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on
STATUTORY REGULATIONS
and
ORDERS

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Chairman
Mr. Peter Fox
Constituency of Concordia

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Second Legislature

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

Time — 10.00 a.m.

MS C. DePAPE: Committee come to order. The first order of business of the Committee is to elect a Chairman. Do I have any nominations?

HON. R. PENNER: Yes, I would like to nominate the Member for Concordia, Peter Fox to Chair this Committee.

MS DePAPE: Are there any further nominations? Seeing none, Mr. Fox, would you please take the Chair?

BILL 2 - THE RESIDENTIAL RENT REGULATION ACT

MR. CHAIRMAN, P. Fox: The first item is the setting of a quorum for this Committee. Make it half and one, it's usually six. Is that agreed? (Agreed)

In that case we may proceed. I think what we'll do is we have a list of citizens who wish to make representation on Bill No. 2. We shall take Bill No. 2 first. Is there any particular disposition in respect to the representation to take them in order or are there some people from out of the city who may wish to go first? Does the Committee have any preference?

The Honourable Roland Penner.

HON. R. PENNER: In the absence of any specific requests for persons to be heard out of sequence, in which case we could certainly consider it, I would suggest we simply call down in order, those who are here, as called, will be heard in that sequence.

MR. CHAIRMAN: Does the Committee wish me to read names to see if they're all here or shall we just proceed and let them come forward as called? Is that okay?

The first name on the list is Jack McJannet from the Manitoba Homebuilders Association.

Mr. McJannet.

MR. J. McJANNET: Thank you, Mr. Chairman. On your agenda, Mr. Ayre, the Executive Director, is shown as appearing on behalf of the association. Mr. Ayre is here with me to assist on any questions, also Mr. Guy Hobman, President of Greentree Homes Limited is with me. Mr. Martin Bergen is here from Marlborough Developments and he's also making a presentation at a later date. Mr. Brian Hastings, the General Manager of Qualico Developments Limited, Albert DeFehr of Belleville Homes Limited and he is the President of that company.

I make this presentation on behalf of the Manitoba Homebuilders Association which, through its membership in Manitoba alone, owns and/or manages some 21,000 rental units in the Province of Manitoba.

I would like to deal with the Act over an extended period of time, Mr. Chairman. I do have copies of the presentation to be made to you and I would be pleased to have copies circulated at this time or after the presentation, whatever may be your wish.

MR. CHAIRMAN: We'll ask the Clerk to distribute your copies, Mr. McJannet.

MR. McJANNET: Thank you.

MR. CHAIRMAN: Just one question Mr. McJannet, before we start, you indicated Martin Bergen was also associated with you but we also have him down on the list as wishing to make representation; will he make a separate representation or is it the same one?

MR. J. McJANNET: I do not believe it's the same one. I'm making this representation on behalf of the Association of which Mr. Bergen's company is a member and to that extent I mentioned his name and the fact that he is here present and that he may be able to assist in answering any questions at the end of the presentation, should that be your wish, as well as those others who are with me who, being experts in the field, would be able to also answer questions that I may not be able to field at the appropriate moment.

MR. CHAIRMAN: Proceed, Mr. Kovnats.

MR. A. KOVNATS: Mr. Chairman, would there be any time limit on the presentations and would the people making the presentations be advised that there might be some questions to be asked of them later, which they can answer or not answer if they so desire.

MR. CHAIRMAN: Well, I'm really in the hands of the Committee in respect to time, but in respect to questions and answers that has always been a practice of most Committees so I would imagine that anyone who has made a representation before would know that questions are asked, but I will mention it out loud to everyone concerned that there will be time for questions after the brief.

MR. A KOVNATS: Thank you.

MR. CHAIRMAN: Proceed, Mr. McJannet.

MR. J. McJANNET: Thank you, Mr. Chairman, I want to deal at length with the various sections in the Bill specifically starting with Section 2 which states that "The controls will not apply for a period of four years after the date of issue of the first occupancy permit in respect thereof to new residential premises in respect to which the first occupancy permit was or is issued on or after January 1, 1979."

You may recall that:

(a) The Rent Stabilization Act, prior to its repeal, allowed for exemptions: (i) for a period of five years from the beginning of the tenancies to tenancies of new residential premises that are (ii) under construction or not occupied on January 1, 1976 or (iii) constructed after that date.

(b) We are concerned that the effective result of the proposed change is that builders undertaking construction after January 1, 1976 were assured that residential premises would be exempt from control for a period of five years from the date of tenancy, that is,

normally to December 31st, and for other premises constructed on January 1, 1976 for a period of five years. Builders, of course, were assured that any buildings constructed as of January 1, 1976, for example, would be exempt for a period of five years from the date of first tenancy; subject, of course, to the present conditions in the Landlord and Tenant Act dealing with the question of arbitration.

Effectively, our position is that the Bill changes the rules in midstream somewhat so that those residential premises constructed after January 1, 1976 no longer are entitled to rely upon the five-year exemption from rent regulations.

It is the view of the Association that continuity in the construction industry, for those involved in construction of residential premises, should be maintained such that the effective date in the new Bill should be January 1, 1976 as in the repealed Rent Stabilization Act; and buildings after January 1, 1976 should be permanently exempted from controls. In our view, it is not sufficient that a five-year limitation or a four-year limitation, as proposed, should be the criteria upon which exemptions should apply to new construction.

Alternatively, and if this Bill does not exempt all construction on a permanent basis, it is the view of the Association that all residential rental premises constructed from and after January 1, 1976, to and including January 1, 1979, should be entitled to a 15-year exemption running from the date of first tenancy and that any and all premises constructed after January 1, 1979, should be entitled to the same exemption.

If you consider the facts, the Canada Mortgage and Housing Corporation in reviewing their Assisted Rental Program commonly known to all of us as ARP in 1976 and based upon their understanding and knowledge of residential rental premises market in Manitoba and throughout Canada, recognized that builders yet needed assistance for the first 10 years from date of first occupancy and for a possible further five years thereafter.

As evidence of this situation we refer to the information prepared and circulated by Canada Mortgage and Housing Corporation at the time it instituted changes in the ARP program. As well, there is now consideration granted by CMHC to exceed that term for a further five years. In our view, there is ample evidence of the fact that Canada's own major lending institution recognizes the need for an extended period of time to allow the builder to move into a break-even position.

As stated by Morguard Trust Company in its publication, "Canadian Mortgage Market Review" of May, 1977: "The purpose of this program was to encourage construction of new rental housing that would otherwise not be built because of the gap between the cost to construct and operate the project and market rents . . ."

"This assistance loan is received interest-free for the greater of 10 years or the period of disbursement, up to 15 years, after which time it is repayable at rates established by CMHC."

Graphs prepared by CMHC in 1976, which is the time at which they introduced the revised ARP Program, a copy of which is attached, clearly indicated that this owner could not expect any operating profit for at least the first nine years of operation and anticipated extensions of the interest-free loan for repayment upwards of 15 years.

This situation has not improved. Practice since that time has more than proven that CMHC was correct. In fact, many ARP's are being adjusted and not reduced annually because of the continuing gap between operating costs and market rents.

Private sector investment was attracted to new rental housing in the late 1970's on the promise of the Legislature that such residential premises would be exempt from rent control provision for a period of five years. According to our records and our information, all provinces except Quebec have maintained a permanent exemption to such construction. We understand Quebec has a five-year exemption on new residential premises construction.

It must be remembered that virtually all new private initiated rental housing construction in Manitoba and, indeed, in Canada between 1975 and 1981, relied on private sector investment. It is the forecast of the Association that the loss of personal exemption for new residential premises will result in a drastic reduction in starts of residential rental programs in the Province of Manitoba. Alternative development opportunities outside of the province that provide permanent exemption from rent controls are certainly more favourable and one need only consider the extent to which Manitoba builders and developers have participated in other residential markets such as Ontario and Alberta, to see that the climate in such provinces is more favourable to builders and developers.

In these difficult economic times raising mortgage funds is not an easy task. You will understand the reluctance of mortgage lenders and, indeed, equity investors refusing to lend or invest funds for new residential premises where automatically those premises become subject to rent controls within four years of the construction start.

Consider the fact that it is common in all residential rental premises construction for the builders and developers to suffer a substantial negative cash flow in the first few years of operation once they are available for accupancy. This can be seen by the program set out by ARP. The builders and developers, if they proceed at all, must see the opportunity of recovering those losses once the building is fully leased and available for occupancy. The possibilities of recovering such losses will be seriously impeded if rent controls fall into effect on such residential premises at the end of the fourth year and in the Association's view will simply destroy any possibility of future development in Manitoba.

The success of the Core Area Development Program in Winnipeg, sponsored by all levels of government, and which, we understand and anticipate at least construction of 400 rental units will suffer substantially as a result, in our opinion.

Section 2 goes on also to deal with the particular programs sponsored by the Federal Government. Under the old Rent Stabilization Act it was stated that control would not apply to tenancies of residential premises owned by non-profit corporations or operated under an agreement made under The National Housing Act between the owner and CMHC, under which the profits made by the owner from the operation of the residential premises are limited, where the

ent payable therefore is, by reason of an agreement between CMHC and the Landlord, fixed by or subject to the approval of CMHC.

Notwithstanding that rent control exempted new residential rental premises from and after January 1, 1976 to 1980, this was not enough alone to encourage private investment in residential premises in Manitoba or, indeed, throughout Canada. It fell upon the Federal Government to create and revise government-assisted programs such as the Limited Dividend and ARP programs.

As you may be aware, the first ARP program was instituted in 1975; we call it the first phase and it operated to the end of 1976. Under the first ARP program the government granted funds to owners of residential rental premises, that is, they were grants that were not repayable at any time. But one of its conditions was that it limited the owner in (a) increasing rents more than an amount equal to increased operating costs in a particular year, and the details of those costs were set out in the agreements at the time they were executed; and (b) they limited the owner to a return on investments of 10 percent. At the end of 1976 CMHC introduced a revised ARP program to start in 1977. In that program, interest-free loans were made to builders of new residential premises. Payments were made on a monthly basis commencing normally at $100.00 per month in the first year and reducing approximately 10 percent in each year thereafter over the total period of 10 years.

Remember, grants had disappeared and interest-free loans were made in their place. The net effect was that the owner of the residential rental premises was being provided with additional mortgage financing under this revised ARP program, secured by a mortgage on his premises that is secured by a second mortgage. After the period of 10 years the mortgage was to be repaid at an agreed rate or at the then existing interest rates in effect at the time.

Again, CMHC recognized the fact that without these programs residential rental premises construction would be at a standstill. Builders and developers without these programs and sometimes with these programs have still not yet been able to make a profit on their time, effort and investment in participating in the residential construction market in Canada.

Again, the ARP Program, Phase II as we call it, recognized those possibilities such that, at the appropriate time, the owner of the premises may apply for an extension of the repayment date under the ARP mortage for a further period of five years. Thus the ART Program, the interest-free loans necessitated and recognized by CMHC, then may extend over a period of 15 years. In our view, this is ample evidence of the financial plight existing today in the residential rental premises construction market.

