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Mr. P. Fox
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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON STATUTORY REGULATIONS AND ORDERS
Monday, 14 June, 1982

Time: 8:00 p.m.

MR. CHAIRMAN, P. Fox: The Committee will come to order. We have a quorum. The first one on the list is Peter Buckert. Is Mr. Buckert present?

Mr. David Newman, is Mr. David Newman present?

MR. G. FILMON: Mr. Chairman, I wonder if on a procedural matter, we might just have some discussion as to how late the Committee might be interested in sitting this evening. I think it may make some difference as to whether or not some of those who are well down on the list might want to sit through the whole evening or have other uses for their time. Is the Committee going to be rising at 10 o'clock this evening or is there some disposition . . .

MR. CHAIRMAN: In view of the fact that we're going to sit tomorrow, I would suggest that 10 o'clock is a fairly good hour. The only other thing I would suggest is that if there are any out-of-town people, maybe we should ask them and they could come in before 10 o'clock. Otherwise I think 10 o'clock is a fair enough cutoff.

HON. R. PENNER: I think we should be a little flexible, that is, I have no objection to aiming for a reasonable hour but it may be that we're in full stride at about that time. There are people who have come and would like to be heard and we should perhaps at about 10 o'clock which would be normally the time for Committee to rise, we can assess the situation. I would agree, perhaps, in not making it too late, I think to decide in advance on 10 o'clock may be a little too inflexible.

MR. G. FILMON: Just so that those who are here in the audience are aware we only covered one presentation this morning and admittedly it was a 28 page presentation and is likely to be the longest that we're going to sit through. There would be then an indication that other members of the Committee are only contemplating being here until something in the hour of 10 o'clock and that would probably mean that most of those who are in the latter half of the list are not going to be in a position to present today.

MR. CHAIRMAN: Well, if the members of the Committee would assist the Chairman by keeping their questions short and terse and not argumentative we might get done. I would suggest they leave their debate for when the Committee is going through the bill clause-by-clause. Does anyone else wish to comment on the adjournment?

MR. G. FILMON: I would hope that the Chairman isn't suggesting that he would like to restrict our freedom of speech in the Committee.

MR. CHAIRMAN: Mr. Filmon, you know me better than that.

MR. FILMON: As a matter of fact, Mr. Chairman, that's why I was making my point.

MR. CHAIRMAN: Is the Committee prepared to go on? Mr. David Newman.

BILL 2 - THE RESIDENTIAL RENT REGULATION ACT

MR. D. NEWMAN: Mr. Chairman, I am Mr. David Newman and I'm presenting this brief on behalf of the Manitoba Association for Rights and Liberties.

MR. CHAIRMAN: Do you have a printed brief for the members?

MR. D. NEWMAN: The printed brief, I believe, is in the process of being circulated right now, Mr. Chairman.

MR. CHAIRMAN: Thank you. Proceed.

MR. D. NEWMAN: I will read from the brief: The Manitoba Association for Rights and Liberties (MARL) as known to most of us, is a non-profit citizens group dedicated to the protection of human rights and civil liberties in Manitoba. Its legislative review committee has reviewed the provisions of Bill 2 in the Thirty-Second Legislature, The Residential Rent Regulation Act, and offers the following comments.

This submission deals only with provision in the proposed Statute which directly offend against the civil rights of individuals.

We submit that the following matters infringe upon acceptable standards of civil rights for individuals given the circumstances, context and purpose of the proposed legislation. I'll summarize the seven categories of types of rights and freedoms that MARL believes may be infringed by the bill as presently drafted.

First category, Retroactivity of the Legislation and Regulations; second, Natural Justice and Accountability; third, Powers of Search and Seizure; fourth, Impartiality of the Tribunals; fifth, Extension of Time Relevant to Appeal Periods; six, The Applicability to the Crown; seven, Unequal Treatment of Landlords and Tenants.

Starting with the first: Retroactivity of the Legislation and Regulations. Under Section 19, the Statute will disturb the findings of quasi-judicial awards which were final and binding according to previous legislation. To put them through a second process of rent review is to expose them to double jeopardy and double cost. Also we submit, there is no balance in that those persons who received arbitral decision granting them increases lower than the percentage permitted under the Legislation and Regulations, do not have a right to have their rent levels determined under the new Legislation although, the increases take effect during the period contemplated under the Legislation.

Under Subsection 38(2), regulations may be made retroactive to any day before the day on which this Act comes into force. The power to pass retroactive Legis-

lation is absolute and unlimited under that provision. This is an obvious and severe violation of the right not to be subject to retroactive Legislation. It is, we submit, an unreasonable interference with civil liberties.

Second category: Natural Justice and Accountability. The Statute does not require reasons for decisions to be given by the rental regulation officer or the rent appeal panel. In order to do natural justice, it is submitted that written reasons should be required to be given and we refer you to Subsections 10(5) and 27(3) of the Legislation in that regard.

Third: Powers of Search and Seizure. It is submitted that the powers of search and seizure under Sections 5, 6 and 7 are unnecessary and unreasonable infringements of civil liberties, given the circumstances, context and purpose of the Legislation. We submit that subpoena powers should be adequate in these circumstances.

Four: Impartiality. Section 8 of the Bill does not require that rental appeal panel members be impartial. Section, 14 to the contrary, lists attributes of potential members which are deemed not to be unacceptable. We believe there should be a requirement that the panel be so constituted as to better insure the appearance and reality of justice being done. Justice, we submit, should not only be done but be seen to be done.

Fifth category: The Extension of Time. There's no provision for a discretion to expand the limitation date concerning appeal rights. In Subsections 25(1) and (2), there's an absolute bar to appeal after 21 days, no matter what. We submit that the discretion exercised after 14 days should be extended to cover situations of hardship and special circumstances, even where a further 7 days has elapsed. The law should not be so harsh as to cause unfairness and prevent a legitimate appeal from proceedings simply because a time limit was missed, where a case could be made to justify the extension of the limitation period.

Sixth category: Applicability to the Crown. There is no express provision making the Statute applicable to the Crown or Crown Corporations. The consequence of this is that when the Crown serves as a residential landlord the Statute does not apply. It is submitted that it would be inequitable to have the tenants of the Crown treated differently from tenants of the private sector. We submit that the Statute should therefore be expressly binding on the Crown, Crown Corporations and Crown agencies.

Seventh category: Unequal Treatment, Landlords and Tenants. With regard to compliance with the Act, Section 35(1) prohibits subterfuge and obstruction by landlords but not by tenants. We submit that Subclauses (c) and (d) of Section 35(1) should be included, mutatis mutandis as 35(2) (d) and (e) in order to be balanced and fair. Again, we submit that justice ought to be seen to be done.

We submit that the entire Bill ought to be reviewed giving consideration to the Charter of Rights and Freedoms. We look forward to receiving the Regulations when they are available and may wish to comment further on them when we've reviewed them.

Thank you for giving our brief your consideration. I will certainly entertain any questions and expand on any of the thoughts that we've made in this presentation.

MR. CHAIRMAN: Thank you, Mr. Newman. Are there any questions?

Mr. Penner.

HON. R. PENNER: Thank you, Mr. Chairman. With respect to the point about impartiality, I think there wouldn't be a person on this Committee who wouldn't agree, or for that matter in the House, who wouldn't agree that any body exercising judicial or quasi-judicial function, should be anything but impartial, but I don't know of any Statute that finds it necessary to state that; to state what I think is the obvious. Can you cite an example of a Statute setting up a quasi-judicial tribunal to adjudicate upon the rights, or appoints a judge, that makes a point of saying that this judge or this arbitrator shall be impartial? That is the law of the land, isn't it?

MR. D. NEWMAN: What has been done, Mr. Chairman, in several Statutes, has been to require those people who are participating in that process to swear an oath of impartiality, which is a demonstration, number one, that they indeed are aware that is the role they must play, an objective judicious role. Also it brings home, I think, to the parties who are involved in the process, that that is indeed the obligation that they have and finally, it makes clear to any body that is subjecting a decision which is questioned in a court, it gives them the clear-cut statement that the requirement is one of impartiality.

The two examples of Statutes that I'm aware of that do provide that are The Labour Relations Act, Section 87, I think, and The Public Schools Act, I think, had a provision along that line. Other than that I have not, nor has the group that I represent, been able to come up with a more helpful guide than that.

HON. R. PENNER: I wouldn't object, and I'm sure that the Minister wouldn't object to an arbitrator swearing an oath of impartiality; that's different than setting out in the Statute, thou shalt be impartial. An Oath of Office, as an arbitrator sitting in a particular thing, certainly is acceptable. The irony of the situation of course, as you will recall, Mr. Newman, the Manitoba Court of Appeal with respect to the Oath of Impartiality which some of us who sat as arbitrators under The Public Schools Act were required to take, that the Manitoba Court of Appeal under a judgment by Mr. Justice Monnin said that it doesn't mean anything anyway. It's all nonsense; none of you are impartial. I recall that judgment.

MR. D. NEWMAN: I'm not sure that, Mr. Chairman, the speaker necessarily agreed with Judge Monnin on that occasion either.

HON. R. PENNER: That's the only point I wanted to make at this stage.

MR. CHAIRMAN: Mr. Corrin.

MR. B. CORRIN: Yes, I just wanted to make one point or at least explore one area with the delegation, Mr. Chairperson.

Mr. Newman, I wanted to talk about your third point respecting powers of search and seizure. You indi-

cated that you felt that the powers of search that are provided in the proposed legislation and the bill before us are unreasonable because they provide too much latitude to administrative authorities to seize documents and do things which are presumably usually within the purview of police authorities. Is there anything in this regard that can be done - and I'm talking about with respect to actual search and seizure - without a court order? Is there any aspect of that subject matter that you have observed in the proposed legislation that could be done without an actual court order?

MR. D. NEWMAN: Mr. Chairman, the particular section which does not appear and maybe it was intended to, but it does not appear to require a court order would be Subsection 5(2) and I think if one reads Subsection 5(2) which gives a director or any person authorized by him for the purpose, or a rent regulation officer, or a panel or person authorized by a panel for that purpose, shall have access, during reasonable hours, to documents, files, correspondence, accounts and records relevant to residential premises and may make copies thereof or take extracts therefrom. That provision does not appear to be qualified by the subsequent sections and would appear to be supplemental and I think it is informative to read that Subsection together for example with subsection 35(3) which makes it an offence to withhold information and documents, etc. and there's a penalty on summary conviction of a fine of $100 to $5,000.00. It is that provision which appears not to require any court order.

MR. B. CORRIN: Would you be more satisfied if you thought that 5(2) and 5(3) were to be read conjunctively?

