

Wednesday 23 September 2015 Mercredi 23 septembre 2015

**Orders of the Day**

***Protecting Condominium Owners Act, 2015***

***Loi de 2015 sur la protection des propriétaires de condominiums***

Resuming the debate adjourned on September 17, 2015, on the motion for second reading of the following bill:

Bill 106, An Act to amend the Condominium Act, 1998, to enact the Condominium Management Services Act, 2015 and to amend other Acts with respect to condominiums / Projet de loi 106, Loi modifiant la Loi de 1998 sur les condominiums, édictant la Loi de 2015 sur les services de gestion de condominiums et modifiant d'autres lois en ce qui concerne les condominiums.

**The Speaker (Hon. Dave Levac):** When we last had this topic, the member from London West had finished her time. We are now into questions and comments.

The member from Newmarket–Aurora.

**Mr. Chris Ballard:** It gives me great pleasure to be able to respond to the comments made by the third party. I just wanted to say that buying a condo is obviously one of the most significant purchases in a person's life. We're taking action through this proposed bill, Bill 106, not only to protect this important investment for owners but for all those who currently call a condominium home.

Mr. Speaker, I can say that one of my beliefs is that Bill 106 will also be very good for the condominium development and building industry, in that it will strengthen consumer support for those purchases.

I just wanted to touch on a few of the things we heard through our very extensive consultation. I'll say that in all my years, I haven't come across such an extensive consultation process as the one that the government undertook to listen to consumers, listen to builders etc.

Three of the things we heard were that condo owners need timely and reliable information and direct access to their condo corporation's financial records; clear and consistent rules are needed to ensure condo reserve funds are properly funded; and clearer rules are also needed to ensure that appropriate financial controls are in place when condo corporations spend their owners' money. Mr. Speaker, Bill 106, the proposed legislation, fulfills all of these requirements. I'm glad to hear that there is support, if qualified, from members opposite.

This legislation, if passed, will strengthen financial management requirements, and it will be the right thing for the condo market. I am quite delighted to support it.

**The Speaker (Hon. Dave Levac):** Further questions and comments?

**Ms. Daiene Vernile:** I am very pleased to join the discussion today on Bill 106, the Protecting Condominium Owners Act. Buying a condominium is a very important investment in a person's life, and I'm very encouraged to see that our government is taking action to protect homeowners' investments.

In my riding of Kitchener Centre, I can tell you that the condo market has experienced remarkable growth in recent years. We are seeing old, empty buildings being transformed into new condominium residences. For instance, the Kaufman Lofts was once home of the Kaufman rubber factory where they made boots. The one-time Arrow Shirt Factory is now an upscale condo complex and the old Eaton's store on our main street is now a fashionable living space in our downtown.

Just a few years ago—I can tell you that after spending three decades in the suburbs of Kitchener Centre with my husband, raising three kids, as soon as the youngest one graduated from high school—in fact it was practically the day she came back from graduating from high school—my husband was pounding a for sale sign in the front lawn. We wanted to downsize, so we left our four-bedroom home to move into a condo, into the centre of town.

If you are to drive through downtown Kitchener today, you're going to see a couple of new, large condo developments that are under construction, such as the One Victoria building. Just a few blocks away on the main street, King Street, you're going to see the City Centre condos.

The people who are interested in locating in the downtown are aging boomers, like I mentioned, my husband and myself. They're looking at downsizing and taking advantage of the amenities that can be found in the heart of the city. You also see younger individuals and couples; oftentimes, a condo is the first home that they can afford. So condos do seem to have a very wide-ranging appeal to people. However, when you make this investment, you want to make sure that you are protecting your investment. This is why we are looking at reforming—updating—the rules that currently govern how people live in condominiums.

As you heard my colleague from Newmarket–Aurora mention, we consulted extensively for 18 months during this process; we listened to many stakeholders who told us that they want to see us fortifying our legislation. Condo owners are now going to have access to dispute resolution. They're going to have protection on legal proceedings when they are involved in that. I say that this new legislation is going to go a long way in protecting people's rights.

**The Acting Speaker (Mr. Paul Miller):** Questions and comments?

**Mr. Victor Fedeli:** With respect to this bill, I spoke last week extensively on it. I want to repeat one area of particular interest, and that is the differences that will be required in this act to pay particular attention to rural and northern Ontario. As I often do, Speaker, I remind this Legislature that when you have an area that is two thirds the size of the province of Ontario, but with a very sparse population spread out over that vast area, we really do have a lot of different requirements.

Yes, we have condominiums in northern Ontario. They are, for the most part, not anything like the condominiums in the urban centres of Ontario, especially the ones here in the GTA. When you think about how any one of the condo buildings in the GTA could house many of the communities in my riding in the one building, you really do realize that you have very distinct needs. So when I see some of the rules and regulations about websites that are going to be required, when I think of the condominiums in northern and rural Ontario, they are very different than the condominiums in the urban centres, and the rules and regulations may need to be adjusted or adapted, if you will, to some of the realities of northern Ontario.

When we have a condo, some of them are very, very, very small. I'm not quite certain the rules will work as well in northern Ontario, especially when I see things such as these websites and other boards and training that must be held. I look for that through the amendment area.

**The Acting Speaker (Mr. Paul Miller):** Questions and comments?

**Mr. Peter Tabuns:** It's a pleasure to follow my colleague from London West, who addressed this bill at greater length. As you are well aware, the NDP has been pushing hard for changes to condo law since our colleague Rosario Marchese from Trinity–Spadina introduced his first bill in March 2007. There are some useful elements in this bill—no one can deny that—but clearly our concern is the number of elements that are missing from this bill.

We believe that creation of a place where condo owners can resolve disputes quickly and cheaply is critical to the well-being of condo owners and the condo industry across Ontario. This bill will provide an opportunity, a forum, for resolving disputes between condo members, condo management and condo boards, but it excludes resolving disputes between condo owners and developers. That leaves many condo owners and buyers without adequate protection.

