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Mercredi 24 mars 2010

**Standing Committee on
Regulations and Private Bills**

Draft report on regulations

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

Rapport préliminaire
sur les règlements

Chair: Michael Prue
Clerk pro tem: Trevor Day

Président : Michael Prue
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Wednesday 24 March 2010

Mercredi 24 mars 2010

The committee met at 0900 in room 151.

DRAFT REPORT ON REGULATIONS

The Chair (Mr. Michael Prue): Okay. It is 9 o'clock. The bells have stopped ringing. We have people from all parties. Today should be a relatively easy day for the committee. It's the consideration of the draft report on regulations. There are no recommendations being made. There is some general discussion. We can either approve the report today or, if you need more time, we can come back next week to complete it.

Having said that, I turn it over to legislative counsel. We're going to deal with each of the areas in turn and ask questions rather than deal with the whole report and then get at it. I think that makes more sense. So, the floor is yours.

Ms. Marta Kennedy: I'm Marta Kennedy. I'm with the legislative research service. I'm here, as you know, to present to you the draft report on regulations made in the first half of 2008. I'm going to just start with a very quick overview of the committee's role and the role of legislative research in the process, and then take you through the report.

By way of background, the Standing Committee on Regulations and Private Bills is required under section 33 of the Legislation Act, 2006, and under standing order 108(i) to conduct a review of the regulations made in Ontario each year. For the purpose of this review, the lawyers of legislative research act as counsel to the committee.

As you know, regulations, unlike statutes, aren't made by the Legislature. So the purpose of the regulations review is to provide legislative oversight of those regulations that have been made during the past year and to make sure that those regulations have been made in accordance with the limits that you, the Legislature, have set in the statutes.

There are nine guidelines in the standing orders, but the underlying principle under all of these guidelines is really: Was the regulation made in accordance with the limits imposed by the statute? That's really the principle for all of them.

The basic procedure that legislative research follows is this: The regulations are made by cabinet or by the minister or whoever. They're published in the Ontario Gazette and then the lawyers at legislative research

review the regulations, and if we see anything that looks like it might violate the standing orders, we prepare a letter that's sent to the appropriate ministry asking them about this potential issue. They respond and if the response satisfies the concerns we've raised, then that's the end of the matter. If we think that there may still be a problem with the regulation, we include it in the draft report and bring it to your attention, and that's what we're here for today.

Mr. Bill Murdoch: Can we ask questions—

The Chair (Mr. Michael Prue): If you need to, go ahead.

Mr. Bill Murdoch: Can I ask a question, then?

The Chair (Mr. Michael Prue): The floor is yours.

Mr. Bill Murdoch: I've never seen one ever come back. Does it ever happen, like a regulation to this committee that we would look at?

Ms. Marta Kennedy: I'm not quite sure what you mean.

Mr. Bill Murdoch: What I took from what you just said there is that the bill is passed and then cabinet, we'll say, makes the regulations and then it goes to a bunch of lawyers and they look at it to see whether it's right or wrong. If you felt there was something wrong with it, you'd send it to this committee. I thought that's what you said.

Ms. Marta Kennedy: Yes. What happens is, legislative research looks at them after they've been made.

Mr. Bill Murdoch: Right. Okay.

Ms. Marta Kennedy: What happens then is, if we think that there's a problem, we discuss it with the ministries. Then the regulations that we think there may be a problem with are included in this report. There is a number of regulations listed in this report with discussions.

Mr. Bill Murdoch: Okay, so where do you get them?

Ms. Marta Kennedy: It's being presented to you now. In actual fact, there is a regulation included in here where there's a bill before the House right now where they're actually introducing provisions to fix the problem with the regulation, which is interesting.

Mr. Bill Murdoch: Okay. I've never been here in this committee when we've done anything like this.

Interjection.

Mr. Bill Murdoch: Did we?

The Chair (Mr. Michael Prue): Every year.

Mr. Bill Murdoch: You must have had it when I was away. You snuck one in.

The Chair (Mr. Michael Prue): You were away in that other province.

Mr. Bill Murdoch: I was over in Toronto, yes.

Mr. Jeff Leal: Remember, Bill, these are Toronto lawyers.

Mr. Bill Murdoch: I know.

Mr. Jeff Leal: I have a question, Michael.

The Chair (Mr. Michael Prue): Okay, Mr. Martiniuk and then Mr. Leal.

Interjection.

The Chair (Mr. Michael Prue): Okay, Mr. Leal, then Mr. Martiniuk.

Mr. Jeff Leal: I'd just like to follow up from Mr. Murdoch. If the legislation gets passed, of course, then there's a series of—I always look at this from my municipal days. You have the official plan, the piece of legislation, and then you have a zoning bylaw, which implements the outlines and the goals articulated in the official plan. If, in fact, we had a piece of legislation and the subsequent regulations but there was a problem with the regulation where it didn't match or wasn't consistent with what was put in the legislation, does that get reviewed? Is that what you were saying?

Ms. Marta Kennedy: Yes.

Mr. Jeff Leal: So I understand this?

Ms. Marta Kennedy: Yes, that's what the regulation part of this committee is for. So because—

Mr. Bill Murdoch: I often wondered about that on this committee: Would a regulation ever come in?

Mr. Jeff Leal: Would we then see the corrected regulation that would be consistent with what was intended in the legislation?

Ms. Marta Kennedy: Well, it depends. What happens is, the report is prepared and, because there are 400, 500 or 600 regulations made every year, it's really not possible for this committee to go through each individual regulation, so legislative research does it on your behalf. It prepares the report and presents what it considers to be the outstanding issues. Then this report, once approved, gets tabled in the House. What happens after that is up to the House.

The Chair (Mr. Michael Prue): It's up to the House. The thing is, we cannot change the regulations. All we can do is report to the House that these are the potential problems and issues, and then the House deals with them as the House sees fit.

Mr. Jeff Leal: I was just inquisitive.

Mr. Bill Murdoch: If we thought there was a potential regulation—or somebody on this committee felt that it wasn't right, can we bring that up and have you look at it again?

The Chair (Mr. Michael Prue): It can be part of the report.

Mr. Bill Murdoch: Okay. So if the Toronto-based lawyers didn't think there was a problem—

Mr. Jeff Leal: I shouldn't have told you that.

Mr. Bill Murdoch: No. If we thought there was a problem—they didn't think there was one but one of us in this committee did or something, we could have that added? Or we could at least discuss it at this committee? I'm not trying to be difficult here; I don't understand. I'm just trying—

The Chair (Mr. Michael Prue): It is our report. We have guidelines to follow. It is our report. Yes, we can do it. Whether the House wants to follow something that the lawyers have said is not a problem but we think is, that's up to the House.

Mr. Bill Murdoch: Oh, yes. I understand that all power goes back to the House.

The Chair (Mr. Michael Prue): I have Mr. Martiniuk and then I have Mr. Miller.

Mr. Gerry Martiniuk: Could you tell me approximately—not exactly: How many regulations have we passed in 2009? Of those, what percentage would relate to new statutes, and which would relate to amendments of higher regulations?

