



STANDING COMMITTEE ON INTERGOVERNMENTAL AFFAIRS AND JUSTICE

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STANDING COMMITTEE ON INTERGOVERNMENTAL AFFAIRS AND JUSTICE

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[The committee met at 16:01.]

Chair B. McLeod: — Welcome to the Standing Committee on Intergovernmental Affairs and Justice. My name is Blaine McLeod, Chair of the committee. And we're just going to make some quick introductions around the table. Seated to my right today is MLA [Member of the Legislative Assembly] Patterson, MLA Martens, MLA Wilson. And coming around is MLA Roy, MLA Sarauer, and MLA Nippi-Albright. Thank you for being here today. And the substitutions today are Nicole Sarauer for Leroy Laliberte and Sean Wilson for MLA Hilbert.

Bill No. 3 — *The Safer Communities and Neighbourhoods Amendment Act, 2024*

Clause 1

Chair B. McLeod: — Today we will be considering Bill No. 3, *The Safer Communities and Neighbourhoods Amendment Act, 2024* with the Ministry of Justice and Attorney General, and we will begin with clause 1, short title.

Minister McLeod is here with officials. And just as usual, I'd ask that officials please introduce themselves before they speak for the first time and please don't touch the microphones. The Hansard operator will turn them on and off for you, on when you speak and off when you're not. So, Minister, please introduce your officials and make your opening comments, please.

Hon. Tim McLeod: — All right. Thank you very much, Mr. Chair, and good afternoon to the committee. Seated with me to my left is Neil Karkut, senior Crown counsel with legislative services. To my right I have Corey Zaharuk, assistant deputy minister for Corrections, Policing and Public Safety. And seated behind me is Denise Macza, deputy minister for Corrections, Policing and Public Safety; and my chief of staff, Max Waldman.

Mr. Chair, I offer my opening remarks respecting Bill 3, *The Safer Communities and Neighbourhoods Amendment Act, 2024*. This bill will empower the SCAN [safer communities and neighbourhoods] unit to identify and address nuisance properties that are unfit for human habitation and negatively affect neighbourhoods where those properties are located. Currently the Act does not authorize SCAN to take action against abandoned or vacant nuisance properties. Under these changes SCAN may apply to the court for either a rehabilitation order to demolish a nuisance property or a forfeiture order to seize the property prior to demolishing it. SCAN will also have discretion to attempt to remedy the condition of the property with the owner prior to initiating the application process.

The bill will also empower SCAN to use the existing community safety order process to target properties that are being used to store and exchange stolen goods or have high incidence of graffiti. Mr. Chair, this bill will provide the SCAN program additional tools to help ensure the safety of our neighbourhoods and communities.

I'm pleased to answer any questions the committee may have.

Chair B. McLeod: — I'll now open the floor to questions. MLA Sarauer.

Nicole Sarauer: — Thank you, Mr. Chair. And thank you, Minister, for your opening remarks. First let's start with the why. Can you explain why part III is being added to this legislation?

Hon. Tim McLeod: — So essentially the purpose of this bill is to address nuisance properties and create safer communities. And we have, through consultation with our MLAs and their feedback that they're getting from their communities, the nuisance properties is just part of a broader picture for providing safer communities. Of course as this committee would be aware, we're taking several other steps, and I won't, in the interest of time, get into too much detail about those. But we are seeking to address nuisance properties that are unfit for human habitation or would be a location for persistent criminal activity or persistent graffiti, things like that.

These types of properties become a fire hazard. They're a safety hazard for children in the neighbourhood. And often they can attract rodents and things like that that are a problem for the neighbourhood. And so this gives the SCAN officers the ability to address these nuisance properties and deal with them in a safe manner.

Nicole Sarauer: — Thank you. Can you explain why properties with high incidence of graffiti are being added to the legislation?

Neil Karkut: — Hi, Neil Karkut, Ministry of Justice. Just to clarify the point about graffiti. That's not being added under new part III.1. That's an extension of the existing community safety order process under the Act. Under that process an individual can make a complaint to SCAN where they believe that — I'm just going to read directly from the Act here:

a community or neighbourhood is being adversely affected by activities on or near a property in the community . . . and the activities indicate that the property is being habitually used for a specified use.