We, therefore, submit that rent controls on residential rental premises constructed in 1975 and 1976 are not required. The controls were already in existence imposed by Canada Mortgage and Housing Corporation. Effectively, builders and developers are limited to rental revenue and/or profit and in our view, such controls obviate the necessity for additional controls to be imposed upon the industry under provincial legislation.

We propose that the Bill should recognize this situation and totally exempt such buildings built in 1975 and 1976 and exempt all buildings thereafter for a period of 15 years. We do not, of course, know what the regulations may contain dealing with those matters to be considered by the Rent Regulation Officer or a panel in approving rental increases. We do know, however, that tenant's interest costs must be considered in the calculation of rent for any residential rental premises. We urge this government to keep in mind that interest costs are substantially increased for the past few years and as our program regulations become effective, repayment of those funds at then prevailing interest rates will be required.

Under Section 2(2)(B) of the proposed Act, is authority for a panel to be established to exempt a building or part of a building for such period as the panel may determine where the panel has approved the rehabilitation of a building or part of the building.

However, please note that under Section 33, a landlord must first apply to a panel for approval of the repair, renovation and refurbishing of his building and such application must be made at least one month prior to commencement of such repairs; I'll deal with that later on in my presentation.

Assuming, however, that the panel approves the refurbishing of the building, the landlord, after completion is still required to apply to the panel for an exemption under this section. There would appear to be no assurance that such exemption would be forthcoming. It is the position of this Association that the order for exemption should accompany and be determined at the same time as a request for approval for the rehabilitation granted by the panel under Section 33. That is, the approval of the refurbishing and the exemption would be granted at the same time, not on two separate hearings.

It would not be difficult for the Rent Regulation Officer to determine that the rehabilitation of the building had, or had not complied with the provisions of the order of the panel granted under Section 33.

Accordingly, the Association recommends that guidelines be established by which a panel may determine whether refurbishing is in fact taking place in order that there be no question, either in the mind of the landlord or in the minds of the panel, that such an approval and exemption be granted. Of course, the Association and its members are ready, willing and able to assist.

Section 2(2)(C) states that apartments commanding rents in excess of $1,000 per month as at December 31st, 1981 will also be exempt from rent controls.

It is the view of this Association that excluding from rent control those residential premises commanding rents of $1,000 or more per month does not address itself to the reality of the market situation in Manitoba. Previous legislation exempted residential premises commanding rents in excess of $400 per month and since median rents in Manitoba for 1981 was $268 it is our view that a more realistic monthly rental would be in the area of $400 per month in arriving at this exemption provision.

That the median rent levels for all suite types in all of Winnipeg is $268 is evidenced by the report of the Consumer and Corporate Affairs and Environment Department of the Province of Manitoba, under its Manitoba Rental Market Survey for 1981. It indicates

that at least half of all rental units in Winnipeg are available for $268 or less and, in our view, is ample justification for making the exemption at $400 per month, rather than $1,000 per month.

As well we wish to refer you to the "Semi-annual Review of Housing Market Activity Province of Manitoba April, 1982" prepared to Mr. M.R. Thorvaldson, Acting Housing Market Analyst employed in the Winnipeg office of CMHC.

As someone has said there are likely only 5 or 10 apartments in all of Manitoba commanding a rent of $1,000 or more per month. Mr. Thorvaldson states: "The results of the October, 1981 vacancy survey indicate little price resistance to higher rents. Vacancies were most frequent in smaller and lower rent inner-city apartments. Renters may be perceiving that with over 80 percent of 2 bedroom units under $400 per month they are receiving a housing bargain relative to owners and renters in other areas of the country."

I now turn, Mr. Chairman, to the provision of Section 16 of the act which provides security for tenants in possession such that rent cannot be increased more than once in every 12 months. Surely the spirit of rent control should be to enforce the rules limiting or controlling the amount of the annual increment to a tenant in possession. The Association recommends that the section be amended to limit frequency of rental increases to 12 months and the actual date of possession by that particular tenant.

We see some difficulty should the provision remain as it is in dealing with those circumstances where the residential premises become vacant during that 12 month period. At the moment the landlord is required to maintain that same rental rate as granted to the previous tenants for the balance of the 12 month period. Provision must be allowed in such circumstances if the section is to be maintained to amending the standard residential lease such that the rent may be increased at the end of the final 6 months of that 12 month term for the then tenant in possession.

In any case, surely the rent control should be for the benefit of the then tenant, with the landlord free to set a rental rate for a new tenant. It is submitted that rent control provisions should apply to that specific tenant only. It is particularly significant that the landlord be allowed to set rental rates for a particular unit where the tenant voluntarily departed the premises.

In dealing with Section 17, it requires that every notice for increase in rent for premises must be served on the tenant at least 3 months and not more than 4 months before the date on which the increase would become effective. It sets out that that notice must provide certain information; that the notice must state that the tenant has a right to object to the increase; it sets out the dollar amount; the percentage increase; the maximum amount of increase permitted under the Regulations. It says that a copy of that notice of increase in rent must be served upon the Director.

This section, in our view, requires horrendous paper work for any landlord dealing with each specific tenant. Surely the landlord should only be required to provide the Director with copies of notices of increases in rents in those circumstances where a tenant files an objection to the increase; otherwise landlords shall be subject to a government price-monitoring system, the cost of which ultimately must be borne by the tenants; the filing of the notice with the Director is in our view an additional workload which is unnecessary; it indicates if this provision is to prevail we submit that the time limit should be expanded such that it shall read, "at least three months and not more than six months before the date on which the increase would become effective," allowing sufficient time for an application to be made considering that there will be some delays in the actual hearings and approvals by the Rent Regulation Officer or by a particular panel, as the case may be.

Section 18 states that the increase and the controls are retroactive back to January 1, 1982. In our view, January 1, 1982 is an unrealistic commencement date for rental controls. At the very least, retroactive legislation should at best be avoided. The difficulty, of course, is that the "amount specified in the Regulations" or the "formula specified in the Regulations" is not known at this particular date. If there is any truth to the rumour that the Rent Control Guidelines will set increases not to exceed 9 percent, we see serious financial problems arising in the future. It is clear that any landlord may apply for approval of the excess over and above the 9 percent guideline, but in our view, 9 percent is just not sufficient in today's economic climate.

Quoting again from Mr. Thorvaldsons review: "The reintroduction of rent controls with a 9-percent guideline will have a negative impact on new contruction. This is clear despite the flexibility of the guidelines and even though controls will not apply to projects less than four years old. A CMHC appraisal review of operating expense pressures on rents would suggest that the 9 percent guideline is unrealistic. Gas heat costs are expected to increase by 25.6 percent in 1982; insurance by 20 percent; property tax at 15 percent and at 12 percent for most other operating expenses. The freeze on hydro power rates may be lifted before 1984. Projects where mortgage rollovers occur are expected to require rent increases of 18 percent or higher. It was speculated that without the reimposition of rent controls, landlords would attempt to obtain 20 to 25 percent rent increases to narrow the gap between market and economic rents." I submit that comment and the review prepared by CMHC is clear indication of the difficulties which landlords are facing in the present market and will continue to face in the next few years.

Again, I reiterate that the Association is ready, willing and able to assist in the preparation of those regulations which will set perhaps the guidelines by which we all will have to live in the Province of Manitoba.

Section 20 deals with the right of a tenant to object to an increase that does not exceed the amount of increase in rent permitted under the regulation. The effective result of this Section is to allow a tenant to object to any increases whatsoever, be it 1 percent or 15 percent. It is the position of this Association that once the government has set by regulation, the minimum set out in Section 18 that the tenant not be allowed to object to any such increase.

It is sufficient that any excess increase be the subject of review by the Rent Regulation Officer or the panel at which time the tenant has every right to be

heard. Without such limitation, we anticipate that for every increase, however small, the tenant, because he will not incur any cost in objecting, will automatically file an objection resulting in many frivolous objections and unnecessary and costly investigations.

Dealing with Section 21, Mr. Chairman, it deals with an application by the landlord for an increase over and above the permitted increase under the Regulations. In doing so, the Rent Regulation Officer is to consider: (i) rent for residential premises that was in effect before the increase; (ii) the increases in the actual expenses incurred by the landlord - and again those are defined in the regulations though we do not know what are in those regulations; and (iii) changes in the services provided or available for the tenant or in the amenities that may be available; and, of course, (iv) any other matters required in the regulations.

As well, the Rent Regulation Officer may consider the rent payable for the residential premises during the two years before the date of the application, the amounts by which that rent was increased during those two years and the increases in the actual expenses incurred by the landlord during those two years.

In our view, what has been created is an administrative nightmare with the right of the Rent Regulation Officer to review rents and costs over the last two years.

While it is acknowledged that the Rent Regulation Officer may consider "any other matters required under the Regulations," we urge the government to amend Section 21 such that the Rent Regulation Officer shall consider reasonable, anticipated costs that will be incurred by the landlord over the next 12 months.

In today's economic situation, it is certainly not beyond the realm of possibility to forecast with reasonable certainty the increases which will be granted by the Public Utilities Board to the Gas Company and to other bodies providing utility services. These forecasted costs should be included in rent control decisions; otherwise, the landlord will be continually behind the eightball, at least 12 months behind in costs, as they are continuing to increase and he never has the possibility of catching up.

Section 21(3) authorizes the Rent Regulation Officer to treat all of the premises in the building in a similar nature. In fact, it allows the Officer to extend the hearing to apply to all tenants in a particular building even though those tenants may not have filed a notice to the Officer objecting. Once the Regulations Officer has given notice to all of the tenants, in our view a costly procedure, and once he has made his decision "in his absolute discretion," his recommendation applies uniformly or severally to rent payable for all or any of those other residential premises in the building, as the case may be. Surely the landlord should only have to meet the tenants objecting to the proposed increase. To allow the Rent Regulation Officer to unilaterally interfere with the tenancy agreement then legally in effect in which the parties are reasonably satisfied would appear to be an imposition and infringement of basic business rights. We suggest, Mr. Chairman, that the tenant who objects should be the tenant who is dealt with by the Rent Regulation Officer and not grant to the Rent Regulation Officer the unilateral right to add additional tenants who may be perfectly satisfied with their situation.

Section 25, of course, allows the review of the recommendations of the Rent Regulation Officer to be appealed by way of notice of appeal on the Co-ordinator of Appeals. It allows for a time period of 14 days and it allows for someone to apply for an extension of the notice time period of 14 days to 21 days in those circumstances where he can show that due to inadvertence or mistake or some difficulty that he was unable to file his objection or his appeal within that period. We would recommend that the time limit for approval be set at either 14 days or 21 days without any provision for extension in order to make certain the provision for appeal.

Once the party, subject to a recommendation of the Rent Regulation Officer, files the notice of appeal with the Co-ordinator of Appeals, the matter proceeds to a panel. The matter does not stop there, however. The panel itself, even though the Rent Regulation Officer in his discretion, has decided not to apply his recommendations to other or all residential premises in the building, has the same discretion to extend their decision-making powers to all rental units in the building. In our view, this will simply proliferate matters to be heard at each stage of the process which, in the view of the Association, is unnecessary, time consuming and exceedingly expensive. We anticipate that with all the proceedings, extreme delays will take place, such that by the time a decision may be made, and all appeal provisions completed, the tenant may be long gone and the possibility of the landlord ever recovering an increase, ultimately approved, is remote.