Ms. Marta Kennedy: I don't actually have those numbers for 2009 with me. I know that the library does, but I don't have them here at the moment. If you look on page 4 of the report, it does give you some statistics on regulations passed in 2008. It doesn't break them down quite the way you asked for. It talks about new regulations, so completely new regulations that have been filed; regulations that have revoked other regulations; and then regulations that are amendments to existing regulations.

Mr. Gerry Martiniuk: Yes, it does have the amendments: amended regulations filed, which would be what I asked, I guess, in other words; original regulations pursuant to a new statute; and then regulations amending prior regulations. Is that what that statistic is?

0910

Ms. Marta Kennedy: The statistic for amending regulations is amendments to regulations that currently exist. The new regulations filed may simply be new regulations made under previous statutes. So they didn't have a regulation on—there are a number of them, actually, or there's at least one in this report. There's a regulation under the environmental assessment acts that has to do with environmental assessments for transit projects. That's a new regulation, but it's under an existing act.

Mr. Gerry Martiniuk: You're losing me. You mean it's under an act—when it's headed “New regulations,” it says “New regulations filed.” For instance, in 2008, 60 were filed, and there is a total of 456 regulations filed. So I assume, from looking at that, that the new regulations filed were pursuant to statutes that, prior to that, did not have regulations in effect, whereas the remainder would be amendments of prior regulations.

Ms. Marta Kennedy: Not necessarily.

Mr. Gerry Martiniuk: Okay, tell me why that isn't true.

Ms. Marta Kennedy: Okay. Say you have the Highway Traffic Act. It has a lot of regulations. Then they

decide that they need a new regulation under the Highway Traffic Act to deal with taxis on highways. Say they do; I don't know why they would, but say they do. They have the power, already existing in the statute, to make regulations about taxis on highways, so they decide, "Okay, we're going to make a new regulation." It's a new set. They make that regulation, and it would be included in this number 60.

Mr. Gerry Martiniuk: Which number?

Ms. Marta Kennedy: The new regulations filed.

Mr. Gerry Martiniuk: Number 60. Yes, okay.

Ms. Marta Kennedy: But that number would also include, say, a statute that was passed last year or the year before—a brand new statute and any regulations made under that statute. So a brand new statute—I can't think of anything that was passed last year.

Mr. Gerry Martiniuk: Why would they call it "new" if it was amending prior regulations? I don't understand the wording.

Ms. Marta Kennedy: It's not actually amending the regulation; it's like they're making two sets under the same umbrella, under the same law.

Mr. Gerry Martiniuk: Under the consolidated regulations, they would not be shown as one regulation?

Ms. Marta Kennedy: No. They would have different reg. numbers. The regulation under the Highway Traffic Act that deals with speeding would be O.Reg. 240/98, and the reg. dealing with taxis on highways would be O.Reg. 42/09, say. They're just kept separately; they don't lump them all together. They could—they could—but they don't, just for ease of use. It's a drafting thing.

Mr. Gerry Martiniuk: Okay. So those aren't "new" regulations.

Ms. Marta Kennedy: Not in the sense that you're saying.

Mr. Gerry Martiniuk: No, no, in the sense that you've just described. I understand that.

Ms. Marta Kennedy: Yes. Okay.

Mr. Gerry Martiniuk: Now we have total regulations, 456, which means that approximately 300-and-some regulations were made, and they were not made pursuant to new statutes. Correct?

Ms. Marta Kennedy: Yes.

Mr. Gerry Martiniuk: They are, in effect, cleaning up, or they're amendments of prior regulations that the government wishes changed, for whatever reason.

Ms. Marta Kennedy: Yes.

Mr. Gerry Martiniuk: And those are not subject to public purview during the discussion period. They do not become public until they're actually put in the regulations, correct?

Ms. Marta Kennedy: Well, it depends. Probably the best people to answer that are legislative counsel, because they're actually involved in the drafting of the regulations; we only see them afterwards. But it depends on the ministry. There are some regulations that are sent out for public hearings beforehand. For example, the new regulations under the Mining Act are currently out for

public hearings, I understand, with the Ministry of Natural Resources.

Mr. Gerry Martiniuk: That's the only one that I know of.

Ms. Marta Kennedy: Yes, but environmental regulations are also published beforehand on what's called the Environmental Registry. That's a government website that lists a whole variety of environmental changes and issues. So you can look at those there, but generally speaking, unless the ministry decides to make them public beforehand, they are not public, from what I understand.

Mr. Gerry Martiniuk: Can we have 2009? We surely have those statistics now. Can we not use 2009 in addition to 2008? Is there a reason we don't have 2009? This is 2010. It's the third month. I would assume it's available. Why would we not include them? Because this is a report dealing with 2009, isn't it?

Ms. Marta Kennedy: No, it's not, actually. It's a report dealing with 2008, which is unfortunate, but—

Mr. Gerry Martiniuk: Why are we dealing with 2008 when 2009 has now elapsed? I hate to give you the bad news. I'm one year older and for me that's not good.

Ms. Marta Kennedy: So am I.

Mr. Gerry Martiniuk: Explain why we're not dealing with 2009.

Ms. Marta Kennedy: It's an excellent question. This report was prepared in the fall of 2009, and for a variety of reasons it wasn't possible for it to come before the committee, so we're looking at it now.

Mr. Gerry Martiniuk: Why aren't we looking at 2009 now too? Why don't we have two separate reports in front of us, just so we can compare the two years and see what's happening, whether there are more regulations, fewer regulations? Wouldn't that be constructive to—

Ms. Marta Kennedy: I'm sure it might be. We have the statistics, as I said. The statistics for 2009 are available. The review of the 2009 regulations has not yet been done because that relies on the lawyers at legislative research getting through all—however many—500 regulations that were filed in 2009, and that hasn't been done yet.

Mr. Gerry Martiniuk: Has some of it been done? Can we do an interim report, for instance?

Ms. Marta Kennedy: If you would like an interim report, we can provide an interim report.

Mr. Gerry Martiniuk: But we do have the 2009 statistics.

Ms. Marta Kennedy: Yes, absolutely.

Mr. Gerry Martiniuk: And those could be included in this report, even though it's a 2008 report.

Ms. Marta Kennedy: Yes.

Mr. Gerry Martiniuk: Okay. Thank you.

The Chair (Mr. Michael Prue): Mr. Miller and then Mr. Leal.

Mr. Paul Miller: If I understand you correctly, the regulations are made by the government or the cabinet—or changes to the regulations. Would they determine

whether they should go out for a public review or not on a particular regulation? You mentioned one. But if the opposition parties or members of this committee have a problem with the regulation changes, for example, the Environmental Assessment Act, which I already have a problem with, with what they're doing here, where does it go from here? You note our complaint or we put it into the report; it goes from here back to the government again, who already changed the regulation without conferring with us. It goes back to them and they squash it or do whatever they want with it. What happens then? What are we doing here?