A "specified use" is a defined term in the Act; and right now you'll see a variety of specified use, so for example, dealing or exchange of illicit substances, drugs. Persistent graffiti is being added as another form of specified use. And there are certain cases . . . Obviously not every incident where you have a piece of graffiti on a fence, for example, is going to trigger this. But what you would be looking at more are cases where you maybe have a strong graffiti presence that might indicate gang activity, drug activity, a connection with those types of activities.

This is another one of those specified uses that can link into the complaint process so that the director of SCAN could consider whether this property is of concern to the community and whether they should proceed further with the community safety order process.

Nicole Sarauer: — Thank you. I do understand that it's a part of the original process that was created before. I'm curious to know how it's going to be determined that the graffiti use is the fault of the occupant or the owner of the property and not external sources.

Neil Karkut: — I'll start with that. And that's partially built into the definition that states "that the owner does not take reasonable

steps to remove or otherwise address.” So it would be determined on a case-by-case basis. And Mr. Zaharuk might be able to speak a bit more to that, as the director would review it, whether it appropriately fits within the main goals and purposes of this legislation.

Hon. Tim McLeod: — Just if I could before I turn the floor over to Corey, again, and Neil touched on it, remember that each of these situations will be addressed on a case-by-case basis. So this isn’t a situation where somebody has graffiti on the side of their building and that’s going to be the target property.

We’re talking about fire risks. We’re talking about properties that have persistent criminal activity. We’re talking about places that would be unfit for human habitation and dangerous for the community. You know, children playing in the neighbourhood shouldn’t have to be afraid, or the community shouldn’t have to be afraid that children might be harmed in these facilities. So that’s really what we’re talking about here.

It would be misleading to suggest that a property simply having graffiti on it — if it’s not otherwise a risk to the community — is going to be targeted by this. But, Corey, I’ll let you go ahead.

Corey Zaharuk: — Sure. So under the current legislation, SCAN investigators can take a number of approaches to resolve problems or problem properties. This adds to their legislative authority to respond to problem properties. So their normal course of action . . . And again, as the minister indicated, this is always a case-by-case basis, but the SCAN investigators have a number of options.

Surprisingly — or perhaps surprisingly to many — many of the problems with these properties are often resolved informally starting with a warning letter served to the property owner. We resolve approximately 60 per cent of our cases just by working with the homeowner and seeking informal resolution that never amounts to further enforcement action.

And with respect to graffiti, with that additional power, it now allows our SCAN officers to consider the impact of those nuisance properties that have graffiti that is not being removed. So I think about graffiti that is offensive, obscene, particularly to children, that type of graffiti that promotes drug trafficking, that promotes gang activity — those kinds of things.

Nicole Sarauer: — Sorry, I just need to ask a little bit of clarification because I feel like I’ve got . . . I just need to make sure I fully understand. There’s two separate things that we’re talking about here. The one is the new part that addresses abandoned or vacant nuisance properties and how to deal with those buildings. And then the other one is what I will call the traditional SCAN process where someone makes a complaint, and if it’s found that this property’s being used for a specified use, then an order can be made for the residents to vacate the property. They have to leave the property or the owners have to leave the property.

These are two separate processes. Please tell me if I’m wrong. And what is being added to the traditional process, the SCAN order process, is the addition of adding graffiti, ongoing incidents of graffiti, to the definition of specified use. Am I not correct in that?

Hon. Tim McLeod: — Yes, that’s correct. You’re talking about the community safety order portions.

Nicole Sarauer: — Yes.

Hon. Tim McLeod: — Right, and so this bill will clarify that if the court is satisfied that a property is habitually being used for criminal activity, then there’s a presumption that the community or neighbourhood is adversely affected.

Nicole Sarauer: — Well for a specified use. And specified use can now include “ongoing incidents of graffiti.” So my question still stands. I guess I have a two-part question.

