been granted. You may proceed.

Ms. Fuga: Well, then, I'll leave out some of the things, but some of the important things, for example, under section–in the act, the new act, there's a proposal under section 5.1(6), which is the power of attorney. Again, I found out by accident when I phoned the business office asking–or the management company office–to find out when we are going to have a meeting, a mandatory replacement of directors meeting, six months after the–we took possession. And I found out that I had signed, as have all unit owners, signed a power–given over a power of attorney to the developer.

May I–I'm going to read this and it's–because I think it's important because I think that what is in the new act should stay: That I, Olga Fuga, unit number such and so, do hereby 'irrelavocably'–no, irrevocably–appoint ASK Enterprises of Winnipeg, in accordance with The Powers of Attorney Act, to be my true and lawful attorney for me and in my name, place and stead, and for my sole use and benefit, to exercise any or all of my voting powers in matters concerning the appointment of directors to the board of directors for condominium corporation number and amending the declaration filed by the developer at Winnipeg Land Titles Office. This power will continue until the developer ceases to be owner of unit 60 and 61, which were the two bare land units.

In other words, this–we gave him the power of attorney. My condominium unit was No. 52, and I must plead stupidity here–nothing short of that–that I thought that when unit 60 and 61, it wouldn't be long–they wouldn't be long in being built. Well, unit 61 still is not built.

So, effectively–effectively–I gave away my rights to the owner to vote for me, as well as for the declaration filed–any amendments to the declaration that would be filed. That, I don't think, will be permissible. It won't be permissible under this act, so I would hope and wish that this act would pass quickly.

I have other examples, but I think that I've given you enough examples to indicate there have been concerns. It is–we're now going into the fifth year, and I do not think that–I like the idea that there will be six years for which the developer will have in which to complete the phasing. I also think that–and again I'm not against developers. I think that they have–it is a business, but, by the same token, those of us who have invested in the condominium would like to be owners who have the right to make our own decisions and not rely on the developer.

If there are any questions, I'd be glad to answer them.

Mr. Chairperson: Thank you for your presentation.

Mr. Faurschou: I just want to thank you very much for taking the time out of your–to be here with us this evening. Can you enlighten the committee as to how you found out about the legislation, what involvement you have had that led to your presence here this evening?

Ms. Fuga: Yes, I guess, through the years, I've been phoning various departments at the government, asking things. I phoned the corporations act–because there have been a lot of things that I haven't mentioned that I could mention, but there have been a lot of problems that we have encountered because of the phasing-in unit because we're not really masters of our own house or haven't been, and so I guess my name got around and I was asked to make a presentation to the committee, which Mr. Bueti is a member of, as a condominium owner because they wanted to hear exactly what was going on because I

had been making inquiries. And I do know that there are other people who have been making inquiries to the various government departments, and that's how I found out about the act and got a copy of the act and have had an opportunity to read it and make the presentation this evening.

Hon. Gord Mackintosh (Minister of Family Services and Consumer Affairs): Ms. Fuga, I want to thank you so much for providing your insights. I mean, this has got to be a process where those that have had the actual experience can contribute to making it better. And, for all the contributions that you have made to our community, I'm sorry this has happened to you, and I hope this legislation will prevent it from happening in the future.

Floor Comment: Well, it's happened to other condominium–

Mr. Chairperson: Ms. Fuga.

Ms. Fuga: I'm sorry. This has been happening to other condominium owners as well–or in the phased-in units. And I think I was a little nervous about coming here this evening; however, I felt that–very strongly about it, and I can say that it's for selfish reasons, but I hope that it will help us in the future, that this won't happen to other people.

Mr. Chairperson: Okay. Seeing no further questions, I thank you for your presentation, ma'am.

Ms. Fuga: Thank you.

Mr. Chairperson: Call Mr. Doug Forbes, private citizen.

Mr. Forbes, do you have any written materials for the committee?

Mr. Doug Forbes (Canadian Condominium Institute): I do not.