*0910*

In my riding, on Carlaw Avenue, a number of condos have been built in the last decade. In one condo, at the south end of Carlaw, the owners found that the flooring that was installed was completely contrary to what had been presented in the showroom, that they had been promised. And they, individually, had to take on the condo developer and bankroll their lawsuit with their own money in order to get any satisfaction.

That shouldn't have to happen. There should be a low-cost, government-supervised tribunal where condo owners who have been given a unit that doesn't meet any or even significant parts of the units that were displayed at the presentation should be able to go for inexpensive, fair resolution of those problems. That's a significant shortcoming in this bill.

**The Acting Speaker (Mr. Paul Miller):** The member from London West has two minutes.

**Ms. Peggy Sattler:** I would like to thank the member for Newmarket–Aurora, the member for Kitchener Centre, the member for Nipissing and, of course, my colleague the member for Toronto–Danforth for their comments on my remarks. Some of the issues they touched on reinforce some of the points that I made during my speech on Bill 106.

In particular, I wanted to reference the concern of the member for Toronto–Danforth about the lack of a dispute mechanism to address issues that arise between owners and developers. During my remarks, I shared the story of constituents in London West, Barry and Nicole Cotton, and their nightmare experiences. They've seen their retirement savings go out the window because of a condo deal gone bad.

The member for Nipissing talked about regional differences and the importance of the legislation not taking a one-size-fits-all approach to condo issues in this province. Certainly, I mentioned in my speech that London is unique among Canadian CMAs because 70% of our condo stock is row houses or single detached homes. Of course, that means that the kinds of issues that arise in London may be quite different than issues that arise in other parts of the province.

In particular, when you have condos that consist of row houses or single detached homes, many of the issues concern developer or builder kinds of flaws, and there are no mechanisms currently within the legislation to address disputes that arise. There is no meaningful reform of Tarion to ensure that condo purchasers are covered when they make this very significant investment.

**The Acting Speaker (Mr. Paul Miller):** Further debate?

**Hon. Brad Duguid:** I'm going to be sharing my time with the member for Kitchener Centre and the Minister of Aboriginal Affairs as well.

I want to begin by welcoming all of my colleagues back from Finch, Ontario. We're all freshly back from the International Plowing Match, where I think we all had a fantastic time. I still feel like I've got a little bit of farm sand in my throat right now. Aside from that, it was a fantastic experience, I think, again, for all of us. Welcome back. It's always a tough morning to come in after having a great day out in the outdoors, talking to our colleagues in rural Ontario. Now here we are back in downtown Toronto at Queen's Park, ready to begin debate again. I think I'd prefer to spend another two or three days in Finch. Some of my colleagues are nodding their heads.

But we're back at work here today at Queen's Park, and I'm always happy to be here to talk about important legislation. This Bill 106, Protecting Condominium Owners Act, is an important piece of legislation. This is the first time the legislation has been amended since 1998, so it's overdue.

I think back to my days here as an assistant in the Peterson government, and I remember the debates about housing used to all be about the Tenant Protection Act—at the time it was the Landlord and Tenant Act. That was really what we talked about when we talked about buildings. There really was not a lot of discussion about protecting condo owners. There weren't a lot of political issues about condos in

those days. There were probably things going on, but they really weren't rising to the surface. But now, many of us have communities that have thousands, if not tens of thousands, of condo dwellers.

I have one of them. I'm in Scarborough Centre, where the city centre of Scarborough is located. We're one of the fastest-growing city centres in North America, and most of that growth is condo dwellers. So my constituency has changed very much in the last 20 years, and I think it's very important that we keep up our legislation to ensure that the changes in lifestyle that our constituents are going through are protected by the legislation we have in place. I think that's exactly what the amendments do.

I get a sense that there is a fair amount of support around the Legislature, on all sides of the House. I don't know where the other parties are going to eventually fall on this, but I think we all know that there is a need to provide greater protection for condo dwellers.

It doesn't mean that every condo manager is doing a poor job, by any means. I knocked on doors of all the condos in my area in the last campaign, and for the most part people are reasonably happy. In fact, there is some great quality of life developing in those condos. Many of them are relatively new, built over the last 10, 15 or 20 years, and now they're just coming to life.

I think of Lee Centre, in my area, which is an area I'm going to be losing in the redistribution going forward in the next election. Every July 1, I'm at Lee Centre with hundreds of condo dwellers who celebrate July 1 better, I think, than anybody I've ever seen. When they sing O Canada, they sing it without instruments, without music, but they sing it from their hearts. It's a very diverse community, in Lee Centre, and just a very warm group of people who welcome us in. We celebrate July 1 there every year, and it's a great celebration. It's a great example of how condo dwelling has now become more of a community-oriented exercise.

In the early days, it seemed to be more people coming in and going to work; coming and going but not really being directly involved in the community. I know that in my area condo dwellers have really evolved and changed.

I'm really happy that this legislation is here for a number of reasons. Number one, this is not legislation that was developed in the backrooms at Queen's Park. This is legislation that was developed, really, by condo dwellers themselves, and that's the key. We have a number of former ministers and current ministers who have been involved in that exercise, and even opposition members have had input into this. All of our condo dwellers across the province have had representatives who have really helped us write this legislation.

It took a lot of time. It was a very extensive consultation. It has moved forward and back as we continued to work with condo dwellers to find the right balance, and I think we have found that. That's why it's very heavily supported by all of those advocates that really represented our condo dwellers across Ontario, and it's much needed.

The licensing of managers, to me, just makes sense. It really makes sense to ensure that managers are professional; that the fly-by-nighters are pulled out of the industry. That's something that most condo managers support, because most condo managers are professional. In my experience in my area, I've come across very few who haven't been. But there have been some exceptions, and there have been times when condo dwellers have not been well served. This legislation will help protect them.