Under Section 28, the Director, without a hearing of any kind, may order the tenant to pay to the Director the amount of the increase in excess of the increase set in the Regulations and he may order the landlord to do the same thing. So where the landlord has collected an increase in excess of the amount actually determined by regulation, the Director may direct that excess be paid to him, presumably to be held in trust. Ultimately, of course, and depending on the final decision made, the Director will refund the monies to the landlord or to the tenant as such may be the case.

The Association objects strongly to the fact that excesses to be received by the landlord should be paid to the Director. If nothing else we submit that the landlord shall be entitled to retain the excess in a separate account pending the decision by the Rent Regulation Officer or the panel. Funds in those accounts, or ordered to be paid to the Director, if such is the decision of this government, should bear interest at a rate set out in the Regulations.

We further submit that where a landlord has increased the rent in accordance with the formula set out in the Regulations and the tenant has appealed, then the Director should be directed to order the tenant to pay to the Director the amount of the increase itself exceeding that amount permitted under the Regulations. Such payments, of course, should receive interest to whomever they shall be refunded. Such a provision would cover that situation where, in our view, final decisions may take many months, the tenant has disappeared and the landlord, while ultimately receiving paper approval of his increase, will not be able to collect the increase itself from that

tenant.

Under Section 29, while having just dealt with the fact that the landlord may be collecting excesses over the amount authorized in the regulations, Section 29 then says that a landlord shall not collect or attempt to collect rents for residential premises that have been increased on or after January 1, 1982, in excess of the increase permitted in the Regulations.

With mounting costs, this Association anticipates that a number of landlords, certainly a number of its own members, have given notice of increases to tenants prior to January 1st in anticipation and in excess of what may be set by the Regulations. Presumably under Section 28 then, the landlord will be directed to pay the excess over the amount permitted under the Regulations, to the Director.

The Director carries out an investigation. If he believes the landlord has collected rent for residential premises in contravention of subsection (1), he may apply for an order. In any case, the matter may end up before a panel. Upon completion of the panel, if the panel is satisfied that the landlord has collected rent for residential premises in contravention of subsection (1), it may, not withstanding that it may have approved the increase, it may decide that the rent payable for the residential premises to which the preceedings relate be reduced to an amount not less than the amount of rent payable at the commencement of that 12-month term. In essence, the landlord is retroactively being punished, or may be punished, for increases which he reasonably put into effect on or after January Ist, 1982. Surely the landlord should not be punished under such circumstances. If the increase is to be rolled back, the landlord may be directed to refund any amount so rolled back. He should not be punished by taking away all of his increase that is presently allowed up to a period of 12 months.

Again, in those circumstances where the landlord is directed to refund monies to a tenant with interest at an annual rate fixed in the regulations, surely the landlord is entitled to certain monies held by the Director and that interest should be paid on those monies as well. At the moment there is no provision in the act that monies held by the Director, ultimately repaid to the landlord, that he should be entitled to interest on those funds.

All of our comments, of course, apply where the Bill deals with situations where services have been reduced and there is an evaluation process to decide whether, in fact, an increase in rent has taken place.

Section 33, I've made my comments with regard to what I consider to be a difficulty in the landlord applying, first of all in Section 3, for approval for restoring his building and then having to go back, once restored, to allow for an exemption under Section 2.

We note, however, under Section 33 where a panel has approved the repair, renovation and refurbishing of a building, a person is restricted or prevented from converting his building to a condominium under The Condominium Act for a period of four years after the date of issue of the order for exemption. It is our view that the present Condominium Act with proposed amendments, which you will have before you in the next two or three days as I understand, you are considering amendments to The Condominium Act and The Landlord and Tenant Act, that the provisions in that Act to date are more than sufficient to give the protection necessary to the tenant in that particular building. I will, of course, not read all of the provisions under the Act which simply is a repeat of the particular provisions that, when one files a declaration on The Condominium Act, certain notices and rights must be granted to the tenant. However, you must recall that, under paragraph (d), the tenant in occupancy is entitled to protection for rents equal to rents charged for comparable residential premises; he's entitled to remain in the premises for a term at least as long as the term in which he had occupied the premises prior to filing of the declaration.

It is argued that The Condominium Act and the provisions that are set out in the presentation are ample protection for every tenant. If this is not considered sufficient then, at the very least, we suggest to you that the limitation on the right to convert a building by filing of a declaration to a condominium should be limited to the same time limit that the panel may set in granting an exemption under Section 2 of this particular Bill.

There are several other matters that are not specifically mentioned in the Bill, Mr. Chairman, and I'd like to deal with those for just a few moments.

There is, in our view, no limitation and no requirement on the Rent Regulation Officer or the various panels established under the Bill, to bring in their decisions on a timely basis. In other jurisdictions, serious delays in decision-making have occurred and we have heard from various sources that several years take place between the time of an application for an increase and the granting of such an increase, or approval of such an increase or such lesser amount as may be ultimately made by the decision of their particular panel.

If the government insists on establishing a 9 percent control, we anticipate that there will be a great many applications by landlords for approvals of the excess over the amount approved in the Regulations. Decisions on these applications, in our view, must not be delayed beyond a reasonable period of time. Certainly they should not be such that they will be extended beyond 12 months and then get into the next 12-month term under which a tenancy may be in operation.

It may be difficult, but we have other legislation in the Province of Manitoba which requires decisions to be made by the decision-making body or individual within a set period of time. It is our recommendation to this government that the Rent Regulation Officer and the panel, where an appeal or provision to be heard before the panel is effective, the decision must be brought in within 30 days of the closing of the deliberations and the considerations and hearings by the Rent Regulation Officer or the particular panel concerned. This would, at least, enhance decision making to the benefit of all concerned.

Another matter which we submit and put forth to you is dealing with project applications. There is nowhere in the Bill provision for a landlord to apply to the Rent Regulation Officer, or ultimately to a panel, to suggest that the rate for the rental unit in the project or in that building be set for the next 12 months. Certainly in every other field, or certainly a great many other fields, there is provision such as the Greater

Winnipeg Gas Company and other such corporations, to apply to the Public Utilities Board and others, to set rates for the next period of time.

This Association proposes that, if rent controls on residential premises are to be imposed, provision be included in the Act for an application by the landlord for approval of rent increases for all the rental units in that single building or in that particular project. In such circumstances, where the appeals had been resolved and the decision had been made, either by the Rent Regulation Officer or by the panel, then this Association suggests that those rents would be in effect and that the tenant would not be entitled to file objection to such increases. The increases, thus approved for the units in that project or in that building, would come into effect at the commencement of the term of the various leases to tenants in that building. All of us recognizing, of course, that the commencement of terms of leases do not all start on September 1st but are commenced on various months throughout the year.

We urge you to consider this approach to the problem if rental controls are to become effective and put into effect in this province in order to avoid unnecessary and frivolous objections under the Bill.

There is equally so, I believe, no provision in the Bill to deal with those buildings presently under serious and detailed refurbishing for future. It is our view that where a building now under renovation and refurbishing, the landlord should be entitled to apply, as set out in the Act under Section 33, to have that refurbishing, although under way, be approved and have that refurbishing exempt the buildings for a period of time as may be determined by the panel under Section 2. It seems unfair that someone who may be half way through a serious and expensive renovation projection on his particular building should not be entitled to apply for an exemption under the Bill.

Dealing with Section 38, Mr. Chairman, this, of course, deals with the detailed regulations which one can anticipate coming forth under the Bill itself. Obviously, they substantially effect the interests of the landlord; they substantially affect the interests of the tenants. We urge the Minister, either in public hearings or by consultation with the members of our Association and other interested parties, to discuss the terms of those Regulations before they are implemented under the terms of the Act.

Finally, it seems to me that Section 41 of the Act deals with various arbitration proceedings under The Landlord and Tenant Act and it does suggest that those proceedings which are in process will be aborted and the matters taken over by the Rent Regulations Officers. It seems to me, Mr. Chairman, that those matters already in process on The Landlord and Tenant Act might best be completed and the decisions binding on the parties, rather than aborting those proceedings in the middle of the hearings and requiring the parties to start all over once again.

Mr. Chairman, I simply have attached one chart which is of some interest and is the only one of some 50 charts prepared by CMHC back in late 1976 in dealing with their revisions of the ARP Program. I attach it to give you some indication of their assessment of the operations under the ART Program of buildings that they are aware of and you will note, of course, by the chart that operating profit does not even kick in until the ninth year of the operation of a particular project. I recognize that one can change figures and perhaps adjust figures to suit their own needs. There are additional charts and information available from CMHC that we'd be happy to provide to you at any time.

We urge that you consider our recommendations, particularly the practical recommendation in the Act, Mr. Chairman, that we have made to you and we stand hopefully, ready, willing and able to answer any questions that you may wish to put to us and failing which, if I am unable to answer them, of course, I rely on all the experts that I have with me today.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. McJannet.

The Minister, the Honourable Eugene Kostyra.

HON. E. KOSTYRA: Thank you, Mr. Chairman. First of all, I'd like to thank the Manitoba Home Builders Association for their presentation this morning and also to thank you and your Association for the dialogue and representations that have been made to us over the past six months as we've been preparing the drafting of this legislation, both with meetings with myself and staff of the department. We found the representations from the Manitoba Home Builders important and worthwhile as we were in the process of drafting this legislation, so I thank you and ask you to communication that to the members of your Association.

Mr. McJannet, in the initial part of your brief you had requested that the exemption period for new construction should extend for a period of 15 years, in essence, as opposed to the four-year exemption that's in the Act as proposed at the present time. You'd indicated that if such exemption were not granted that there would be little, if any, new construction of rental housing units in the Province of Manitoba. I wonder if you might comment on this, in view of the fact that this legislation, obviously, is not in effect at the present time and there hasn't been rent control legislation as such in effect for a number of years in the province. According to your own figures that were supplied to us, that in the year 1981 there were only 141 units constructed in the Province of Manitoba; and the preceding year in 1980, it was 391 units; and prior to that, in '79 there was close to 2,000 units and in '78, in excess of 4,000 units. So, in fact, there has been little new construction of rental housing units in the province for the last couple of years without this legislation in place. I'm wondering if you might comment on that fact, that if there was a permanent exemption, would there be, in fact, an increase in rental housing construction since there hasn't been, in essence, any new construction for the past number of years.

I would think that a far greater impact on that situation is the fact that many of the federal subsidy programs that you've made mention of in your brief have been removed over the past number of years, including as of late, the MURB Program. So, it seems to me - and of course, we're in a situation for the past while of considerably higher interest rates on capital. I'd like you to comment on that fact as to whether or not, if there was a permanent exemption, there would be an

increase in rental housing construction in the province, given that there has been very little in the past few years.

MR. McJANNET: Well, naturally, the ARP Program, as I understand it, was terminated in 1978. The MURB Programs, of course, have now disappeared. There's no question that those two programs gave incentive to developers and builders for the construction of new residential rental premises, not only in Manitoba but in those areas of the country which may have been more economically viable during the last two or three years.