MR. D. NEWMAN: I think that would be an improvement to the legislation because 5(3) is certainly clearly subject to a court order and the court must be satisfied that it's reasonable and necessary for the administration of the Act to grant such an order.

MR. B. CORRIN: Do you have any suggestions how we might simply effect that amendment in order to assure that the interpretation of 5(2) is read conjunctively with 5(3)?

MR. D. NEWMAN: I'd have to give that more thought. It's really a matter of draftsmanship. I suppose that useful words are often subject to Subsection 5(3) or something along that line would make it clear that there has to be a compliance with that provision but I think a close reading of 5(3) will demonstrate that it really deals with a different situation, as does Section 6. Section 6 is for the purpose of inspecting and Section 5(3) is requiring to deliver, which is a different matter from having access to and making copies or extracts. So I think, if you were to make 5(2) subject to a court order you would have to spell it out in the same express and complete way you have in 5, 3 and 6.

MR. CHAIRMAN: Any further questions of Mr. Newman? Thank you very much Mr. Newman.

MR. D. NEWMAN: Thank you, Mr. Chairman.

MR. CHAIRMAN: The next person on our list is Mr. Murray Sigmar.

MR. M. SIGMAR: Thank you, Mr. Chairman, I'm Murray Sigmar, President of the Winnipeg Real Estate Board, and along with me this evening is Doug Lowry the Executive Director of the Board, Tom Smith, Chairman of our I.C. & I. Division and Ed Laschuk, Chairman of our Legislation Committee.

As President of the Winnipeg Real Estate Board, I appreciate this opportunity of presenting to you our views concerning Bill 2, The Residential Rent Regulation Act.

The Winnipeg Real Estate Board established as the first real estate board in Canada in 1903 is made up of some 1,700 registered Real Estate Brokers and Salesmen in the City of Wininipeg. Among its objects are the following: to encourage an atmosphere which will attract investment in real estate; to protect real estate against the undermining of values; and to assist in the development of Metropolitan Winnipeg and its environs in a manner designed to promote the prosperity and well-being of the Metropolitan area and its inhabitants.

The Manitoba Real Estate Association, to which all our members belong and support, has a further object, namely, to advocate and promote the enactment of just, desirable and uniform legislation affecting real estate throughout the province.

When the previous NDP Government in Manitoba elected to impose rent controls in the summer of 1976, our Association opposed the philosophy of controls under any condition, but were prepared as responsible corporate citizens to accede to some form of rent control because it formed a part of a federal anti-inflation guideline program, whereby all segments of society were involved in wage and price controls. The situation today is not at all similar and we must object in the strongest possible terms to the imposition of any form of control that imposes a hardship on one or more segments of society, and at the same time provides a benefit to a single segment of the population. The imposition of rent controls as prescribed in Bill 2 is unfair, unjust and discriminatory against landlords and residential property owners.

Before dealing specificially with the provisions of Bill 2, we would like to briefly outline our position on the entire philosophy of rent controls. There is much historical data available on the effect that rent controls have had on the economy in general and the housing market in particular in European and North American cities. We have no reason to believe that the resulting effects would be any different in Manitoba than in any other area in the world.

It is our view that when the rents are controlled, allowable rental increases will tend to be less than actual increases in operating costs such as utilities, taxes, maintenance, mortgage interest, etc. The quality of maintenance will deteriorate because of its increased costs in relation to available income. More and more rental units will be abandoned because they are no longer economically viable. New rental accommodation does not keep up with demand because other forms of investment are more attractive to the investor.

Unless controls apply to all forms of rental accom-

modation, either the landlord or the tenant, is put in a prejudicial position. For instance, where controls do not apply to new construction, the landlord owning older or rent-controlled premises is caught in the income-expense squeeze where he cannot adequately recover his costs under the controlled rentals. On the other hand, tenants who presently occupy rent-controlled units are reluctant to leave them, even though they may well be able to afford more expensive accommodation, thus requiring new tenants in the market to seek the only facilities available, namely, newly-constructed, non-controlled high-rental space. This can result in a further disincentive to new construction because people are reluctant to pay higher rents when they are in controlled, lower-rental premises.

Unless taxes, utility costs, interest rates, etc. are controlled, it is completely unrealistic to limit the income. It is a fundamental fact of life that unless sufficient income is generated, there is no way that a landlord will be able to provide adequate repairs and maintenance to his property. This can result in continued decay in the structure and its eventual abandonment.

Under reasonable competitive conditions the price system largely determines the amount of new housing construction. If rent controls lower net yields on rental housing relative to alternate forms of investment, new rental housing is rejected for more favourable alternatives.

Institutional lenders historically avoid rental units under rent control. With preferred sources of investment available, they prefer not to lend money on projects with relatively fixed rents in the face of rising costs. Without sufficient mortgage money available at prevailing rates, new rental construction and resale of existing facilities is drastically curtailed.

In general, then, rent controls lead to further housing shortages and a lower quality of housing and work to the disadvantage of both tenants and property owners. In the final analysis, rent controls appear to add to the problem that they purport to solve.

Rent control is a benefit to a tenant only so long as the tenant is prepared to remain in a rent-controlled unit. Sitting tenants in controlled units are relucant to give up their premises for several reasons. Firstly, the accommodation which they occupy may be priced at a below-market rate. Further, moving from a controlled unit would require the sitting tenants to face the increased housing costs faced by others, by other "mobile" tenants including the added costs of searching for another unit and the possibility of paying a much higher price for an equivalent unit in the uncontrolled sector. These incentives to remain in a controlled unit result in a low turnover of occupancy and, therefore result in a reduction in the efficiency of the utilization of the housing stock. Tenants will continue to occupy accommodation which is relatively unsuited to their current needs because it may be cheaper to do so.

There are certain factors which will reduce the value of the rent control subsidy to the sitting tenant. Where the rent controls are specified to be a maximum amount, all landlords may respond by raising rents to the maximum, thereby offsetting the lower-than-intended rents on some units with higher rents than anticipated for other units. Frequently, landlords do not raise rents for long-term tenants, but under rent increase formulas, there is an increased tendency to do so. Furthermore, as owners of controlled units attempt to maintain their net income between controlled rents and uncontrolled operating costs, they may reduce the frequency of quality of maintenance of controlled units.

Under a rent control system, landlords are in effect forced to subsidize their tenants. It is our view that it is inequitable to require one group of citizens to subsidize another group. If some tenants are considered to be unable to pay for accommodation, which members of the government and Manitobans believe they should occupy, then any subsidies paid should be a charge on public funds in order that the cost of the subsidy is shared by all taxpayers. The mere fact that a person owns a rented house or apartment building rather than some other kind of investment should not make that person liable for the payment of a particular kind of subsidy.

Dealing specifically now with Bill 2, we would like to make the following observations: Our association is sincerely concerned about the effect that the passing of Bill 2 will have on both the tenant and the homeowner. There is no question in our view that this bill will put additional pressure on single family dwelling ownership which, incidentally, represents at least 65 percent of the housing inventory and fully 80 percent of the population. We have already indicated that rent controls have had a dilatory effect on construction of new rental accommodation. This natural slowdown will create a greater demand for single-family dwelling construction with a predictable increase in costs which, of course, will be borne by the purchaser. Similarly, with a vacancy rate that is predicted to be 1 and 2 percent by the third quarter of 1982, and with new construction to be exempt from the Act, existing tenants will stay where they are and those seeking accommodation, i.e. newly-weds, transferees, etc. will be forced into the higher, uncontrolled rental market.

Rent controls in general and the provisions of Bill 2 in particular will very substantially increase administrative costs of both landlord and government. To establish the bureaucracy necessary to administer the filing of rent increases on every rental unit in the province whether the increase is at or below that allowed under the regulations will be horrendous. Why it is deemed necessary to impose this burden on those landlords who are prepared to live within the regulated increases is a question which deserves a responsible answer. At a time when there is great public outcry for a reduction in government spending, this proposal will increase rather than decrease spending in the public sector.

To respond constructively to the specifics of Bill 2 is extremely difficult in view of the fact that much of the impact will be directly related to the content of the regulations which will be adopted at some future date. The Minister has indicated that a 9 percent rental increase which is only slightly under cost of living figures for Manitoba is being considered for 1982 and has received some indication from landlords and property managers that in many cases this may not be an unrealistic figure. He may interpret these com-

ments as tacit agreement to the implementation of Bill 2, which in fact may not be the case at all. We are concerned that the government might find it politically expedient to alter the recommended percentage increase downward and conceivably there could be no further increases allowed in ensuing years. To proceed with the passage of this bill in the absence of some guaranteed formula for future rent increases would be completely unacceptable in our view.

You can readily see from the foregoing that The Winnipeg Real Estate Board does not believe that rent controls are in the public interest because they tend to undermine values, reduce the quality and quantity of rental accommodation and place an unfair financial burden on a small selected group of citizens. We appreciate having the opportunity to present our views to this committee and with respect, Mr. Chairman, we suggest to you that Bill 2 is fair to neither landlords nor tenants, nor to the long-term interest of all Manitobans. We therefore strongly urge that the Government of Manitoba reconsider their intention to impose these rent controls.

Thank you.

MR. CHAIRMAN: Thank you, Mr. Sigmar. Mr. Kostyra.

HON. E. KOSTYRA: Yes, thank you for your brief, Mr. Sigmar on behalf of the Winnipeg Real Estate Board. I just have a couple of questions. On the top of Page 4 you discuss that under reasonable competitive conditions, the price system largely determines the amount of new construction. I wonder if you could tell me what you would consider in the rental housing market as reasonable competition; it's usually gauged by the level of vacancy rates. I wonder if you might comment on what level of vacancy rates you think would be a reasonably competitive market.

MR. M. SIGMAR: Thank you, Mr. Chairman, if it's okay with the Committee, I would like to call on Tom Smith whom I would like to possibly answer some of these questions. I will do so at this time.

MR. CHAIRMAN: Very well, Mr. Sigmar. Mr. Smith.

MR. T. SMITH: As to vacancy rates, I think in this day and age we look across Canada and view that at the present time, although our market is purportedly tightening at this time, we still are running significantly higher vacancy here in this province than they are in any other provinces in Canada. Historically speaking, I think that it was back when you could build economically, you might look toward planning for building when you got down to 2 percent, thereabouts. Under ordinary circumstances we would be looking to build today with the kind of market we have but economically it's not possible as you've heard this morning, and the situation really is no different here than it is across Canada.

MR. E. KOSTYRA: On the final page of your brief, Mr. Smith you say conceivably there could be no further increases allowed to landlords in ensuing years. I wonder under what basis you would make that suggestions.