The Chair (Mr. Michael Prue): I don't know that this is a fair question. We present it to the House, to everyone in the House—107 members, government and opposition—and then the House determines what to do with it.

Mr. Paul Miller: Okay, but my point is, if the government has already made the changes through the ministry with the government's approval and they send it to this committee for review and it goes back, I'm saying that they've already made their decision on the regulation. I don't remember any discussions about regulations in the House. I don't know what the purpose is here. We just look at it, say, "Very nice," send it back to them and they just do what they're going to do anyway?

Mr. Tony Ruprecht: A second sober thought.

Mr. Paul Miller: So I'm confused. What is my role? What is our role here? Are we just to look at something that has already been rubber-stamped?

The Chair (Mr. Michael Prue): Somebody said "sober second thought." I think that's what it is. We have to look at it. If we see some real difficulty with it, we advise the House.

Mr. Paul Miller: Sober second thought—what is that?

The Chair (Mr. Michael Prue): All of the regulations in law must be made by the cabinet—by the minister or by the cabinet. That's the law. They're not made by this committee.

Mr. Paul Miller: Mr Chair, what I'm trying to say is, what is our role? If we're simply to read it, it's a done deal, it goes back to the House and it's not discussed publicly except if they choose to discuss it. Regulations aren't discussed in the House. I'm trying to find out exactly what I'm doing here.

The Chair (Mr. Michael Prue): The public discussion is here, but also, as an example, say that something was very egregious to you: You could take it back to the House leader of the NDP, you could say, "This is really wrong," and the NDP has an opportunity to put forward motions and the Conservatives have the opportunity to put forward motions. The government has the opportunity to interface directly with the minister. But motions can be put before the House to change it.

0920

Mr. Paul Miller: Interesting.

Mr. Bill Murdoch: But when you bring this report to the House, it will just be one of those things that everybody goes, "Yeah." I mean, is that what happens?

The Chair (Mr. Michael Prue): It will be reported to the House. The House will then have it.

Mr. Bill Murdoch: But nothing ever happens.

Mr. Paul Miller: But the motion can be brought forward from the opposition parties. It could be brought forward; you're correct. What I'm saying is, if they've already made the changes with the agreement of the cabinet, an agreement with the ministry, when you go back there it's kind of like spinning your wheels because you're going to make the motion and they're going to say, "The hell with your motion. We're going ahead and doing what we want to do anyway."

What I'm trying to say is, exactly what is my function here with this? It seems like the legislative lawyers, the cabinet and the government have already made their decision on what they're going to do on this regulation.

Mr. Lou Rinaldi: On a point of order, Mr. Chair: I appreciate what my colleague is trying to get at, and I think it's fair that he asks those questions. But I think, if I'm not mistaken, he's referring to procedures that this institution runs by, and that's not what we're here for today. If it's to do with—

The Chair (Mr. Michael Prue): I empathize with what you're saying, but how is that a point of order?

Mr. Paul Miller: I think you're just cutting off debate. That's all that is. I don't know what that was.

The Chair (Mr. Michael Prue): If I can: We all know what our role is in the House. If you're on the government side, it's to back the government legislation. If you're on the opposition side, it's to point out things that are wrong.

When we have this kind of public debate, if you feel strongly that something is wrong with a regulation, there is ample opportunity for opposition members to stand in the House and talk about it. That's really—

Mr. Paul Miller: You mean in question period?

The Chair (Mr. Michael Prue): You could do it in question period, yes. You could do it whenever there was a motion. You could bring forward a motion if it was an NDP motion day. There's ample opportunity.

Mr. Paul Miller: Okay. I guess I got a half answer. That's fine. Whatever.

Mr. Gerry Martiniuk: Where is our authority to even do it? I assume there's somewhere we have an authority to take a look at regulations. Otherwise, we would not. What is the authority that we're acting under?

The Chair (Mr. Michael Prue): I'll ask the clerk to find the standing order and—

The Clerk pro tem (Mr. Trevor Day): It's 108(i).

The Chair (Mr. Michael Prue): It's 108(i), he informs me.

Ms. Marta Kennedy: The standing order is 108(i), and it's actually reproduced for you at the end of the draft report in appendix B, which is on page 14.

I should point out that under the standing orders, all regulations are permanently referred to the committee, so you can look at previous regulations if you like. But the committee's scope is restricted to the scope and method of the exercise of the delegated legislation power. It's not

to look at the merits of the policy or the objectives that the regulation is supposed to bring about. That's what is set out in the standing orders.

The Chair (Mr. Michael Prue): Okay, I'll get back to you, Mr. Miller. I have Mr. Leal, and then back to Mr. Miller.

Mr. Jeff Leal: I don't want to prolong this. I just want to verify something, particularly with the Ministry of the Environment, the EBR. Regulations can be placed on EBR for public scrutiny and review for 30, 60 and 90 days.

Mr. David Caplan: Or if they're prescribed by the ministry—

Mr. Jeff Leal: Or if they're prescribed by the ministry to do so. Is that correct?

Ms. Marta Kennedy: I believe so, yes. I know that in various statutes, they are required to be put in the registry for review, yes.

Mr. Jeff Leal: Just in response to Mr. Miller: Now that I attend House leaders' on Wednesdays, there is an opportunity. If something is truly wrong, Mr. Kormos and Mr. Bisson flag it to them and that would be one of the topics of discussion at the House leaders' meeting on Wednesday, to see if it might be resolved that way. Now that I've attended a couple of these, there are quite interesting discussions that take place, and give and take on all sides.

The Chair (Mr. Michael Prue): Okay, back to Mr. Miller and then to Mr. Murdoch.

Mr. Paul Miller: Once again, it's quite a grey area. Here we have item 1: "Regulations should not contain provisions initiating new policy...." If I want to make a change to, or I'm not happy with, one of the motions or one of the regulations, I can't recommend new provisions, according to this.

The Chair (Mr. Michael Prue): That is the prerogative of the cabinet and the minister.

Mr. Paul Miller: Okay. So as I said, what am I doing here? Fine. That's the end of that discussion.

The Chair (Mr. Michael Prue): Mr. Murdoch.

Mr. Bill Murdoch: Since I started this whole problem, and so Mr. Rinaldi doesn't think that we're trying to cause trouble here, it's just that I think we're trying to understand it. If he understands why we're here—and that's fine—I don't. I don't think Mr. Miller does, or some of the rest of us. We're just trying to—why are we here, then? If it's just to sort of rubber-stamp the thing, there's no sense in us wasting our time.

That's all we're trying to do. This has helped a few questions get answered, and maybe we'll still wonder, but that's all it's about. We're not trying to be partisan here or anything like that. You guys may have questions. If you don't sit in cabinet, you don't get to set those regulations either. Do you not wonder sometimes where they come from? I do, and I always have. I've never sat in cabinet, but I've thought, "Gee, we pass a bill and then all these regulations come out, but they never went through the House and everything." So I often wonder

what's going on. That's why: We're just trying to figure out something here.