Mr. Chairperson: Okay. You may proceed.

Mr. Forbes: Actually, I'm not here as a private citizen, I'm–Mr. Chairman–I'm here as the president of the Manitoba chapter of the Canadian Condominium Institute, CCI, as we refer to it, and the Manitoba chapter is a organization that is–provides services and education; mostly, it's a non-profit, volunteer-run organization. We–most of our members are condominium corporations. We also have, as members, members of the professions that service condominiums, and–as well as interested individuals. We have about 13,000 units that belong to our member-condominium corporations, plus professionals, et cetera.

***** (19:10)

CCI itself is a national organization with 13 chapters across the country. And I'm here to support this bill. The current act, as you've heard, is silent on the issue of phasing. It doesn't prohibit it. It doesn't expressly allow it and it certainly doesn't facilitate it, as a result of which, there's been a–it's been a confusing and awkward–I often describe it as trying to get a square peg into a round hole. And there's been several ingenious ways, over the years, that people have gone about trying to phase condominiums and none of which, frankly, work all that well, none of which I think are fair either to developers or to purchasers of condominium units or to current unit owners.

And we like this bill and we think it's a balanced approach that–there's competing interests, as you've heard already today, but there's–we think this a balanced approach and gets the job done. The current situation with phasing can lead to some certain–besides awkward–getting there is awkward. Sometimes once you do get there, you'll have a couple buildings that are different condominium corporations with different government–governing structures and–but common facilities and that leads to problems and battles and friction between the buildings and so on.

And, as well, I could tell you, my practice as a lawyer, there's been several times where clients of mine have decided not to phase and, indeed, to–not to develop because they've looked at the legislation and what we'd have to do to get there and decided it wasn't worth the risk.

It has gotten better with practice, but still this is a vast improvement.

We believe that this brings certainty to the process. It gives owners a certainty that what they are getting–that they're going to get what they buy into, and if there's going to be changes, they have a degree of control over what those changes are going to be. It also gives developers certainty that they're going to be able to proceed and that they're not going to have challenges along the way, provided that they stick with what they originally represent.

So, in conclusion, and to keep it brief, we support this. We also support a lot of the work that the province's condominium act review committee is doing. They're doing a lot of work on a lot of other

sections in this act that frankly need improvement as well. We'd like to urge members to help the process along and to facilitate getting those acts–getting those amendments passed and to support the good work that's being done now, of which we're proud to be a part of. And, with that, I'd like to thank you for your time.

Mr. Chairperson: Thank you, Mr. Forbes.

Members of the committee, the floor is open.

Mr. Faurschou: Thank you very much for your presentation. Your reflection on 13,000 units, that references to Manitoba-based condominium units?

Mr. Forbes: Sorry. I said I wasn't going to do that when I stood up here.

Yes, it's strictly Manitoba-based.

Mr. Faurschou: And, once again, CCI stood for?

Mr. Forbes: Canadian Condominium Institute.

Mr. Chairperson: Any further questions? Seeing none, I thank you for your presentation, sir.

Mr. Forbes: Thank you.

Mr. Chairperson: Okay, this concludes the list of presenters I have before me. Are there any other persons in attendance who wish to make a presentation? Seeing none, that concludes public presentations.

*** * ***

Mr. Chairperson: We will now proceed to clause-by-clause consideration. In what order does the committee wish to proceed with clause-by-clause consideration of these bills?

Mr. Faurschou: Numerical.

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

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

We will now proceed to clause-by-clause consideration of the bills.

Bill 22–The Credit Unions and Caisses Populaires Amendment Act
(continued)

Mr. Chairperson: Does the minister responsible for Bill 22 have an opening statement?

Hon. Gord Mackintosh (Minister of Family Services and Consumer Affairs): I want to thank the credit union and caisse populaire movement and all of those hard workers in this highly successful sector for their efforts in bringing this legislation to fruition.