The only thing that I have to forecast is that - and I can only rely on the information I have from the members of my Association and I know that they, themselves have been actively involved over the three years you described - in other areas of the country where, in fact, rental premises have been exempted; that is, new construction of residental premises have been exempted on a permanent basis or at least in Quebec, on a five-year basis. I understand that Quebec is the only province subject to what happens here, that new construction is not permanently exempt from controls.

As well, of course, it's true that we have had release of rent controls somewhat over the last several years but on the other hand, I believe in 1980, The Rent Stabilization Act was repealed and amendments were made to The Landlord and Tenant Act which required the procedures for arbitration which, until now, have been in effect.

I can't answer your question definitively. I cannot assure you that if you did not put in rental controls or if you granted landlords in this country, in this province, 15-year exemption or permanent exemption that there would be any more construction in Manitoba than there is today. But surely things have to improve, residential construction is required, rental construction is required and, it's our view and members of our Association's view, that controls to the extent called for under the Bill will inhibit continuing development in that market rather than encourage same. The Association and its members wish to encourage construction in this area as well as other areas in the Province of Manitoba. They wish to employ their funds in this area, they wish to employ their people rather than have them leave and another control of this nature, in our view, will inhibit it.

MR. CHAIRMAN: Mr. Minister.

HON. E. KOSTYRA: Thank you, Mr. Chairman, on page 11 in your brief you raise the concern of the Association with respect to the exemption and the process for exemption of rehabilitation of apartment units or portions of apartment units. You had raised a concern that the builders or the landlords would be put into a situation where they would be given an initial approval to proceed with such rehabilitation projects and that there was the possibility that the final approval would not be granted. I should make it clear to you and the Association that what is contemplated by those sections is that once the initial approval is granted for the project that the final approval would be mandatory on the basis that the project was completed and, indeed, that the rehabilitation, the repairs, the renovations were done in accordance with the initial order. There was no intention that there could be a complete review at the latter approval with respect to the actual project; that was basically to ensure that the project was completed in accordance with the initial order of the panel.

MR. J. McJANNET: If you wish me to reply to that we are encouraged by what the Minister has just stated. The only concern would be this, Mr. Chairman, and that is that when the application is made for the refurbishing I believe they approve the refurbishing or rehabilitation or the renovation of the building and I believe the word is used "shall," that it shall be approved ultimately under Section 2(2). But I think that the landlord, in making the application, in going to the expense of having plans drawn and details to make a successful application under Section 33, should know (a) that he will be exempt; and I think the Minister is suggesting to me that that necessarily follows but also the term or the time under which he would be entitled to that exemption. I think there is still permission under the provisions of Section 2(2) that where an application is made the refurbishing is approved and the exemption is granted the panel still has the right to set the term of the exemption, be it 5, 10, 15 or permanent. So, I agree with the Minister that perhaps that area might be tightened up to ensure that that happens.

HON. M. KOSTYRA: Yes, Mr. Chairman, on page 12, with respect to Section 2(2)(c) and the exemption for rental premises that have rents in excess of $1,000 per month. Your Association is suggesting that the figure of $400 per month would be a more realistic figure, does the Association have information as to the number of rental units that would fall into that category of having rents in excess of $400 per month?

MR. J. McJANNET: It is our understanding and I can certainly ask one of my clients to see if they can answer that question. Our review of the report of Mr. Thorvaldson would indicate that 80 percent of the units, certainly in the inner-city, are below $400 per month. If you're asking me how many are over $500, if that's your question, I don't have that and certainly if someone can answer that for me, or for you, I would ask them to. We do not have that at the moment, Mr. Chairman, and Mr. Minister, but we will attempt to see if that information is available and to provide it to you.

HON. E. KOSTYRA: One further question or comment, Mr. Chairman, I'm just trying to find the Section, on page 15 dealing with the provisions with respect to notice - Section 17. You raised concerns with respect to two areas there, I guess one is with respect to the period for notice, being that it has to be within a one month period of three to four months and you suggest that that period should be expanded to a period between three and six months and we're certainly willing to look at that particular suggestion. One of the concerns that has been raised from time to time is that without some period of time, the way it presently reads is that it has to be not less than three months; that it could be 12 months prior to the date of increase

and that that would be too long a period; so that is the reason that the three to four month period was put in. But we certainly can look at your suggestion to expand that a bit further.

You raised concerns with respect to the amount of paper work dealing with the serving of copy of the notice of increase to the Director. In developing the administration for this legislation we were preparing to have available for all landlords forms which could be utilized if the landlord so desired; it could be a copy of a form that could be given to the tenant and a copy of that form submitted to the department, to the Bureau, which would hopefully, if landlords decided to make use of those forms, could decrease the amount of paper work that each individual landlord would be involved in with respect to that information. So there would be a set form, one copy of which would be supplied by the Bureau; one copy of which would be given to the tenant and a copy submitted to the Bureau so that I think that would lessen the increased paper work that you're concerned about. If Mr. McJannet wishes to comment on that, if not, Mr. Chairman, it's the only comments that I have at the present time.

MR. McJANNET: If I may, in reply say, the concern is a proliferation of the paper work under the terms of the Bill which will become law and we would see it unnecesary to give notice to the Director on someone with 100 unit apartment building having to give 100 copies to the Director and it may be that two or three members who are occupying units in that building may file and objection. It just seems to me that it's an unnecessary requirement under the circumstances and that is the extent of it.

Now, on the six months and the three months, we've asked for an extension which gives a landlord some extended time to consider his position rather than the one month that the Minister decribes. To consider three months because it may be that at a particular moment he may not be ready until the very fourth month to put in his application but it maybe that he anticipates a long delay on the decision-making side, in getting a decision on his application, and therefore, he may want to file it earlier than the fifth month, prior to commencement of the new term, and that's one of the reasons why we urge the government to consider seriously the time-limiting requirement for decision-making as there is under The Municipal Assessment Act. For example, where the Judge of the Court of Queen's Bench is required to report and to make his findings within 14 days after the matter has been heard in his court. We've suggested perhaps 14 days is unrealistic but we do suggest that you give serious consideration to having some time limit for a decision to be made, keeping in mind not only the initial decision but also the appeal provisions and that we have to continue to operate with some degree of certainty in this market.

MR. CHAIRMAN: Mr. Filmon.

MR. G. FILMON: Thank you, Mr. Chairman. I have a number of questions and I wanted to follow upon the questions of the Minister to Mr. McJannet but unfortunately, I don't have access to the figures that he was quoting from and I don't know their origin or the definition of terms by which the numbers were quoted. I'm speaking in terms of his reference to the number of units constructed in various years under the rent controls and outside of rent controls. I wonder if, since the figures were supplied by Mr. McJannet's organization, if he could clarify were those figures based on units constructed solely in the private sector or were they based on all units constructed in Manitoba, firstly, and were they based on the dates at which building permits were issued or were they based on the occupancy dates?

MR. J. McJANNET: The question is indeed interesting but the fact is that I find it a difficult question to answer. I don't know whether anyone has the details here today. The total numbers Mr. Hobman advises me were based upon building permit applications to the City. I think, basically, most of our figures that we have presented now or in the past relate to the City of Winnipeg market which is the major market, of course, as we all know, in the province.

MR. G. FILMON: So, they were on building permit applications. Were they only on private-sector construction or did they include units constructed by MHRC?

MR. J. McJANNET: I would believe that they are relied upon mainly by private-sector development, whether under ARP or MURB and do not include the MHRC. —(Interjection)— I'm absolutely wrong. They do.

MR. G. FILMON: All right. The reason I question that is that there were figures quoted for numbers in 1981 and I was aware, having been the Minister in charge of MHRC, of having either cut ribbons or officiated at opening ceremonies at a variety of different units that were opened during 1981, for instance, including the - I can't recall the name of the unit on Isabel which has well over 100 units. There's one on either Sargent or Ellice that was opened in 1981; there's the Donwood Manor on Henderson Highway; there's Carriage House North on Leila and so on and so forth. There were obviously several hundred units opened for occupancy in 1981 in which MHRC had some effect through funding and they utilized Section 53, loans for the federal-provincial agreement; in Section 51, Non-profit Loans and so on. I think the fact of the matter is that whether the units were under private construction or under public sponsorship, the figures that Mr. McJannet has given indicate that there is a gap between what's available, in terms of market rents, and what it costs to construct and whether you take away the ARP's and the MURB's. If you do, then you have to supply other government funding and the evidence of that is the fact that most of these, in fact all of these that I referred to, were done with direct government funding.

I wonder if Mr. McJannet or his organization has figures that give the comparable comparison of costs, operating interest, and so on for 1981 as he's given us for the 1976 figures which, I believe, indicate that there is eight years before, at that point in time in 1976, there was an eight-year period before an investor could even get to the point of getting any operating

profit on a one-year basis, let alone make up for the losses of the first seven years that went on before.

So, what are the comparable figures, given the fact that, if anything, the interest rates have had a much more dramatic effect on the overall viability of construction of rental housing?

MR. J. McJANNET: Mr. Chairman, we do not have a definitive situation as requested by Mr. Filmon. The reason that we had the graph attached to the presentation because we felt that it had some basis and some support as being prepared by CMHC and might have some recognition and be of some value.

I can tell you in reply, however, that members of our Association assure me that most members operating under ARP or under the other programs are now requesting extensions of the ARP support for a period from 10 years to 15 years; and whereas in the normal ARP, the grant or the payment provision on a monthly basis is to be a step-down process. The owners have applied to CMHC to terminate the step down over particular years. So that, as I suggest, in the first year it would go from $100 per unit per month as really a mortgage advance ultimately to be repaid, and then the next year would go down to $90 and then $80, then $70.

What has happened is that they have asked for an extension of a particular year, so that in the second year at $90, it would not automatically reduce to $80 and so on. They may ask for several years that the amount of the step down and not take place in those particular years. There is, of course, the Graduated Mortgage Program, as well, which was available and that's also one of the considerations.

But, I cannot give you a definitive answer, other than to say that I'm assured by the members of the Association that costs are continuing to escalate. Certainly, in accordance with the forecast of Mr. Thorvaldson in his CMHC Report of April, 1982 which shows costs and gas and electricity and others of 28 percent and 24 percent. So, we anticipate that will continue and this graph probably is out of date to the extent that profit kicking into the ninth year doesn't take place anymore, that it probably kicks in later on past the 10 years and probably into the 12th and 13th year. I do not have that information directly available.

MR. CHAIRMAN: Mr. Filmon, before you proceed, I wonder if I may ask the committee members to direct their questions through the Chair and give me an opportunity to recognize you so that our transcribers won't have a problem trying to recognize voices.

MR. G. FILMON: Thank you, Mr. Chairman, I wonder if, through you, I could ask Mr. McJannet, then to put it in perspective. What is the cost of construction of a new two-bedroom apartment in Winnipeg today, either according to CMHC or the Manitoba Housebuilders' Association?

MR. J. McJANNET: I am advised that the costs for the unit your're describing Mr. Filmon, is $45,000.00.