MR. T. SMITH: We look historically at what has happened previously, certainly, when rent controls were imposed initially in 1975 there was a 10 percent allowable increase which went to 8 to 6 to 5, in certain cases 4.5 by the fifth phase. During that period of time - I believe I'm right in saying it - the cost of living in Manitoba did not go down to that extent. I think if we could really see the kind of formula on which this was based, we'd feel more confidence as to how this was developed. A strict cost pass through and that's all, which is what was granted before and at the discretion of somebody who we never were really party to simply was announced what the rent rate would be for that year just in the long term is not going to work. I think before we lived with it because we knew that the end was coming, the announcement of the decontrol program was coming in, but if this is to be a longer-term situation, we'd like to know a little bit ahead of time just on what basis these decisions are being made.

HON. E. KOSTYRA: Well, I'm still not clear, Mr. Chairman. I think it's been announced that the 9 percent is a threshold figure under which mandatory review regulation will take place, and that the allowable increases will allow for operating costs pass through and an economic adjustment. So I have difficulty accepting that on that basis, you could suggest there is a possibility of no increases being allowed whatsoever. That's the only comment I have, Mr. Chairman.

MR. T. SMITH: I would think that our concern is that the development of rental threshold increases, as you call them, be based on economic realities rather than political realities.

MR. CHAIRMAN: Mr. Filmon.

MR. G. FILMON: Thank you, Mr. Chairman. Under the conditions of a controlled rental market, Mr. Smith, the brief indicates a concern that no new construction would take place. Obviously from the presentations that we had this morning, the current economics given the interest rates and the cost of construction and the potential return in the market in Manitoba would say it is true that a rental unit constructed today can't produce a fair return.

So, the answer that seems to be at hand is that there would need to be some form of government subsidy to induce people to construct units today. Given the fact that there are some subsidies available from the Federal Government, I believe 400 units have been allocated to Manitoba under the CRSP of $15,000 which, according to the information we had today, was that it's uneconomical to construct even with the 15,000 subsidy. I think it's my understanding that the Builders' Association of Manitoba has proposed to the Provincial Government that if they were to add on an additional $6,000 provincial grant per unit, it might then make it economic for them to go into a construction program.

Do you have demographic analyses of who are the new people who are looking for units in today's rental market? Who are the people today who come into the rental market on a regular basis? Do they fall into certain age categories primarily or who are they?

MR. T. SMITH: New accommodations?

MR. G. FILMON: No, new people in the rental market.

MR. T. SMITH: Well, I don't think we've undertaken any studies other than simply watching who comes into our office to apply for this type of accommodation. I think it is a combination of families starting out looking at newer accommodation; families moving from smaller accommodation when they have children; also children just leaving home, younger children, leaving home for the first time, doubling up or tripling up, going into new accommodation. I think it's pretty well as a person gets established economically and financially in a job position, they look to move up and improve themselves and move into better class accommodation which usually means newer accommodation.

MR. G. FILMON: So if these new people are looking for accommodation in the market and there is no incentive even with government grants available to construct new accommodation under a controlled rent market, where are they going to go for their rental accommodation, Mr. Smith?

MR. T. SMITH: There's a certain amount of a elasticity, I think, within the housing market or realities of housing, simply that a person who would contemplate to move out on their own, decides not to and stays where they have been, either at home or with two or three roommates. As I say, they double up or triple up, stay in the older accommodation or folks just don't move away from their parents' house where in ordinary circumstance, they would be likely to leave home and go out and seek other accommodation but if it's not available, they simply have to make do with what there is.

MR. G. FILMON: Do you foresee the demand reaching the stage where these people would then be willing to pay what they'd have to pay in an uncontrolled market in order to find rental accommodation?

MR. T. SMITH: I think certainly if they get to the point where they just have to move for one reason or another and there is nothing else available, they have to go where the only available units are, and if that's the uncontrolled sector, they'll go there. But there'll be a lot of resistance if the gap is that substantial.

MR. G. FILMON: Mr. Chairman, the brief indicates that the effective controls will be to keep people in the accommodation that they are and therefore that will leave no opportunity to get into the existing market so these new people, the young people, and those who are moving out into bigger accommodation or newer accommodation, those are the ones who will have to pay whatever that new market price will bear I guess then, eh?

MR. T. SMITH: I think you're right.

MR. G. FILMON: Thank you, Mr. Chairman.

MR. CHAIRMAN: Ms Phillips.

MS M. PHILLIPS: There's a part in here that I find a little confusing. You're picking up exactly where Mr. Filmon left off in terms of your statement on Page 3 of your brief about tenants having to stay in rent-controlled units or being reluctant to leave rent controlled units. I find it a little strange that you think it's necessary for people to move on. I would think that people in the rental business like to keep tenants for a fair length of time. But then on Page 5, you talk about landlords frequently not raising rents for long-term tenants and treating them advantageously because they do tend to stay on. I guess I'm trying to pick up from your brief which you prefer.

MR. T. SMITH: Well, I think that you have certain long-term tenants who may be elderly people who've been with you for some time; I think that's who we're referring to on Page 5. In the other situation, you may have people who have moved into your accommodation with plans of moving on within a certain period of time, say, a younger person. Where economically this does not show any sense at all to do so, they will stay where they are in the controlled unit versus moving on. I don't think anybody wants to create a situation where you're going to force people out that don't want to move such as your older people.

MS M. PHILLIPS: Yes, Mr. Chairperson, our legislation Bill No. 2 is talking about the rent being on the unit and not on the tenant. So as a landlord, I would presume your interest would be to keep a steady reliable tenant as long as possible and not worry about whether they move on or not, if you're not going to be able to charge more for that unit anyway regardless of who the tenant is.

MR. T. SMITH: Well, I think our concern is that the person if they so desire to move on that they are given the opportunity to do so economically that they aren't felt trapped in a controlled situation. It's true if we have somebody who's happy in a unit that wants to stay there, we'd like to keep them there.

MS M. PHILLIPS: Thank you, Mr. Chairperson.

MR. CHAIRMAN: Are there any other questions of Mr. Smith? Thank you very much, Mr. Smith and Mr. Sigmar.

Our next presentation is Mr. Lewis Rosenberg.

MR. L. ROSENBERG: Mr. Chairman, I do not have a written Brief prepared.

MR. CHAIRMAN: Thank you. Proceed.

MR. L. ROSENBERG: Generally, in North America, rent control has been brought in as an emergency measure in a time of crisis with a very low vacancy rate and expectations of rents increasing dramatically. I don't believe this has happened. We aren't in a crisis position yet, however, we do know that the government has a mandate to bring in rent control. However, Bill 2, I believe, has gone beyond this mandate and has gone beyond controlling rent and gone beyond controlling gouging and unacceptable rental increases and it's gone to the point of controlling all property in

the province and turning it into a public utility.

The way Bill 2 reads, if a private homewowner wants to rent out his house to his children, he then has to submit to the rent controls and has to submit to the Central Registry. This Central Registry is, in effect, turning all property in the province into a public utility controlled by the government; it is not controlling rent.

In Section 38(1), I believe there's too much of this law given to regulation. The Legislature seems to have abrogated the right to the Civil Service re controls. There's no formula in this Bill that we can live with as Mr. Smith has just said. We expect that rent controls will be a very long-term thing in this province as it turned out to be in New York City and France where it was supposed to be an emergency measure 40 years ago and is still in effect. The effects can be seen in New York where middle-income people live in sub-standard housing and the only properties that are being built are the super luxury projects for the rich. Manhattan is for the rich and those people that want to live four to a bachelor suite and that has been the effect of rent control there.

I would submit that the formula should not be a political football and should be in the regulations as a pass through of recognized cost to the landlords along with an economic factor.

Thirdly, January 1st seems hardly equitable as a date for the effective 9 percent. In effect, by the time this law is enacted we're going to be in a position of retroactivity to six months, where I don't believe it was the intention of the government, when Mr. Pawley announced when he was running to bring in rent controls, to turn it into something where the landlords are going to have to go back and give back six months difference of money they don't have, that they've had to spend on repairs, expenses. The money just isn't there and now we're going to have to go and find it to give it back because it has taken so long to get rent controls.

I'd like to go through the Bill point by point. First of all, 2(2)(c), where all rents over $1,000 a month are exempt. Well, based on that, taking the fact that to quality for $1,000 a month rent, you have to earn $48,000 a year. I don't see why the government is protecting the wealthy. I, personally, know of only five or six apartments in the whole City of Winnipeg over a $1,000 a month. I submit $400 or $500 a month would be a much more reasonable figure. In order to qualify to pay for $500 a month rent, you have to earn $24,000 a year. Now, surely, people over $25,000 to $30,000 a year do not need the same kind of protection lower-income people need.

Now, is the government trying to protect the poor from the ravages of the economy or are they trying to help all of society on the backs of the landlords and their investors?

Section 7(1), with the Central Registry, the Civil Service is going to have access to the books and the records and private business documents for our industry. We are not a public utility, we have to compete with each other. We may have been meeting during this rent control crisis to get some ideas together but basically we need security and privacy in order to conduct our business on a day-to-day basis and there has to be better protection. All it says in Section 7(1) is that the civil servants should not let this information go to the public and that it is private; there are no penalties for it. However, in Section 36(2), there are all kinds of penalties against the landlord for not submitting to the other sections of the Act. There's a $5,000 a day fine for every day he doesn't comply. I submit that the Civil Service should be placed under the same onerous fines if they breach the privacy of this Act because our industry cannot function in a fishbowl. This is going to be a long-term thing.

17(4), the way this reads, with staggered leases which most property managers in the City have, you can be in a position where you'll have no rental increase for 23 months. Now, in that, because the suites are controlled and not the tenant, if a tenant moves out on the 11th month of a lease, you have to give him the same rental. Then you put in a new tenant, he has to have the same rental rate for a 12-month period according to The Landlord and Tenant Act. We then have the position where we have no rental increase for 23 months. Now, I've been told by the Minister that this will be looked after by the Civil Service but I prefer to have things in the law and to know that we are protected. We need the protection of the law.

Section 20, this refers to the tenant's right to appeal under the index. Along with Section 21(3), this is the part that we have to object to most strenuously. With the tenant's right to appeal under the base index, and with staggered leases in the province, and the right of the Arbitration Officer to turn an appeal into a class action, we can get into a position where there is never any rent level that we can set. There will be no budgeting available to us; we will never know what our rental increases can be or will be or what kind or repairs and maintenance we can carry out in the building because there will be chaos in our industry. Every month you can have tenants appealing their index and then you can have the Appeal Officer turning this into a class action and rolling back all the rents in the building and then a month later, if the tax roll comes in, he can roll them back up again. We'll be in a position of absolute chaos. We will not be able to plan or budget or conduct our business in a business-like manner. It'll be like going to Eaton's and buying a stove or a fridge and then seeing it on sale two months later and everybody going back to Eaton's and saying, give us back our money, and Eaton's says, well, we'd like to but we've spent the money redecorating the second floor.

