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The 28th Legislature
Third Session

Alberta Hansard

Tuesday evening, December 9, 2014

Issue 15e

The Honourable Gene Zwozdesky, Speaker

Legislative Assembly of Alberta The 28th Legislature

Third Session

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Legislative Assembly of Alberta

7:30 p.m.

Tuesday, December 9, 2014

Government Bills and Orders Committee of the Whole

[Mrs. Jablonski in the chair]

The Deputy Chair: I'd like to call the committee to order.

Bill 9 Condominium Property Amendment Act, 2014

The Deputy Chair: Are there any comments, questions, or amendments to be offered with respect to this bill? The Member for Olds-Didsbury-Three Hills.

Mr. Rowe: Thank you, Madam Chair. I'm pleased to stand and present my third amendment, and I have the necessary papers here. We'll take a second and get them distributed. Third and final.

The Deputy Chair: Hon. members, this will be known as amendment A5.

Can we keep the noise level down, please? Thank you.

Hon. Member for Olds-Didsbury-Three Hills, would you like to continue?

Mr. Rowe: Thank you, Madam Chair. Thank you for that admonishment.

This amendment seeks to address some of the condo and individual unit issues. The first part of this amendment gives owners a voice in the changes to the appearance of their property as it affects their property values and unit.

I would like to take this opportunity to read a copy of the Canadian Condominium Institute's news release on this point, written by their counsel, Hugh Willis.

Section 38(4)(a) presently states that an item is not a capital improvement if it is "the contemporary equivalent of an obsolete property." This is problematic wording and may be unduly restrictive. For example, aluminum slider windows are still available and used for some specific applications, but are not commonly used because they are not energy efficient. Instead, vinyl slider windows are usually used. Under the present wording of Bill 9, the replacement of old aluminum slider windows with the contemporary equivalent (vinyl sliders) may be considered a capital improvement because aluminum sliders are, by most definitions, not obsolete. We recommend that s. 38(4)(a) be revised to allow for the replacement of any item with a similar item in accordance with common construction standards.

The second part of this amendment allows the condo board to access the reserve fund to pay for projects that they are ordered by law to comply with. These would include issues with occupancy standards such as mobility access to use reserve funds for the cost of that project rather than a special assessment, which is a much longer and much more formal process. This accounts for the CCI recommendation that the reserve fund study and report should be classified as a recurring administrative expense in the budget and paid for from the operating funds.

Thank you, Madam Chair.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak on amendment A5? The hon. Minister of Service Alberta.

Mr. Khan: Thank you very much, Madam Chair. I do again want to thank the Member for Olds-Didsbury-Two Hills . . .

An Hon. Member: Three Hills.

Mr. Khan: Did I say Two Hills? Three Hills. Forgive me.

An Hon. Member: You shortchanged him a hill.

Mr. Khan: Shortchanged him a hill. You write good material.

Mr. Anglin: You lost a hill.

Mr. Khan: Lost a hill.

Through the chair – and I'll be quick – I think the intent is well said, well stated. Again, I want to thank the minister for bringing forward some constructive ideas and amendments that are echoed from CCI north. I've talked to the president of CCI north. We're grateful for their engagement and their stakeholder consultations so far, and we made a commitment to CCI to continue engaging them as we move forward in the consultation process for the regulations.

Specific to this amendment, Madam Chair, what I want to be able to tell you is that the act currently allows condominium corporations to use reserve funds for a broad, broad variety of purposes. The proposed amendments to section 38 are problematic because they remove the reference to managed property in section 38(1)(c). By removing this reference, corporations which make use of managed property may be left unable to actually use the reserve fund for the intended purposes.

So for those reasons I can't support this amendment, but again I want to thank the hon. member for bringing it forward. Thank you.

The Deputy Chair: Thank you, Minister.

Are there any others who wish to speak on amendment A5? The hon. Member for Edmonton-Calder.

Mr. Eggen: Thank you, Madam Chair. I appreciate that. I just want to say very briefly that certainly I support this amendment. Generally, we welcome Bill 9. I think that it's a necessary improvement from what we saw the last time, and I recognize the Service Alberta minister's work to improve I guess it was Bill 13 before, right? I just wanted to make that clear.

Also, we recognize some of the outreach that you did around the province, but the key to this whole issue was around – maybe it's just one group, but it's the group that ultimately is the owners of condos themselves. So, you know, we just found a number of issues that they wanted to bring forward, and working in co-operation with the Wildrose, we had a number of amendments that we developed together. Certainly, this is one of them that is important. It should be recognized, and you should recognize as well the utility of making sure that you look to consult with everybody before a bill comes forward.

So I certainly support this amendment from the hon. Member for Olds-Didsbury-Three Hills, and I hope everybody else does, too. Thank you.

The Deputy Chair: Thank you hon. member.