I think the consumer protections are really important, because I think we've all heard from constituents who have been purchasers of condos who have found out, when they moved in, that things like maintenance fees weren't exactly what they thought they were going to be and expenses were a little bit higher than they expected them to be. There is going to be more transparency now for those who want to purchase condos, so that they know what they're getting into; they know what the future expenses are likely going to be. That's a protection that I think is really important.

Strengthening the dispute settlement mechanisms among condo dwellers, managers and the authorities, I think, is really important as well. It is something that was raised as a concern. That's always difficult, because you've got to strike a balance there. I think the advocates for condo dwellers would suggest we found that.

*0920*

It's really important that we also have accountability when it comes to financial management. I think that's where some of the challenges have occurred, in some of the less than stellar condo managers. The financial management accountability just wasn't where it needed to be.

We're now going to have much stronger financial management in the operations, in how these condos are run, that's going to help ensure that our condo dwellers are better protected and that the sustainability of these buildings is going to continue to be protected as well. That's important too, because we do find examples where buildings have not been financially well managed and the next thing you know there is a huge debt involved or a huge deficit, and condo dwellers get caught holding the bag and having to bail out the mismanagement that has taken place.

There have been horror stories. Let's face it: There have been a number of horror stories that have been documented through the newspapers and in the debates that we've had on this issue over the years and here in the Legislature. I could share them with you as well. I don't think we need to go there; I'd rather not dwell on the negative. I think we're going in the right direction now. I think we have the support of most of the condo industry, from what I gather. I think most condo managers recognize this is a step, a challenging step, but a step that needs to be taken. But most importantly, we have the support of those representing condo dwellers as we move forward.

These aren't easy steps to take. There are measures in here that are going to ensure that administration processes are set up and there's a cost to that; there's no question. But it's a cost I think that condo dwellers have determined is worth paying because it provides a level of protection that I know they believe that they need and they've asked us to do. So I think, given the consensus that's built up on this,

given the work that's gone into this from all members—all sides of the House, previous ministers, current ministers and all of my colleagues here—I think that it's time to move forward with this legislation.

I very much appreciate the opportunity this morning to be able to say a few words about it. Thank you, Mr. Speaker. I'll pass it on to one of my colleagues.

**The Acting Speaker (Mr. Paul Miller):** The member from Kitchener Centre.

**Ms. Daiene Vernile:** I'm very happy to rise again this morning to add my voice to the discussion on Bill 106, the Protecting Condominium Owners Act. You heard me mention, Mr. Speaker, that I, too, live in a condo, so when my husband and I moved into this building—you come to learn that there are very unique policies, procedures and conditions by which you are going to be living. I will say, for the most part, it's been a very good experience.

You also heard me mention that in my region we're seeing a kind of explosion with condominium growth. It is surprising to hear that half of all of the new homes that are being built in our province today are condominiums. In my region, what is helping to drive the condo boom is the creation of our new LRT; it's currently under construction. We've got shovels in the ground. We're seeing greater investment from developers in real estate—people who are looking at locating along this transportation line. I will say that my government is very proud to be investing \$300 million into this transportation line.

This is all working in tandem with the progress that we are also seeing in my region with the technology sector. We've got Google moving into the Breithaupt Block building. This was also an abandoned factory. There are other technology companies taking root there. They're hiring staff and they're looking for housing, so this is creating more housing options.

With half of all of the homes now being built in Ontario as condominiums, we're looking at, currently, 700,000 condo units in our province, and there are 51,000 more under construction. So these condos currently represent about half of all the new homes in this province, as I said, in a housing sector that's worth almost \$45 billion, and we see over 300,000 people who are being employed in the sector.

I want to ensure that the investments that people are making in my riding are protected. Looking at this legislation that we are proposing, if it's passed—it hasn't been updated in 16 years. We see the condominium landscape in Ontario changing dramatically. As you heard some of my colleagues say, we've consulted very extensively for a year and a half. We asked numerous people, stakeholders in the sector, what they wanted to see in this legislation. Here is what they were telling us: They want to see us increase protection for condo owners and Ontarians purchasing condominiums. They want us to require condominium managers to be licensed.

In my building, there are only 10 units, so it's a small building. For, I'm going to say, 30-plus years, they managed it on an ad hoc basis; two or three people in the building had the responsibilities of managing

it, but it was too much work, it was complicated, and sometimes legal issues came up. Quite recently, we hired a licensed manager to take over, and things are running very smoothly. So there are advantages to this.

This legislation is also going to create new governance requirements for condo boards and strengthen the financial sustainability of condo dispute resolution. If your neighbour has a noisy parakeet, should you have to argue for six months to a year, go through a court system and perhaps pay \$50,000 to resolve this? That's taking too much time and money.

The ministry, on average, is getting about 1,000 complaints and inquiries every year on condo issues—everything from “My fees went up and I wasn't aware this was going to happen,” to “Major financial decisions are being made without my consent,” “They're putting on a new roof, nobody told me, and why do I have to pay all of this money?” Courts are being required to appoint an administrator to look after buildings in a financial crisis. How many buildings suddenly have an elevator that is broken down or something else that has happened, and they don't have enough of a reserve fund? If passed, the Protecting Condominium Owners Act will help owners save not only their hard-earned money but their time. This is time that could be spent on legal proceedings, but we want to avoid that.

All condo owners are now going to have access to a dispute resolution process. We are going to see a condominium authority created, and it's going to have oversight over the sector and provide quicker, lower-cost resolutions than what is available today. Not only will this proposed legislation, if it is passed, benefit condo owners, but it will benefit the corporations, too, by creating equal access to dispute resolution from the condo authority for only about \$1 a month per unit. That is really a very small investment, Mr. Speaker, for better protection for people who do live in condominiums in Ontario. This condo authority will be independent, self-funded, not for profit, and it's going to remove all the complex condo disputes from Ontario's already overburdened court system. Again, it's going to save people time and money.

