



# Urban Development Institute of Nova Scotia

November 4, 2011

Labour Management Review Committee  
c/o Labour and Advanced Education, Policy Division  
PO Box 697  
Halifax, Nova Scotia  
B3J 2T8

By Email: [laepolicy@gov.ns.ca](mailto:laepolicy@gov.ns.ca)

Dear Committee Members:

**Re: First Contract Arbitration**

On behalf of the Urban Development Institute of Nova Scotia (UDI), I am writing to provide comment on the First Contract Arbitration (FCA) discussion paper and provide some suggestions for constructive areas of engagement for the Labour Management Review Committee (LMRC). I believe this feedback will be of great interest, as it comes from the unique perspective of non-unionized, small- and medium-sized businesses – the very workplaces that would be impacted by legislation to settle first contracts.

As the recognized voice of the land development industry in Nova Scotia, UDI is a local chapter of a national organization. UDI is comprised of a diverse and knowledgeable membership in all areas of the land development industry including developers, builders, consultants, engineers, architects, insurance companies, banks, government organizations, mortgage brokers, real estate agents, lawyers, suppliers and graphic design companies, to name a few. UDI's membership and respected Board of Directors are comprised of industry leaders in many professions.

You will recall that one of the foremost concerns with the creation of the LMRC was the decision to prohibit the full and direct participation of non-unionized employers. At that time, non-unionized businesses were assured the LMRC would primarily deal with labour relation issues in unionized workplaces, so we were understandably taken aback when we learned that the first issue put before your committee was that of FCA. It is our perspective that FCA has no bearing on those you currently represent in that it uniquely and directly impacts today's non-unionized workplaces that *may* unionize in the future.



# Urban Development Institute of Nova Scotia

While we appreciate the efforts of your committee to consult with stakeholders, the non-unionized community – which represents 85 per cent of Nova Scotia’s private sector workforce – is still far removed from the process. I hope you understand our concern that a formal body unrepresentative of the overwhelming majority of Nova Scotia’s workplaces would be advising government on issues such as settlement of first contracts. While I fully appreciate the composition of the committee is beyond your control, I believe this oversight may only serve to undermine the important work with which you will be tasked. I ask that if the situation were reversed - if non-unionized workplaces were asked to provide advice to the Minister on areas that would only impact the workplaces you represent – how you would view the process?

Beyond that overarching concern, there are others. The most significant is that we still have not been provided with a satisfactory rationale for why legislation to settle first contracts is needed in Nova Scotia. Nor has any compelling evidence been presented that indicates FCA would improve labour relations in Nova Scotia, which I understand to be your mandate. Instead, we have repeatedly heard that Nova Scotia enjoys a harmonious labour environment with among the fewest lost days due to strike and/or lockout in Canada. We understand that since 1998, the Labour Board has only issued three orders to bargain and officials from the Department of Labour and Advanced Education (LAE) report that in most cases agreements are negotiated amicably. Where this is not the case, the LAE has an exceptional track record with conciliation and mediation. Further, the *Trade Union Act* already requires employers and unions to make “every reasonable effort to conclude and sign a collective agreement” (s. 35), and the Labour Board has the power to effectively impose a collective agreement by requiring an employer to remove bad faith bargaining proposals that stand in the way. Finally, I understand that there are other options that can be explored to facilitate first contract settlements that do not require legislation.

One of the amendments put forth through Bill 100 was a new preamble to the *Trade Union Act* which underscores the importance of free collective bargaining as the basis for effective labour relations. I firmly believe that First Contract Arbitration or Settlement is contrary to free collective bargaining. Based on what we have heard directly from employers, effective labour relations is built on trusting relationships, relationships that can only be developed through discussion and negotiation – not with imposed agreements.

Above all else, UDI believes there are many more pressing issues facing our province that need our immediate attention. We have an economy that has lagged the country in growth for the past decade, we struggle to keep our youth and attract new Nova Scotians, we have a business environment that has clearly not encouraged job creation as it has in other provinces, and our productivity lags the country. These are real and serious issues. Introducing unnecessary legislation to settle first contracts will only add to an already uncertain environment at a time when government should be focused on fostering economic stability, improving productivity and overall competitiveness and looking for other ways to strengthen business optimism.



# Urban Development Institute of Nova Scotia

I do want to reiterate that I support the work and mandate of your committee – to improve labour relations in Nova Scotia. To this end, I do want to suggest other, higher priority and more constructive issues the LMRC can explore, which includes options other than unnecessary legislation to address the issue of first contract:

- ◆ evaluating our labour relations experiences, including the performance of the Labour Board and establishing best practices and benchmarks;
- ◆ reviewing the role of conciliation services with a view to providing support earlier in the process of negotiating a first collective agreement; and
- ◆ exploring whether the *Trade Union Act* should give the Labour Board the ability to make interim decisions.

Our fear is that removing the requirement of having employers and employees negotiate directly with each other could impact the cost of developing properties in Nova Scotia, thus impacting the price of leasing or buying both for businesses and residents. UDI is committed to keeping a low-cost environment in our province; FCA could make that commitment more difficult to uphold. As you well know the development community, particularly in Halifax, has its share of challenges. We ask that you do not add the uncertainty of First Contract Arbitration to that list.

I want to thank you again for the opportunity to share our comments directly with you and for the efforts that have been made to solicit input.

Sincerely

Joseph D. Daniel, CA  
President  
UDI of Nova Scotia