Are there any others who wish to speak to amendment A5? The hon. Member for Calgary-Mountain View.

Dr. Swann: Thanks very much, Madam Chair. I would like to stand in support of this. It's essentially an amendment, although it is much more complex than that, that tries to ensure that condo associations have to bring any repairs to condominiums up to the

standard at which it was in terms of value. Clearly, if we're going to act in the interests of owners primarily, we have to try to protect the value of the property, and condo associations or managers who make changes that would devalue the property would not serve the interests of the owners. So I would stand in support of this amendment.

Thanks.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak on amendment A5? Seeing none, I'll call the question.

[Motion on amendment A5 lost]

The Deputy Chair: Now we'll go back to the bill, Bill 9, Condominium Property Amendment Act, 2014. The hon. Member for Edmonton-Calder.

Mr. Eggen: Thank you, Madam Chair. I have another one of those amendments that I was talking about, so let's bring it forward.

The Deputy Chair: We'll pause for a moment while we have the amendment passed out. Can we have the five copies brought to the table, please? This amendment will be known as amendment A6.

Hon. Member for Edmonton-Calder, if you'd like to proceed.

Mr. Eggen: Sure. Thank you. I think one of the things that's been working well for condominium boards and organizations over the last 40 years is voting at general meetings, and the proposed revision to the act, we believe, inserts some needless complexity and maybe even litigation into what is usually a pretty straightforward process.

7:40

Our amendment to the legislation, this amendment that you have before you here now, is an attempt to fix one particular area, which is electronic voting although, again, we feel as though the legislation really should be delayed in order to consult properly with owners to see what kind of voting process they would like in legislation moving forward. We recommend that electronic voting not be permitted at general meetings at this time. The purchase cost of equipment and programs is not significant, especially when you consider that most condominium corporations only have one general meeting a year. The actual vote counting at a general meeting does not take a lot of time, especially since most votes are conducted on a show-of-hands basis. If the owners cannot attend a meeting in person but do want to participate, they can already attend by proxy and vote by proxy.

In the consultation analysis report dated June 2013 question 16 asked about electronic voting at board meetings. It did not ask owners if they thought electronic voting should be permitted at general meetings; nevertheless, many of the comments made by respondents set out their objections to and concerns about electronic voting at these meetings.

Including electronic voting, Madam Chair, at general meetings, I believe, may lead to situations where there is no effective discussion or debate on motions, where the owners may not be able to raise any of their concerns or issues, and where the owners are not able to fully participate in the governance of their communities. Okay? It may lead to complicated situations where people may not be having actual physical general meetings at all. That's another problem that we should consider here, too.

My humble but compelling amendment, that I bring forward on behalf of the hon. Member for Edmonton-Strathcona, I think fixes

that problem. You know, we all want to fix problems here, don't we?

Thank you very much.

The Deputy Chair: Thank you, hon. member.

Are there any others who wish to speak on amendment A6? The hon. Member for Calgary-Mountain View.

Dr. Swann: Thank you, Madam Chair. Yes, I'd like to stand in support of this. It's clear that we don't even have the technology to have confidence in electoral procedures in Alberta. An advanced society, and they're still questioning the validity of electronic voting, and to expect a condo association to be able to pull together a reliable, valid, and, I guess, trustworthy electoral system that's not based on paper and personal identification and X marks the spot is hard to fathom.

It's one of the many issues, I guess, that people across the province are raising to us about pushing ahead with a bill that is so complex and has so many dimensions to it. I hope that this, if nothing else, is a cautionary tale to the government to slow down in pushing this very large and complex legislation through when there are so many concerns from both owners and tenants of condos that this could be a problem. This is just one example of a number that we've tried to bring forward, and it's trying to extend a cautionary note to the government to slow down, allow some time for full discussion.

Many of the folks across the floor may not know about the Ontario consultation that went into their condominium amendment act. It took eight months. The two sides, the developers and the owners, were at odds, and over the course of eight months they had to come together repeatedly and hammer out some agreements on all these different decisions that have to be made about assets and liabilities, risks and benefits. Ultimately they hammered out a bill that all of them could accept in eight months.

The fact that we're pushing this through in less than a week raises, I think, serious questions about why we're not taking more time, including more consultations, and ensuring that we get it right the first time and not have to come back to it again next year or deal with all kinds of conflicts, court cases, inconsistencies that people from our constituencies are saying are simply problematic and should be given some time to sort through. This is just one example.

I will be supporting this amendment. It raises a flag. It provides an opportunity for government to pause and consider a full public consultation, industry consultation that would allow this to be the best possible legislation that it can be.

Thank you, Madam Chair.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak on amendment A6?

Seeing none, I'll call the question.