We don't squander the money; we don't hide it; we don't stuff it in mattresses; we use it for operating. Under this section, joining these two sections together and taking them to the full extent of the way they can be abused, you could turn the rental business into absolute chaos where people would have to walk away from their properties because there would be no way to financially manage them.

Section 22(1). This has the effect of downward averaging all the rents in that the rent review officer can take all the rental levels in a property and average them downward. In a situation where costs are rising the way they are, I was just talking to a wholesaler in regard to buying new fridges today, and they're going up 6 percent. They just went up 22 percent six months ago. This bill seems to be hiding from the facts of economic realities out there. Inflation is rampant and

we have to get the money from somewhere in order to continue providing the services to our tenants.

Section 29(6). In this section the landlord has to pay interest on excess monies received that he is deemed to have to give back, due to a ruling by the rent review officer. However, in Section 28(4), the tenant does not have to pay interest on shortfalls of money when it is ruled by the rent review officer that the landlord is entitled to more money. Now where's the equity in this? Surely landlords can no more afford to subsidize the tenants during an appeal then tenants can afford to subsidize us. I would prefer that there is something in the Act that would ensure that appeals are dealt with in 30 days so that we do not get into an interest situation. But the way it sits, I don't feel that it is equitable that only the landlord should be paying interest while the tenant does not have to if the ruling goes against the tenant.

Section 33(6). I ask you, why would anyone go to the trouble of renovating a building and spending the money that would be expected to be spent to totally renovate an old building in this city and then have to go back to another board, after the renovations are completed and after he has already gone to a board to have the plans approved, then to find out if he can have his building exempt and treated as a new building. It would be madness to gamble that kind of money and that kind of investment to do something like that. It is more prudent to tear down buildings and leave vacant lots.

I sincerely believe in renovating old buildings. I think they give the city a charm and a class. I think that the government has to, in this situation, give prior approval as they say they will, and then continue and give us the exemption once the work is completed and it should be in the Act and stated that way. The way the Act reads, you could be subject to going to a completely different board to appeal your case all over again; you could be starting all over again. You could spend $200,000 on a building and they could say, we're sorry, we aren't giving you the exemption.

Section 36(2). The problem I have with this is that Section 7(1), as I had stated before, is not included in this section and that we need the protection of this bill and of the courts in order to ensure our privacy. We are not a public utility, as I've stated before. However, all the information that is going to be available to this government can, in the wrong hands, do incredible damage to any one company that is perhaps in the marketplace trying to sell a building, trying to buy a building. This information is just too readily available and can slip out too easily and I don't see any penalties or any controls on the Civil Service in this matter.

In closing, I'd like to state that rent controls are going to be a long-term measure, mostly because the people of Manitoba have decided they want rent controls. The only way we are going to be able to find markets in a controlled society is to decontrol voluntarily vacated suites. Mr. Penner had mentioned that perhaps it would give landlords an incentive to get rid of tenants. This is incredibly difficult under The Landlord and Tenant Act. You have to send a lease to a tenant that is in possession, and if you don't send a lease, he can stay in that accommodation for six months at the old rental rate before he has to sign a new lease, according to The Landlord and Tenant Act. Now the only way we're going to find what market rent is, is to have voluntarily vacated suites decontrolled. The reason we need this is that lenders traditionally want to know what market rents are attainable on comparable older accommodation in order to know what kind of rent can be expected in building new accommodation. If we, over the years, cannot tell them what market rent is in Manitoba, the likelihood of new building becomes less and less, in that mortgage financing becomes more and more difficult to achieve.

Newer properties have to compete with older properties and when older properties are at a level that is so far below that of what new construction costs are, you cannot get people to move to new accommodation. Even if you offer them free trips to Hawaii, they aren't going to move for $400 a month differences. Now with rents suppressed the way they are, under rent controls, we are never going to know what a market rent is, whether it will be viable in the future to build in this province, unless there's an incredible amount of growth here and we have two different markets, one for those under rent controls and one for those not involved in rent controls. As Mr. Sigmar said, those people moving into the province and newlyweds are going to be $750 a month, and those in rent-controlled units will be paying $350 a month. The people moving into the province will be subsidizing those in rent controlled projects.

Secondly, the chaos that is going to be caused by tenants. I believe tenants should have a right to appeal underthe index but I don't believe in frivolous appeals. What I suggest is that there be some kind of general hearing, public utilities hearing, because in effect, you are planning on turning the rental industry into a public utility, before the index is set, at a hearing such as this even, where the tenants groups and landlords can come and make presentations and that is where the index should be set. Then after that, anything under that should not be subject to appeal. Otherwise, budgeting and planning for renovations, for replacement, for energy conservation, for upgrading of hallways and lobbies and roof replacement, things that are needed to keep up rental accommodations in the province cannot take place, because with staggered leases, as I said, there will be no rent levels. From one month to the next, you will not know what your incomes will be on the properties and therefore your services will be cut to a minimum. You will do the minimum you have to do in order to maintain the buildings from falling apart because you cannot plan under this situation. It's going to lead to incredible chaos.

That, Mr. Chairman, is my speech.

MR. CHAIRMAN: Thank you, Mr. Rosenberg. Mr. Kostyra.

HON. E. KOSTYRA: Thank you, Mr. Chairman. I'd like to thank Mr. Rosenberg for his submission to the Committee and also thank him for the additional submissions that he has made directly to me with others. I just have a couple of comments, Mr. Chairman. By way of information you had raised a concern that with respect to rent regulation officers, there was no deterrent with respect to disclosure of information. I would just point out to you that the section that you referred

to, Section 36(1) deals with any violation of the Act and would include any officers of the Crown that would violate the Act and there are, of course, provisions with respect to discipline within The Civil Service Act.

You made comments with respect to perceived contradiction between this Act and The Landlord and Tenant Act with respect to leases and the fact that with a new tenant moving in, there could be a situation where there could be no increase for a period in excess of 12 months. I would assure that if there is that contradiction between this Act and The Landlord and Tenant Act, it will be clarified, so that situation will not exist.

I wanted to ask you a question with respect to your concern initially when you said that the Registry is going to create a situation where all rental housing units are now going to be treated as a public utility. The purpose of the Registry is to gain information that doesn't exist in any total form in the province right now with respect to rent levels and rental accommodations. I was wondering how you perceived that to be an intrusion on the total industry insofar as it's just an information gathering mechanism.

MR. L. ROSENBERG: Well, if it is a gathering mechanism for just finding out what rent levels are in the province, that is fine, but if it is going to be used to go into the books and the budgets and the operating procedures of every rental accommodation in the province, then that's an entirely different matter.

HON. E. KOSTYRA: I have no further questions.

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: I'll pass. Mr. Kostyra has made my point about the enforceability of Section 71. I think you will find that it is enforceable.

MR. CHAIRMAN: Mr. Corrin.

MR. B. CORRIN: Mr. Kostyra dealt with several of my concerns, but there is one I wanted to deal with with Mr. Rosenberg. Mr. Rosenberg, you indicated that you thought that there was prejudicial treatment with respect to landlords because they alone were singled out to pay interest in circumstances where they'd defaulted and when they hadn't complied with the Act. Are you aware that a landlord would only be subject to that provision in a case where there had been a deliberate breach and the landlord had taken rents or exacted rents from a tenant in circumstances where there was a strict prohibition because he hadn't served proper notice or something of that sort, and that with respect to situations where there had been an overpayment, the landlord is not obliged to pay the tenant any interest? I bring that to your attention because I think you would have a justifiable concern if it was a one way street, but it isn't. I just wanted to make the point that we were aware of that and we considered it when we drafted the legislation.

MR. L. ROSENBERG: If that is the case, I will have to study the Act closer.

MR. CHAIRMAN: Any further questions? Thank you very much, Mr. Rosenberg.

Mr. Doug Martindale. Your brief is just being passed out, Mr. Martindale.

MR. D. MARTINDALE: Mr. Chairperson, Committee members: I'm appearing today on behalf of Winnipeg Housing Concerns Group, Inc. We are a group of tenants and community workers who are concerned about the large number of people who live in substandard housing for which they pay outrageous rents. Our members either live in run-down premises or we can document from our involvement in the community the intolerable conditions imposed on tenants. I think the world that we see is quite a different one than we've been hearing from. We frequently find violations of City Health By-Laws such as plaster off the walls, lack of heat, leaking plumbing, etc. for which many tenants are paying the maximum allowable on Social Assistance or are vastly overpaying for what they get.

Many of the tenants with whom we work are in no position to help themselves. Often their first language is not English, they are not familiar with their legal rights and frequently have a multitude of other concerns which prevent them or inhibit them from tackling their landlord. Very frequently their solution is to move in order to find more suitable accommodation at a more modest price. The result is that schools such as William Whyte in the north end have a 57 percent turnover rate amongst pupils in a year. The schools know from their statistics that a child who moves three times in one year almost inevitably is doomed to fail. This is the social cost of overpriced and run-down housing. There is also a dollar cost to a high failure rate which is borne by the school board and ultimately by all taxpayers.

We regret that it is necessary to have lengthy regulations governing landlords. We know that they will be arguing before you for two days that they need a "fair return" on their investment, according to their definition of fair. It is our contention that softening the regulations and making a buck should not be the sole concern of landlords. We believe that they also have a moral obligation to provide decent affordable housing. It is likely, in our view, that if this was their goal they would still make a profit.

We are pleased, and we hold up as an exemplary model for all landlords, the urban housing renewal projects being carried out by the Mennonite Church in Winnipeg. We are aware that they are buying up old and deteriorating buildings, improving and repairing them but, importantly, keeping the same tenants, many of whom are on Social Assistance. In addition, they have renovated the basement of at least one apartment block and created a recreation area. We would like to see this fine example emulated by many other landlords.

The current method of supplying rental accommodation is the capitalist or for-profit system. Society relies on this to provide housing for the majority of persons who rent and the rest of the market is supplied by a combination of government-run or subsidized rental units. We doubt that the for-profit system can ever adequately meet the need for decent affordable housing. An alternative we commend, and a

goal this government should have in its housing policy, is to change all tenants into landlords and all renters into owners. The best way to accomplish this objective is through the non-profit co-operative or social housing. I'd like to emphasize this point. The government should assist co-op housing so that it becomes a major alternative in the housing market. The result would be that landlords in the private market would then have to charge rent based on the tenant's income or the quality of the accommodation rather than being able to gouge or charge what the market will bear. Only then can we meet people's social, physical and monetary needs and fulfill the prophet Zechariah's vision of a city in which true and sound justice is administered.