I also want to thank the critic of the opposition who raised an issue about the electronic ability of not just directors, as is currently the law, but also members to participate in meetings, and an amendment will be made in that regard, and I want to thank the member for Portage la Prairie (Mr. Faurschou) for that.

Mr. Chairperson: Okay, thank you.

Mr. Minister, would you introduce the staff who've joined us at the table.

Mr. Mackintosh: Yes, Alexandra Morton is here, who heads up the Consumer and Corporate Affairs Division, and Jim Scalena, of course, who has been working very hard with the financial regulation sector, or financial regulation office here, and is the regulator of credit unions and caisses populaires or heads that up.

Mr. Chairperson: Okay, does that conclude your opening remarks?

Does the critic from the official opposition have an opening statement?

Mr. David Faurschou (Portage la Prairie): No, I do not.

Mr. Chairperson: We thank Mr. Faurschou for that.

Shall–we'll move to clause by clause now.

Clauses 1 and 2–pass; clause 3–pass; clauses 4 through 6–pass; clauses 7 through 11–pass; clause 12–pass; clauses 13 through 16–pass; clauses 17 through 20–pass; clause 21–pass; clause 22–pass; clauses 23 and 24–pass; clauses 25 and 26–pass; clauses 27 through 30–pass; clauses 31 and 32–pass; clauses 33 and 34–pass; clauses 35 and 36–pass.

Shall clause 37 pass?

Mr. Faurschou: I'd like to ask the minister, as it pertains to the establishment of regulations, as to the

involvement of stakeholders prior to the regulations receiving Executive Council approval, I'd like to ask the minister, is that the intent of his department?

Mr. Mackintosh: It has been the practice and is the intent specifically on this legislation to work in a consensus–on a consensus basis with the sector in the development of the regulations.

Mr. Chairperson: No further questions?

Clause 37–pass; clauses 38 and 39–pass; clauses 40 and 41–pass; clauses 42 through 44–pass; clauses 45 through 47–pass; clause 48–pass; clauses 49 and 50–pass; clause 51–pass; clauses 52 through 54–pass; clause 55–pass; clauses 56 through 59–pass; clauses 60 through 64–pass.

Shall clause 65 pass?

***** (19:20)

Mr. Mackintosh: I move, seconded by the member for Portage la Prairie (Mr. Faurschou),

THAT Clause 65(1)(g) of the Bill be amended by adding the following after the proposed clause 227(1)(ff):

(ff.1) respecting annual or other general meetings of and special meetings of credit union members, including

(i) with or without conditions, authorizing credit unions to hold annual or other general members' meetings or special members' meetings by holding two or more simultaneous meetings in different locations at which the members at each location are able to communicate with members at the other locations by means of electronic communication technology,

(ii) prescribing the requirements for holding such meetings,

(iii) governing voting at members' meetings and counting votes, and

(iv) prescribing conditions to ensure that members participating in a meeting authorized under subclause (i) are able to exercise their members' rights fully and in an informed manner;

Mr. Chairperson: It has been moved by Minister Mackintosh, seconded by Mr. Faurschou,

THAT–

An Honourable Member: As read.

Mr. Chairperson: It is moved as read. Agreed? *[Agreed]*

Mr. Mackintosh: What was–

Mr. Chairperson: Oh, wait a second, Mr. Mackintosh.

The amendment is in order. The floor is open for questions.

Mr. Mackintosh: What was a simple idea still has to require checks and balances in law. So I hope the member appreciates that, but I do thank the member for raising that. It will certainly allow a regulation to be passed to enable the members to participate in annual general or special members' meetings by electronic means. It's recognizing the world that we live in, and the legislation, of course, already allows for directors to participate in meetings by electronic means.

Mr. Chairperson: Thank you.

Any further questions or comments?

Mr. Faurschou: Well, I do want to thank the minister's receptiveness to the suggestion that we employ the technologies of the day within our normal course of doing business and I want to thank the support that I received from the department, as well. Thank you.

Mr. Chairperson: Okay, is the committee ready for the question?