MR. G. FILMON: Mr. Chairman, I understand that through the Federal Government, as part of its Budget last November, there is available a certain number of units to Manitoba under the CRSP, I think that's called, the Canada Rental Supply Program, whereby they are offering a $15,000 per unit grant to private sector people to construct new apartments. That would then reduce the cost to the builder to $30,000 per unit. Would that make it economical for builders to proceed at present market rates or what rents would they have to charge in order to make that figure viable?

MR. J. McJANNET: I'm advised that the reduction from $45,000 to $15,000 is still not sufficient to encourage members of the Association to participate in residential rental construction.

To answer the latter part of the question which I believe was what rentals would be required, I'm advised that, as in other provinces, certainly in large urban centres, Vancouver, Edmonton, Calgary and others, that the rental commanded and expected is a minimum of $650 per month.

MR. CHAIRMAN: Mr. Filmon.

MR. G. FILMON: Well, given the fact that costs may be slightly different in Manitoba or Winnipeg than they are in Vancouver or Toronto or whatever, what would be the economic rent for a two-bedroom unit that cost $45,000 to build today in Winnipeg? What would be the economic rent for that unit?

MR. CHAIRMAN: Mr. McJannet.

MR. J. McJANNET: Well, the answer to Mr. Filmon's question is still $650 per month to make a viable economic operation in Winnipeg on the basis that he suggests.

MR. G. FILMON: What interest is that based on?

MR. J. McJANNET: What interest rate? I believe that's based upon the going rates of the market today which was about 18, 19 percent.

Whispering in my ear is Mr. Hobman who tells me that's the current rate, that's the CMHC grant provision.

MR. G. FILMON: Sorry, did Mr. McJannet say that the $650 was considering the CMHC grant provision? It would still require $650 to make it viable?

MR. J. McJANNET: That is correct, Mr. Chairman.

MR. G. FILMON: I wonder if Mr. McJannet could comment on his point on having the regulations govern the agreement with a tenant, as opposed to the unit with respect to the provision of one increase per 12 months. Is Mr. McJannet saying that if a tenant left voluntarily at the end of 9 months of his lease that if a landlord were considering, say, doing just a bit of clean up/fix up, the odd bit of painting and touch up, that the concern of the Housebuilders' Association is that then they couldn't recover their costs for that kind of fix up/paint up; and that's the obvious time at which it's convenient to all parties for that sort of work to take place, as opposed to waiting the three months for which time you could have the increase go through and then moving in on an existing tenant and trying to

do your paint up/clean up and that sort of work at that time? Is that your point in that consideration?

MR. J. McJANNET: Yes that's exactly our concern. Of course, is that we're in a circumstance where several things take place. First of all, the tenant disappears after nine months and we're required for the remainder of that nine months to charge the same rental rate as in the first nine months, assuming it was approved, and of course there'll have to be some amendment if it was a year lease so that after the first three months of that term, being the last three months of the other tenants term, there would be an increase for the remaining nine months as it applies to that unit. We find some difficulty in explaining that because presumably there'll have to be some formula set out in the lease agreement as such. But, as well, landlords I notoriously find - I shouldn't say notoriously as far as the landlords are concerned - but the landlords find that for those tenants who disappear that they do have several problems. One of course is that they likely will never collect rent which they hadn't been receiving in the last two or three months and it's an absolute dead loss as far as catching up on the rent that's in arrears and there's always renovation and repair and improvement to a normal unit, at least within reasonable grounds for someone who might like to come in and take up the tenancy thereafter.

So what I'm suggesting, and what the Association has suggested, is that with the Rent Regulation controls if they - and obviously they are coming in - should apply to the tenancy agreement and to that particular tenant and that under a new set of circumstances, where a new tenant comes in, that's a matter of the negotiation between the landlord and tenant arriving at a rent which is reasonably satisfactory to both parties and putting that into effect. Of course, immediately that happens, then the rent control provision would apply thereafter to that particular tenant so long as he remains the tenant in that particular building.

MR. G. FILMON: I wonder, Mr. Chairman, if Mr. McJannet could indicate, given the concern he's expressed about the 9 percent tideline for increases this year and the concern he's expressed about Section 17 which has to do with any increase being able to be objected to by tenants; and, given his concern about the fact that in considering any appeal, that the arbitration panel can go back two years in reviewing what has happened to the rents in that particular suite for two years prior to the asked for increase, does he or his Association have any estimate as to what percentge of all of the units in Manitoba would come under review in the first year of the program as a result of what appears to be a layering of different factors to examine rents?

MR. J. McJANNET: Mr. Chairman, I think the situation is under Section 17 that our concern was the wide open review made available to the Rent Regulation Officer and to a panel. We feel the review should be limited if I am in the right section now, that the review should deal with only those increases that are objected to by the tenant and that the monitoring system should not be extended to everybody and everyone in sight in that particular building. We find that will just extend the time during which the landlord will wait for a decision and that it will be unnecessary under the circumstances.

MR. G. FILMON: No further questions at the moment, Mr. Chairman.

MR. CHAIRMAN: Thank you. Mr. Corrin.

MR. B. CORRIN: Yes, Mr. McJannet, just a few questions for you. I'd like to talk a bit about what you began to discuss with the Minister, Mr. Kostyra, with respect to the effect of high interest rates on the vacancy rate and your concern about inhibitions with respect to new construction as a resulting consequence of our program. I think we all agree that high interest rates are an uncertainty and they're a variable and they're obviously currently playing, to some extent anyway, some havoc with the market economy and new construction. I'm concerned and I believe that I'm correct in concluding that as long as these high interest rates prevail that they'll certainly be a disincentive to construct new housing in this province, if not indeed in this country. In those circumstances it occurs to me that it will be easier for new home builders, developers, to achieve economic rents within a lesser time frame, within a fewer number of years, than might normally be the case if interest rates were lower and there was a very active sort of ongoing market, economy. I guess what I want to pose to you is whether you would agree or disagree that, in the present circumstances, developers will probably, on a balance of probabilities, will probably be able to attain economic rents, rents that achieve the goal of being able to satisfy their operating costs as well as give them a proper return on capital, within the four-year exemption period that we have currently provided. Can you give us some idea of whether you agree with that or disagree with that?

MR. CHAIRMAN: Mr. McJannet.

MR. J. McJANNET: If I understand you correctly, Sir, you're suggesting that, under today's economic climate, it will be easier to lessen the gap between economic rents and market rents in four years than it has in the past. My answer to that is that unfortunately I cannot agree with you. It seems to me that there is no incentive for investment to put your time, effort and your funds into the rental housing market.

You make reference to the high interest rates and, indeed, they are high and we are all living with that. The fact of the matter is that someone who has some loose change that he might wish to invest in rental housing can almost be assured of 14, 15, 16 percent, without lifting a finger, simply by coming down to the local bank and investing his funds. It seems to me that the disincentive is the alternative consideration for investment. He has, on one hand, a guaranteed return by presumably the strongest institution, the banking situation in Canada, as against the rather difficult situation in operating and maintaining new housing rental units in the market. So I suspect, if history is any indicator of what's taking place, and my clients so advise me, and I personally have seen those circum-

stances, that any new unit, any new building unit when it goes up, starts off with what you might call some degree of giveaway. That is, a month's free rent or two month's free rent or this and that and certain other considerations and, as a result, those are the areas, certainly part of the areas, in which the builder, the developer must ultimately catch up on those costs; that is, that negative cashflow in the first few years, where he must not only catch up the loss, the negative side of it, but also see his way clear down the line where he's going to have a reasonable return on his investment.

On today's market a reasonable return on investment can be shown to be better in the bank, and certainly better in the bank than it is in having it into the rental market.

MR. CHAIRMAN: Mr. Corrin.

MR. B. CORRIN: Basically what you're saying, Mr. McJannet, is that the current situation is such that it has considerably lessened the prospect - and I'm now referring to the high interest rates - it's considerably lessened the prospect of developers going into this market anyway. If I understand you correctly you're saying that, with or without controls, essentially it's probably perceived as a high-risk business for developers.

You're saying that even though that is the case, even though the case is that there will be continuing and, I guess, a continuing decrease in the vacancy rate, that developers probably will be loathe to fill that vacuum and come in and start to take risks with respect to investment of capital. So the normal laws of supply and demand are distorted by the risk factor created by high interest rates. What I'm saying again is, normally I would expect, in a normal market where there is a projection of low supply and there is a special consideration being given to new construction and an incentive given to people who wanted to fill that gap, wanted to come in and provide new supply in the market, that there would be a boom in construction, you're saying that's not the case anyway.

MR. J. McJANNET: Well, I'm saying that, notwithstanding that these people have a four-year exemption.

MR. B. CORRIN: Not withstanding that and not withstanding that supply has diminished as a result of high interest rates and those rates will continue to have that sort of effect in terms of risk factor, you're saying that developers still would not want to come in. I guess my question is, how do we protect tenants? What do we do?

MR. CHAIRMAN: Mr. McJannet.

MR. McJANNET: How do we protect tenants? It's a question of referring back, and if you're referring to the interest rates today, I refer you to the graph that's attached to our presentation. It shows, if you accept the graph, that in the ninth year, there's an operating profit in the 10th year. The evidence is, from all of my sources and the answers I get, those graphs, in reality haven't worked out. In fact, that graph can be extended several more years before you get into an operating profit picture. That graph was prepared with interest rates at 11 percent.

MR. B. CORRIN: Are you suggesting that we provide new construction with an exemption, perhaps, in that range? Would you think that would be a reasonable range and that tenants should be subjected to unregulated increases for that length of time?

MR. J. McJANNET: The 10 years? I was suggesting that it would be 15 years, Mr. Corrin, and I base that suggestion on the exemption, supported by the figures presented to us by CMHC on their local review of the market which is available, and by their review of the market across the country. I rely on their figures in support.

What happens with respect to protect the tenant. I understand the concern of the government in that situation but we have two concerns here. One, of course, is that those who have investments in apartment buildings which are very soon to have their mortgages expire or mature and from 11 percent we jump to 20 percent; and for those who want to come into the market and construct new rental units for rent to Manitobans, they have to have some reasonable anticipation over a period of time that they will have some reasonable recovery. I don't know how you resolve that.

MR. CHAIRMAN: Mr. Corrin.

MR. B. CORRIN: In your submission, Mr. McJannet, which would be more just, a situation where we extended initial exemption period to developers for something in the order of 15 years, as you have suggested; and then possibly had to enact retroactive legislation, on determining that economic rents had been achieved earlier than the 15 years initially anticipated. I guess I'd like you to comment on what, for instance, your clients' position would be if we tried to do that, if a government tried to bring in retroactive legislation in order to protect tenants in that situation; or whether it would be fair to start with a four-year exemption period, continue to review and monitor the development situation as it pertains in the province and then, if necessary, and if your concern is borne out, make the necessary legislative revision to accommodate the situation as it then exists with respect to the developers. Which seems to you to be more prudent and fair from the point of view of the public?

MR. CHAIRMAN: Mr. McJannet.

MR. J. McJANNET: Mr. Chairman, I'm sorry but I did not get the question. I don't want Mr. Corrin to repeat the question in detail but could you just give it to me one more time. I didn't quite catch part of his presentation.