Reforming our condominium laws was a commitment in our 2015 budget, and it's going to empower condo owners to be more confident at all stages of condo ownership. I'm a proud and happy condo owner; however, I'll tell you, with three adult kids, when they do come home, my one complaint is that I wish I had more room for them, but my husband tells me that's the key to making sure they go off to be self-reliant and self-sufficient. However, we still argue about that.

I believe that Bill 106 is going to go a long way to protecting homeowner rights.

**The Acting Speaker (Mr. Paul Miller):** The Minister of Aboriginal Affairs.

**Hon. David Zimmer:** It's my pleasure to speak to the Protecting Condominium Owners Act.

I represent the riding of Willowdale. According to the Canadian Condominium Institute, Willowdale as a political riding has the most condominiums of any political riding in Canada—thousands and thousands. I

have been hearing about these condominium issues and problems now for years and years. Every Friday, on my constituency day, I have two or three condo issues to deal with.

How did we decide to tackle this? The first thing was to find out what was really on people's minds. We conducted a review in which we received over 2,200 submissions from various people who had an interest in the condo sector. As a result of that, there were five issues that came up, and we have decided to address those in the legislation. I'll just go through each of the issues briefly.

First, there was a crying need for a new and more effective dispute resolution mechanism. So the act provides a very modern, very quick and very cost-efficient dispute resolution mechanism to keep these issues out of the expensive courts, as some of the members have mentioned.

The second issue that the review raised—and it came out in spades—was the need for consumer protection for owners and buyers. What the act does here, and the detail is in the act, is set out a series of extra safeguards to protect condominium owners and buyers and to help them make informed decisions. In furtherance of that, what it does is require the developers to give the condominium buyers a copy of—and here's the key—an easy-to-read guide to what their condominium documents mean. Right now, it's all in fine, fine, fine print and you need a philosopher and/or lawyer and accountant to help you understand it—so clear information.

*0930*

Secondly, to provide clearer and more comprehensive rules about how unexpected costs are going to be dealt with in the condominium ownership—that's one of the big things we hear about. People are in it and suddenly they're surprised by a big cost item which they didn't see coming—so clearer information about why those kinds of things crop up and, if they do, how they should be dealt with.

The next thing is, it provides the government the ability to create regulations for standard—and here again is the key—condominium disclosure statements so that for people moving from one condo to another condo, there's a common set of rules and everybody knows what the ground rules are.

The next important thing is some amendments to the Ontario New Home Warranties Plan Act so that the warranty protections that are available to buyers of new condominiums also apply to the buyers of condominium conversions. It might be an old school that is converted to a condo, and right now, the rules are murky. We want to standardize and make a common set of rules for those kinds of purchases.

In addition to that, there are three other items that are covered by the act that I just want to touch on. One is the whole issue of financial management of condominiums. For example, it would forbid condominium corporations from finalizing contracts unless they have fulfilled certain procurement process requirements. One of the issues we always hear about is, "We needed a repair and somebody on the condo board went out and his brother got the project." So we've made some very clear procurement process rules so that there's fairness and transparency to that issue.

Another one is how condominiums are actually run. We want a process that makes it easier for condominium owners and boards to participate and vote at the meetings. For example, now, it's kind of a hodgepodge of rules about when and how condominium board meetings are called, so we've regularized that.

Fifth, and really important, there's a condominium manager licensing program in place. Right now, I could go out—after I retire from politics—and I could decide that I'm going to be a condominium manager and just hold myself out without any background or training. We've changed those rules and there's going to be a licensing requirement that I, David Zimmer, with all of my experience of dealing with condominiums, will still have to go through a training process, write some tests and learn some key and core competencies on how to run a condominium. That's going to eliminate a lot of the difficulties and wrangling.

What we want to do is clear up some of the confusion, bring transparency and make condominium living easier.

**The Acting Speaker (Mr. Paul Miller):** Questions and comments?

**Ms. Sylvia Jones:** The previous three speakers spoke a lot about very specific examples about condominiums and how Bill 106 will hopefully improve that.

I would actually like to reference a couple of other aspects of the bill. One is a change that will basically incorporate condominium changes under the Ontario New Home Warranties Plan Act. I think there are some real opportunities there to look much further into that Ontario new home warranty plan and see if there are other areas that need to be updated or improved for consumers, homeowners and individuals who are in that process.

The other is actually part VI: "The act contains general provisions dealing with such matters as the preservation of secrecy, service of documents and the setting of fees by the minister. The minister may make regulations establishing a code of ethics, governing the jurisdiction of committees and in areas prescribed by the Lieutenant Governor in Council."

Speaker, you know I've spoken on a number of occasions about my concern with how many of the details of legislation are left to regulation. I don't think there is any government—and I won't editorialize—that needs to hide into regulation the ethics that need to happen with condominium ownership and the boards therein.

So if we could have a little more clarity on what those regulations are going to look like, I think that would be helpful for both the individuals who are looking at some real improvements coming forward on this bill, as well as, quite frankly, the members of the opposition, who would like to see it laid out very specifically. What do you mean by "code of ethics," and what does that entail?

**The Acting Speaker (Mr. Paul Miller):** Questions and comments?

**Ms. Teresa J. Armstrong:** It is good to be back today from the International Plowing Match that we were there for yesterday. It was a great event.

It's good to be back debating Bill 106. We left off speaking about it last week. Speaker, it has been a long time coming, that this bill has arrived here in the Legislature, so it's good to see that the government has finally decided to bring it forward and try to make legislation that will actually help condo owners.

In some ways, this bill does do some good things—we have all agreed on that—but there are situations or examples in this bill where things aren't as good as they could be, and we've pointed out a couple of those things.

The member from Kitchener–Waterloo talked about condo complaints. That's one of the drivers that have evolved into this bill coming forward. The complaints just don't stop at the parakeet that she mentioned that was being chatty. The complaints go further than that, and they go further into—we've talked about developers and that condo owners have complaints against developers, and, obviously, sometimes condo owners have complaints against condo managers. Those are two areas of this bill that aren't covered. Even though in this bill, there are some good steps forward that are happening in this legislation, there are those two elements that are very important to condo owners that are missing.