We have some specific recommendations on the legislation, only a few. Things that we have not commented on, we then agree with; we also agree in the basic thrust of this legislation.

Under Part 1, under Administration Section 3(1) Establishment of a Bureau, we recommend that either in the Act or in regulations, there needs to be an extension of Rent Bureau hours to include at least one evening so that it is easier for the public to do business with the bureau. Section 14, Officers not disqualified, we recommend a new subsection which would say that the panel should reflect a cross section of the community in which the hearing takes place or that the panel should have a balance of renters and owners.

Under Part 2, Rent Increases, Section 28(1), Payment of excessive rent in unresolved disputes, we foresee problems here for people on welfare, the near-poor and the unemployed. Rather than pay an increase in excess of 9 percent with a possibility of having the excess returned, many tenants would move out. We recommend that 28(1) be amended to allow for interim orders to either (a) have the tenant pay the 9 percent and delay any excess until after a final decision is made or (b) split the excess in half, with half payable when due to the director and the other half to be paid to the landlord if necessary after decision has been reached or (c) the tenant should be allowed to move out.

Under 28(2), Disbursement of monies, there's no mention of interest. Therefore, we recommend that excess rent paid to the director be deposited in an interest-bearing account, that interest be added when paid out to both tenants and landlords.

We realize the landlords need an incentive to make improvements. Repairs and renovations should result in higher rent but not in total decontrol.

We are concerned about the effects of landlords assuming a new mortgage. Does a new mortgage permit exemption from regulation under Bill 2? We are aware that landlords acquiring a new mortgage in Ontario found a loophole in the Ontario Legislation which thereby allowed rent increases higher than the guidelines. We do not want to see this happen in Manitoba and therefore, some provision to prevent this should be included in Bill 2.

I'm prepared to answer questions, provided you keep in mind I'm not a lawyer but a Minister.

MR. CHAIRMAN: Thank you, Mr. Martindale. Mr. Kostyra.

HON. E. KOSTYRA: Thank you, Mr. Chairman, just a couple of questions, Mr. Martindale, I'd like to thank you for the Brief on behalf of your organization.

As to your suggestion on Page 3, Section 28(1) with respect to the problems of having people who are on fixed incomes or unemployed paying the increased rent over the threshhold figure until such time as determination is made under the Act, you are suggesting that they pay the 9 and delay any excess. First of all, I think we would hope that once the Act is in place and is being administered that determinations would be made before the effective date. However, this provision was put in for the situation that will arise from time to time where that doesn't happen.

I'm wondering, you're suggesting there are problems for individuals who are on fixed or low incomes in paying the excess, and you're suggesting that if there is an increase over the 9, that they either pay it on a delayed basis or pay half the increase now and half later. It's a difficult area because it seems to me that precisely for the reasons that you're outlining, those people are in a difficult income situation and probably are budgeting most of whatever income or assistance they get on rent and other basic quantities. It would be much more difficult if there was a delay and they had to pay back considerable amounts of money because of a delay of three or four months. I'm wondering which situation is better because I see the same kind of problem arising out of attempting to pay back rents that are increased over a period of four, five or six months.

MR. D. MARTINDALE: Yes, the problem already exists and the way people cope with it is to move which we've indicated is not good. The other way people cope is to take rent money out of their food budget and so we see that this could be perpetuated under this bill as well.

HON. E. KOSTYRA: Yes, one further question. There was a suggestion earlier today with respect to having the costs of this program being borne by the tenants as some form of taxation. I wonder if you had any comments with respect to that suggestion.

MR. D. MARTINDALE: The costs of which program borne by the tenants?

HON. E. KOSTYRA: The Rent Control Program. That it is costing government money to implement this program, to have officers available to make these decisions and would suggest that it's only for the benefit of tenants that tenants should pay the costs of this program directly.

MR. D. MARTINDALE: I don't know where they would get the money to run it. It sounds impossible to me. A lot of the people that we're talking about don't even pay income taxes. There are other people who pay income tax that finance our government services.

MR. CHAIRMAN: Mr. Filmon.

MR. G. FILMON: Thank you, Mr. Chairman, I'd like to commend Mr. Martindale for his presentation. I think he's made some very reasonable suggestions which I

would hope the government will take consideration of. For instance, his suggestion of the evening hours for the Rent Bureau, I think makes a good deal of sense and as well, the suggestion that a panel should reflect a cross section of the community in which the hearing takes place or have a balance of renters and owners is another good suggestion.

As well, his suggestions to deal with payments of excess rent in unresolved cases may have some merit as well. They are fine presentations and fine recommendations. I wonder, in view of the constituency which Mr. Martindale represents, if he would indicate how he feels the positions of those people that he represents in his brief will be improved by Bill 2?

MR. D. MARTINDALE: Well, I think overall, it would. However, their lives are also influenced by many other things. For example, if rents go up by 10 or 12 percent, but the Social Assistance Allowance only goes up by 8 percent then they're in a bind. Fortunately, this year I understand the Social Assistance Allowance went up about 16 percent so they do have some protection there.

MR. G. FILMON: I guess the concern I have harks back to a comment I made earlier today about many people under this rather broad system of rough justice are going to be paying more than they might ordinarily have to under a free market, given the fact that they may be living in less desirable locations and in less desirable accommodation. He says in his brief, Mr. Chairman, that our members either live in run-down premises or we can document from our involvement in the community, the intolerable conditions imposed on tenants. We frequently find violations of City Health Bylaws, etc., etc., for which many tenants are paying the maximum allowable on Social Assistance or are vastly overpaying for what they get.

Well, this system which tags an automatic increase virtually on these tenants is going to ensure that they continue to pay more than they should by giving a government-approved increase every year.

MR. D. MARTINDALE: Do landlords have to automatically apply 9 percent or could they charge somewhat less than 9 percent?

MR. G. FILMON: Well, I ask you, Mr. Martindale, what's the likelihood of them charging less if the government is sanctioning the 9 percent for them?

MR. D. MARTINDALE: We're working on that too. We plan to go and see the Ministers responsible on matters of Social Assistance Allowances and also the Directors of the Social Assistance because one of the problems we perceive is that when someone on Social Assistance goes to find accommodation, they have a slip of white paper in their hand that tells the landlord or guarantees the landlord what their source of income is. We think this is open to all kinds of abuse. The landlord may not want people on Social Assistance, so they can discriminate right off the bat and not accept them as a tenant.

Secondly, they frequently charge the maximum that they know is available under Social Assistance. So, you may have people in similar units in the same building paying two different kinds of rent. Very often those people receiving Social Assistance are paying more because the landlord knows that is available. So, we would like to do something about that and in some other forum, we're going to raise those concerns.

MR. G. FILMON: I think that you have a good point and you ought well to raise those concerns, Mr. Martindale, because by giving a government-sanctioned increase, it's going to get worse, not better and, in fact, as the government has indicated, their response to that criticism is that, well the tenant can appeal an increase even though it's within the guidelines and, of course, your brief indicates why that won't happen and I quote, "Often their first language is not English; they are not familiar with their legal rights; and frequently they have a multitude of other concerns which prevent them or inhibit them from tackling their landlord." So indeed I think that you ought to add that to your concerns, that by having the government-sanctioned increase, you are going to have a greater problem to deal with for these people who need your assistance and all of our help in the matter.

MR. D. MARTINDALE: I know a little bit about how landlords set budgets. I'm also a landlord myself, in a sense, in that I live in co-op housing. My hunch would be that most landlords are already charging 10, 12 or more percent to keep up with inflation so 9 percent doesn't seem to be a government sanctioned increase. Probably they're getting more than that anyway.

Also, this government is providing assistance to renters through legal aid and increased services available in legal aid and so we plan to make use of that on behalf of tenants so that more and more tenants will insist on their legal rights.

MR. G. FILMON: Perhaps Mr. Martindale, you weren't aware of the fact that last year 50 percent of the tenants in Winnipeg received increases of 8 percent or less, most of whom were in the lower income area so you might want to assess that as part of your thinking.

MR. D. MARTINDALE: Based on a lot of the accommodation that I've seen, maybe the 8 percent wasn't justified either.

MR. G. FILMON: Right. I have no further questions, Mr. Chairman.

MR. CHAIRMAN: Mr. Manness.

MR. C. MANNESS: Thank you, Mr. Chairman. I'd like to ask, through you to Mr. Martindale, if he could give us some indication how he sees the government should help the non-profit co-operative housing approach.

MR. D. MARTINDALE: There are several ways. One thing that co-ops need is some start-up money to begin staff. Normally they begin with a resource group which then leads into a Board of Directors and so, quite often, the most difficult stage is getting one person hired for organizing. Traditionally, I guess the majority of money for co-ops has come from CMHC. However there's no reason why Manitoba Housing

and Renewal Corporation could not provide mortgage money for co-ops as well.

MR. C. MANNESS: Mr. Martindale, I would submit to you that the history of the successful co-op movement, in general, as I understand it and as I've seen it, not certainly from the beginning but in the last few years at least, as it's developed through the rural areas, has been a movement that, in fact, has not been supported by government but indeed has been supported through joint actions of individuals supporting themselves. Therefore, I would ask you again, why, if that's the approach you want to take and if you believe in that co-operative system which, in a sense, I say I can overall, indeed the people who want to be part of it are prepared to make their own self-contribution, why in effect can't that system work in housing?

MR. D. MARTINDALE: I agree with your assessment of rural based co-ops. My understanding would be that in cities that has not been the same case. Social housing has, for the most part, provided accommodation for low-income people in cities and they're the ones who are least able to raise the capital for mortgage money or to secure a mortgage and so they, of necessity I believe, need government assistance.

MR. C. MANNESS: Again, I'm not going to become involved in a long philosophical harangue here but I say to you that the history of the most successful co-ops has come from those individuals who, in fact, have been the most in need in the rural areas. That's been the history of them and of course the loyalty then is built up and in effect the pressures are able to be . . .

MR. CHAIRMAN: Order, please. I think we're discussing . . .

MR. C. MANNESS: No, I'm going specifically to a question, Mr. Chairman, if I could . . .

MR. CHAIRMAN: Well let's get with the question instead of philosophying.

MR. C. MANNESS: Fine, I'll obey your ruling. You say you, yourself, are a member of a co-op housing unit. In your view, is 9 percent fair? As somebody, no doubt, that has an opportunity to look at the budget of your particular co-operative unit, is 9 percent fair?