An Honourable Member: Question.

Mr. Chairperson: The question before the committee is as follows:

THAT Clause 65–

An Honourable Member: Dispense.

Mr. Chairperson: Dispense. Thank you. Shall the amendment–was there a no?

Mrs. Mavis Taillieu (Morris): I just want clarification on what you're dispensing here. You're reading the rest of the bill?

Mr. Chairperson: Dispensing the reading of the amendment.

Mrs. Taillieu: Oh, the reading of the amendment. Okay, that's fine.

Mr. Chairperson: Okay, thank you for that.

Amendment–pass; clause 65 as amended–pass; clauses 66 and 67–pass; enacting clause–pass; title–pass. Bill as amended be reported.

Bill 34–The Consumer Protection Amendment Act (Negative Option Marketing and Enhanced Remedies)

Mr. Chairperson: All right, we'll move to Bill 34, clause by clause.

Does the minister responsible for Bill 34 have an opening statement? Mr. Mackintosh, no opening statement?

Hon. Gord Mackintosh (Minister of Family Services and Consumer Affairs): No, we have, well, one change that has two amendments to it, dealing with reciprocal enforcement agreements, based on a leading-edge piece that we had in the payday loans act. So we'll deal with that.

Mr. Chairperson: Okay.

Does the critic from the official opposition have an opening statement?

An Honourable Member: No.

Mr. Chairperson: No statement. Thank you.

I see you have some new staff have joined us, Mr. Minister. Would you introduce them?

Mr. Mackintosh: Yes. I'm joined with by Nancy Anderson, who is the director of the newly named Consumer Protection Office, formerly the Consumers' Bureau.

Mr. Chairperson: Thank you.

Shall clause 1 pass? Mr. Minister. *[interjection]*

I repeat, clause 1–pass.

Shall clause 1.1 pass? Mr. Minister.

Okay, I think I'll call upon the minister. I understand there's an amendment.

Mr. Mackintosh: I move

THAT the following be added after Clause 1 of the Bill:

*1.1 In the following provisions, "*clause 97(d)*" is struck out and "*clause 97 (1)(d)*" is substituted:*

(a) subsection 59(1);

(b) clause 60 (1)(k).

Mr. Chairperson: It has been moved by Minister Mackintosh

THAT the following be added after Clause 1 of the Bill–

An Honourable Member: As read.

Mr. Chairperson: Dispense with the reading. Okay. The amendment is in order.

The floor is open for questions or comments.

Mr. Mackintosh: This changes the cross references in The Consumer Protection Act. But it's necessary because of an amendment that will be made in a few minutes which deals with negative option marketing on the Internet and the reciprocal enforcement scheme that I described generally.

Mr. Chairperson: Thank you.

Any further comments or questions?

Seeing none, is the committee ready for the question?

An Honourable Member: Question

Mr. Chairperson: The question before the committee is as follows:

THAT the following be added after Clause 1 of the Bill–

An Honourable Member: Dispense.

Mr. Chairperson: Dispense.

Amendment–pass.

Okay, this is an addition to the bill, so I will put it.

Clause 1.1–pass; clause 2–pass.

Shall clause 3 pass?

Some Honourable Members: Pass.

Mr. Mackintosh: I move

THAT Clause 3 of the Bill be replaced with the following:

3 Section 97 is amended

(a) by renumbering it as subsection 97(1) and adding the following after clause (ee):

(ee.1) For the purpose of Part XXI (Negative Option Marketing),

(i) respecting what constitutes a material change in goods or services supplied to a consumer on a periodic basis;

(ii) respecting Internet negative option marketing;

(b) by adding the following as subsection 97(2):

Regulations about Internet negative option marketing

97(2) Without limiting clause 1(ee.1), a regulation made under that clause may do one or more of the following:

(a) designate another jurisdiction as a reciprocating jurisdiction if, in the opinion of the Lieutenant Governor in Council, it has a similar law for the regulation of Internet negative option marketing;

(b) authorize the minister, on behalf of the government, to enter into an agreement with the government of a reciprocating jurisdiction respecting the application, administration or enforcement of Part XXI or the law of that jurisdiction in respect of Internet negative option marketing;

(c) in accordance with any agreement made under clause (b), specify which law applies or does not apply when both Part XXI and the law of the reciprocating jurisdiction purport to apply to Internet negative option marketing;

(d) extend, modify or limit the application of any provision of Part XXI in relation to Internet negative option marketing.