The member from Caledon talked about regulation. I noticed as well that there's a lot left up to regulation. It would be interesting to see what they define. Some of those areas, like the code of ethics that the member from Caledon talked about, and what kind of authority they're going to give to the condominium authority under regulation—that's also a wait-to-see kind of example in this bill.

**The Acting Speaker (Mr. Paul Miller):** The Minister for Citizenship and Immigration.

**Hon. Michael Chan:** Thank you, Speaker, for allowing me to speak for two minutes.

Not that long ago, Markham–Unionville was kind of like an open field, but things have changed. When you go to my riding, Markham–Unionville, you can see those condos. They are rising from the ground. For example, at the corner of Highway 7 and Warden Avenue, it's just building and building and building, and obviously, people will be moving into those condos.

On a personal note, I used to own a condo in downtown Toronto around the Bloor and Yonge area. Now I no longer own that condo. One of the reasons for that is I sold it because I didn't know, really, how much those management fees—I don't even know how much I paid—and how those management fees were being used. What I knew was they were quite expensive and they kept rising and rose to a point that one day I decided I would no longer like to own this condo.

I think Bill 106 is a good thing to do because it would strengthen the ownership of the condo. It would require the condo to have to hire managers to manage it. Also, it would create new governance requirements for condo boards, so that whoever buys a condo and moves in there would be properly protected in terms of their fees and in terms of their living there.

**The Acting Speaker (Mr. Paul Miller):** Questions and comments?

**Mr. Todd Smith:** Good morning, Mr. Speaker. I'd like to bring some comments in regard to comments made by the minister of economic development, trade and employment. We also had the member from Kitchener Centre, and the Minister of Aboriginal Affairs spoke this morning as well.

I'm glad that everybody had a good time yesterday at the International Plowing Match in Finch. Sometimes we talk about condominiums rising into the sky here in Toronto like the sunflowers were in Finch yesterday; there were sunflowers everywhere. It was a great time. I hope everybody had a good time.

I have a heavy heart here this morning as a New York Yankees fan. Although they won the game last night, Yogi Berra passed away last night, a legend at age 90.

Sometimes it seems like it's déjà vu all over again here in the Legislature, and we're back talking about the condo act. It's been 16 years that we've been waiting—as the member from Kitchener Centre pointed out—for an update to legislation when it comes to condos in Ontario.

Every riding in the province has a different number of condominiums. Obviously, the member from Willowdale has many condos in his riding. There are not so many in my riding, but there are some condo communities, especially in Prince Edward county, where they needed to have an update to the legislation. There were a lot of concerns there where different property owners, maybe, weren't meeting the standards that they needed to meet, at least meeting the expectations of the condo owners.

I think it's about time that we have this debate in the Legislature and get the condo act to committee so that we can update it to ensure that these homeowners—and they are homeowners, although they're condos—are protected properly.

The member from Kitchener Centre was talking about downsizing her home to keep the kids from coming back home, right? But all she really has to do is stop cooking with cheese. Everybody knows that.

Thank you. I look forward to getting this bill to committee, Mr. Speaker.

**The Acting Speaker (Mr. Paul Miller):** The Minister of Aboriginal Affairs has two minutes.

**Hon. David Zimmer:** In my earlier remarks, I outlined what the legislation was going to do. I thought everybody might be interested in some quick facts about the state of condo life in Ontario. We have 1.3 million people now living in condominiums; that's one in 10 Ontarians. More than 50% of new homes being built in Ontario are condominiums. There are currently 700,000 condo units in Ontario and 51,000 condominium units under construction as I speak and as we debate. Condos also represent about half of

the new homes being built in this province, in a housing sector worth almost \$45 billion and employing over 300,000 Ontarians.

The government of Ontario received about 2,200 submissions through its consultations on the condominium act. That is a significant number of submissions and is indicative of the importance of this issue. In addition to that, we receive, on an annual basis, a couple of thousand complaints a year.

Most importantly, the existing Condominium Act was passed more than 16 years ago. Since then the condominium landscape in Ontario has changed dramatically. The expectations of condominium owners have changed. The services that condominium developers are offering condominium purchasers, in an attempt to entice them to purchase a unit, have changed. The whole condo world has changed dramatically, and our legislation has to catch up with the existing condominium lifestyle and expectations. This legislation does that.

**The Acting Speaker (Mr. Paul Miller):** Pursuant to standing order 47(c), I am now required to interrupt the proceedings and announce that there has been more than six and a half hours of debate on the motion for second reading of this bill. This debate will therefore be adjourned unless the government House leader specifies otherwise. Minister?

**Hon. Michael Coteau:** Speaker, we wish to continue debate.

**The Acting Speaker (Mr. Paul Miller):** The debate will continue. Further debate?

**Mr. Percy Hatfield:** Indeed, once again, it's an honour to stand in this House and speak on behalf of the good folks in my riding of Windsor–Tecumseh. I hope to bring forth a few issues that have yet been raised during previous discussion on Bill 106, an act to amend the condominium act and other acts with respect to condominiums.

I have to tell you, Speaker, I've read this proposed bill, all 159 pages. I've also read a number of submissions from interested parties. There are some good points in this bill, but there are also areas that aren't mentioned, and I wish to point out a few of them. I do so in the hope the minister will see his way to accepting suggestions on how this bill can be improved.

