



THE FAILED PROVINCIAL FINANCIAL LEGISLATIVE SCHEME FOR THE TORONTO DISTRICT SCHOOL BOARD, IN PARTICULAR, AND ALL OTHER PROVINCIAALLY FUNDED SCHOOL BOARDS – JULY, 2015

TDSB is Canada's largest and most diverse school board serving more than 230,000 elementary and high school students and a further 160,000 continuing education students in almost 600 schools with approximately 40,000 teachers. More than 75 languages are spoken in the homes of TDSB students. To meet these challenges it is held back with many of its school buildings, school yards and equipment deteriorating because of inadequate provincial funding. This affects morale, the ability of TDSB to market its schools and its ability to meet its many challenges.

Premier Wynne and Education Minister Sandals, both being former school board Trustees offered much hope that with their background, the Province would finally take the bold step and cure what has long ailed TDSB, namely, amend the outdated and failed legislated reforms of the Mike Harris "Common Sense Revolution". It has been more than 25 years and evidence abounds that amalgamation and having the Province take over total control of school board finances and thereby total control of the school board's themselves has failed on all fronts, especially for the larger school boards and in particular TDSB. Educational and municipal experts long ago predicted the current problems would result from these changes, yet subsequent governments have grudgingly plodded along in denial without positive change. Amalgamation of Toronto area school boards merging central core educational issues with those of the 'burbs was driven by finances not educational expertise. The Province was asking skilled educators of the much smaller Boards to become business leaders running a \$3B corporation without the independence and financial tools to adjust to the new model. Redirecting total business and educational control to the Province was predictably flawed from its inception.

To date there has been a long history starting with the Harris regime of the Province sending in Special Supervisors to the larger school boards to "lay down the law" on any number of issues, especially ordering financial budget cuts, staff reductions and program changes, publicly laying the education ills on the school boards when the real problem rested with the government. The public may currently think that the Province is solving the TDSB woes with these same measures when in fact they are being misled.

The current Premier and Minister knew the fundamental solution to what ails TDSB certainly was not to lay all the blame on the school board as previous governments were prone to do. They

certainly knew the solution was not to publicly humiliate the TDSB Trustees and Senior Staff. Then why not do something constructive?

My comments relate to the fundamental issue of whether or not the Province should continue to have total control of school board finances. The province's recent review of the role of Trustees, the Director and TDSB senior Staff would be more clearly defined if the current financial relationship with the Province is corrected and deferred until this fundamental issue is resolved.

Let's go back in history.

Prior to the Harris government's legislation school boards had always had their own source of funding by collecting a portion of the property tax base. There is a rich history of this financial model working well. It was under this financial arrangement that school boards successfully responded to the many social changes and dramatic population increases in the post-war eras. During these periods school boards throughout the Province built many of the beautiful heritage schools and large playgrounds that generations of children and the public at large enjoyed. The boards introduced many creative and highly successful programs to respond to the changing cultural and financial needs of its students.

In the 25 years following the Harris legislation, the City of Toronto has benefitted from significant population and economic growth, yet TDSB has witnessed an overall enrolment decline in its schools while the other City public boards and private schools have enjoyed increased enrolment. TDSB's schools and playgrounds have long displayed an obvious need of basic repairs and significant upgrades, expansion or replacement and problems continue to mount with meeting program demands. Obviously, there is a relationship between these shortcomings and educational funding and TDSB's declining enrolment.

The Mike Harris government approved the 1997 Fewer School Board's Act (Bill 104) at the same time it approved The New City of Toronto Act (Bill 103) amalgamating the former City of Toronto with its five surrounding municipalities. Bill 104 amalgamated the same municipality's school boards into the TDSB. The most important change was that the Province decided to assume total control of the school board finances and budgets as a central plank of the "Common Sense Revolution". All funding would thereafter be by provincial grants calculated primarily on the number of students. If enrolment decreased school boards could adjust their variable costs but not their fixed costs such as school maintenance, expansion, new school construction and other capital and administrative costs. The entire system had become and continues to be financially driven.

Prior to amalgamation and Bill 104 school boards raised the bulk of its funds for all capital and operating costs from its share of the residential, commercial and industrial property tax base. The Province provided any additional monies that were required with grants. This system raised the necessary funds to meet the Toronto and surrounding area boards' needs for decades, especially as society adjusted to the post war baby boom era and increased immigration. These Toronto area municipalities incurred rapid growth amidst increased real estate values, which had the spin-off effect of providing matching funds for the increased needs of school boards. However, the Harris government saw this envious large pool of property tax revenue as a source

of funding for its other needs. As well, school boards outside of the Toronto area felt they were being underfunded because of their lower real estate values and property tax base. Bill 104 solved the Harris government's needs for cash, their desire for total control of public elementary and secondary education and their promised reduction in school board funding.