***** (19:30)

Mr. Chairperson: Okay, it has been moved by Minister Mackintosh as read

THAT–

An Honourable Member: Dispense.

Mr. Chairperson: Dispense? Okay.

The amendment is in order.

Floor is open for questions or comments.

Mr. Mackintosh: The proposed amendment will allow Lieutenant-Governor-in-Council by regulation, because this is the regulation-making section that's being referred to, designate another jurisdiction as a reciprocal jurisdiction if it has similar negative option marketing laws, and that may well–there's a few other Canadian provinces that have somewhat similar provisions: Alberta, Ontario and British Columbia, for example, and, hopefully, all of North America someday. I know there's a newfound interest in the United States to move in this regard and also enter into agreements with these designated jurisdictions for the application, administration or enforcement of the laws regarding negative option marketing.

It really is trying to recognize, in law, how far we can go to regulate actions that can be taken on the Internet, and sometimes originating in jurisdictions that, perhaps, are far away from Manitoba. The true success of negative option marketing laws will depend on how many jurisdictions, particularly south of the border, do put these provisions into place. But this gives us a, you know, a power that, under payday loans, is being enabled. It builds on experience, for example, in maintenance enforcement legislation, where reciprocal enforcement of orders can extend the reach of Manitoba law beyond the confines of our own particular province.

Mr. Chairperson: Thank you.

Mr. David Faurschou (Portage la Prairie): As it pertains to the Internet, would it have to be specific to the originating site in regards to whether it was located here or in the continent of Africa? Or would we be able to effectively pursue the negative option marketer at point of server rather than where the site originates from?

Mr. Mackintosh: The protection office would look to see where the business is located. It can be, you see, some questions of fact here in terms of where the call centre is, where the actual business is. But it's where the operations of the business, the location, that would be, I think, the, a determining fact in terms of looking at the application there. But, of course, you'll see later on in the bill how the–how this part of the act applies, and it applies if the supplier/consumer is a resident of Manitoba or if the goods or services are received in Manitoba or supplied from Manitoba.

Mr. Faurschou: While I understand the explanation, I'm looking to the minister to clarify whether or not if the Web site, even though located on another continent, was using a locally based server in order to contact consumers here in Manitoba, would it be, would we be able to effectively go to the server that is operating the service to consumers here in Manitoba and curtail the illicit activity in that

fashion, rather than attempting to extend our long arm of the law to another continent?

Mr. Mackintosh: While supplier talks about the person who provides the goods or services to consumers, the act certainly allows action on the part of the Consumer Protection Office to protect consumers in Manitoba. If that means contacting and dealing with a server that operates in Manitoba, that could be an option that's pursued. It's–it may have a more meaningful result or enforcement, though, if the supplier is the one that takes the–or changes the approach. But there certainly could be some–the office could involve a server in Manitoba as part of the overall legislative regime.

And, indeed, it has been the experience of the Consumers' Bureau historically that, when businesses discover what the law of Manitoba is, they do want to comply. There has been a pretty good record. I mean, businesses do want to act lawfully, and so there has been a good track record in trying–in successfully getting compliance as well.

Mr. Faurschou: Thank you very much, and I do appreciate the response. There was discussions of font size of disclaimers and, effectively, terms and agreements of in receipt of goods and services. Have you determined if the specifications–or is that come in regulation as to the size and description of the terms and agreement?