For example, in my neck of the woods, most of the high-rise apartment buildings in Windsor have been converted to condominium status. That started at the end of 2006 and the beginning of 2007. This wasn't done in order for the apartment units to actually be sold; it was a move quite simply to save money. Don't get me wrong; it was perfectly legal. In Windsor, units in a high-rise were taxed higher as apartments than if the units were labelled condominiums instead of apartments. The various corporate landlords came to the planning advisory committee, of which, as a city councillor, I was a member. A lot of our committee work during my first five or six years on council was spent on this mass conversion from apartment status to condo status. Tenants were accorded a life-long lease—they never had to buy their own unit—and the owners did have to have the buildings inspected, and any repairs or renovations

identified had to be corrected and upgraded. This led to better locks, better safety and security, improved lighting, more parking and accessibility for the disabled—important things such as that.

At the end of the day, the city's housing stock was upgraded and that was a win for the tenants. At last count, I believe there were nearly 3,000 apartment units converted to the status of condominiums; 2,881 former apartments on paper are now known as condominiums. Three commercial units did the same thing as a means of saving money that would otherwise go to the tax man.

Of course, the tax man in this case is the city of Windsor on behalf of the more than 200,000 residents of our great city. So on the one hand, a better grade of housing stock after modest upgrades and improvements were made, and on the other hand, the millions of dollars that corporate owners saved on these conversions is money that had to be picked up by the rest of us, the other taxpayers. That's because the cost of running the city didn't go down; it stayed the same.

I think I'm not the only one who has some of that plowing match grit and sand still with me today from yesterday.

So without these millions coming in from the corporate owners of the high-rise buildings, the rest of us had to make up the difference. I mention this only by way of getting to the point that in my area, the condo market has been saturated, if you will. Unlike Toronto, for example, or Willowdale and other parts that we've heard about this morning, we're not building very many condominiums these days. What we are seeing built are townhomes. The empty-nesters like Gale and myself wish to downsize and move into a townhome where we don't have to shovel snow and we don't have to mow the lawn.

Here is where a problem comes into this discussion, and I mention it as an example of how this bill could be improved. Let me point out at this juncture that these townhouses look the same as in other parts of Ontario where individual homeowners are still responsible for all of their exterior upkeep. These developments in my area are built more akin to what you find in the United States. The developers of these Windsor-area townhome subdivisions place restrictive covenants on these properties. They call for mandatory homeowners' associations, which assume responsibilities similar to condominiums.

Now, these covenants aren't registered restrictions under section 119 of the Land Titles Act. They are simply put on as a notice to subsequent property owners. These covenants call on the owners to establish a townhome association with elected officers, and to establish a reserve fund to cover certain capital items which are owned by the homeowner, not the association—for example, in my case, should the roof need repair or replacement.

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But it differs between townhome associations. The specifics of what might be repaired or replaced by the association differ depending on the individual bylaws. Most do, however, contract out the exterior maintenance, such as snow removal and grass cutting.

However, the fact that the restrictions are not recognized as true restrictive covenants under the law has the effect of complicating the enforcement of the restrictions. The restrictions—call it the agreement—are essentially between the developer and the homeowners. The townhome association is in effect, in legal terms, a stranger to the agreement and may not have the ability to enforce the restrictive covenants. The developer may have moved on; he or she may have gone out of business and may not have any interest at all in enforcing the restrictions. In fact, in my development, the developer has no obligation to enforce the restriction.

The association can't even amend the restrictions. Even if 100% of current owners vote in favour of doing so, we can't do it. That's because we are a stranger to the agreement. The developer has the only legal means to grant approval. The developer has an absolute discretion on whether to enforce or to amend, which can be exercised, if he wants, unreasonably. Even if the association went to court—and, as you know, that can quickly become very costly and time-consuming.

These are some things which the amendments to the Condominium Act have sought to address—a more streamlined and cost-effective enforcement mechanism. This is being denied to the growing number of townhome associations.

They have taken great care to address the situation in the American experience upon which these developers and developments are modeled. However, we have yet to see common legislative provisions here to cause a legal and level playing field between condominium associations and those established for the owners of townhomes.

There is a provision for the homeowners to pay an assessment, but there is no way to enforce delinquent accounts. The association has to sue in court for the lien. Speaker, these are monthly assessments, which means, of course, you have to launch legal proceedings on a monthly basis. Go figure.

The townhome associations are looking to the minister to grant them the power and authority to address the delinquents and enforce the covenants. They want the ability to amend these restrictive covenants if they have a majority vote to do so. They do not want to go as far as everything proposed in this new legislation, but they would like the minister to put something in here to make their associations more workable.

I know in one small subdivision, there was a problem with the shingles on a roof or two with a string of new townhomes. A couple of the units had problems. They had to be replaced, these shingles. So the question comes up, who's going to pay? Whose responsibility is it to pay for the replacement of the shingles? Might it be the manufacturer of the shingles, the company which installed them, the developer who subcontracted the shingling job, the homeowner or the townhome association?

Fingers are being pointed in every direction. Outside consultants have been called in. It has created quite a stir. That's because there is no clear written agreement to cover circumstances such as this in this one particular phase of a new subdivision.

That's not to say similar situations are covered in other phases of these types of new housing projects. That, Speaker, is just one example of how this bill could be improved.

I doubt the townhome associations need the training provision provided in this bill unless they have association managers. Few, if any of them, do in my area.

The townhome owners in my area are also calling for the overhaul of the Ontario New Home Warranties Plan Act. They want the minister to listen to the cries from across the province for an overhaul of the way Tarion is set up and run. They want more representation from homeowners and less representation from home builders and developers. You and I both have heard, Speaker, member after member stand in this House and call for the same thing. I say it's time the Premier and her cabinet showed the people of this province that they have heard the calls for reform and established a process to investigate the legitimacy of these complaints.

Bill 106 is called the Protecting Condominium Owners Act. In order to live up to its name, care should be taken in setting up the tribunal which will oversee the complaint process, to ensure the actual owners of condominiums are protected. In other words, care must be taken when naming the people who will sit on this tribunal. No one can protect the owners more than the owners. If the act was called the protecting the developers of condominiums act, then I would expect we would see developers monopolizing the seats on the board—or the consultants they hire to advise them. But since the Liberals, in their wisdom, called this the Protecting Condominium Owners Act, let's insist that a majority of the members of the condominium authority are actual owners who live in their units, as opposed to corporations which bought them as an investment to rent them out.