MR. B. CORRIN: If I can be more succinct, I'll try. My concern is that we have taken a particular position and we have determined, from our standpoint, given our projections for future construction as a result of high interest rates, given what we think is the projected market, we have decided that somewhere in the order

of four years, it would be a reasonable time frame within which developers could achieve economic rents; you're suggesting something in the order of 15 years. We have, I'm submitting, erred on the side, if anything, on the side of the tenant and the public in that respect. You're suggesting that we go to 15 years. I'm saying that if we do that and we find that 15 years was not a reasonable time frame in terms of obtaining economic rents, let's say that it turns out we were right, it was four or five, that then we would have to, if we were to continue properly regulating the cost of housing in this respect, then we would have to consider retroactive legislation in order to protect all those tenants who are the residents in these newly constructed units. And, I'm suggesting and I'm asking you whether you think it would be fair, from the standpoint of both the developer and the public, for us to retroactively then roll back that exemption period, or do you think that we should continue to extend it for the full 15 years notwithstanding that economic rents were achieved in much shorter order.

MR. J. McJANNET: Mr. Chairman, I can't forecast the future and I can't say other than the evidence before us and the graph and the forecast which indicate to us continuing substantial increases in costs, and it seems to me that, four years, according to everything we had before us and all of the graphs that you have before you and I'm sure that the information available before the Minister, that four years is not ample time to meet economic rent and to cover the gap between the market rent and the economic rate of return. I forecast, however, and I'm prepared to do that, those costs as CMHC is forecasting will continue to increase substantially on an annual basis, we've seen that for the last number of years so I don't see that four years is an appropriate time. Our suggestion, of course, is that in line with the history shown by CMHC that a more appropriate time is 15 years.

MR. B. CORRIN: I wanted to turn now to page 19 of your brief, the discussion of the effect of the two-year retroactivity period. I believe you thought that this was unwarranted and would present a difficulty for people in your client's position. I was wondering whether you were satisfied that all landlords had been treated fairly by the arbitration and mediation program over the past couple of years. Were you satisfied that that program served the best interests of all landlords. I think, honestly one of the reasons for this is that we're not satisfied that all tenants were treated fairly and we're willing, during the course, I suppose of legislative debate to consider that and discuss it at some length. I'm wondering from your standpoint, now, how did the program affect and influence the position of people like your clients?

MR. J. McJANNET: Mr. Chairman, the decision to arbitration, of course, is a difficult procedure and it's a method of some sort of control. It seems to me that naturally it hurt some of our clients and perhaps it didn't in others. I don't have a review of all the applications that went to landlord and tenant as to whether there were any serious hardships on the landlord or on the tenant. It was a provision that was put in and your decision as to what would be fair they decided by that arbitration board. If you and I were on the board, you and I might agree to dissent, so to speak. But, the fact of the matter is that it's a judgment call and to ask me to tell you whether they were hurt or not hurt, I'm sure there were some. But our main concern about Section 17, if one wishes to consider that, and that is that the Rent Regulation Officer and the other people on the panel should not only consider the increase in costs over the last little while but they should give consideration to reasonable anticipated costs that will be incurred by the landlord over the next 12 months because that's where you're putting in your control, in the next 12 months.

And one can see, as forecast by CMHC and forecast by others, Greater Winnipeg Gas is just only one company that is before the Public Utilities Board on a regular basis and they appear and say we need another increase because our costs have gone up by Trans-Canada Pipeline, there's no question that costs have gone up and within some degree of reasonableness the board decides that there should be an increase. One can forecast those almost certainly and those increased anticipated costs should, in our view, be considered and identified specifically in order that there would be no misunderstanding.

MR. B. CORRIN: Would you then sympathize to some extent with the plight of the small landlord who, under the arbitration program, had suffered a breakdown of some part of the building, such as, the heating system and was unable to recover the expense because that whole arbitration program was based on comparative rents in the neighbourhood and didn't take operating expense or cost pass-through into consideration and therefore in certain circumstances would have prevented that individual from any recovery at all?

MR. J. McJANNET: Certainly I would sympathize with him, I would sympathize with any landlords, someone who goes out and has spent their life in this community and owns a duplex or a fourplex, and all of a sudden finds himself that that's his retirement plan, and all of a sudden the interest rates have gone from 10 to 20 percent and instead of making maybe 10 percent return on his dollar, if that, he's now found himself in a position where he's on a loss on a monthly basis. Certainly I have sympathy for anybody who makes an investment that would be a bad investment.

MR. B. CORRIN: In that circumstance, then, would you not agree that by giving the Rent Regulation Officer and the panel the right to retroactively go back two years that we might be able to redress some of the ill affects of the former program and enable these people to catch up and to move into a more equitable investment situation with respect to their property? And there's a concern about tenants paying more rent, but also there's a concern that we have housing and I'm just asking you, on balance, because I think in our program we've attempted to bring some balance to our approach. Do you not agree that it would be rather inhibitive in terms of these people's ability to maintain their properties and, given high interest rates in the current situation, if they couldn't recover adequate rates in order to underwrite and repay their actual operating expenses, costs actually incurred?

MR. J. McJANNET: On a reply, Mr. Chairman, I would certainly agree that the cost over the last couple of years are of some relevance as are the rents. I'd like to be assured that both items would be taken into consideration at any time. It was a minor point with us vis-a-vis what we consider not a cost in the past but the increased anticipated costs over each continuing 12-month term of the tenancy. So in every consideration of those costs, what our real concern was in dealing with that was the job of the landlord having to put all this information together and the unilateral right in the Rent Regulation Officer to demand all the paper work be prepared and provided to him.

MR. B. CORRIN: The only other question I had was with respect to the ARP program and I have some difficulty understanding the position, and that's as a result I'm sure of my inability to comprehend precisely what you said. I'm reading page 8 of the brief and it seems to me that the first phase of the ARP program, the one that I believe started in 1975, this is the outright grant program, this is the one that was just fully funded by the federal program, essentially was a rent regulated program. There were features in that that limited the owner to increases in rents that were not more than the increases in operating costs in each year and those costs, I believe, were initially agreed to. It was a retroactive program with the developers consenting to be bound by an agreement made initially as to costs. An aspect of our program you don't like is that it doesn't allow budgeting, but the developers in this case did proceed on this basis presumably because there was the carrot provided of the outright grant. Do you think in those circumstances that we should intercede and, as it were, intervene between the parties, between the contractual parties and have our program effect agreements that were made between the developers and the Federal Government at the time of construction?

MR. J. McJANNET: Mr. Chairman, at Page 8 in dealing with the first phase of the ARP Program. Mr. Corrin's quite correct that the initial phase of the ARP Program was on a grant system, that is, a grant to the developer and was not repayable. Under the circumstances of those agreements which were in effect for 1975 and 1976, there was a control on the grants based upon increased-operating costs, as I've said, in a particular year, the details of which were agreed upon, that is, those controls, those items were agreed upon in the initial agreement. There was a limit to a return on investment, I'm told, at 10 percent.

The situation under the new program is that the second phase of the ARP Program is different but what I have said on Page 8, and I've suggested to this committee, is that those billings covered by the initial ARP Agreement should have permanent exemption or in the alternative, at least 15 years exemption because, in fact, there already is control on those units and those buildings imposed by agreement under the CMHC ARP Program.

MR. B. CORRIN: So, in terms of the perspective, there is a form of control on the first phase but there is no real control with respect to the second phase, that being a subsidy-type program with interest-free loans being provided?

MR. J. McJANNET: Well, we prefer to call it a mortgage advance rather than a subsidy program because, in fact, the advances so made have to be repaid. Mr. Corrin is correct to the extent that under the agreements there is not a direct control on the rents, other than the economic market situation which history has shown since the Phase II of the program, that the STEP Grant, the Step-Down Program of advances under the ARP has been changed and extended and the term of 10 years as applications are before CMHC and in some cases have been extended to 15 years before someone is required to start repaying that loan. So, to that degree, it is tied into the market situation.

MR. B. CORRIN: Well, we agree that market rents are available to the developer, the owner with respect to Phase II of the ARP Program. There's no inhibition is there in their attaining market rents as the agreements currently exist. It's not like Phase I.

MR. J. McJANNET: That's correct, Mr. Chairman, the situation is that no controls imposed by CMHC and I recognize that situation in my remarks in my presentation.

MR. B. CORRIN: Do you have any idea of the breakdown in terms of the number of units constructed under Phase I and Phase II, the uncontrolled and the controlled, or I should reverse that, with respect to those two aspects of the program?

MR. J. McJANNET: We don't have that information readily available at this moment, Mr. Chairman, but I understand that those details were given to the Minister, Mr. Kostyra, by the Association in various discussions over the past few weeks and months.

MR. B. CORRIN: If we did introduce controls with respect to the Phase II, for instance, then I take it we would be, to some extent, doing double duty in that we would on the one hand be protecting tenants in terms of regulating their rents. We would also be, I suppose, protecting taxpayers because we would be assuring that the subsidies which are provided to the developers and owners of these particular developments would not be out of line with their actual operating expenses. How do you react to that? Am I correct in assuming that we would be doing double duty if we imposed controls with respect to Phase II?

MR. J. McJANNET: I suppose, Mr. Chairman, that we might have more ammunition to return to CMHC to suggest that the step-down not continue and that certainly the time provisions be extended.

MR. B. CORRIN: That was my last question, has your organization taken a position with respect to whether or not they will go to CMHC and the federal authorities, if they are not exempted with respect to one or other of these phases of the program, and ask for continuing extended subsidies from the Federal Government. Would you do that? Have you decided?

MR. J. McJANNET: In answer, Mr. Chairman, the

members of the Association, individually, of course, dealing with their own situations have already gone back to CMHC for extensions and reductions of the step-down and all of those sort of concepts but as far as taking a position, the Association, knowing that reasonable minds will prevail, feel that this government would accept some of its suggestions, hopefully, and that it will not at this time, at least, be required to make any decision along those lines. The matter has not been discussed.

MR. B. CORRIN: This is really the last question. I wanted to ask which you thought was fairer? Does your organization think it would be fair for the Provincial Government to cover this possible defect, this anomoly with respect to the housing economy and situation, or do you think it would be fairer for the Federal Government to extend the program and admit that it was their primary responsibility to provide the subsidy which would effect fairer rents for the tenants in these units?

MR. J. McJANNET: I believe the Association feels that the marketplace should be the final determination of the rentals under those circumstances. I think that we really feel that the only reason for the ARP Programs and perhaps the MURBs and others was to provide incentive for investors and others to participate in this industry in this country and that one would anticipate, perhaps, that we didn't need any one of them. It would be nice if we could rely on that but we've had to rely, not only on the ARP but also the MURB Programs to really find funds to participate in rental housing in Canada.

MR. CHAIRMAN: Mr. Penner, the Attorney-General.

HON. R. PENNER: Just two or three points, Mr. McJannet, that I would like to get some clarification on. On Page 14 of the Brief, it is argued on behalf of the Association that rent controls should be for the benefit of the tenant and I think we would all agree with that. But, then it goes on to say in the first sentence of the second paragraph to which I'm referring:- with a landlord free to set a rental rate for a new tenant. Would that not provide a powerful incentive to a landlord who feels, as apparently some of them do, that the return provided for in this proposed Act is insufficient to find the ways and means of getting the tenant out of the premises so that the premise in effect would be decontrolled?