Mr. Mackintosh: Yeah, what's–we really look forward to seeing applied in the legislation are the words prominently and in a form using language that is clear and understandable. That would be a reasonable person's test as to what would constitute that requirement.

The legislation would enable font size to be set out, but it wasn't the intention of the drafters to do that, at least not initially, because what might be applicable or what might be an effective font size in one document might not be effective in another. It wasn't–there wasn't an expectation that we could do that kind of micro dictation of how contracts should be written.

So I think the context will be important in determining when there's compliance with the phrase that I quoted. But there is that ability, under the regulation-making authority, I understand, in the legislation to do that, if experience leads us in that direction.

***** (19:40)

Mr. Faurschou: I will leave with these remarks, as stated in second reading as well, that I have had personal experience with terms and agreements of services provided over the Internet, and the font size was so small that, even with my reading glasses, I could not decipher the–what was written and agreed upon because of the minute size of the text.

And so I–there are situations where that in my terms is unreasonable to have an expectation that someone could decipher and fully comprehend the terms of agreement using that small font.

Mr. Chairperson: Okay, any further questions or comments?

Seeing none, is the committee ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: The question before the committee is as follows.

Moved by the Honourable Mr. Mackintosh

THAT Clause 3 of the Bill be replaced–

An Honourable Member: Dispense.

Mr. Chairperson: Dispense?

An Honourable Member: Dispense.

Mr. Chairperson: Amendment–pass; clause 3 as amended–pass; clause 4–pass; clause 5–pass; enacting clause–pass; title–pass. Bill be reported, as amended.

Bill 35–The Condominium Amendment Act (Phased Condominium Development)

Mr. Chairperson: Okay, we're going to move to Bill 35 clause by clause.

Does the minister responsible for Bill 35 have an opening statement? And I see you have some new staff. Would you introduce them, Mr. Mackintosh?

Hon. Gord Mackintosh (Minister of Family Services and Consumer Affairs): The Acting Registrar General of the Property Registry, Barry Effler, is here with us.

Mr. Chairperson: Okay. Thank you.

Mr. Mackintosh: I will be proposing three amendments.

Two of the amendments will add transitional provisions. Stakeholders had originally indicated that transitional provisions wouldn't be necessary;

however, on reviewing the bill further in more detail, they advise us that on balance there should be transitional provisions. And then our third committee amendment, not related to transition, is being proposed just for greater certainty.

Mr. Chairperson: Thank you.

Does the critic from the official opposition have an opening statement?

An Honourable Member: No.

Mr. Chairperson: No statement. We thank the member.

Move to clause by clause.

Clauses 1 and 2–pass; clause 3–pass.

Shall clause 4 pass?

Some Honourable Members: Pass

Mr. Chairperson: Minister Mackintosh.

Mr. Mackintosh: I move

THAT Clause 4(1) of the Bill be amended by adding the following after the proposed subsection 5(3.1):

Transitional–phasing amendment for existing phased development

5(3.2) If a declaration for a phased development that was registered before the day that subsection (3.1) came into force does not meet the requirements of that subsection, the following rules apply:

1. The declaration must be amended as necessary to meet the requirements of subsection (3.1) before any proposed phase described or referred to in the declaration is implemented;

2. Subsections 5.1(2) and 5.6(3) do not apply to the registration of the phasing amendment required by this subsection if

(a) the phasing amendment is registered within one year after the subsection comes into force;

(b) the notice under subsection 5.1(1)–or 5.4(1) of the proposed phasing amendment

(i) describes the material differences, if any, between the phase described in the amendment and the phase as described in the declaration and the marketing materials used to sell the existing units, and

(ii) describes the recipient's right to apply to the court for an order under section 5.7 within 30 days after receiving the notice.