This bill doesn't go nearly far enough to protect the people who buy condos with shoddy construction. It doesn't do much to protect consumers from the bait-and-switch campaigns of unethical developers who promise one thing and deliver a cheaper, less aesthetically pleasing finish either; for example, to the exterior of the building or the amenities, such as the lobby or recreational areas. Shoddy workmanship, cheaper products: Owners need real protection, and it's not in here.

What do we have now in Toronto alone: about seven class action lawsuits because of this? Why hasn't the government seen the light? Why won't the government take the lead? Why aren't there better protections in this bill to protect the owners? After all, they call it the Protecting Condominium Owners Act.

Speaker, our dear friend the former member for Trinity–Spadina, Mr. Marchese, is somewhat of an expert on condominium law. When the Liberals were preparing this bill and utilized the so-called expert panel for their review, Mr. Marchese pointed out that this panel for the review of the act to protect condo owners was dominated by lawyers and consultants with close ties to two condo industry lobby groups: the Canadian Condominium Institute, the CCI, and the Association of Condominium Managers of Ontario, the ACMO. Other people on the review panel, the so-called experts, included a former chief executive officer of Tarion—which, as you know, is controlled by the Ontario Home Builders' Association—and the first vice-president of BILD, the lobby group for the development industry. We

have heard repeatedly that in Ontario, more than one million people live in condominiums, yet out of those million people, only one was chosen to sit on the panel shaping this new act. That was Anne-Marie Ambert. Dr. Ambert is a retired professor of sociology from York University. She did an excellent job. But without better consumer protection, who's kidding who with this new act? Who is this act actually protecting?

So how can it be improved so it will live up to its name? The easiest solution, of course, is to name owners to the bodies which will oversee this act—actual individual owners, not someone who is just there to protect the developers and the bankers and the friends of the government. Let me say this again: The one owner who sat as an expert on the review panel, Dr. Ambert, did a great job. But we strongly oppose any proposal that would see the Canadian Condominium Institute or the Association of Condominium Managers of Ontario operating the new condo oversight office or offices. Let's face it: While these groups do a good job at what they do for their industry, their interests conflict. They are not always going to be the same as the interests of condo owners.

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We only have to look as far as Tarion to see how that doesn't work. Tarion, again Speaker, an organization you're very familiar with, administers the Ontario New Home Warranties Plan Act. We go to Tarion with complaints against the people who build our new homes. But as you know, Tarion is run by the same development industry it's charged with regulating—the fox in the hen house, so to speak. Eight of the 15 seats on Tarion's board must be held by members of the OHBA, the Ontario Home Builders' Association.

The government has given one lobby group monopoly control over all builders and homebuyers in Ontario. No wonder there are hundreds and hundreds of consumer complaints against Tarion. I'm told by people who have contacted me that there is an inherent indifference to their complaints. There are no quick resolutions, be it for faulty HVAC systems, leaky roofs, sloppy work, leaks in the basement. Whatever it is, the perception is that Tarion sides with the home builders more so than the homebuyers. Speaker, as you know, more than most of us, in politics perception quickly becomes reality. Why else do auditors, consumer advocates, even the Ombudsman say that Tarion is not accountable to the consumer? That could be corrected in this bill, but so far, it has not been. I hope the minister and his staff are listening, and I hope they seize the opportunity to correct an injustice.

My friend Mr. Marchese, the former member for Trinity–Spadina, a real advocate for condo owners and homeowners of all kinds, used to speak and write on this on a regular basis. He stood up for his constituents. He reminded us that 11 years ago, a former consumer minister and now the mayor of Ottawa, Jim Watson, not only acknowledged the problem but pledged to reform Tarion. He said he would turn it into an actual consumer protection agency. Well, we're still waiting.

Seven years ago, Ontario's Ombudsman "warned the government to stop pretending that it had meaningful oversight over Tarion...." Board members are prevented from communicating with the minister. The minister is not entitled to the minutes of board meetings. The minister can't gain access to

the internal auditor's reports at Tarion. The minister can't even get an answer on the salaries, benefits and expenses of the Tarion executives or scrutinize what they pay their consultants. Inquiring minds want to know: Is this what we're going to see duplicated and replicated by these new condo oversight bodies?

Mr. Marchese raises another interesting point: It would be unacceptable for condo owners to subsidize the training and education of building managers. Condo owners should know exactly what their mandatory levies are paying for. Let the development industry and the managers pay for their own training.

Sometimes in a conflict situation, the board of a condo takes legal action against one of its own members, another owner. There's a double-edged sword on that one as well: The owner is paying fees to the association and the association is using his or her money to hire a lawyer to fight against the owner. So his or her fees are being used against him or her in a fight with the association, and that shouldn't be. If the board is using the money that the tenants put into the association in a legal fight, they should also be paying for the owner of the condo, who is a member of the association and who has a conflict with the board—if the board is going to use the money to hire a lawyer, they should also be paying the legal fees of the owner, whose money they're using to fight against him or her.

Thank you for your time this morning.

**The Acting Speaker (Mr. Paul Miller):** Questions and comments?

**Mr. Chris Ballard:** It's my pleasure to speak for a couple more minutes and respond to some of the comments from the members opposite.

As I said earlier, I'm in support of Bill 106. Anything that makes consumers feel more comfortable entering the condominium market, in my mind, is a good thing. I know in my riding of Newmarket–Aurora, most of our growth in the years coming will be in mid- to low-rise condominium development. The Aurora planning department told me there are 10 condominium projects that are either in the application phase or moving down the pipeline to that phase. I think it's a fantastic way to address urban sprawl by intensifying our downtown core, but consumers have to feel comfortable that when they move into the condominium market they're protected.

