

Law Amendments Committee

Nova Scotia Legislature

Bill 85, 1<sup>st</sup> Session, 63<sup>rd</sup> General Assembly

Written Comments

John Whalley

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I realize that the proposed amendments to the Municipal Government Act (MGA) are intended to promote the public interest within the Cape Breton Regional Municipality (CBRM) but my concern is that the amendments act to remove critical protection that exists within the Act and thereby undermine the public interest.

In some respects, this proposal is not unlike the residential assessment cap, which was an amendment to municipal law intended to assist homeowners experiencing rapid increases in assessment. With the very best of intentions, a change was implemented that has over time resulted in far worse inefficiency and inequity within the property tax system and has contaminated the property tax system to the point where it is likely beyond redemption.

Nova Scotia has the great fortune of having three deep-water ports, with water depths in each of the main channels in excess of 50 feet. Nova Scotia, as a consequence, stands apart from any other jurisdiction in North America in terms of being able to accommodate ultra-large container vessels. This is an extremely important and strategic economic advantage as over 90% of world trade is moved by container vessels, and increasingly ultra-large vessels.

An important role for the Government of Nova Scotia would be to enable these ports to grow and develop without in any way providing an undue advantage for one port over the others. Connecting the ports with high-speed road and rail infrastructure would make our transportation system a model for the world.

Unfortunately, the proposed amendments potentially over a period of four generations (99 years) give the Port of Sydney unprecedented advantage. This seems particularly unfair and, as a result, potentially causes divisions within the province. Of equal importance, the provision of very significant incentives may well be interpreted by our international trading partners (particularly the United States) as providing unfair economic advantage.

The CBRM has proceeded with port development in an unusual manner. The municipality has unlike most jurisdictions not proceeded with any form of a competitive process that would help define the

options available for the development of the industrial/port lands owned by the CBRM. There has been no call for proposals or call for qualifications.

Rather, CBRM signed an exclusivity agreement with a promoter/independent contractor with no previous port development experience in the summer of 2015. The initial two-year term was extended in December, 2016 by an additional five years.

The very nature of this approach excludes both the elected representatives of CBRM and the public from knowing what options might be available and what international port development companies might be interested in developing the CBRM-owned properties.

CBRM's approach effectively signs over to the promoter/contractor the majority of benefits that would normally flow to CBRM as landowner. The fact that the promoter now wants to extend these benefits by seeking lower land prices, an unreasonably long term for the lease, and tax concessions is not a surprise. These all enrich his/their position.

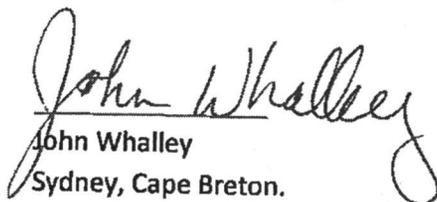
The conditions that have been proposed within the amendments (two-thirds majority vote and a public hearing) really offer no significant protection for the public interest whatsoever because, without the requirement for a competitive process, there are no options.

With these amendments to the Municipal Government Act, the Government of Nova Scotia is facilitating the provision of large scale subsidies to private firms at the expense of the public. It embeds an approach to local economic development that the current MGA has for so long defended.

If the Government of Nova Scotia is committed to implementing the proposed amendments, I believe it would be reasonable to require the CBRM to conduct a competitive call for proposals over a period of no less than 120 days regarding the development of the industrial/port properties. This would help to ensure that the public interest was being protected and would prove that the CBRM was truly getting the best offer available for the properties.

Furthermore, if such a process was agreed upon, it should be under the direction of the Minister of Business and the Minister of Municipal Affairs; thereby removing CBRM's bias in favour of their promoter.

All of which is respectfully submitted,

  
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