How will SCAN be able to determine that the graffiti that’s being done to the building is the fault of the owner or the occupants? And in addition to that, the definition says “the owner does not take reasonable steps.” However if a community safety order is made, it affects the occupants of the building. They have to vacate the building. So it’s possible that it’s not even the fault of the residents of the building that the owner didn’t deal with the graffiti. So the residents could suffer for the owner not dealing with graffiti on the building, as a result of this. How is SCAN going to address that concern?

Corey Zaharuk: — So hopefully I provide some clarity for you. With the addition of responding to graffiti, this does not necessarily mean that the occupants would be vacated from the property. The obligation is on the homeowner to reasonably address the graffiti on the property. So again, case-by-case basis, an investigation. To your earlier point about this perhaps being an external source that was responsible for the graffiti, the responsibility still lies on the homeowner to take reasonable steps to remove that. And that’s what the process would look like.

[16:15]

So again, more specifically, that would not necessarily mean that the occupants in the home would be vacated as a result of complying with the responsibility of removing graffiti.

Nicole Sarauer: — It is possible that it could happen though. I guess my question is, hearing what the intent of the legislation is from what yourself is saying, Minister, and your officials as well, will there be ongoing monitoring of these amendments to ensure that the application of these legislative changes are matching the intent?

Hon. Tim McLeod: — Yes.

Nicole Sarauer: — Thank you. What about the situation where there is a landlord, for example, who is not here, who is not addressing the needs of the tenant? Again this is further to the question that I already had. Will there be consideration for the fact that not every landlord is a superstar landlord to ensure that the tenants are not being affected by the negligence of perhaps a delinquent landlord?

Hon. Tim McLeod: — Remember that, I mean, the Office of Residential Tenancies handles any disputes between the landlord and the tenant. So if it’s a situation of a landlord-tenant issue, then that is a separate process that already exists.

If this is a situation where the SCAN legislation is being used, then of course the judge hearing the application would have the oversight and has the ability under the legislation to do conditional orders, interim orders, those types of things. And so there are multiple layers of oversight that would be applied to address the concern — I think, if I'm understanding you correctly — in addition to the SCAN officers' discretion in the first place.

Nicole Sarauer: — But pursuant to the legislation, SCAN does have a lot of authority and power to do things prior to the court process. Lots of these situations do not go to court at all, as you well know. So just ensuring that there are checks and balances in the operations side to ensure that those who are being affected by SCAN orders, community safety orders, are who the ministry has intended the effect to be upon.

Hon. Tim McLeod: — Yeah, and again certainly the SCAN officers, as any officer in the province, exercise a lot of discretion and, as Corey mentioned earlier, the vast majority of these are resolved between communication with the officer and the homeowner. And it is our expectation that that would continue through this process. We're simply giving those officers additional tools to try and fill some of the gaps that were identified under the existing SCAN legislation.

Nicole Sarauer: — Can you explain why section 22(5) is being repealed?

Neil Karkut: — I can speak to that piece. That was identified by some of our program folks in SCAN. And essentially this is removing the provision stating that a community safety order is effective on the date it is served on the respondent. The requirement to still serve is there; however, the problem is that you can have respondents that will purposefully avoid service. However the order begins to run from the date it's issued, and if they have respondents that effectively avoid service, that can interact with or create difficulties with the order having application. So that was made for that purpose.

Nicole Sarauer: — So is it possible then that the order is effective and the respondent does not have any knowledge of that order?

Neil Karkut: — This speaks more to the timing of the order coming into effect. Under subsection (1), the director still has a requirement as soon as reasonably possible to serve that copy on the respondent. And that doesn't go away, but I guess the application of the order would begin on the date the order is issued. And this would be to address those circumstances where the respondent actively avoids service to try and get around the effects of the order.

Nicole Sarauer: — Why is the word "securing" being struck from section 28(1)?

Neil Karkut: — That's actually strictly housekeeping. That's the only spot in the Act where that word was used, so it was identified to remove it to avoid confusion.

Nicole Sarauer: — Thank you. Going back to part III and the addition of the treatment of abandoned or vacant properties, does a part like this exist in any other jurisdiction?

