

I. CELOS Review of the Act

1. Trial period, with assessment:

The Act was, with considerable foresight and legislative prudence, set up for a trial period to assess in what ways and to what degrees it does and does not work well for the citizens it governs.

There are a number of assumptions made in the legislation that CELOS would question and challenge in the light of our experience of government under the Act and a number of opportunities to strengthen the legislation to make it an effective vehicle to respond to citizens' priorities and direction.

2. Municipal governance: capacity and transparency:

The overwhelming message of the legislation is that the City councilors are up to the task of managing their affairs, determining what is in the public interest, and operating city services well, democratically and with transparency [*Preamble, s. 2 Purposes of the Act*] *This assumption expressly buttresses the consequent grant of broad powers to the city.*]

3. The invisible, inaudible citizen:

Despite vigorous citizen interest and engagement in projects throughout the city, the Act does not acknowledge this pivotal engagement by citizens as the key to the effective, responsive, government promised by the Act; [(s. 8 (2) 5. "*social well-being of the city*" is referred to as though its citizens are merely conceptual]. The role of the citizens is not mentioned in the numerous references to ascertaining the public interest and ensuring transparency. In fact, there is *no indication how this might be done nor who is to be involved in the discussion.* [*See Preamble, s. 2 Purposes of the Act, s. 8*].

Rather, the people for whom the City structure exists are invisible and inaudible in the Act, replaced by numerous references to an abstract and disembodied citizenry. It suggests a preference for social engineering over a responsive, flexible, thoughtful association of "trusted servants" engaging with the energy and initiative of the citizens.

4. Public Accountability:

There appears to be little emphasis on the legal and practical mechanisms needed to keep the city's own house in order, with resulting numerous missed opportunities for making sure that city facilities and services work for people in the ways originally intended. This central responsibility seems to be displaced by a focus on expanding the city's powers, the size of the city bureaucracy, and an increasing emphasis on policing the citizenry in numerous facets of their public lives.

II. CELOS PROPOSED CHANGES TO ACT

1. Clearly express the true public origin and responsibility at the core of the Act

- the elected officials and employees of the City exist to implement and fulfill the priorities of the people of the City
- their central job is to keep the city's own house in order and ensure that city facilities and services work for people in the ways originally intended.

2. Clearly express that the goal of the city organization is to support and encourage the widest possible use of public facilities by people from all backgrounds, ages, cultures, etc. This would involve an explicit requirement for thorough consultation when use or enjoyment of public spaces is about to be reduced or restricted by new bylaws.

3. Focus on “can-do” attitude and an explicit understanding that public spaces and amenities are spaces for citizen initiatives, pilot projects, exchanges of ideas, etc.

This would involve open-ended, broadly-worded provisions to create space for local, citizen-led innovation in Toronto's neighbourhoods. In the current economic slowdown, openness and flexibility are particularly important.

4. Clear acknowledgement that neighbourhoods are inhabited by people with different priorities and aspirations and that the goal is to favour, support and enhance diverse approaches fitting to the particular neighbourhood. This would require an express limitation on central planning **except** for explicitly delineated tasks in the Act where the existing track record and citizens' experience is that people have benefited by it.

5. Rule of law - clear definition of the legal scope of authority for elected vs. non-elected officials.

Example (a): “a no-photography” rule in parks, on privacy grounds, is said to be supported by the “Trespass to Property” Act, which in turn is said to be supported by the City of Toronto powers filtering down to city staff. This has the effect of City staff taking on the power to prohibit family photos (an often-used prohibition in parks).

Example (b): the City's mandatory helmet rule for drop-in shinny hockey has radically cut the number of youth using the city's 42 outdoor hockey rinks (shinny hockey is not a game normally played with equipment). Although the City has had no claims arising out of shinny hockey injuries, City Council allowed the helmet policy to be set by staff without public consultation and without follow-up.

Example (c): the Ontario Fire Code sets out restrictions to open-air burning, but it includes a specific exemption for small controlled cooking-fires (campfires).

Cooking fires have been used by groups such as boy scouts, family picnics etc., for many decades in Toronto parks. After the City of Toronto Act came into effect, city staff suspended the cooking fires for a time on the grounds that the City's powers trumped the Ontario Fire Code and that there was therefore no need for community consultation.

6. Access to complete, clear information: Currently the City makes it very difficult for its citizens to obtain information about municipal spending and policy-setting. Far too many requests for public information are required to go through freedom of information protocols, slowing down access for very straightforward requests.

7. Proscriptive powers and monitoring must be strictly and precisely set out, and also actively applied to activities of city stewards and employees (not only focused on citizen behaviour).