Prior to 1990, school boards in Ontario could also levy monies against new development proposals as a condition of subdivision and other development approvals. Those monies could be used to fund the capital needs of school boards to acquire new school sites and to build new schools and expand existing schools. When the legality of these levies were challenged by the real estate development industry, the Education Development Charges Act was proclaimed in 1990 to require new development for residential uses and certain commercial and industrial development to pay an Education Development Charge ("EDC") that could be used for the acquisition of new school land and new school construction. The theory was that "Growth should pay for itself". The Development Charges Act was proclaimed at the same time to allow municipalities to collect Development Charges ("DC's") for its own financial requirements.

Therefore, prior to the election of the Harris government and Bill 104, schools boards had three reliable sources of funding to meet their increasing demands: real property taxation, EDC's and provincial grants. By Regulation 20/98 the Harris Cabinet removed the ability of school boards to charge EDC's for anything but for the acquisition of new school lands and removed the ability to collect monies for new school construction or expansion.

Regulation 20/98 also had another devastating effect on TDSB. The regulation contains a formula whereby any school board that has a certain enrolment vacancy factor, relative to the total capacity for students in its entire system, cannot collect EDC's from new development. Because of declining enrolment in certain areas of the City, TDSB has several schools well below capacity. This triggers TDSB's failure to comply with the vacancy formula with the result it cannot collect EDC's without closing a significant number of schools. TDSB is concerned that the sell-off of these schools may be short-sited as they may be needed in the future considering the rapid redevelopment that is occurring throughout the City and contemplated to continue into the future. Improved transportation infrastructure will also bring growth to parts of the City that had previously suffered from slow growth and low density housing. Also, in a Ward system for elected Trustees and City Councillors, closing and selling schools or school yards is very difficult politically to do. There are the objections from parents as well as elected City officials and the community leaders. They legitimately claim that any closed or "surplus" schools or school lands are a scarce resource and should be retained for other educational or community purposes. With increased residential density being the norm for the future and the undersupply of City owned parks they correctly state that school yards should be maintained to fulfill that need. TDSB has no funding to do so. Obviously much friction and bad will results when schools are proposed to be closed or school lands or sites to be sold off.

The legislative process for closing a school is also lengthy taking several years to complete. Regulation 444/08, also from the Harris regime, requires that once school boards declare schools or portions of school yards "surplus" it must first offer them to other public educational facilities and to the municipality in which they are located. If they are to be sold to the municipality, the

City must pay fair market value but if sold to another publicly funded school board the sale is at a significantly reduced price. If neither public entity wants a school site then it can be sold to the private sector at fair market value. Only when TDSB can sell at full market value and obtain those sale monies for their own needs can TDSB reap any immediate benefits and “get ahead of the game”. Since amalgamation TDSB has sold 30 school sites and 82 properties generating sales of approximately \$400M, yet TDSB’s ability to access these funds is rigidly controlled by the Province. The benefit of the painful is not readily apparent to the community in which the closed school was located. In essence TDSB is doing the dirty work for the Province but not getting the financial rewards and flexibility to respond quickly to its obvious pressing capital needs. Nor is TDSB able to close and sell schools fast enough to meet the vacancy formula in Regulation 20/98 in order to collect EDC’s.

Compare the EDC fortunes of the much smaller Toronto Catholic District School Board. Because of its smaller size, it was able to quickly meet the vacancy formula and collect EDC’s from new development. Their first EDC was levied in 2001. In 2008 they updated the levy to \$544 per residential unit and \$0.58 per sq. ft for non-residential development. In 2013 the levy was further updated to bring in phased increases commencing in 2014 to 2018 from \$693 to \$1309 per residential unit and \$0.62 to \$0.92 per sq. ft. for non-residential development. The total monies raised in the 2008-2012 period was approximately \$40M. The new 2013 by-law projected levies for the 15 year period 2013-2027 totaling approximately \$268M. Subsequently, the Board decided that this 2013 by-law would not be adequate to meet its financial needs and is now proposing to delete the phasing in charge and require the 2015 charge and the remaining years to all be at the rate of \$1309 for residential units and \$0.94 per sq. ft. for non-residential space. Because of rising lands costs they projected their 2013 EDC would create a shortfall of \$60M thus the need for the increase. Accordingly the projected need for \$268M by 2027 has in just two years been adjusted upwards to \$328 M. Obviously further increases will continue to occur with each five year update of the EDC by-law. Where would the Catholic Board be without this source of revenue - in the same position as the larger TDSB?