The Chair (Mr. Michael Prue): Our whole system in the House, our whole system of democracy, is to scrutinize the executive. That's the job—

Mr. Bill Murdoch: The backbenchers should too.

Mr. Michael Prue: That's the job of all of us backbenchers.

Mr. Paul Miller: But, Mr. Chair, you don't have any—

The Chair (Mr. Michael Prue): No, it doesn't matter which side you're on: Our job is to scrutinize. And the ministries take this seriously. Last year when we did this, several of the ministry lawyers came forward, if you remember that; they came forward to talk about the regulations, why they felt they were necessary and why they did what they did—because we asked them to attend, and they came. If you want to, when we get into the body of this, ask them to come and justify what they've done, they'll come.

Mr. Paul Miller: We'll be asking.

The Chair (Mr. Michael Prue): Okay. Mr. Ruprecht.

Mr. Tony Ruprecht: Just a quick comment there: The whole idea is supposed to be that there are some checks and balances in the system. So while you may not be able to make a major change, and sometimes not even a minor change, at least you've got some checks and balances to say that you can if you wish.

Mr. Paul Miller: So I can hear myself talk.

Mr. Tony Ruprecht: So what my comment was earlier, when I said it's a second sober thought—or a sober second thought—is quite apropos. At least the system is open for you to be critical.

Interjections.

The Chair (Mr. Michael Prue): Okay. We've asked enough questions on why we're here. Let's get into what we're supposed to be doing.

Mr. Bill Murdoch: I want to get on the record that we are sober.

The Chair (Mr. Michael Prue): I hope so; it's only 9:30.

Interjections.

The Chair (Mr. Michael Prue): Order, please. Order.

Mr. Tony Ruprecht: Mr. Chair, do you remember Eddie Sargent?

The Chair (Mr. Michael Prue): Of course, but please. We have some valuable time here that we don't want to waste.

Ms. Marta Kennedy: So we'll get into the report, and unless there are any further questions about the statistics—are there any questions about the statistics?

The Chair (Mr. Michael Prue): No; just go right into it.

Ms. Marta Kennedy: Okay. I'll go right into the report, and it starts on page 5, the meat of the report.

This section of the report deals with the regulations reported. These are the regulations where the lawyers at legislative research thought that there might be an issue

with the way the regulations had been made, or with the authority for these regulations.

There are only five of them in this report, and the first one here is O.Reg. 33/08 under the Waste Diversion Act, 2002. It's a regulation that is administered by the Ministry of the Environment. This is one of the regulations where the ministry believes that the regulation does not violate the standing orders. We're including this as a potential violation of guideline 2, which is the statutory authority guideline.

For this regulation, we're looking at the sections in the regulation that deal with the board of Stewardship Ontario, which is what's called an industry funding organization. It's involved in the implementation of blue box programs, things like that. The act here, the Waste Diversion Act, says that the minister can make regulations governing the composition and appointment of members of the board of Stewardship Ontario. The regulation says that some members of the board are to be appointed and some members are to be elected. The act doesn't actually say anything about election of members of the board; it only talks about composition and appointment. So the question here is, does the act allow regulations that permit board members to be elected? That's the question. At the bottom of page 6 there is a possible recommendation.

0930

Mr. Paul Miller: So what we're doing here is eliminating the democratic process by eliminating the word "elected." Now they're going to be appointed by the cabinet or appointed by whoever to this board. You want to take out the word "elected." That closes the door on any potential set-up to elect people from different walks of life for the board. They'll be appointed. Would that be a fair question?

Ms. Marta Kennedy: I think it's not quite that. What the regulations review is for is to look at the statute that was passed by the Legislature and see what you, the Legislature, said cabinet was allowed to do—what kind of laws cabinet was allowed to make, what kind of regulations cabinet was allowed to make. In statutes, it says the Lieutenant Governor in Council may make regulations respecting—and in this case, it said "respecting the composition and appointment of members of the board." Okay?

Mr. Paul Miller: So if the government of the day, whoever they might be, working along with the cabinet and the Lieutenant Governor, made a decision on the word "elected" to be removed, or whatever they have, and it's the recommendation they make through legislative counsel, then, even if the opposition parties oppose it and want the board members to be elected and leave the word "elected" in there, they could be overruled and it goes ahead anyway. Is that correct?

Ms. Marta Kennedy: I think we're talking about two different processes.

Mr. Paul Miller: We are? I'm not sure about that, but anyway.

Ms. Marta Kennedy: I think perhaps you're talking about a separate process. What we're looking at here is

what the statute actually says after it has been made and passed.

Mr. Paul Miller: But we're making changes to it.

Ms. Marta Kennedy: No, we're not making changes to it. What we're saying is, is what cabinet did what the statute said cabinet could do? That's what we're doing. The statute says you can do this; cabinet did this.

Mr. Paul Miller: Okay. Why is it being questioned then, if it was already there? Who is questioning it?

Ms. Marta Kennedy: You are.

The Chair (Mr. Michael Prue): The lawyers are and, through the lawyers, us.

Mr. Paul Miller: And people who might want to be elected to the board instead of appointed, would they be—

Ms. Marta Kennedy: No. What we're saying is, the statute says this and you're allowed to do this. This is what the Legislature said cabinet can do. Cabinet did this. Do the two match? Did cabinet do only what the Legislature said it could do? That's the question.

Mr. Paul Miller: So have they exceeded their authority or not?

Ms. Marta Kennedy: Yes. "Did they exceed their authority or not?" That's the question.

Mr. Bill Murdoch: And our lawyers are saying they did.

Ms. Marta Kennedy: Yes.

Mr. Bill Murdoch: Because in the original statute that was passed, they didn't have the right to put on elected people.

Ms. Marta Kennedy: Yes.

Mr. Bill Murdoch: And then, when they started talking about it with the regulations, somehow they put in there that you could elect people. So our lawyers are saying that they shouldn't have done that.

Ms. Marta Kennedy: Yes.

Mr. Bill Murdoch: So we're dealing between two lawyers and we're being like a judge in the deal. Isn't that right? Lawyers drafted the regs, right? And then—

The Chair (Mr. Michael Prue): The Legislature talked about appointment; the regulations talked about elections. Are they allowed to have elections? It's the opposite of what you're saying.

Mr. Paul Miller: It doesn't look like they are. It's unfortunate.

The Chair (Mr. Michael Prue): Yes, exactly.

Mr. Paul Miller: It seems like we've got more appointments.

Mr. Gerry Martiniuk: Who would do the electing? Is it the industry that does the electing? That's of interest. We may be better off with appointed, because they could be independent.

Interjection.

Mr. Gerry Martiniuk: Yes, okay. But who did the electing? I don't know.

Mr. Bill Murdoch: It was never in the bill to do that. We passed the bill in the House whenever—

Mr. Paul Miller: Who does the appointing?

The Chair (Mr. Michael Prue): The appointments are done through the appointment process, like every other appointment.

Mr. Gerry Martiniuk: Which has scrutiny?

The Chair (Mr. Michael Prue): Which has scrutiny; that's all.

Mr. Paul Miller: That's scrutiny?