3. The phasing amendment required by this subsection must not be accepted for registration unless it is accompanied by

(a) a statutory declaration of the owner-developer or the corporation stating that each person to be given information under subsection 5.4(1) and this subsection was given that information;

and either

(b) a statutory declaration of the owner-developer or the corporation stating no person entitled to the information applied to the court, within 30 days after receiving the information, for an order under section 5.7; or

(c) a certified copy of an order of the court

(i) confirming that there is no material difference between the phase described in the amendment and the phase as described in the declaration and in the marketing materials, or

(ii) confirming that there is a material difference and permitting the amendment to be registered as proposed, or with changes, as specified in the order or subject to the conditions as specified in the order,

and, if the order permitting the amendment to be registered is made subject to conditions, evidence sufficient to satisfy the district registrar that the conditions have been satisfied.

4. If an application is made to the court under section 5.7 in respect of the proposed phasing amendment, any references in that section to the description of the phase in the declaration shall be read as references to the phase as described in the declaration and in the marketing materials used to sell the existing units.

5. Until the phasing amendment required by this subsection is registered,

(a) subsection 4.4–4(4) does not apply to the declaration; and

(b) for the purposes of this Act, other than this subsection and the registration of the phasing amendment,

(i) the property that is the subject of the declaration is deemed not to be a phased development, and

(ii) each proposed phase described or referred to in the declaration is deemed not to be a proposed phase.

Mr. Chairperson: It has been moved by Minister Mackintosh

THAT–

Some Honourable Members: Dispense.

Mr. Chairperson: Dispense.

The amendment as read–the amendment is so ordered.

The floor is open for questions.

Mr. Mackintosh: The amendment introduces transitional rules that will require a declaration of an existing phased condominium project to be amended to provide unit owners with the same information about the future phases as must be provided in new phased projects. The developer must give a notice to the unit owners describing any material differences between the information about future phases in the original declaration or marketing materials. Where there are material differences, unit owners can apply to court to ask for the phasing not to proceed or for the court to order changes to the proposed phases.

So these transitional rules recognize that developers began the existing phases in good faith, under the existing rules, and that the change to the new rules should provide them with the opportunity to bring their phases into compliance with the requirements of this bill. At the same time, they will not have to comply with all the strict requirements of Bill 35 where they have not made any material changes from what they have already disclosed to the unit owners.

Mr. Chairperson: Thank you, Mr. Minister.

My apologies to the committee. My microphone was not on, so I have to begin again, and I'll get to the–Mr. Faurschou in a moment.

It has been moved by Minister Mackintosh

THAT–

An Honourable Member: Dispense.

Mr. Chairperson: Dispense.

The amendment is in order. The floor is open for questions.

We've heard from Minister Mackintosh. Mr. Faurschou.

Mr. David Faurschou (Portage la Prairie): As it pertained to the development which one of the presenters spoke of this evening, we have a time frame outlined in legislation, now that you're proposing the amendment to incorporate the transitional, or, effectively, the legislation to condominiums that are currently in the phased construction, would we then be transferring the time limitation that is in the legislation to the existing phased construction projects that this amendment provides for?

***** (19:50)

Mr. Mackintosh: For the six rule–six-year rule applies from when they file an amendment to bring into compliance–to come into compliance, otherwise, it's just–it's not a phased development.

Mr. Faurschou: I am sorry. I'd like to ask the minister's indulgence, once again, to answer my question. I'm afraid I was distracted.

Mr. Mackintosh: Well, the six-year rule applies from when the condominium corporation files an amendment to bring it into compliance. Otherwise, it's not a phased development.

Mr. Faurschou: So, then, the amendment that we are–before us this evening in relationship to the presenter that we heard earlier on, will, effectively, their phased development project in which she bought into is into year No. 4, and this amendment passes, then can we consider that that phased development that she is a owner in, that this legislation is applicable and the six-year rule is enforceable?

Mr. Mackintosh: So the six years begins to run when they file.

Mr. Faurschou: Well, then, the project which the presenter spoke of, filed as a phased project in 2005, I believe, would then they be into their year five or six, or was it 2006? I may be out on a year there.

Mr. Mackintosh: So that corporation would have a year to file and then the clock runs on the six-year rule.