MR. J. McJANNET: I think if you assume that a landlord is unreasonable and arbitrary and not equitable and fair, that perhaps motivation may be created. On the other hand, experience would indicate that getting tenants out of buildings these days, even those who don't pay rent, is indeed, a difficult procedure. You just don't walk in and ask them to leave. We have had situations - not many fortunately - by honest tenants and honest landlords where rents haven't been paid. Ultimately, one has to go to the court to get an order to remove him. If there is an unscrupulous landlord and I'm sure there are some, you may fall into that situation, Mr. Penner. I would hope that wouldn't happen.

HON. R. PENNER: Of course, I think by definition, we're only talking about the unscrupulous landslords; with the scrupulous ones we have no difficulty. If they were all scrupulous, we might not need Rent Control Legislation at all.

MR. J. McJANNET: In Manitoba, they're all scrupulous.

HON. R. PENNER: Coming to my second point, having to do with the question of the return and the argument that was made about the proposed figure of 9 percent, you made a statement about well, anyone with money to invest might trundle down to a bank or institution of that kind and get 14, 15, 16 percent. But, that begs a question which I would like to pose to you of the real return.

For example, would you not admit that with the person trundling down to the bank with these bags full of money, or the one still with the taint of the mattress on it, goes down to the bank and invests at, let's say, 15 percent, there are two factors to be taken into account on judging the real return. One is, what is the after tax return because from the $1,000 exemption on interest that person is paying a tax rate on the return, not only a tax rate but a very high one, because we surely must assume that someone with these bags full of money enough to start an apartment block as an alternative, has got a substantial amount of money. So the real return measured in terms of after tax dollars is certainly not the 15 percent.

Secondly, if it's in an investment in terms of a bond or term deposit, to bring in the interest, one has to measure the real return; that is, accounting for what inflation does to that investment over the period of the term. In fact, it's arguable that the real return before taxes may be only 2 or 3 percent, when you take into account the effect of inflation. So that surely is what we might take into account in measuring the return on investment where one chooses to take that route, is that not right? You would take factors like that into account.

MR. J. McJANNET: Mr. Chairman, I think you take all factors into account. The fact of the matter is that members of our Association go to the public, with or without tax advantages or tax write-offs that maybe available, they go to the public to try to get those funds that you talk about to be invested in some sort of rental housing market rather than being put into the bank and with varying degrees of success. That, in fact, has taken place. Certainly all of those factors have to be considered that the Minister sets out and I don't think that here we can go through all of them and there are a great many others that we have to keep in mind. Those are some of the factors, no question.

HON. R. PENNER: Right. Then looking at the other side, that is the investment in a rentable property and looking at that rather difficult to define term, economic rent, surely some of the factors that must be taken into account there in looking at real return is, first of all, the effect of the writeoffs, the depreciation;, secondly, would you not agree the question of appreciation, you see with an investment in something like an apartment block or any other investment of that kind in which there is a return but you own a capital

asset, appreciation is one of the factors that you ought to take into account; whereas with the money put in a term deposit you're suffering depreciation; with money put into an apartment building you're benefiting from appreciation in an inflationary market. So you have two factors that really must be taken into account that aren't available to the investor in a term deposit. The factor of capital appreciation, the writeoff in terms of depreciation in the amount that has to be paid in taxes.

MR. J. McJANNET: I think, first of all, there may be appreciation in buildings over the period of time, as Mr. Penner suggested. Some indication of how valuable that is is the fact that those who have units available for sale have some difficulty selling them. Certainly, because even though they're increased in value, if you look at some of the market reports around Winnipeg you can buy an apartment building in Winnipeg sitting there occupied for much less than the replacement cost as suggested by members of my Association which would appear to be $45,000.00. So that it's true that perhaps it is appreciating but it doesn't help you if you don't have the funds themselves as a result somewhere down the line and some indication of someone who is going to come along and say, yes, I'd like that because there is a return on that increased value that you describe, Mr. Minister. So it seems to me that that is part of the answer to that situation.

The other question is that even though you may describe all of those benefits to an investor, whether it's professional people who want to have a writeoff and whether there's a tax writeoff or not, and there or may not be any more of those, certainly at the moment there isn't. The fact of the matter, you still have to get the money from them and you have to appeal to their sense of direction and say now you've got your money invested in the bank and they have to decide, I'd rather take it out of the bank and put it in with Joe Blow over here to do that development.

It's not an easy task and if you withdraw the incentives it becomes even more difficult, I submit.

HON. R. PENNER: I would agree, of course, that the state of the market will affect how valuable the appreciation factor is or how realizable it is at any time. I'd certainly agree with that, but nevertheless it is a factor that, I think, must be taken into account in some way in measuring economic return. My final point has to do with the statement made early on in the brief relative to consistency. Page 2, Mr. McJannet, "It is the view of the Association that continuity in the construction industry for those involved in the construction of residential premises should be maintained such that the effective date in the new Bill should be January 1, 1976 as in the repealed Rent Stabilization Act," just stopping there.

Of course, one of the things about The Rent Stabilization Act is that it was repealed in 1980 so that whatever consistency was given by a particular term was taken away by some previous government but I don't want to comment too much on that. But, in any event, in The Rent Stabilization Act, if one is looking at that as a model, there was a five-year exemption period; now, we're proposing a four-year exemption period. But you talk about consistency and yet the very next sentence - and it's to this I direct you in my question - says, "buildings after '76 should be permanently exempt from controls"; whereas The Rent Stabilization Act provided only a five-year period. You're asking for consistency, isn't that proposal of yours inconsistent, or of your Association?

MR. J. McJANNET: Mr. Chairman, our proposal, and perhaps it's not written as well as it should be, is that there be total exemption for buildings constructed from and after January 1, 1976. I don't support, or otherwise, The Rent Stabilization Act as such. I acknowledge that it was repealed in 1980, if it wasn't then I would have thought it was my Association's position at the time it came in, The Rent Stabilization Act came in, that five years at that time was not equitable or fair either; and our position simply is that we make reference to that Act simply to say, at least, initially back then it was five years. We've cut back down to four years but our position is that it should be permanently exempt for all those who have constructed buildings since that time, at least to the date it was repealed and that, if that isn't satisfactory - which there was some indication it may not be - that there should be a reasonable exemption period related to the facts and the information available over the last six years and, that is, that 15 years would be a more reasonable period of exemption for all those new residential construction buildings in this city.

HON. R. PENNER: Thank you, I have no further questions.

MR. CHAIRMAN: Mr. Banman.

MR. R. BANMAN: Thank you, Mr. Chairman. First of all, I guess before I start I'd better declare that I own a fourplex, in case some people want to impute motives to some of my questions. However, I would like to ask Mr. McJannet, first of all, through you, Mr. Chairman, whether or not other than the 400 units which CMHC will be providing grants toward, whether there are any other federal incentive programs or tax concessions provided for people who want to build, either, large or small rental accommodation units?

MR. J. McJANNET: Mr. Chairman, I believe my answer is correct, we've checked that and I know of no such programs in effect at the moment.

MR. R. BANMAN: So those have all been removed, any MURB programs or anything along that nature, or any incentives for an individual to invest in rental accommodations, that has been removed by federal taxation.

I guess the second one is the high interest rates which you indicated, of course, have been a really large deterrent as far as new construction is concerned; and the third one, I guess, the concern in dealing with new starts is this Bill which is before us right now. I guess if I was to sum it up, maybe you could correct me if I'm wrong. I guess strike one is the federal incentives, lack of them; strike two is the high interest rates and really what you're saying, the third strike and you're sort of out of the ballgame, totally, is

if there is not some extension to the time on which the new units are allowed to be run without this type of control.

MR. J. McJANNET: Mr. Chairman, it's the view of the Association that certainly the loss of the MURBs was a death knoll to those involved in the construction industry. It certainly has its effect, a very serious effect. The high interst rates are devastating. If you can get a loan, then it's for five years and I think 18, 19 and 20 percent is the norm, it's not unusual and there's no question that with those two strikes - and I'm sure if we put our mind to it, we could find a few other strikes to add to the situation - there's going to be a serious shortfall and new starts forecasted by our Association in the coming year and years to come. That, in the long run, does not serve the interest of tenants; in the short run, it may serve the interests of those tenants now occupying units, but in the long run, in our view, it does not serve anybody's interests.

MR. R. BANMAN: In light of the fact, and the figures are bearing it out now, that there is very little activity and should a Bill like this be too onerous and the vacancy rates of course have become very tight, who do you think is going to build rental accommodation in this province?

MR. J. McJANNET: Well, Mr. Chairman, it's difficult to forecast but I guess you send everything back to the government and ask them what they're going to do for you next and whether it's the Federal Government, whether revision of any of their present programs or the Provincial Government with some sort of program. Somebody has to do something presumably and if the private sector is not going to do it then it leaves us only with the various levels of government.

MR. R. BANMAN: Precisely, and I guess this is the concern of many people because what's going to happen is that government is going to be forced into it by the different moves, not only at this level but at the other levels of government and it's, I guess, something that really concerns a lot of us.

I'd like to deal just briefly with a few questions that the Attorney-General asked. The value of an apartment block, is that based on the rent factor?

MR. J. McJANNET: The value of an apartment block or an apartment unit. Well, as indicated, first there's several bases of value. There's the economic return value and that is used mostly by appraisers, it seems to me, but to construct a building today, it's $45,000 a unit for a two-bedroom unit. That's one indication of value and then if you happen to be a buyer, you're going to turn around and look at the statement and see what the income return is and say well, I want to have 11 percent or 12 or whatever return on my dollar, my investment, and therefore reversing the calculation, I get a value of that particular apartment unit. Obviously, in today's market, the value is indicated as much less than the value of the cost of replacement that one would find today.

MR. R. BANMAN: In selling an apartment building, is a times gross figure usually used? In other words, the rental factor does play a pretty important role in what an individual can receive for an apartment block.

MR. J. McJANNET: It's the only factor when you're buying an older apartment. It's return on investment and how do I calculate my return on investment and that's my receipts from rented units less my cost.

MR. R. BANMAN: So what you're saying is, regardless of what someone might say that unit is worth, if the rent factor on that particular unit is at a fixed, prescribed rate and controls are in place which indicate that is the amount of increase that's going to be allowed over the next period of years the building is worth what the rent factor dictates it is.

MR. J. McJANNET: Well, in my view, Mr. Chairman, that would be the criteria. I guess some of us might look for someone else who might be more generous but I think that's the criteria.

MR. R. BANMAN: Another question with regard to the appreciation, in other words, the person that does take the risk and put up the money and then, because of inflation or because of some other factors, manages to increase the value of the apartment block. A person, upon the sale of one of those, does he or she pay capital gains on the increased value?

MR. J. McJANNET: Under normal circumstances, Mr. Chairman, there is a capital gains or direct income tax payable depending on the individual circumstance of that person.

MR. R. BANMAN: So in the case of, the Attorney-General referred to the increase in appreciation, the government is already taxing a certain amount of that appreciation at the present time?