Mr. Gerry Martiniuk: But my question was, who does the electing?

The Chair (Mr. Michael Prue): I don't know whether any election can possibly take place, so I don't know why they've done this. That's why the lawyers brought this forward: How can cabinet say there's going to be an election?

You're right: If it were, then they would have to say to all these trade associations and everyone else, "Elect somebody."

Mr. Gerry Martiniuk: I would like to know who does the electing so that I can evaluate in my own mind why the cabinet would have introduced election, why they considered it a good idea—because our recommendation may be that, as it presently is framed, elections are not possible, but we, as a committee, do believe that there should be consideration for introducing election by some other method. So I have to know who does the electing so I can recognize it. Is that not fair?

The Chair (Mr. Michael Prue): Let's hear from counsel.

Ms. Marta Kennedy: Under the regulation, under subsection 4(7), it says, "A person is entitled to vote in an election ... if he or she has been chosen by a steward association for the purpose and the stewards that are members of the steward association have collectively paid at least \$10 million to Stewardship Ontario in the most recently completed fiscal year in respect of the obligation." So the steward association chooses the people who get to vote, based on my very quick reading of this regulation.

Mr. Paul Miller: Who's the steward association? Are they companies? Who are they—unions? Companies?

Ms. Marta Kennedy: No. From what I understand—and again, I'm not an expert on this particular regulation; I just know how the authority works.

Mr. Paul Miller: You mentioned \$10 million. Does that mean that that's a company paying into this stewardship program?

Ms. Marta Kennedy: Yes, likely, because from what I understand of this regulation, the steward association is made up of the producers of materials that go into blue boxes. So people who produce bottles, cans, newspapers and so forth, from what I understand, they formed this group—

Mr. Gerry Martiniuk: The industry does the electing, short answer; the "industry."

Ms. Marta Kennedy: It would be best to get someone in from the Ministry of the Environment to tell you exactly how this works, but from what I understand, yes.

Mr. Gerry Martiniuk: So I don't know whether that's a—

The Chair (Mr. Michael Prue): Is there someone who wants to bring in someone to explain this?

Mr. Paul Miller: No, I've pretty well got it now. I can see where this is going.

The Chair (Mr. Michael Prue): All right. Is there further discussion, then, on this? Any further questions, further discussion? Hearing none, then let's go on to the next one.

Interjection.

The Chair (Mr. Michael Prue): You've got one? Mr. Murdoch.

Mr. Bill Murdoch: It was a good discussion, and we sort of found out some things here. So this was, in the words of our lawyer, who represents this committee, I guess, that the lawyers who made this recommendation were wrong. So we accept this in this report, and let's just say that's the only one we've got. Now what happens? Where does it go?

The Chair (Mr. Michael Prue): It goes back to the House, and the recommendation of the committee is that we approve and we pass on the committee recommendation that the Minister of the Environment amend that section to remove all reference to the election of a board of directors.

Mr. Bill Murdoch: Okay. And then you'll present this report to the House as Chair. I've never seen anybody really question many reports, so if the Speaker says, "Do you accept the report?" and everybody sort of nods yes, then they have to change it? There's no more discussion?

Interjection.

Mr. Bill Murdoch: No? Okay. This is what I'm getting at. So if this report goes back—and it'll probably be accepted, because nobody will even look at it—what happens then?

Interjection.

Mr. Bill Murdoch: No, they're saying that they don't have to accept it, so—

The Chair (Mr. Michael Prue): It's part of the public record. I would assume that the Conservative environmental critic, the NDP environmental critic and perhaps somebody from the Ministry of the Environment will take a very hard look at this as to whether or not this is the subject of some debate.

Mr. Bill Murdoch: Okay. So the report being accepted by the House doesn't mean much at all.

The Chair (Mr. Michael Prue): No, it means it's before the House; it's now a matter of public record.

Mr. Bill Murdoch: So it just sits there like everything else does.

The Chair (Mr. Michael Prue): Well, it's a matter of public record. People can do with it whatever they want.

Mr. Bill Murdoch: People? But they don't get elected.

The Chair (Mr. Michael Prue): Members; 107 members can do with it whatever they want.

Mr. Bill Murdoch: So the only way you could do that is, as you say, either in House leaders, or anyone could in a question, I guess, ask the Minister of the Environment,

“Our committee recommended that you change it. Did you ever do that?” But that’s the only way—

The Chair (Mr. Michael Prue): Yes, members’ statements; people can read this, too. The whole environmental community out there can read this.

0940

Mr. Bill Murdoch: This is just a simple thing, I understand, but I’m just trying to get the process. Say they do accept it; do we ever find that out?

Ms. Marta Kennedy: Currently, part of the recommendation says that it asks the Ministry of the Environment to inform the committee once the amendments have been made. You can change this. This is just a potential recommendation. If, as you said, what you’d prefer to have is the ministry change the statute so that the statute allows whatever you like, then that’s also a potential recommendation. You can put in this recommendation whatever you like. If what you want is legislative research, on your behalf, to follow up and send another letter to the ministry saying, “Can you let us know what’s happened?” we can do that as well.

The Chair (Mr. Michael Prue): Mr. Martiniuk.

Mr. Gerry Martiniuk: Is this committee permitted to call the minister or the deputy or an ADM before this committee to discuss a possible recommendation?

The Chair (Mr. Michael Prue): We can’t compel their attendance, but we can call anybody we want.

Mr. Gerry Martiniuk: But we can ask them?

The Chair (Mr. Michael Prue): Absolutely.

Mr. Gerry Martiniuk: So we could ask them and say, “What would your intentions be?” They could refuse to answer, but we could call them?

The Chair (Mr. Michael Prue): Absolutely.

Mr. Bill Murdoch: We really don’t have any meaning in doing this. We should. I hate just being a rubber stamp and letting it go.

The Chair (Mr. Michael Prue): Then exercise your authority. Make the motion.

Mr. Bill Murdoch: That we ask—we should have both of the lawyers: the one that, in the first place, made the mistake; and the one that, in the second place, said, “You’re wrong.”

Mr. Gerry Martiniuk: It’s not a mistake; it’s an opinion.

The Chair (Mr. Michael Prue): Nobody has said it’s wrong. One lawyer has said, “There is a mistake here.” We haven’t heard from the other side.

Mr. Bill Murdoch: The ones that made the mistake in the first place—supposedly.

Mr. Paul Miller: I’ll just say one thing: If this process is anything like motions or like amendments in committee from the opposition, it’s a dead duck. Okay? It’s going nowhere. That’s the end of that discussion.

Mr. Bill Murdoch: I would think these guys would want to have it done right, too. It’s not a partisan lawyer that has told us this is wrong. It’s not our lawyer.

The Chair (Mr. Michael Prue): Does anyone want to make a motion to compel a witness or to bring a witness here? Does anybody want to do that?

Mr. Bill Murdoch: I think it’s a simple thing, so this wouldn’t be one. I don’t see us getting too involved in this one. I’m just trying to learn the process here.