[Motion on amendment A6 lost]

The Deputy Chair: We will go back to the bill, Bill 9, Condominium Property Amendment Act, 2014. The hon. Member for Calgary-Mountain View.

Dr. Swann: Thanks, Madam Chair. I have a couple of amendments to suggest to strengthen the bill, to add clarity, to add confidence to what should be – it's a critical economic and social and the largest investment, of course, that any person can make. I'll table this now. I guess you need the original.

The Deputy Chair: Thank you, hon. member. We'll just pause till we get some handed out, please.

Hon. member, I think you can proceed on amendment A7.

Dr. Swann: Thank you. This is an amendment to the Condominium Property Amendment Act, 2014, itself, that Bill 9, the Condominium Property Amendment Act, 2014, be amended in section 35 in the proposed section 44 by adding the following after subsection (2):

- (3) The corporation must make every reasonable effort to assist an owner, purchaser or mortgagee or the solicitor of an owner, purchaser or mortgagee, or a person authorized in writing by any of those persons, with a request made pursuant to subsection (1) and to respond to each request openly, accurately and completely.

In some sense this is obvious, Madam Chair, but as we found in government, access to information is sometimes a problem. It's sometimes deliberately blocked. It's sometimes inadvertently difficult to get access to information. Our sense is that owners and purchasers need to have ready access to information that may be held by the owner, by the developer. It really is a duty to assist. This is a duty-to-assist clause. Certain persons like an owner can request documents from the board, and this clause, just like in the Freedom of Information and Protection of Privacy Act, will require the board to assist with the request, not block the request, not provide undue resistance to access to information.

For example, in the FOIP progress reports we receive performance reports, and the office of the Information and Privacy Commissioner will give us updates about where in the process the request for information is. Is it reasonable or unreasonable? Is it private? Is it open for discussion and access? The amendment will make it easier for the requester to obtain documents that would be helpful for the purchaser to make appropriate decisions and make the organization itself more transparent. As I summarize it, it's a duty to assist. It's an explicit duty to assist when people need access to information.

Thank you, Madam Chair.

The Deputy Chair: Thank you, hon. member.

Are there any other members who would like to comment on amendment A7? The hon. Member for Edmonton-Calder.

7:50

Mr. Eggen: Thanks, Madam Chair. I certainly appreciate the hon. Member for Calgary-Mountain View bringing this up. It's really important to have communication between the developer and the purchasers. We see so many new condos being built all over in my constituency and around Edmonton, Calgary, Grande Prairie, Fort McMurray, and there have been a lot of problems – right? – not just right away but within the first five years of the building of these places. There's one just right over here. It's not a happy photo opportunity, but it's very appropriate; you can literally see the Legislature and within a block see a leaky condo. These are all over the place, like mushrooms sprouting up on the prairies, and not a happy situation for so many people. I have older couples wanting to not have their bungalows anymore and buying condos in the immediate area and then finding that they have a \$30,000 bill to add to their mortgage within three or four years of their condo being built and purchased.

Anyway, my point is that communication is really important, as is access to the full disclosure of information. Some of these developers are changing their names as well like the leaves on the trees in the fall, which is not good. They reappear as someone else, another company. I'm sure that many other members have the same problem in their own constituencies. Until we make a

law here to chase down some of these poor developers and then have full access to their information and their books and so forth, I don't think we're doing our jobs. So, certainly, this is a step in the right direction.

Thanks a lot, MLA for Calgary-Mountain View.

The Deputy Chair: Thank you, hon. member.

Are there any other members who wish to speak on amendment A7?

Seeing none, we'll call the question.

[Motion on amendment A7 lost]

The Deputy Chair: That amendment is defeated, and we're back to the bill, Bill 9, Condominium Property Amendment Act, 2014. The hon. Member for Calgary-Mountain View.

Dr. Swann: Thanks, Madam Chair. I'd like to move another amendment to again try to protect purchasers, the public.

The Deputy Chair: Thank you. We'll pause for a moment while we get some of those distributed.

Hon. member, you may proceed.

Dr. Swann: Thank you very much, Madam Chair. This actually is a housekeeping amendment. I think anybody would recognize that this would be helpful to an absent owner or tenant or board.

The amendment reads that Bill 9, Condominium Property Amendment Act, 2014, be amended in section 47 in the proposed section 69.3 by renumbering it as subsection 69.3(1) and adding the following, that when there is some kind of conflict,

- (2) On application to the Tribunal, an interested party has the right to appear in person or by agent or counsel.

It's simply to enable, whether it's a tenant, an owner, or a board, to name a representative to appear at the tribunal and act for them in terms of negotiating or arguing or contending some kind of dispute. It would allow people that are absent for whatever reason – sickness, travel, whatever – to have an agent appear on their behalf. It's a housekeeping edit, and I hope the members of the House will accept that.

Thanks, Madam Chair.