MR. J. McJANNET: Ultimately, they will be taxed, presumably on the sale at which time they'll have to declare it.

MR. R. BANMAN: The final observation, Mr. Chairman, and that is only to say that the Member for Ellice mentioned that there could possibly be some rent increases with the Section which provides the two-year retroactivity clause and I find that very interesting, in light of the fact that the other piece of legislation that is in place was not tough enough, and here we hear today that possibly people in rental accommodations if this Bill is passed in its present form, will be receiving rent increases retroactive to two years and I find that an interesting observation.

Thank you Mr. Chairman.

MR. CHAIRMAN: Mr. Filmon.

MR. G. FILMON: Thank you, Mr. Chairman, I'm sorry to monopolize Mr. McJannet's time but there have been some other questions asked that have reminded me of other questions that I wanted to ask.

Mr. Chairman, the Attorney-General - and I'm sorry he's not here to listen to this additional discussion on it - I asked Mr. McJannet about the tendency or the motivation for landlords to try and remove tenants

earlier than the end of the 12-month term in order for them to get an additional increase in rent if they bring in a new tenant and I wonder if Mr. McJannet is familiar with The Landlord and Tenant Act. He referred to the fact that it is indeed very difficult for a tenant to be removed from the premises under any circumstances, even including the nonpayment of rent. Are there not many provisions in The Landlord and Tenant Act that were specifically designed to prevent any sort of harrassment or an undue pressure to be put on a tenant to remove them from the premises?

MR. J. McJANNET: Mr. Chairman, there are provisions in The Landlord and Tenant Act to protect the tenants and, I suppose, to be perfectly honest many landlords would say that the pendulum has swung the other way now and that all the protection is for the tenant and none for the landlord. When I was referring to removal of a tenant, for instance, for nonpayment of rent, simply that you cannot bodily walk in and move your tenant and baggage out of the apartment unit. He sits there and if you dare touch him, of course, we have other laws that prevent people from being involved in forced situations and subject to criminal charges, etc. The tenant if he refuses to pay his rent and refuses to depart the unit, it's happened on occasions, and there are bad tenants and perhaps there are unscrupulous landlords on occasion as suggested by the Attorney-General. One has to go to court, with proper notice to the tenant, and have a hearing before the court and have the court give an order to vacate the premises and have the tenant forcefully removed if he does not obey the order. He'd be removed then by the Sheriff's Office.

MR. G. FILMON: I don't want to enter into debate with Mr. McJannet about the provisions in the Act because I believe there are good and valid reasons why there ought to be strong protection for the tenant's interests in the landlord and tenant Legislation and I believe it's encumbent upon all of us in government to protect those rights. The fact of the matter is that there ought to be some strong equality in the legislation so that the interests of both, as much as possible, are considered and protected.

Further, the Attorney-General made reference to what he said was the inconsistency in your brief in reference to The Rent Stabilization Act whereby The Rent Stabilization Act of 1976 did provide for only five years, before the new construction, during that period, went back under controls. But is it not true and were the members of your Association not under the impression, when that Act was brought in, that it was not an Act that was designed to be in place for all time in future. In fact, I'm sure that you can recall that former Premier Schreyer and other members of his government suggesting, when it was brought in, that it was a temporary measure and therefore, when that 5-year provision was in it was under the assumption that by that time everything would be back out of the controls of the government Rent Control Program.

MR. J. McJANNET: Yes, Mr. Chairman, I think it's a fair recollection to say that there was that assumption but that assumption has not come to pass.

MR. G. FILMON: Mr. Chairman, I'll apologize if it appears as though I'm leading the witness as I believe is the term that lawyers use but, in view of the fact that the rolls are reversed and Mr. McJannet is the lawyer and I'm the lay person asking the questions, I'll carry on this way.

The other consideration, and again I was interested in Mr. Corrin's reference to the fact that he was concerned that, perhaps, landlords weren't given great enough increases under certain circumstances under the previous legislation. Well, conversely and I'd like Mr. McJannet to comment on this, we, on this side, are very concerned that indeed the 9 percent tideline may be too high in many instances; that the statistics that were brought forward under the rental market survey by the Department of Consumer and Corporate Affairs last year indicated, in fact, that one half of all of the units in Winnipeg had an increase of 8 percent or less. Under this legislation there will be a great tendency for landlords, who have units in perhaps less desirable locations who, because of the equity position that they have in it, because of the market competition in their area, because of their lower costs of operation, couldn't normally justify the 9 percent increase, but they're likely going to utilize the government approval, or the implied government approval of a 9 percent increase, to get a greater increase than they could have before. Do you not see that happening, Mr. McJannet, through you, Mr. Chairman?

MR. J. McJANNET: Mr. Chairman, I still have to revert back to the marketplace, in any case, where the 9 percent seems to be a suggested guideline. One of our concerns was of course the right of a tenant to object to everything and anything, 1 percent or 9 or anything in between or anything over that amount, but I presume that if there was an automatic increase, with tacit government approval, it is suggested that certainly as long as there is other accommodation available, that ultimately the landlord may very well price himself out of the market and find that he doesn't have any tenant, although while he does have substantial increase in his rent, so there is protection from that point of view, in my opinion, from the marketplace.

MR. G. FILMON: I'm going to ask Mr. McJannet to put on a more or less different hat but representing the same organization. I want to remind members of the Committee that the organization Mr. McJannet represents is the Manitoba Homebuilders Association which, sometime ago, prior to I suppose recent turns of events which have seen home building, single family home building in this province, drop to almost nil as a result of a variety of different pressures in the marketplace, not the least of which is the high interest rates, but as one of the prime focuses of the organization is in home building, I wonder if Mr. McJannet could comment on a concern that I think troubles many of us who represent both individual homeowners in Manitoba and renters in Manitoba and want to see the best interests of both protected by the government.

There is a situation that will develop as a result of the passage of this Act that will see a rather large government structure come into place. We found out during the Estimates debate the cost of this particular legislation and this particular structure being put in

place, and the Minister can correct me if I'm wrong, but he anticipates, initially, a staff of 23 in the Residential Rent Regulation Bureau. He anticipates spending about, I think, $250,000 in leasehold improvements to prepare the location for the Bureau to reside and he anticipates $80,000 a year in rent. These costs in the first year, taking into account the 23 staff and the $250,000 and the $80,000 are something in the order of $900,000 to put this structure in place. It seems to me, aside from other areas of transfer of costs that we will have as a result of this rent regulations, and I'm thinking in terms of the assessment balance transfer that may or may not take place, but certainly there will be a readily definable cost approaching a million dollars in the first year for this structure to be put in place for the benefit of tenants; and yet, a cost that will be shared across-the-board by all taxpayers, many of whom are already beleaguered as homeowners with the fact that they are now renegotiating the mortgages on their homes at interest rates of 18, 19, 20 percent; that they are faced with, if they have an average home in Winnipeg, for instance, an increase of $190.00 this year in their property taxes alone, and that's for the average home assessed at $7,000; and all of the continuing increases in the costs of their method of living, standard of living.

In additional to that they're being asked to pay for their share of the Residential Rent Regulation Bureau. If that cost is a million dollars or close to it and can be set at a definable level, and I think some of the things that you've indicated, the fact that so many of the rents will be open to review because of the various provisions that, in fact, stimulate appeals, or will stimulate appeals from the vast majority of rental units in this province this year, so there is a concern that maybe 23 people won't be enough in order to have the system operate efficiently and well so that the decisions will be rendered at a time in which they'll be useful. Would you comment as to whether or not there is an advisability that these costs should be offset as a separate charge, perhaps, to be added to rents in the province because they are indeed in the interests of those who are in the rental market and they're designed to really be at their service and certainly not in the interests of all of those who are homeowners and faced with all of those increases that they are as well, would not that be a manner in which the costs of operating such a large bureaucracy might in one way be controlled because then they'd be very definitely visible to people if it added say a fraction of 1 percent or a monthly charge to their rent to have the services of this Bureau at their disposal?

MR. J. McJANNET: Mr. Chairman, Mr. Filmon is correct to the extent that my Association represents home builders in the Province of Manitoba but it also has several subsections or divisions dealing with other interests and one of the interests, of course, is those who are involved in the construction and rental of housing units in the province. I can only say, in reply to Mr. Filmon, is that our brief does indicate that we are concerned about our costs as landlords that we're going to incur. We have expressed in our brief, the costs that will be incurred by the government with just several examples, the filing of the notices with the director and the paperwork and it's obvious to all of us that those will incur for the cost and so we have expressed the view that those items obviously are going to be of consideration and concern for all of us. Similarly, on the question of the direct cost of tenants, it seems to me that is something that is within the purvey of the Legislature as to whether there is additional costs and charges, but we are concerned about the proliferation of appeals and proceedings under the Act, the cost to our people, to our landlords, and we are concerned about the costs at the government level and we've said that in our brief because, of course, all of those costs are borne by all of us who live within this province.

MR. CHAIRMAN: We have one minute left. I still have two questioners. Are you finished, Mr. Filmon?

MR. G. FILMON: Yes, I am. Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Kovnats.

MR. A. KOVNATS: I think I can make my points at another time, Mr. Chairman, rather than prolong this and see that he doesn't have to come back after lunch.

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

HON. E. KOSTYRA: Yes, Mr. Chairman, just one last question and comment in response arising out of the question from the Member for Tuxedo where he's suggesting that some of costs of this program ought to be borne by the tenants and you'd indicated that you felt that would be one - though I don't think you answered it definitively yes or no, you said that might be one possibility. I'd maybe just want to get your further comment on that because it's rather a different kind of concept than, I think, under which governments generally operate. If the suggestion was that since tenants receive some benefit from this legislation that they ought to be taxed specifically for that benefit, I guess, we could take that into other areas of government; with respect to health care, that since the sick are the ones that take advantage of the health care system they ought to be taxed specifically for that; or that children receive the benefit of the education system in this province that we would tax children or their parents who utilize through their children, the education system that they should be specifically taxed for that. I was wondering, given that context, if you still had the same response to a question whether or not tenants should be taxed for the cost of this program that are being borne by government and that taxpayers in general?

MR. J. McJANNET: Mr. Chairman, I believe the Minister may be correct. I thought I had avoided the question to some degree but what I did say was that I thought we have a real concern about the costs that are going to arise from rent controls. We have a Rentalsman's office and an operation over there that cost funds; we anticipate additional costs. How it's going to be paid for and whether it should be assessed, this Association has not had the opportunity of looking at that aspect, other than obviously there will be costs.

Mr. Filmon's suggestion, I guess, is new to me and I

have no thought on that at the moment. I certainly had no instructions from the Association as to their position on that concept.

MR. CHAIRMAN: Mr. Kostyra.

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

MR. CHAIRMAN: No further questions? I wanted to thank Mr. McJannet for his patience and I want to indicate that this committee will reconvene at 8:00 p.m. this evening; and to the committee members, I'd like to suggest that it has taken us over two hours to get through with one representation. We have some 25. I would suggest that they consider that they shorten their questions, make them more succinct and more terse and that, if they wish to debate, they should leave that for afterwards when we are considering the Bill clause by clause; they can then debate. Thank you very much.

We are now adjourned until 8:00 p.m.