The Chair (Mr. Michael Prue): Then if there’s no will to do anything with it, let’s move on.

Mr. Bill Murdoch: I’m just trying to learn the process.

Ms. Marta Kennedy: All right. On to the next regulation; it starts at the top of page 7. It’s a regulation under the Environmental Assessment Act. It’s also a regulation that is administered by the Ministry of the Environment. It’s a new regulation. It’s the transit projects and Greater Toronto Transportation Authority undertaking.

This is a regulation where the ministry has said it is considering making changes to address the concerns that were raised. This was back in, I believe, May when they said this. Whether at this point—it hasn’t happened yet, in any event; they haven’t made the changes yet. This is a potential violation of the clarity of language guidelines.

This is a new regulation, and it establishes a six-month environmental assessment process for certain types of transit projects. What it does is it exempts these transit projects from the requirements in part II of the Environmental Assessment Act from having to conduct individual environmental assessments for each transit project. The problem, from legislative research’s perspective, is that these transit projects haven’t been exempt from part II.1 of the Environmental Assessment Act. Part II.1 deals with class environmental assessments and requires projects that are covered by class environmental assessments to comply with a class environmental assessment before proceeding.

For example, under the Environmental Assessment Act, there is a class environmental assessment document for GO Transit. Instead of having to go through an individual environmental assessment for each individual project that they want to do, as long as they comply with this document, they’re good to go. Okay?

These transit projects got exempt from the individual process, and they had a new process created for them, but they weren’t specifically exempt from the class process. The act says that if you are a project that is covered by the class process, you have to comply with the class process. So, just based on the drafting of the regulation, it looks like they would have to comply with the class process and with this new transit process, and that doesn’t seem to make sense. It seems that what they wanted to do was to have them just comply with this new transit process and not the class process. If this is how it’s drafted, then that’s a violation of the committee guideline dealing with clarity of language.

So we wrote to them and we said to them, “This looks like a problem. What do you think?” And they said, “Well, we’re going to”—the legal branch referred it on to the policy branch, and they’re considering the matter. There’s a possible recommendation at the bottom of page 7.

The Chair (Mr. Michael Prue): Mr. Miller.

Mr. Paul Miller: It sounds like—we obviously had a problem with this originally. When a full EA is being removed, from what I can see, by this new regulation to expedite the process for transit projects throughout Ontario, to drop it from—it normally took a year or longer to do an EA, and they want to do this all in six months.

But I think, in my humble opinion, that they've cut some corners on a proper EA. What they've done with this six-month one—it obviously, by your opinion, conflicts with the original situation under part II.1, so what we're saying now—this is the type of thing that I would want someone here to talk to me about. Since you've brought it forth to the committee to consider, I'm requesting the ministry to be here to explain to me why they're going from a full environmental assessment to a six-month special, to expedite. They are cutting corners—and we'll bring information forward that they are cutting corners—on the EA process.

Our fear is that the public is not getting their bang for their buck, as far as an environmental assessment goes, on potential hazards to their health, whether it be diesel trains, coal, or whatever it might be. This is simply to attract a quicker response, quicker business, get things moving quicker, and I think it's going to be at the cost of somebody's health down the road.

I want someone to come and explain to me what they are cutting out of the process by lowering it to six months.

You've presented it to the committee now.

The Chair (Mr. Michael Prue): Is your motion to bring forward the experts from the ministry?

Mr. Paul Miller: Yes.

The Chair (Mr. Michael Prue): I don't think you need to delve into what you're going to ask them. Quite frankly, they have authority to make a number of decisions.

What we will ask them is how they came up with this particular regulation, and how it may be in conflict.

Mr. Paul Miller: Not just the regulation being in conflict. When we discuss it, we want to know why it has dropped from a year to six months. I want to know that too.

The Chair (Mr. Michael Prue): That you can ask, but I don't know whether that was in the legislation or not. I'm not sure, but we'll find out. We can ask the question.

We have a motion on the floor to bring a representative from the Ministry of the Environment to explain this to committee. Is there any discussion on the motion? Seeing none, all those in favour of the motion? Opposed? That's carried.

Interjection.

The Chair (Mr. Michael Prue): Oh, opposed—okay, but it is carried.

All right. We'll hold this down until the next date, and we'll have them here next Wednesday, if possible, if we can get them that quickly. If we can't, well, we'll do it when we can.

Mr. Bill Murdoch: Again, I want to stress that this is not a partisan thing, I don't think. I'm just trying to understand the process, and I would hope that our friends on the other side would understand that. I know they passed—

The Chair (Mr. Michael Prue): I think they did—

Mr. Bill Murdoch: Well, some voted against—

The Chair (Mr. Michael Prue): The majority of members on the government side voted for it.

Mr. Bill Murdoch: You did, and I appreciate that, but some didn't, and I just want to say—some of them may be new members—that we try to be as non-partisan in this committee as we can. I don't know what your problem would be with us bringing somebody in. I appreciate the fact that you guys did vote for it, but some of your new members you may have to straighten out.

The Chair (Mr. Michael Prue): I think all of the members are entitled to vote the way they want.

Mr. Bill Murdoch: I agree with you, but just make sure you're doing it non-partisan-wise. That's fair.

0950

The Chair (Mr. Michael Prue): All right. If we could deal with that, this entire item is being held down, so let's go on to the third recommendation.

Ms. Marta Kennedy: The next regulation is at the top of page 8 of the report. It's a regulation under the Fish and Wildlife Conservation Act, 1997, and it's administered by the Ministry of Natural Resources. It's being reported under guideline 2, which is the statutory authority guideline. This is a regulation about hunting. In this regulation, we're looking at provisions in the regulation that set kill limits for turkeys.

The Chair (Mr. Michael Prue): Wild turkeys.

Ms. Marta Kennedy: Wild turkeys—I'm sorry. The provisions that we're looking at in this regulation are the limits on the number of wild turkeys that a person with a licence can kill. These are called "kill limits." In the act, it says that cabinet may not make regulations that set kill limits; it says that explicitly in the act.

Mr. Bill Murdoch: Cabinet may not?

Ms. Marta Kennedy: Cabinet may not. The act gives this power to the minister. But the act also gives cabinet the authority to make any regulation the minister can make. The question is, if the act says that cabinet can't set kill limits, the minister can set kill limits, but cabinet can make any regulation that the minister can make, can cabinet make regulations that set kill limits? Or is it that cabinet can make any regulation the minister can make, with the exception of those that are specifically excluded?

The Chair (Mr. Michael Prue): Yes, that's what it should read.

Ms. Marta Kennedy: The ministry says yes, cabinet can make any regulation the minister can make, including regulations setting kill limits. It seems to legislative research that the better reading is that cabinet can make any regulation the ministry can make, with the exception of those specifically excluded. Then there's a potential recommendation on the top of page 10.

The Chair (Mr. Michael Prue): Any discussion on this regulation? Mr. Rinaldi.

Mr. Lou Rinaldi: Have you heard back from the ministry folks?