MR. D. MARTINDALE: Perhaps fortunately we're governed by different legislation. Our increase this year is 10.1 percent I think. However, we've included some great improvements that private landlords may not. For example, we're spending $30,000 painting 174 units. We also have a great many social benefits that no private landlord could offer, in my opinion.

MR. C. MANNESS: What was the return to your investment, if I may ask?

MR. D. MARTINDALE: It's non-profit. Our return is that we're paying about $100 a month less than the private market.

MR. CHAIRMAN: Thank you. Any other questions? Thank you Mr. Martindale.

Ms. Karen Warkentin. Mr. Rohringer.

MR. L. ROHRINGER: Mr. Chairman, I have some copies here for distribution if I may.

MR. CHAIRMAN: Yes, just one moment. Please proceed.

MR. L. ROHRINGER: Mr. Chairman, I would like to direct my comments to the Rent Regulations Act as a concerned citizen of Manitoba, basing my remarks on more than over 25 years of experience in the area of property management, besides having been a deputy rentalsman in the Province of British Columbia at the time when the NDP Government introduced a strong Landlord and Tenant Act together with rent controls.

It is because I have firsthand experience from, so to say, both sides of the fence in matters related to this bill that I'm here to contribute my thoughts in order to prevent pitfalls similar to those experienced elsewhere.

My suggestions are aimed at eliminating an administrative nightmare capable of producing a backlog of work with consequent loss of faith in the ability of the government to achieve the goal set by this bill.

During the years which I had served in the Office of the Rentalsman I was given the task, among other duties, to develop an information service for the tenants, both for those who came into the office and for those who made use of a toll-free call from any part of the province.

We had anywhere from four to eight officers to deal with those who came in, the so-called walk-in inquiries and a permanent staff of six to attend to the telephone calls. Myself, with other deputies, travelled across the province frequently to hold hearings and deal with cases as fast and as efficiently as possible. Despite the dedication of our staff the backlog lasted well into the second year of operation.

I would like to point out that this situation developed even though the law had a 9.6 percent threshhold for rent increases. consequently all complaints under this limit were refused outright.

The Act about to be introduced here in Manitoba does not use the suggested 9 percent limit as a threshhold, as I understand it, rather Section 20(1), clearly allows any, even frivolous, complaints to be heard and dealt with.

I must assume that the writers of this Bill have suspected the enormity of the workload for Section 21(3) enables the administering officer to convert any complaint to a class action, presumably hoping to eliminate any further complaints from the remaining tenants of the same project.

To use class action in settling disputes and rollback of rent in the name of efficiency will not necessarily achieve this aim but will predictably poison the relationship between tenant and landlord. There are better methods to stop the flood of requests since the government does not wish to hold out the 9 percent as a minimum threshold for rent increase. I will suggest such a method later in my presentation, but I would like to turn to another task first.

We must all assume that this Bill is designed to protect the tenant; to give the tenant a bargaining

power in the tightening market. Bill 2 consequently should secure a 12-month free period from rent increase regardless of a monthly or yearly tenancy agreement.

Section 16 of Bill 2, however, is placing a control on the unit, be it occupied or vacant. Given that the Bill is not guaranteeing a minimum threshold and given a very low vacancy rate of the market, it would be reasonable to the landlord, and helpful to the administration, to allow units which are voluntarily vacated to float on the free market.

If anyone is concerned that these units may not have been as voluntarily vacated as claimed, The Landlord and Tenant Act has the power already to control the situation, but if further control is desired the existing average vacancy rate for the area could serve as a guideline.

I would like now to address a broader question of what projects should be exempt from rent control. We are all concerned with the economic situation of the country and particularly how it affects Manitoba. The $50 million offer of the government toward stimulation of new construction is a clear indication of their concern.

Despite the generosity of this offer it will not be attractive unless the uncertainties and partial harshness of Bill 2 will be eliminated. People who have been following the trend in the rental home industry will be able to show that companies with offices in Manitoba, have been creating job opportunities for Manitobans but mainly in Ontario, Alberta and British Columbia. During the period of 1976 to 1981, one company alone placed close to 1,000 units on the local market here, while the same company placed close to 7,000 units in other parts of the country.

One of the most transcending weakness of this rent control legislation is the proposed almost total discretionary power given to administering officers by way of regulations. I submit that even the elected members of the Legislature had no opportunity to review the regulations, let alone the public or the investors who are asked to sink their savings into an industry traditionally known for its low return.

Governing by regulation provides for flexibility but it requires blind trust on the part of the legislators, tenants and investors. This is not a question of confidence directed against the officials that we know personally, but our investors confidence could be shaken by the fact that the five-year exemption promised to new construction is, by this Bill, reduced to four years or less.

I submit that it may have been a simple technical error - to be corrected - to indicate January 1, 1979, as a base for a four-year exemption. What about the projects first occupied in 1978? My intention here is to suggest a number of options for the Committee to consider, all of which would be easier and fairer to all parties concerned.

One alternative, of course, would be to exempt all new constructions after 1981 permanently. The next approach could be a five-year exemption for projects first occupied after January 1, 1976. One fair method to be seriously considered by the Committee would be the exemption of new constructions, instead of on a permanent basis, for a 10-year period extendable not longer than up to 15 years. This suggestion has been based on the Canada Mortgage and Housing Corporations ARP program which has a yearly diminishing formula of subsidies. CMHC could be asked to show their records to this Committee and it would show that, despite their urging of landlords to reach market level, the subsidy reduction had to be stopped and needed to be maintained at the level in most cases. In order for the Committee to appreciate the impact of the suggestion it should be noted that units in this category represent only 14 percent of the total rental market and that these units are still mostly in a negative cash flow despite the subsidy being maintained by the Federal Government.

On the other side, I would suggest that units built prior to 1975 had a lower unit construction cost and were supported by mortgages of 7 percent to 10 percent. These units have reached the $350 per month level by now, at least by and large, and are not likely to lose money if placed under rent control. This second group would represent close to 87 percent of the total rental housing market.

Finally I would like to suggest an alternative which could include all units, ARP subsidized or privately financed. This alternative would be probably the fairest to all concerned; the least difficult to justify to tenants. It is not only fast and simple, but also in line with the established accounting principles and would effectively deal with frivolous complaints as well. It would provide a permanent record which the government desires showing the economic fluctuation of the project. Landlords should have little to complain about additional paperwork as most property managers already use operating budgets for their own internal control.

To sum up what I'm suggesting is that after the initial five years of exemption, from the first occupancy of the project, the landlord could be submitting his operation cash-flow budget once a year for review.

The submission is to be dealt within six months prior to the fiscal year of the project as not all projects have their fiscal year coinciding with the calendar year. The six-month period could be divided as follows:

The first month would be for the landlord to prepare his cost estimates and calculate the required increases; the second month would be for the rent control officers to review the submission and approve the request based on the project as a whole; the third would give time to the landlord to prepare the individual notices to the tenant based on the overall percentage of the approved increase. The remaining three months are required by The Landlord and Tenant Act to notify the tenants in advance.

The rent increase is granted on the total need of the project, however, if the foreseen cost factor will not materialize during the fiscal year, the rent control officer should have the power of adjusting the next year's increase accordingly. A complete unit-by-unit table to the individual rents can be made available to the rent control officer so that when tenants' inquiries are received both the rationale for the increase and its specific effect is readily available.

My years of experience will tell me that this budget-based control, to be used after the first five years of clear exemption for new projects, is not only the simplest and most effective method, but would also

bring the provincial system in line with existing federal controls. If this suggestion is accepted and the rules of exemption are incorporated in the Act, the question of how to protect tenants' interest would be properly answered by my suggested control. At the same time, it would be an equitable way for the investors as well. The major concern of investors, namely, the uncertainty of a fair return of their investment in Manitoba, will be eliminated.

The system proposed will ensure a fair return to investors and at the same time will protect the tenants by closely monitoring the profit margin allowable. Under the present economic situation both of these conditions, I believe, are paramount for the government in office.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Rohringer. Any questions? Thank you again, Mr. Rohringer.

Mr. Art Werier.

MR. A. WERIER: I have no written submission. Many of the points that I did have to bring up have been brought up so I will not dwell on them. I also had a chance to meet with the Minister and Mr. Julius and brought up many points of a technical nature that they have undertaken to look at so I'll just dwell on certain points that have not been touched upon.

Mr. Rosenberg, and the previous speaker hit upon a lot of them. I'd just like to amplify on several one of which is the raising of the rents only once a year under Section 16. My problem, in particular, relates to many many longstanding tenants who've lived in blocks that are old for 20, 30, 40 years. We want to keep these rents at a low level, it's advantageous for obvious reasons. Good tenants, low maintenance, they look after themselves.

However, Mr. Penner brought up this morning that the Act is looking to protect bad landlords. Well, in the same way it should look to acknowledge good landlords and if, in fact, this section is not amended to allow the Act to apply to the tenant, as opposed to the premises, then you're going to get into more and more of a disparity in terms of rent; for example, we have tenants who are paying $350 a month, their neighbour across the hall pays $550.00. If we keep raising it 9 percent of 3 percent or whatever the disparity widens. We must look to have these suites freed from controls or brought up to market level when these longstanding tenants move. And if the Committee decides not to recommend that the one-year notice apply to tenants, as opposed to suites, we would suggest something like a one-time equalization. This can be done in several ways but one of the important things is that you, No. 1 have to have it on an ex parte basis. You cannot deal with the old tenant because surely they're not a party; you can't deal with the new tenant because they haven't moved in yet. The mechanics can be worked out but it should a one-time equalization basis where you can apply ex parte to have that rent brought up to what is deemed market level. One advantage of this, of course, is that if you raise new suites you can leave older suites in the block, where tenants have been living for many many years, at still a lower level.

With regard to the matter of voluntary vacating, I think this seems to be a thorn in the legislation whereby the government is very very concerned that gouging landlords, or villainous landlords, are going to kick people out through subterfuge and underhanded methods. Well, as has been stated, it's pretty difficult, it's pretty rare, 15.2 of the amendments to The Rent Stabilization Act, which provides a voluntary vacating form, can be incorporated in some way, shape or form and certainly will be adequate. The law must not assume that the landlord is always going to be the villain in instances such as this.

One of the other ways you can do it, in terms of mechanics - and I've been discussing this with some of the civil servants in the department - is sitting, when the Act comes into force, is setting a market value for all suites or grossly underpriced suites and, at such time as this longstanding tenant vacates, then you may bring it up to what is considered market level. In the meantime, you're giving the tenant a discount or gratuitous rent or whatever you want to call it.