Neil Karkut: — No. Saskatchewan is the first jurisdiction that has added this form of provisions to our SCAN legislation.

Nicole Sarauer: — And just to confirm — I believe the answer is yes — but this will deal with privately owned properties, correct?

Neil Karkut: — That is correct.

Nicole Sarauer: — And forgive me if I missed this in the legislation. I was trying to figure out how this process will work in a situation where there is an interest registered against the property. What happens to that interest?

Neil Karkut: — That depends on whether you're working with a rehabilitation order or a forfeiture order. I guess first, in both cases, there's a requirement for the director to file the application within the land titles registry. So those individuals would all receive notice at that point.

Under a rehabilitation order, the owner still maintains ownership of the property. What would be happening here is that SCAN would be restoring that to a safe state. So if you had a dangerous building that looked like it was about to fall, cave in, demolishing that property — probably filling in the ground, bring it to ground level — you would essentially be left with a vacant property. And that would remain with the owner. So those interests would still exist there.

When you get to the forfeiture order, what we do here is a little bit based on what's under *The Seizure of Criminal Property Act*. If you look to section, it starts at 59.5, that'd be on page 11 of your bill. There are interest protection orders that the court would be able to issue, and most likely you would see probably a bank, for example, with an outstanding mortgage. So as long as those interests are there before the application process began, they would have a right to have an interest protection order.

For example, the court could state that, well, the property's forfeited to the Crown but it's subject to that outstanding amount that's secured by that mortgage. So when the property is restored and sold, the bank would be receiving their outstanding mortgage amount, for example.

So the court has some flexibility here because the types of interest could be varied depending on circumstance, but that process is all built in here to help protect those existing interests in the property.

Nicole Sarauer: — So who is then liable for those interests? Is it still the owner? The Crown subsumes that liability? How does that operate?

Neil Karkut: — Well, under a rehabilitation order, the owner would still be responsible because they remain the owner of that property and they have all the rights. Under the forfeiture order, the Crown would be taking title to the land, so they would ultimately be responsible for the court's order, those interest protection orders. And there's some clarifications in the Act that some of the terms of the mortgage itself may no longer apply. However, that paying out the remainder of the mortgage — the court would order that — that would come from the proceeds of the land on sale by the Crown.

Nicole Sarauer: — Okay, let's talk about the forfeiture piece first. Operationally, how will that work internally within SCAN? The taking over the land, selling of the land — this isn't something that you're regularly in the business of doing, to my knowledge, but I could be wrong.

Neil Karkut: — So I mean the legislation sets out the main legal process. If I understand correctly, you're talking more behind the scenes, the administrative process. I'll likely ask Mr. Zaharuk to take over, but that is part of the development of SCAN under these changes.

Corey Zaharuk: — All right. So I'll just go through sort of the process that we would think through and make some determinations as to whether to seek a rehabilitation order or a forfeiture order to start with.

So first and foremost, the forfeiture order transfers a nuisance property's title to the government. The SCAN unit would then have the authority to demolish the nuisance property, restore the property site and sell it, or otherwise dispose of the land. So part of this new legislation also requires new personnel with a skill set to manage this process. So for instance, it requires support from legal counsel, etc. The decision would be made by the director of SCAN as to whether or not we would use a rehabilitation order or a forfeiture order, and it would be done on a case-by-case basis.

We recognize that in many cases the subject properties have limited value and would be subjected to existing registered interest by banks, municipalities, and other creditors. A rehabilitation order would allow SCAN to address the nuisance property, and the government would avoid taking title to a property that is likely low value and difficult to sell. And it is also anticipated the court will be more willing to grant rehabilitation orders compared to forfeiture orders.

So those cases where we would consider a forfeiture order rather than a rehabilitation order would include some of the following: there are few interests registered against the property, and the director believes these interests can be appropriately dealt with by the court; the owner is expected to interfere with the demolition or rehabilitation process if they are allowed to maintain title; there are public interest reasons to take possession of the property.

So some examples I think of is located very closely to a school or a daycare, and rare instances where there are economic reasons to restore the nuisance property rather than demolish it. So for example, if a concrete apartment building has been partially completed and left in an abandoned state, there may be economic justification to forfeit the property and work with a contractor to complete the project for resale.