Ms. Marta Kennedy: We have heard back after we first sent out the letter, and the response, as I said, was that their position is that cabinet can make any regulation the minister can make. We haven't responded to them since then; we brought it to the committee instead.

The Chair (Mr. Michael Prue): Mr. Leal.

Mr. Jeff Leal: All of us in rural Ontario know that there's been a tremendous proliferation of wild turkeys. They were extinct in 1970, then the government of the day, Mr. Davis, in his wisdom, reintroduced wild turkeys.

But the minister has the power to change seasons for a hunt, right? The minister can do it. We've added additional hunt for wild turkeys in Ontario, and in eastern Ontario we added an additional season for the deer hunt because of the destruction they were doing to farmers' corn fields and soybeans.

Mr. Bill Murdoch: Does the minister or the cabinet make those decisions? I'm not sure.

Ms. Marta Kennedy: I believe seasons can be set by the minister, but because the cabinet can make any regulations the minister can make, at the moment, I believe—and I'd have to check for you—cabinet is actually making those regulations.

Mr. Jeff Leal: On seasons.

Ms. Marta Kennedy: On seasons, yes. I'm not sure, but I can check for you, if you like.

Mr. Bill Murdoch: That would be an onerous—

The Chair (Mr. Michael Prue): Let's not get into the seasons.

Mr. Jeff Leal: No, I know. I'm just trying to get a little bit of background.

Mr. Bill Murdoch: I think the reason they would give it to the minister to make is that the Minister of Natural Resources should have his or her pulse on what's happening out there because of the people working for them. It would be much faster for a minister to say, "We've got too many turkeys and we're going to have to add different times."

Say the minister can do that. But then—can cabinet overrule that? That's what I wonder.

Ms. Marta Kennedy: The statute at the moment does actually allow cabinet to overrule it, yes.

Mr. Bill Murdoch: Okay.

Ms. Marta Kennedy: That's actually set out in the statute. But the question with this regulation is, because the statute explicitly says cabinet cannot make regulation setting kill limits, can cabinet make those regulations—

Mr. Bill Murdoch: We just want it clarified.

Ms. Marta Kennedy: —and overrule the minister, given that it says cabinet can make any regulations the minister can make?

Mr. Bill Murdoch: I'd like to have them come and explain that, then. I think that's why we're here. I don't have any problem with it, and I think it should be clarified. I agree with you. But they never answered; this

is my problem. When you tried to sort the problem out before you brought it here, it didn't look like it happened. I'd like a clear direction. We'll never get that unless we have the ones who made it come here and tell us. So I'll make that motion that they come and—

Interjection.

Mr. Bill Murdoch: I'd just like to ask, just to clarify why. It helps me understand the whole situation.

The Chair (Mr. Michael Prue): Okay, then. We have a motion to bring an official from the Ministry of Natural Resources to explain their position on this particular regulation. Okay?

Mr. Lou Rinaldi: Discussion on the motion: My concern is, if we notified them of this already—I'm sorry. Did we get a reply saying that the way the statute is now it will stay, or are they going to look at it again?

Ms. Marta Kennedy: No, their reply was that they think it's fine.

Mr. Lou Rinaldi: It's fine. Okay.

Ms. Marta Kennedy: The regulations are fine, yes.

Mr. Bill Murdoch: So they can explain. That's all I want.

The Chair (Mr. Michael Prue): If I can, part of the reason that we point these out is, if somebody goes out and kills a whole bunch of turkeys and then goes to court and has a defence that the minister never set the kill limit, it was set by somebody who didn't have authority to set it, then they could get off. That's why we're doing these kinds of things.

Any other discussion on the motion to bring staff? All those in favour? Opposed? That's carried.

Mr. Miller, if you could do the honours for a minute or two.

The Vice-Chair (Mr. Paul Miller): We're moving on to the next recommendation.

Ms. Marta Kennedy: We're on page 10 now. We're looking at a regulation made under the Early Childhood Educators Act, and it's a regulation that is administered by the Ministry of Children and Youth Services. It's being reported as a potential violation of the statutory authority guideline.

Just to give you a bit of an update because the memo that you should have received this morning is relevant: When we first wrote to the ministry, the ministry said that it was considering amending the Early Childhood Educators Act to deal with a problem in the regulations. Right now in Bill 242, which is the Full Day Early Learning Statute Law Amendment Act, the government has introduced, as part of that act, amendments to the Early Childhood Educators Act that would deal with the problems in the regulations. What they've decided to do is to amend the act to fix the problem with the regulations.

In the memo dated March 23, 2010, there is a replacement for that section of this report. It starts on page 2 of that memo. We're recommending that the part in the draft report that currently deals with the Early Childhood Educators Act, with that regulation, be replaced by the part in the memo that starts on page 2. The difference is,

at the bottom it says—perhaps I should tell you about the regulation.

The regulation deals with membership in the College of Early Childhood Educators, which are the daycare workers.

1000

Interjection.

Ms. Marta Kennedy: It's the 23rd memo.

The act says that if a person who has been suspended from membership in the college for administrative reasons—because they didn't pay their fees or they didn't give all the information they were supposed to provide—the college must reinstate their certificate once they've paid their fees or once they provide the information. This is similar to a lot of colleges. You can be administratively suspended. You don't pay your fees so they suspend your membership in the college. To get back into good standing, you pay your fees; it's done—over. Okay? That's what the act says: Pay your fees, provide the information, and you're reinstated.

The regulation says that there are additional requirements to be reinstated: You have to pay your fees or provide the information and comply with two other things. It gives the registrar of the college the discretion to refuse to reinstate the certificate, even if the person meets the requirements for reinstatement in the act. So it seems that the regulation requires more than what the act requires. The act actually says that the registrar shall reinstate the certificate. The regulation says, "No, not quite."

We brought this forward to the ministry, and the ministry said, "Yes, this looks like it might be a problem. We're going to look at seeing about amending the act." As part of Bill 242, which is the full-day kindergarten act, the government has introduced amendments to the Early Childhood Educators Act, which deals with these issues and will permit the college to require additional requirements to be complied with in order to have your certificate reinstated.

The Vice-Chair (Mr. Paul Miller): Okay, one at a time here. Mr. Murdoch.

Mr. Bill Murdoch: So you've basically told them to amend the act, and that'll come to the House for us to discuss.

Ms. Marta Kennedy: What we told them was, "We think there's a problem. What's your response?" They said, "Yes, we agree there's a problem." When there's a problem with the regulations, there are generally two options: You can change the regulation so the regulation matches the statute, or you can change the statute so the statute matches the regulation. They chose to change the statute.

Mr. Bill Murdoch: That's probably proper, if they want to keep that same regulation. So that will have to come to the House. We haven't had that yet.

Mr. Lou Rinaldi: We're debating it right now.

Ms. Marta Kennedy: Yes, Bill 242, I think, is currently before the Standing Committee on Social Policy, and they're having hearings on it, I think, this week.

The Vice-Chair (Mr. Paul Miller): Okay. Further discussion? Mr. Rinaldi?