The Deputy Chair: Thank you.

The hon. Minister of Justice and Solicitor General.

Mr. Denis: Thank you, Madam Chair. I appreciate where this member is coming from. That being said, it is a well-known common-law right that an individual can appear through counsel, with his or her counsel or without his or her counsel, the counsel appearing on his or her behalf. So I would suggest that this is already referenced in the document just by prescription, and I think that putting this through would be redundant, respectfully.

The Deputy Chair: Thank you, hon. minister.

Are there any others who would like to comment on amendment A8?

Seeing none, we'll call the question.

[Motion on amendment A8 lost]

The Deputy Chair: We're back on Bill 9, the Condominium Property Amendment Act, 2014. Are there any other members who wish to comment, question, or have amendments?

Seeing none, I'll call the question.

[The remaining clauses of Bill 9 agreed to]

[Title and preamble agreed to]

The Deputy Chair: Shall the bill be reported? Are you agreed?

Hon. Members: Agreed.

The Deputy Chair: Opposed? That's carried.
The hon. Government House Leader.

Mr. Denis: Thank you very much, Madam Chair. At this point I would move that the committee rise and report on bills 9 and 11.

[Motion carried]

[Mrs. Jablonski in the chair]

The Acting Speaker: I would like to recognize the Member for Calgary-East to read the report.

Mr. Amery: Thank you, Madam Speaker. The Committee of the Whole has had under consideration certain bills. The committee reports the following bill: Bill 11. The committee also reports the following bill with some amendments: Bill 9. I wish to table copies of all amendments considered by the Committee of the Whole on this date for the official records of the Assembly.

The Acting Speaker: Does the Assembly concur in the report?

Hon. Members: Concur.

The Acting Speaker: Opposed? So ordered.

Government Bills and Orders Third Reading

Bill 7 Chartered Professional Accountants Act

The Acting Speaker: The hon. Minister of Jobs, Skills, Training and Labour.

Mr. McIver: Thank you, Madam Speaker. As we know, the bill is the result of bringing together three accounting groups – the CGAs, the CMAs, and the CAs – who have all requested that they be joined together into one group. We've done a lot of consultation. They're all in agreement. I'd just like to encourage my colleagues here in the House to support this bill.

I'd also like to thank the staff in JSTL and also the hon. Member for Edmonton-Gold Bar for having chaired a committee that travelled the province getting input on this.

With that and in the interest of moving things along, Madam Speaker, I'll just suggest respectfully to my colleagues that they support this very good idea.

The Acting Speaker: Hon. minister, you're moving third reading?

Mr. McIver: I am moving third reading, yes. Thank you.

The Acting Speaker: Are there any other members who wish to speak in third reading on Bill 7, Chartered Professional Accountants Act?

Seeing none, we'll call the question.

[Motion carried; Bill 7 read a third time]

8:00

Bill 8 Justice Statutes Amendment Act, 2014

The Acting Speaker: To move third reading, the hon. Member for Calgary-Varsity.

Ms Kennedy-Glans: Thank you, Madam Speaker. It's a pleasure to rise and move third reading of Bill 8, the Justice Statutes Amendment Act, 2014.

Just to recap, this act amends several justice-related acts, including the Court of Queen's Bench Act, the Estate Administration Act, the Family Law Act, the Limitations Act, the Notaries and Commissioners Act, the Oaths of Office Act, the Perpetuities Act, the Provincial Court Act, the Wills and Succession Act, and does some minor housekeeping changes to several other acts.

Madam Speaker, this bill was developed with input from Alberta's judiciary, from the legal community, and from members of the public, and there was support for these amendments amongst those stakeholders. It reflects the work that we're doing here in the government to ensure that we increase access to justice for Albertans and improve our justice system for everyone's benefit.

I want to thank everyone in the Legislature for their participation in this debate, and I ask for your support in moving third reading of Bill 8.

The Acting Speaker: Thank you, hon. member.

Are there any other members who wish to comment in third reading on Bill 8, Justice Statutes Amendment Act, 2014?

Seeing none, I'll call the question. [interjections]

[Motion carried; Bill 8 read a third time]

Mr. Denis: Madam Speaker, it appears to be past the bedtime of the Member for Lesser Slave Lake. As such, I would move that this House stand adjourned until 1:30 p.m. tomorrow.

[Motion carried; the Assembly adjourned at 8:03 p.m. to Wednesday at 1:30 p.m.]

Table of Contents

Government Bills and Orders

Committee of the Whole

Bill 9	Condominium Property Amendment Act, 2014	477
--------	--	-----

Third Reading

Bill 7	Chartered Professional Accountants Act	480
--------	--	-----

Bill 8	Justice Statutes Amendment Act, 2014	480
--------	--	-----

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EDMONTON, AB T5K 1E4
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