Nicole Sarauer: — Thank you for that. On the forfeiture end, my question to you, Mr. Zaharuk, is whether you already have the internal processes in place to be able to complete, as you've described, any type of forfeiture, working with contractors, potential sale process, within your SCAN unit. I'm just so curious about the forfeiture piece of what you've described, how that will work internally.

[16:30]

Corey Zaharuk: — So in answer to your question, the director already has experience and related experience in the forfeiture process. We have and continue to add administrative support in this regard. And then once the property is forfeited, we would have SaskBuilds take on the process of managing the property.

Nicole Sarauer: — Thank you. Has this additional work already been built into the already existing budget for SCAN?

Corey Zaharuk: — Yes, it has. We have a budget in 2025 and 2026 to support this legislation and working within this legislation.

Nicole Sarauer: — Thank you. Who was consulted on this bill?

Hon. Tim McLeod: — Well as we'd said earlier, this existing legislation was already in place, and we were hearing feedback from both the SCAN director and the officers within the unit, but also from our communities broadly about community safety. And again, this is one piece that fits into the broader picture of our community safety commitments that we've made.

And so these types of properties that are a nuisance and are a danger to the communities, I would think that if you speak to any urban resident they would probably agree with you. But we were certainly hearing that from our stakeholders and from our MLAs hearing from their constituents.

Nicole Sarauer: — Thank you. I already asked this question about the abandoned or vacant nuisance properties, but I failed to ask this question about the addition of high incidence of graffiti. Does this provision exist in any other jurisdiction?

Neil Karkut: — I'm not aware of any other jurisdictions that have that specific provision at this time.

Nicole Sarauer: — Okay. Thank you. Minister, are you confident that these proposed amendments are Charter compliant?

Hon. Tim McLeod: — Yes, I am. I certainly wouldn't propose to introduce a piece of legislation that wasn't. But what we're doing here, again, is establishing a process to address dangers in the community, but built in with several layers of oversight. And it is absolutely my opinion that that would be Charter compliant.

Nicole Sarauer: — Thank you. I have no further questions.

Chair B. McLeod: — Seeing no more questions, we will proceed to vote on the clauses. So fasten your seat belts for some very entertaining conversation. I didn't mean to surprise you.

So clause 1, short title, is that agreed?

Some Hon. Members: — Agreed.

Chair B. McLeod: — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 14 inclusive agreed to.]

Chair B. McLeod: — His Majesty, by and with the advice and

consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Safer Communities and Neighbourhoods Amendment Act, 2024*.

I would ask a member to move that we report Bill No. 3, *The Safer Communities and Neighbourhoods Amendment Act, 2024* without amendment.

Hon. Jamie Martens: — I move.

Chair B. McLeod: — MLA Martens moves. Is that agreed?

Some Hon. Members: — Agreed.

Chair B. McLeod: — Mr. McLeod, is there any closing comments today?

Hon. Tim McLeod: — Thank you, Mr. Chair. I would just once again thank the committee, thank Ms. Sarauer for her thoughtful questions, and thanks to my officials for assisting with those very thoughtful questions and their comprehensive answers. And thanks to Hansard of course, and to yourself, Mr. Chair.

Chair B. McLeod: — Thank you. MLA Sarauer, is there any closing comments?

Nicole Sarauer: — Sure. I'll just join with the minister in first thanking you, Mr. Chair, and the rest of the committee for their work today: Hansard, all of the staff. You, Minister, thank you for answering my questions this afternoon. And all of your officials, thank you for being here today, and thank you for all the work that you do serving the people of the province.

Chair B. McLeod: — Excellent. Thank you so much, everyone, for your attention today. That doesn't conclude our business. We have one more task. I would ask a member to move a motion of adjournment. MLA Wilson has moved. All agreed?

Some Hon. Members: — Agreed.

Chair B. McLeod: — Carried. This committee stands adjourned to the call of the Chair. Thank you very much.

[The committee adjourned at 16:38.]