As EDC’s are the only source of funding for public school boards to acquire lands it seems obvious that all public school boards should be doing so. The failure to do so not only deprives the school boards of much needed funds because in the absence of the EDC the province must ultimately raise such capital itself. Once a building permit is issued there no longer exists the ability to collect an EDC from the developer. Just look at all the new condo towers in recent years in Toronto and consider that TDSB has not collected a single penny in EDC’s from such development to assist with meeting the demands in their schools to accommodate such growth.

Imagine if the City of Toronto was the only municipality in Ontario that could not collect municipal Development Charges to assist with meeting its financial demands triggered by new growth. Pursuant to the Development Charges Act the City of Toronto currently collects \$35,095.00 per single/semi residential unit and is presently processing an amendment to add the City’s growth related share of the cost of the proposed Scarborough subway increasing the charge to \$38,452.00 per unit. Other forms of residential units pay a declining scale of charges based on unit size. In 2012 the City collected in excess of \$100M from DC’s.

So why is the Province continuing to deny TDSB access to these much needed funds? Because of the stubbornness of the Province and the Minister in not allowing it to do so because of the vacancy issue. Not only is TDSB and its students and the public shortchanged but so is the Province who at some point will have to make up the shortfall from the provincial tax base. The rapid construction of residential condominiums in Toronto is evident everywhere. Since 1998, 90% of all housing starts were apartment/condominiums form. In 2008, 2011 and 2012 condominium starts in the City exceeded 15,000 units per year. In 2012 total residential units exceeded 20,000 units. Had TDSB been able to collect EDC's of even \$2,500 per residential unit in 2012 it would have collected more than \$30M from just the new condominium units in that year alone. Had TDSB collected on average even \$30M per year over the previous 15 years it would have received a total of \$450M. How would TDSB's schools, facilities, programs and vacancy rates look today?

The restriction on EDC's only being used for acquiring lands for new schools and not for school expansion and equipment upgrades required from new growth is no longer practical nor financially sound in the City of Toronto. In the City core there are usually no privately owned vacant lands within residential neighborhoods. Any assembly would have to involve the acquisition of existing homes thereby unnecessarily and dramatically increasing land costs. Indeed the increased land costs may exceed the cost of the construction of the new school. For TDSB to meet the demands for additional accommodation caused by new growth, it will need to upgrade and expand and if necessary redevelop their existing school sites. To do so the legislation must be amended to allow TDSB (and all other publicly funded school Boards) to obtain EDC's to fund new school construction and expansion and any other capital or equipment upgrades required by new growth.

As to complying with the vacancy impediment in Regulation 20/98, the Province has a number of options. If the Minister is intransigent and simply wants TDSB to close a large number of schools, the Minister should take on the burden. Do not put the TDSB through the current lengthy and painful process. Close the schools by Regulation and order TDSB to relocate the children to other area schools within practical time frames. As to the resulting vacant schools sites, either order TDSB to convey them to the Minister forthwith for their real market value and in return the Minister provides TDSB with the matching funds to allow it to immediately repair and update their schools and expand or redevelop same as required. If the Province wants to make the sites available to other public education institutions or the City of Toronto, then it can do so without encumbering TDSB with that obligation and let TDSB concentrate its energies and skills on education. If the Province would prefer the real estate arm of TDSB, the Toronto Lands Corporation (TLC), to take on the real estate disposition role, then so Order and provide the TLC with the necessary funding for such to occur.

Finally, clearly there is a need to return to the residential and commercial property tax base for a broad range of public educational funding. The failure of the education solutions proposed by the Common Sense Revolution in 1998 are apparent with problems at all levels of the system. Those that suffer most are the students and their families. Such was well documented and

predicted by many educational and community experts 25 years ago and there can be no excuse for avoiding the solution any longer.

At this time we have 22 TDSB Trustees looking after almost 600 schools spread out through a very wide and large geographic area. Many of the Wards have significantly differing needs and challenges. Without the financial resources to deal equitably with all Wards there will obviously be a contest between Trustees to gain priority for their schools as demanded by school staff and parents. This places unrealistic demands on Trustees and staff and frustrates the fundamental mandate of the school board, namely, providing the best educational opportunity for all our children. Once the Province has fixed its own legislative and policy house it can then revisit how TDSB Trustees and staff are managing their educational roles. At that point, if TDSB is to obtain the funding tools and independence that were in place prior to the Harris era then consideration should be given to allowing leadership with business expertise to run the Board's financial affairs working closely with the Director of Education whose role and that of the Trustees would be confined to educational issues. These changes will deal with the reality of the situation and address TDSB's pressing academic and financial needs.

Premier Wynne and Minister Sandals, must stop tinkering with a broken model and casting blame on others and amend and update the legislation to reflect the educational reality as it exists today. All of the Province's school boards would benefit. As former school trustees they above all others should know better and are best equipped to take on the challenge.

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