Also, as a side issue, if these tenants of longstanding are only raised 2 percent, 3 percent, 0 percent, your disparity widens even more so comes the time when that suite is vacated you've got even more of a problem.

Regarding sub-leasing, a tenant has the right to sub-lease so that if you want to raise that rent to a new level come mid-year you may be precluded from it; let's say he wants to sub-let to an aunt or an uncle or a cousin. That's fine we're probably prepared to live with that but at the time of the sub-let the tenant should be advised or put on notice or given some form that, come the end of the 12 month period, that rent will be brought to a reasonable market level so that he really is not made a party, but certainly should be advised of that fact. That covers my point with regard to the one-time equalization should the Committee decide not to opt for amending that whole Section 16.

My next point relates to Section 20(1) where the tenant may apply to have the rent, which is set at 9 percent, reduced to a lesser figure. A point of technicality, it provides for one month. I would suggest that this be 14 days at a maximum because if you're dealing with June 30th leases you're not going to know until July 31st; it has to go to the director, the director may not advise you for another month; you've got one month left before your new leases come up. I would suggest further that a copy go to the landlord when this tenant makes an application. Landlords are assumed to know the law, similarly tenants should know the law, there should be some methodology by the Rent Regulation Bureau of advising tenants that if they're going to do that then the landlord must be served and served immediately or within that 14 day period.

Regarding the frivolity of this section, I think the government is very naive to think that there will not be frivolous applications and thousands of frivolous applications. We appreciate that this is in there for political purposes, it's a way to assuage tenants and show them that they have a right, it's done for other reasons, too, but it is not going to be worth the headache; this is guaranteed. There must be some expeditious procedure to allow a rent review officer to determine this summarily and, whether it's getting the landlord and tenant together in his office - this is one reason why the landlord should be served by the way -

so he can perhaps talk to the tenant and say hey, these are the facts, if you're satisfied let's forget it, but there must be some summary procedure with regard to that and streamlining of this procedure because the frivolous applications will bog the Board down for months, if not years.

On that point, Section 21(3) is very very arbitrary because it allows the expansion of this particular frivolous dispute, rather than its abridgment, and I would suggest generally 21(3) is very very arbitrary. There seems to be, and I could be mistaken, but there seems to be a great reliance being put on the new rent review officers, those who are there now, those who will be hired and a lot of the things in the Act are giving them discretion, feeling they will handle it in a very very efficacious way. However, there's no consistency in that because you may get one or two or three rent review officers who are doing their job and doing it expeditiously and quickly and then you may get others who had some bad experience at home or the wrong type of breakfast and are totally going in the other direction. So 21(3) is good if you have consistency in the people you're dealing with but, we all being human, that's not going to happen and it's a very very widespread arbitrary section.

Two more points, Section 12(5) a landlord or tenant may withdraw an application, an officer must consent. I know what this says but I'm not sure it says what it means because I don't know why, a consent. If you're getting at the formality, that's fine, but it doesn't read that way. If it's for some other reason, then I would be willing to listen to what that is because I can't figure it out.

The last point is - there are several others but I've discussed these already - the role of the Rentalsman. Now basically the Act doesn't refer to them at all, but under the original rent control legislation people called the Rentalsman because really that's the figurehead in the province, as opposed to the Tenancy Arbitration Bureau or the new bureau that'll be set up and they grossly, grossly misled people, and what I'm afraid of is this continuous misleading. For instance, if a tenant gets a 9 percent increase he'll call the Rentalsman and they'll say, well go ahead, put in an objection, maybe you'll get a 7.5 percent. I think the Rentalsman, and this is something that is going to be the Civil Service task, should really be very very highly apprised of their position vis-a-vis this Act which is really no position at all.

Those are my submissions. Do you have any questions?

MR. CHAIRMAN: Thank you, Mr. Werier.

Mr. Kostyra.

HON. E. KOSTYRA: Yes, thank you, Mr. Chairman. I also, through you, thank Mr. Werier for his presentation here today and also the opportunity of meeting with him previously to discuss some of his concerns with respect to Bill No. 2.

I just would like to comment on one section, Mr. Werier. You made mention of the situation of equalizing rents and you made some suggestions. I would just point out for your information, under Section 22(2) of the proposed Act, there is provision for equalization of rent within a given complex. So it seems to me, and I'd ask you whether or not that Section would cover your concerns with respect to equalization of rent?

MR. A. WERIER: No, not at all, because it does not provide for the ex parte procedure that I'm referring to. As I understand 22(2), it really is looking at the overall picture and providing that you can raise one person 9 and another 3 and perhaps another 12 and if the average equals 9, that's fine, but it doesn't cover my concern of the one-shot deal, so to speak, which is an ex parte application and really does not involve either the old tenant or the new tenant.

HON. E. KOSTYRA: Well, I don't quite understand, why wouldn't this section allow you, given the example that you were citing where a landlord may be having one tenant - I think the example you used was an elderly person that's lived there for a number of years and is paying a rent level that's considerably lower than other tenants in the same complex with the same type of rental accommodation. Your concern was that, given that person may leave, that you would like to raise that rent up to the comparable rent of the other properties. It seems to me that in setting your overall rent levels for all of your units in that complex that it would give you the necessary return that's needed to cover operating costs, rate of return, etc., so that the overall equalization would be an answer to your concern about getting that rent onto par because, obviously, you need an overall increase of X-percent in order to meet the operating costs and the economic adjustment and if it's equalized throughout all the suites you would still get the same net return.

MR. A. WERIER: Either I'm reading the section wrong or you're missing my point.

22(2) you said? Okay that refers to dealing with two or more suites. Okay? That may never happen. You're basically dealing with an isolated instance. You may have only one old longstanding tenant move out in a 10-year period or 15-year period; it's not an ongoing thing. And if you have one every three or four years, you're going to have to go through the procedure every three or four years. This equalization is not the one that I'm referring to. This also involves, perhaps, the class action referred to before; this involves serving the tenant, either the old or the new whomever it might be, and I'm trying to get away from this. This is exactly what I'm trying to avoid is the overall building being taken into consideration for an equalization. Yes, you must look at other suites in the building as comparison or other suites down the block, but I'm looking to have this suite viewed solely on its own, using guide lines of other suites, there or elsewhere, but not to be thrown into a hodge-podge of the whole building for consideration. Unless I'm misinterpreting this, if so, please correct me, but . . .

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: I see your point, Mr. Werier, but I'm just wondering why the problem to which you refer can't be dealt with in the normal course by the landlord, in the particular case giving a notice of an application to raise the rent of the tenants in place. You

simply say that you don't want to do that.

MR. A. WERIER: There is no tenant. This is where a tenant who's been there many years passes away, absconds, abandons; there can be a variety of reasons. This, in fact, is a suite without a tenant. Now 22(2) applies to a suite with a tenant, a new one or an old one, and that's what I'm referring to. If an older tenant is moving out then the suite should be looked at ex parte without any reference to serving notices on the tenants, whether it be the new or the old. This is the amendment I'm looking for.

HON. R. PENNER: Is there - I may have missed it and I have no hesitation in raising the question - no provision. You're saying there is no provision in the Act for a landlord when he has a vacant suite to make an application to raise the rent for that suite?

MR. A. WERIER: He's specifically excluded.

MR. R. PENNER: All right, but now a tenant moves in, right?

MR. A. WERIER: He can make an application to raise the rent over the - first, he can only do it once a year, then it must be within the prescribed guidelines of let's say 9 percent —(Interjection)— or over. Okay. I'm saying these are separate animals, so to speak, okay? They don't come within the ambit of the normal application because you're really - I'm suggesting that it be treated differently and that it be a suite which is - all right one of the points is, whom do you serve? I'm suggesting you don't serve anybody. Under this Section, you must serve either the old tenant or the new tenant and I'm saying that when it comes to this particular type of animal, you're really not dealing with the old or the new. They should have no input.

HON. R. PENNER: One supplementary. As I understood the scenario, you have dear old Harry who's been in the apartment for many years and the landlord has been kind to dear old Harry and has left the rent at a much lower than an economic rent or lower than rents in surrounding suites. Dear old Harry, as must come to all mortals, shuffles off this mortal coil and the landlord has an empty suite. He has not applied for a rent increase because it's dear old Harry and a new tenant moves in, to whom he owes no moral obligation or sense of community, and the landlord says, properly, now I'm going to get my economic rent. Can he not apply for a rent increase to bring it up?

MR. A. WERIER: For one thing, it has to be done two months ahead.

HON. R. PENNER: Well, yes, it takes time.

MR. A. WERIER: What if it's a one-week thing? What if somebody passes away and all of a sudden the suite is vacated. It really is a separate animal. I don't know how much clearer I can be on the subject.

HON. R. PENNER: Well, you want to give time for the ghost of dear old Harry to get out of that apartment.

MR. A. WERIER: Well, there are very speedy ghosts. Casper was very speedy in the cartoons we used to watch.

HON. R. PENNER: Okay.

MR. CHAIRMAN: Any other questions? Mr. Filmon.

MR. A. WERIER: You're dealing with two months which is another problem too because it could be a two or three day situation and bango.

HON. R. PENNER: It's not that it can't be done. If it were done, t'were better to have done quickly.

MR. A. WERIER: Separately. To be or not to be, that is the question.

MR. CHAIRMAN: I'm going to ask the Committee members to speak to the Chair so that we can identify who's speaking. I understand we're having a bit of trouble with taping because I haven't been identifying everyone who's speaking.
Mr. Filmon.

MR. G. FILMON: Mr. Chairman, I think I was the first one who was going to speak to the Chair. I don't know why you single me out.

MR. CHAIRMAN: Well it wasn't directed at you alone.

MR. G. FILMON: I see. Maybe we could help Mr. Werier and Mr. Penner get together on this by asking if, in his view, the reference to allowing a suite to rise to market was allowing it to rise to the level of all of the rest of the suites in that block or complex or allowing it to just float free. Is that what his intention was in referring to allowing a suite to rise to market when it became vacant, other than at the normal time, or at any time?

MR. CHAIRMAN: Mr. Werier.

MR. A. WERIER: I don't really care how you define "market." We're not looking to raise it over and above whatever market is. We're just saying that that suite should be treated as a separate entity and that the old or the new tenants should not be made parties to it. I don't care which way it goes. A market can be established by the Board and we'll be happy with that.

MR. CHAIRMAN: Mr. Filmon.

MR. G. FILMON: Well I'd like to clarify that because, in fact, I believe the two earlier speakers, Mr. Rosenberg and Mr. Rohringer were referring to allowing suites that became vacant to rise to market and my assumption was that they felt that market was greater then that which existed within that block at the present time. So are you saying that you just are comtemplating a situation in which one or a few suites are below what you are charging in that block and you're not wanting it to go above that level?