I'm somewhat familiar with the consumer background, consumer input into this bill, from a previous life working in consumer advocacy. For example, I know there were 2,200 comments made, many of them by condominium owners, many of them by members who sit on condominium boards, and those were considered by government. I know there are about 1,000 complaints and inquiries a year on condo issues.

I also know that when the party opposite, the third party, was in power, it gutted its support for the consumer movement in this province of ours, especially the Consumers' Association of Canada. I find it really quite rich now that members opposite can stand up and bemoan the fact that we're not doing

enough for consumers. When, in fact, that party had the opportunity, it turned its back on consumers. I'm glad to see that we're moving ahead with this important piece of legislation.

**The Acting Speaker (Mr. Paul Miller):** Questions and comments?

**Mr. Randy Hillier:** Speaker, I just want to make a few comments about one aspect of this bill that I think has been neglected in the debate, and that is that we're creating another delegated administrative authority under this act. I'm sure most people in this House understand that these subordinate bodies have very little reporting mechanisms back to the House as DAAs. Tarion is a good example. There have been many cases of Tarion being in the news with troubles.

This bill creates a new licensing and adjudicative body that has no reporting requirements and no oversight by this House. So there we have a multiplicity of roles, a licensing and an education component, as well as an adjudicative role. The decisions by that adjudicative body are not subject to any judicial reviews. It is subject to oversight by the Auditor General; however, no other independent officer of the House has oversight of this new delegated authority.

I would like the government to consider some suggestions here along the lines of what the UK Parliament has done, and the same with New Zealand, on their subordinate bodies of the Legislature. They've made it so that people fall under the public services act in the UK and New Zealand, and the independent officers of the House do have oversight of those subordinate bodies.

We've heard that it's going to be low-cost, cheap justice, but look at the Landlord and Tenant Board. Look at the Assessment Review Board. Look at the other 37 tribunals that we have, and we don't get low-cost, cheap, timely justice.

**The Acting Speaker (Mr. Paul Miller):** Questions and comments?

**Ms. Peggy Sattler:** It's a real pleasure for me to stand and congratulate my colleague the member for Windsor–Tecumseh on his very well-researched and informative remarks. He provided a lot of detail about some of the very real gaps in this legislation that is before us today. As he said, certainly the New Democrat Party caucus on this side of the House supports what is in the legislation—mostly. We are very concerned about what is missing in the legislation.

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There are a couple of points that were made by my colleague that really deserve to be highlighted. First is the need for a real dispute resolution mechanism to address the issues that arise between owners and developers and condo owners and condo managers. We know and we appreciate what's in the legislation to deal with those disputes between condo boards and owners but many, many of the issues that come to our offices from our constituents deal with these other issues. The issues that arise between condo owners and the developers who built their unit, who did, as my colleague pointed out, the bait and switch: They didn't deliver on what was promised, used shoddy materials and tried to cut

corners and costs. Those kinds of issues, those very critical issues that so deeply affect our constituents, are not addressed in this legislation.

The second issue that he pointed out that I think we really need to reflect on is the importance of having as part of Bill 106 condo owners as part of this consumer protection movement to address their concerns.

**The Acting Speaker (Mr. Paul Miller):** Questions and comments?

**Mr. Granville Anderson:** I'm so honoured to speak to Bill 106, Protecting Condominium Owners Act. Thank you to the members for their comments as well.

Of course, when we think about condominiums, we think about urban centres and big cities, and for sure that's where most of them are concentrated. But when we think about development, we have to think about communities such as those in the lovely riding of Durham, such as Clarington, Scugog, which would be Port Perry, and Uxbridge. These are growing communities, and growth doesn't just mean houses and apartment buildings. You'll be glad to know that Durham has condos, mostly concentrated in Clarington, of course, but in Scugog as well. These range from downtown Port Perry to suburban Bowmanville and Courtice and along the lake in Newcastle.

Residents of these condos are very engaged in their communities and have often taken the time to tell me so. They tend to experience the condo life more acutely, as you have to drive west for some time before living in a condo community becomes a reality. I am glad that we are bringing this legislation in to provide them with more accountability to deal with their condo boards and property managers. They need reassurance that whatever down payment they make is safe and the consumer service they receive is appropriately protected.

The proposed legislation contains strong provisions to protect Ontarians at all stages of condo ownership by preventing developers from charging surprising cost increases and improving disclosures during a condo purchase.

**The Acting Speaker (Mr. Paul Miller):** The member from Windsor–Tecumseh has two minutes.

**Mr. Percy Hatfield:** Thank you to all of my colleagues who have spoken on my 20-minute address this morning.

As we left the plowing match yesterday and were coming home—the small bus of the NDP caucus—as we were pulling into greater Toronto, I noticed, not for the first time, of course, all of the condominiums that are still being built.

I was thinking about the wonderful trip we had to the plowing match and my conversations with a few of the Liberals while we were there, including the ag minister, about how difficult it is to have the plowing match in a Liberal-held riding because most of the rural ridings in Ontario are obviously held by

the Conservative caucus—there are a few that could be held by the Liberals and, the same, a few plowing matches could be held in NDP-held ridings.

It got me thinking about the Condominium Act and what we're going to be talking about today, and how some of the bills that are brought in this Legislature by the Liberals—the perception is that they're Toronto-centric; that they're here to look after where their seats come from, as opposed to the rest of the province. You didn't see a lot of condos between Toronto and Finch and back going down the 401; it wasn't until we got back here.

It just drove home the fact, to me, that sometimes in the House you really do have to question the legislation that's being put forward, because it is Toronto-centric. When you bring forth examples of what's going on in other ridings with townhome associations—but there's nothing in this bill, nothing in this act, this proposed bill, to address the real issues that our people in my part of the province, in Windsor–Tecumseh, are facing under a different set of rules. You've got one for the condos but nothing for the townhome associations. I just want to drive that point home again.

Second reading debate deemed adjourned.