Mr. Lou Rinaldi: Just for clarification on the process again. I want to jump on the bandwagon. This is in Bill 242. It's in a legislative committee right now, and it went through second reading and amendments. So why are we dealing with this here if they're addressing it on that piece of legislation?

Ms. Marta Kennedy: There's no recommendation attached to this. It's to say that there was a problem with this regulation, the ministry was informed on your behalf, the ministry is dealing with it, and this is how they're dealing with it.

Mr. Lou Rinaldi: Perfect.

The Vice-Chair (Mr. Paul Miller): So I think we've all agreed on that. We can move on to the next one, then. Is everybody happy? Okay.

Mr. Lou Rinaldi: I like Paul as Chair.

The Vice-Chair (Mr. Paul Miller): Thanks, Lou.

Mr. Gerry Martiniuk: It's much shorter now that he can't talk.

The Vice-Chair (Mr. Paul Miller): Now, be nice, Gerry.

Ms. Marta Kennedy: The next regulation begins on page 11 of the draft report. It's a regulation under the Assessment Act. It's administered by the Ministry of Finance. We have been told—I'll just tell you now—that the ministry intends to amend the regulation to deal with the issue that we raised, but I'll just go through the regulation with you.

Regulation 90/08 was an amendment to the main regulation under the Assessment Act. The general regulation under the Assessment Act creates classes of real property for assessment purposes. It creates the classes, it describes the classes, and then it makes rules about these classes for assessment purposes.

The regulation includes rules about what's called the residual property class. But the act says that if you make rules about a property class, the class has to be prescribed; it first has to be created in the regulation. This hasn't actually been done for the residual property class, so it looks like there's no authority to make rules about this class because the class hasn't actually been created, so to speak.

If you actually look at the regulation, you can see there's a list of classes that have been prescribed or created. It says, "The following classes have been prescribed," and then it lists them. But the residual property class is not listed there, even though there are a bunch of rules about the residual property class.

We wrote to the ministry about this and we said, "There seems to be a problem here," and the ministry said, "Yes. We are going to amend the regulation to fix this," so it's actually prescribed and listed in the section of the regulation that makes the class. This hasn't happened yet, but that's what they have told us.

The Vice-Chair (Mr. Paul Miller): Any discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: The process again, and I think you mentioned this at the beginning: Is this committee responsible to follow up that that happens then? Or what happens?

Ms. Marta Kennedy: It's up to you. If you would like legislative research to follow up with the ministry, it's up to you.

The Vice-Chair (Mr. Paul Miller): Mr. Murdoch.

Mr. Bill Murdoch: I just want to say that if they didn't do what you thought they were going to do, then wouldn't you bring it back to us automatically? Because it would still be a mistake, then.

Ms. Marta Kennedy: We could, and if you'd like us to follow it, we will follow it, but again, it's up to you. It's up to you to direct us to what you'd like us to do.

The Vice-Chair (Mr. Paul Miller): Can I have a motion on that?

Mr. Bill Murdoch: Just to get it straight again, though, I would think—the problems you just brought us today weren't our decision. It was yours, we'll say; we'll blame you for that. That's okay; that's a good blame. I would think, though, that if they didn't do that, wouldn't you just automatically do that? I wouldn't think we'd have to order you to do that.

Ms. Marta Kennedy: Again, it would depend on what you would like us to do. If you'd like us to follow it, we would. If you're satisfied with the report as it is—

The Vice-Chair (Mr. Paul Miller): If something is presented before the committee, we recommend it and it goes ahead, I would assume that once it got the House, whoever it got to at the next level would deal with the appropriate changes. We only dealt with what was in front of us. If you're saying that you want it brought back to this committee, I don't know if that's necessary. If legislative counsel deals with it at the next level that has been added as an amendment to the original report, then I'm assuming we could be notified that that had been taken care of.

Mr. Bill Murdoch: That wasn't what I was really getting at, though. If they do deal with it, that's fine. We don't need to know. But what if they don't deal with it? That's what I'm saying. I think it would automatically come back to us, then, for our recommendation. That's all I'm asking.

Mr. Gerry Martiniuk: You would have to deal with a motion.

Mr. Bill Murdoch: Okay. If we have to have a motion, I don't know why, but—

The Vice-Chair (Mr. Paul Miller): Mr. Leal?

Mr. Jeff Leal: This looks like an issue that was probably brought to the attention of MPAC, the Municipal Property Assessment Corp. Perhaps members in areas that had this type of property, a resort condominium property, brought to the attention of MPAC—MPAC of course doesn't have the power to change legislation or regulation, and Carl Isenburg has probably flagged the Ministry of Finance. Over the years, if you look at these things, sometimes in a budget they make these changes

as part of the budget bill, so who knows what's in it, but it could be in on Thursday.

The Vice-Chair (Mr. Paul Miller): I think what we could do is ask legislative counsel to keep us apprised of the development as it proceeds. If we don't get an answer, we can ask again what the status of that particular item is.

Mr. Martiniuk.

Mr. Gerry Martiniuk: If the committee does want to, we should have a motion. I would move that legislative research be authorized to monitor the recommendations and report to the committee from time to time as to the disposition of our recommendations.

The Vice-Chair (Mr. Paul Miller): Any discussion on that motion? All in favour? Opposed? Carried.

1010

Moving on.

Ms. Marta Kennedy: We're through the main body of the report, I'm sure you're pleased to know.

On page 12 of the report, there's a chart that lists a number of minor issues that we came across when we were reviewing the regulations. These are really just minor drafting issues and concerns that we had: cross-references that were wrong, incorrect wording, word duplication, incorrect citation—that sort of thing. That same memo you were looking at earlier dated March 23 has a replacement table, because when we brought these issues to the attention of the various ministries, they told us, for the most part, "Yes, this is a problem. We'll have it corrected." The table in the March 23 memo provides an update of what the ministries have done. Since the draft report was prepared, all of these issues have been resolved; the ministries have made these changes, with one exception.

Mr. Bill Murdoch: Which one?

Ms. Marta Kennedy: Which one has not yet occurred? It's a regulation under the Mortgage Brokerages, Lenders and Administrators Act, 2006. It's an incorrect cross-reference, and they haven't fixed that yet.

Mr. Lou Rinaldi: But they committed to do that?

Ms. Marta Kennedy: They committed to do it, yes.

The Vice-Chair (Mr. Paul Miller): Question? Gerry.

Mr. Gerry Martiniuk: Just one more point: I had raised the 2009 statistics. Is there any objection to including them on the graph? I don't think we have to set them out there, but it should be included on the graph just showing the—

The Vice-Chair (Mr. Paul Miller): We can get that to you.

Mr. Gerry Martiniuk: Thank you. Page 4 is the graph, okay?

The Vice-Chair (Mr. Paul Miller): Any further business of the committee?

This committee stands adjourned until we get the proper authorities in front of us to deal with the two requests we made, and this committee will be adjourned until then.

The committee adjourned at 1012.

CONTENTS

Wednesday 24 March 2010

Draft report on regulations T-1

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