MR. A. WERIER: Yes, I'm looking at market as the suites in that particular building.

MR. G. FILMON: Sorry, I wasn't clear on that.

MR. A. WERIER: I think I prefaced it by saying we have some suites that are renting for 350 and others for 550 and that's really what I'm referring to.

MR. G. FILMON: Are you saying that you have in one particular apartment block, some suites that are renting at 350 and some at 550?

MR. A. WERIER: That's what I'm saying.

MR. G. FILMON: And they're the same suites?

MR. A. WERIER: That's right and the disparity is going to be worse when we're dealing with a fixed percentage unless we apply, of course, . . .

MR. G. FILMON: If I may through you, Mr. Chairman, ask Mr. Werier, how he interprets the opportunity which exists in this Act for the rent regulation review officer or I should say, the Appeal Committee, to apply a decision on one unit across the board to all of them in an effort to equalize the rents, and the Minister referred to that equalization provision elsewhere, how would he then interpret the resolution of his 350 and 550?

MR. A. WERIER: I understand Section 22(2) to state that (b) by an equal dollar amount or by any amounts which equalize the rent payable for similar. My understanding that this gives a discretionary power to the officer to, in fact, allow me $200 on one suite and nothing on another. That's my understanding of the legislation, which may be fine but it's certainly inconsistent if you get officers deciding differently.

MR. G. FILMON: Mr. Chairman, I too, see that possibility and I'm wondering if he sees the possibility of them giving him $50 on one suite and minus $150 on another to equalize.

MR. A. WERIER: Yes, that is a possibility. Generally though, there's the spirit of the law, the letter of the law. We're not going to ask for $200 on a suite where somebody's been living, so the likelihood of the disparity happening in the normal course is unlikely. This is why the exception is very, very important. You're dealing with the time factor, for one thing; two months as opposed to a week and you're dealing with a vacated suite with neither an old or a new tenant and there must be a distinction in these cases. Yes, maybe there are thousands out there that don't have these exceptions but I'm here because I'm dealing with my particular buildings.

MR. G. FILMON: I'm pleased to hear that Mr. Werier wouldn't be looking to raise them by $200 but would he also be as receptive to being asked to reduce one of his suites for which he had a pre-existing right to charge 550, down to 400, while he raises the others from 350 to 400 so that they become equalized.

MR. A. WERIER: I'm prepared to go that route because I can't see if happening. If we're above market, we don't rent regardless of how you define market.

MR. CHAIRMAN: Are there any further questions? Thank you, Mr. Werier.

Mr. A. Sekundiak.

Mr. Arnie Thorsteinson.

MR. A. THORSTEINSON: Thank you very much, Mr. Chairman. I have a few brief remarks and I don't have anything to table with the Committee.

I'd like to speak to the Committee and make my views felt on the Rent Control Legislation, particularly as it affects new investment in Manitoba in rental apartment accommodation.

I'm a financial analyst and accountant by profession. For the past 15 years, I've been involved in finance in Canada with particular emphasis on real estate. My experience relates to the flow and allocation of the scarce resource of capital. My current employer, Shelter Corporation of Canada, is the largest syndicator of apartment projects in Canada. Over the past six years, we've been involved in the development and construction and finance of 75 projects located from Vancouver to Halifax. We've also constructed 10 projects in the United States and continue to do that.

I spend most of my day analysing alternative investment opportunities in rental housing. Contrary to popular belief, the buildings that our company and companies like ours constructed between 1975 and 1979 are not owned by large companies. All are owned by individual Canadians with average equity investments of about $20,000.00. The 1,000 units that we constructed in Manitoba are owned by 500 individuals. These individual Canadians, and mostly Manitobans in the case of our buildings in this province, together with the mortgage lenders who provide the debt capital, have alternative investment opportunities. The investment opportunities involve other provinces, other countries, other types of real estate investment and, of course, other investments per se.

I think it's a well-known fact that, in Canada, institutional investors have withdrawn from equity investment in new rental apartments. It's considered at the bottom of the list. It's for this reason that I'm concerned that the exemption provisions that are currently proposed in Bill 2 are totally inappropriate and will drive badly needed investment capital, both equity and debt, away from investing in new apartments in Manitoba.

All provinces except Quebec, and most US jurisdictions, give a permanent exemption to new apartment construction in the relevant legislation. It's just common sense. New buildings represent a very small proportion of the total rentable housing stock and do not interfere with the overall objective of the Rent Control Legislation. In Manitoba, for instance, all new construction since 1975 accounts for somewhere around 10 percent of the rental housing stock. I'm referring to privately initiated new construction. Moreover, 90 percent of these new units that were privately initiated and built in Manitoba, have rent or profit controls imposed by Canada Mortgage and Housing Corporation, under the Federal Government's Limited Dividend Program or ARP Program. Consequently, exempting all new construction since 1975 from provisions of the bill will still leave 99 percent of the stock under some sort of control. Not only does this save the

Provincial Government and eventually the tenants, who must pay the landlord's cost of complying with the Act, from unnecessary duplication of regulation and expense, but it also leaves Manitoba competitive with the other provinces in attracting new investment for apartment construction.

It is very difficult to persuade investors to invest in a new project in Manitoba when they can turn to all of the other provinces except Quebec and see a permanent exemption on new construction. Even in Quebec they have the benefit of a five-year exemption. I strongly urge you to consider a permanent exemption for new construction since 1975, or at least for a 10 or 15-year period.

The Minister of Consumer and Corporate Affairs has stated that four years of exemption is, in his opinion, sufficient for achieving stabilized operation of a new rental housing project. I respectfully submit that his information is erroneous. The great majority of new apartment buildings built in Manitoba in the past five or six years are still operating with negative cash flows, even with the benefit of Federal Government subsidies. Officials of Canada Mortgage and Housing Corporation have confirmed this fact to the Government of Manitoba and its advisors. New construction costs and mortgage rates are such today that financial pro formas indicate three or four years of negative cash flows in a new apartment. A further three or four years of operation is required to recoup the initial years losses. Consequently profitable or break even operation does not occur until year eight.

The current legislation is particularly harmful in its provision of only a four-year exemption for projects first occupied after January 1, 1979. The previous 1976 Rent Stabilization Act provided for a five-year exemption from first occupancy. Many investors - and some of them have called me since the Act was given first reading in the Legislature - invested in 1977 in new construction based on the provisions of the previous Act. They, therefore, assumed that when they made their investment in 1977 that they would be looking at a five-year exemption from occupancy, in other words, for the period 1978 through 1983. Now these individuals, and also the mortgage companies, are finding the new proposed legislation has really only provided them with a three-year exemption, that is, 1978 through 1981. Because these properties are generally showing negative cash flows and face mortgage renewals in 1983 at the maturity of the initial five year term the owners and lenders are upset and angry. They consider the Government of Manitoba is reneging on the previous exemption, in their opinion. At the very least, the proposed bill should exempt properties occupied after January 1, 1978 for a period of five years.

These are my two recommended amendments that I would request the Committee to consider:

No. 1 - exempt all new construction after 1981 permanently or for at least 10 or 15 years, we can get into the semantics of what's permanent;

No. 2 - to be consistent with the previous Act exempt buildings occupied after January 1, 1978 for five years.

Manitoba's economy in the construction industry desperately needs to attract capital this year for new construction. The citizens of Manitoba need and deserve an adequate supply of rental housing in 1983 and beyond. Based on our experience in financing new rental housing construction I assure you that the exemption provisions, if they are non-competitive with other jurisdictions, will have a serious affect on the ability to provide the jobs and the housing required in Manitoba.

In closing the Association of which we belong, the Manitoba Homebuilders Association, ask me to point out two questions that have been commonly asked and possibly not satisfactorily answered for the members of this Committee. The first question was why, in a period of no rent controls, between the years 1979 and 1981, was there no privately initiated construction in Manitoba? The answer to that question is very simple. 90 percent of rental housing construction that is privately initiated requires CMHC insured or direct mortgage financing. Commencing in September 1979 CMHC has not provided any undertakings to insure - Winnipeg was a red light area and they would not provide any undertakings to insure - and that has only changed three years later. They are now, under their new CRISP program, calling for submissions and will insure loans, but that's the reason. The reason they put Winnipeg on a red light situation was that rents were too low, vacancy was high and the incomes that were available would not justify them insuring mortgage loans for rental housing.

The second question is also asked that during a period that there were rent controls, 1976 to 1978, Manitoba enjoyed a relatively high rate of new construction. The answer to that question is that there were very generous Federal Government subsidies available, both direct and indirect. The funding for the provincial housing corporations was extremely generous during that period of time. The subsidies under the ARP program and the Limited Dividend Program were extremely generous, and the most generous of all was the income tax incentives provided under The Income Tax Act to attract new investment to housing. Combined with that you had interest rates of 10.5 percent compared to 19 percent so that's why new housing construction was buoyant in that period. But remember it was buoyant because the investors did have a five-year exemption under easier conditions.

There also seems to be some misconception over the ARP program. The ARP program was initially set up to provide gradually decreasing subsidies over a period fo ten years. Typical ARP project in Manitoba was financed with a $75 per unit per month subsidy and it was designed that that subsidy would decline by 10 percent a year over a 10-year period, so we go down to $67.50 in the second year and so on until it was zero in the tenth year; then you would start repaying it with interest at the CMHC going rate which today is 18.25 percent.

The maximum amount available under that plan was $4,125 a unit, that's what it adds up to going down by 10 percent a year. What has, in fact, happened is those subsidies have not been reduced. In most cases they've been maintained at the initial level for four or five years and those subsidies are coming to an end at the end of the sixth year because the landlord has drawn down the full $4,125 per unit. So these projects will face serious deficits at a time that they're facing mortgage renewal.

Mr. Chairman, I hope those comments will prove of some assistance to your Committee.

MR. CHAIRMAN: Thank you, Mr. Thorsteinson. Any questions? Thank you, again.

To the Committee members, maybe this would be an appropriate time for the Committee to rise. Before the Committee rises, Mr. Nozick will be the first one up tomorrow morning. The Committee meets again at 10:00 a.m. There is a brief which is of some length which the members will be able to peruse overnight or some time between now and 10.

Committee rise.

MR. G. FILMON: Mr. Chairman, I was just going to ask if you're going to recall the names of those who weren't here tonight in case they could only be here in the morning.

MR. CHAIRMAN: Mr. Filmon, my intention was that those who were absent were placed at the bottom of the list and as we come to them we'll call them again. Committee will sit tomorrow at 10:00 o'clock and, if necessary, again tomorrow at 8:00 o'clock.

Committee rise.