Mr. Chairperson: Any further questions?

Seeing none, is the committee ready for the question?

An Honourable Member: Question.

Mr. Chairperson: The question before the committee is as follows: Moved by the honourable Minister Mackintosh

THAT Clause 4(1) of the Bill be amended by adding the following–

An Honourable Member: Dispense.

Mr. Chairperson: Dispense?

Amendment–pass; clause 4 as amended–pass.

Shall clause 5 pass?

Mr. Mackintosh: I move

THAT Clause 5 of the Bill be amended by adding the following after the proposed clause 5.7(4)(b):

(b.1) if the phasing amendment creates a proposed phase, an order permitting or requiring the amendment to be registered as proposed, or with changes as specified in the order;

Mr. Chairperson: It has been moved by Minister Mackintosh

THAT Clause 5 of the Bill be amended–

An Honourable Member: Dispense.

Mr. Chairperson: Dispense.

The amendment is in order. The floor is open for comments or questions.

Mr. Mackintosh: This amendment is related to the transition provision. It provides the court with authority to allow a proposed phase to proceed as proposed or to order changes.

Mr. Chairperson: Thank you.

Is the committee ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: The question before the committee is as follows:

Moved by the Honourable Minister Mackintosh–

An Honourable Member: As read.

Mr. Chairperson: As read.

Amendment–pass.

Shall–

Mr. Mackintosh: I move

THAT Clause 5 of the Bill be amended by adding the following after the proposed section 5.15:

Notice and consent not required if only one owner
5.16 Despite subsections 5(6) and (7) and 6(3) and (4) and sections 5.1 to 5.15, an amendment to a declaration may be registered without notice and without consent if, at the time of the registration, the entire property that is the subject of the declaration is owned by the same person.

Mr. Chairperson: It has been moved by Honourable Minister Mackintosh

THAT–

An Honourable Member: Dispense.

Mr. Chairperson: Dispense?

The amendment is in order. The floor is open for questions.

Mr. Mackintosh: This just clarifies that where all the units are owned by one person, the requirements of the bill don't apply as no other persons are affected.

Mr. Chairperson: Is the committee ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: The question before the committee is as follows:

Moved by the Honourable Minister Mackintosh

THAT Clause 5 of the Bill be amended–

An Honourable Member: Dispense.

Mr. Chairperson: Dispense.

Amendment–pass; clause 5 as amended–pass; clauses 6 through 8–pass; the enacting clause–pass; title–pass.

Shall the bill be reported?

Pardon me, Bill as amended be reported.

The hour being 7:58 p.m., what is the will of the committee?

Some Honourable Members: Committee rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: *7:58 p.m.*

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

Re: Bill 35

To: Legislative Committee Bill 35

My name is Neil Childs, a resident of Winnipeg and a Past President of the Manitoba Society of Seniors. We, a non-profit organization with over 4,000 members, advocate on behalf of seniors. We support Bill 35, Phasing Amendments to the Condominium Act.

Manitoba Seniors are a significant component of the condominium purchasing public in our province. Condominiums, with their reduced maintenance and extra amenities, offer a senior friendly lifestyle for those who have reached advancing age and who have no dependents remaining at home.

Purchasing a condominium, as with any other real estate, is not a simple event, requiring the services of a legal advisor, at the very least. When the condominium being considered is part of phased development, and in particular one of the first buildings being constructed in a phased project, there are additional perils that can face the purchaser down the road. Until this amendment is passed, purchasers of phased condominiums have no protection if, for whatever reason, the developer fails to complete the project as described in the original declaration and in the glossy brochures. The uncompleted project may have a detrimental effect on the resale value of the owner's unit.

We feel that the provisions included in the amendment to The Condominium Act will provide some remedies and protection for the owner if the phased development does not proceed as was promised at the time of sale, and we accordingly support the amendment.

Thank you,

Neil J. Childs

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are also available on the Internet at the following address:

http://www.gov.mb.ca/legislature/hansard/index.html