

Calgary and District Labour Council
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March 20, 2007

Dear Mayor Bronconnier:

RE: Trade, Investment and Labour Mobility Agreement (TILMA)

The Trade, Investment and Labour Mobility Agreement (TILMA) was signed on April 28, 2006 between the Premiers of Alberta and British Columbia, Ralph Klein and Gordon Campbell; and their Ministers of International and Intergovernmental Relations (AB) and of Economic Development (BC). TILMA is set to come into force on April 1, 2007.

The Calgary and District Labour Council opposes TILMA on numerous grounds and we ask that the City of Calgary take immediate action to register opposition to this agreement.

It is of critical importance that our City Council members make themselves directly informed of the negative repercussions TILMA will have on the ability of our City Council to develop and implement policies and regulations in accordance with the will of our citizens. To facilitate this, we have enclosed an information kit on the issues for your reference.

TILMA can potentially usurp the power of city council to defend or adhere to some measures developed and implemented on behalf of the citizens for the good of the public. Under this agreement, the arbitration of challenges to city policies will be left up to a third party panel. We believe the citizens of Calgary should ultimately have the final word on approving the manner in which our city government conducts its business.

Research shows that TILMA allows private sector challenges to government programs and policies. Under TILMA, any party may sue the city for up to \$5 million if they think that any program or regulation "restricts or impairs" their investment. In other words, any business can claim that a city policy or regulation affects their profits and taxpayers could be liable for paying the "damages" of such a challenge. Further, the city can be challenged numerous times by different parties on the same issue. We are concerned that initiatives taken by our City Council may also be challenged under TILMA if other municipalities do not agree with them or have not adopted similar standards.

Such expensive challenges, ruled on by a panel rather than our citizens, may eventually discourage our City Council from developing new policies or improving existing standards. The leadership abilities of our elected City Council members should not be constrained by the pressure to consider whether or not a policy or regulation might be challenged under TILMA if it inconveniences businesses. We think City Council should defend its ability to govern on behalf of our citizens.

Of particular concern to us is the direct effect that TILMA will have on the [Sustainable Environmental and Ethical Procurement Policy \(SEPP\)](#) and [Supplier Code of Conduct](#) recently adopted by City Council. Implementation is to begin this year on some purchases. However, the

SEEPP is designed to allow for “continuous improvement” - to allow for the inclusion of ethical standards which are currently being researched by the city or those that may be considered in the future. There was approval for the SEEPP from all stakeholders and it is of note that objections which were made to City Council were demonstrated to be unfounded. After careful deliberation of the SEEPP, City Council members showed tremendous ethical leadership by adopting it, in a democratically prescribed manner. However, there is a possibility that the SEEPP may be challenged under TILMA. This may force our City Council to defend its principles to a “panel” rather than our citizens and be bound by the decision reached or penalty levied.

A research study published by the Canadian Centre for Policy Alternatives states:

“While businesses cannot receive monetary awards for violations of TILMA’s procurement provisions pending the development of an “effective bid protest mechanism” and other changes to the procurement dispute settlement process, they can get panel rulings that have binding effect. Businesses may still consider it worthwhile to seek a panel ruling against a procurement decision if this decision is based on a policy – such as ethical purchasing – that affects more than one procurement.” (see Information Kit, Document 1)

Our provincial government entered into this agreement **without debate at the legislature or without allowing for informed debate among municipalities or citizens**. The City of Calgary should not demonstrate the same undemocratic process utilized by the province to date. The people of Calgary deserve better treatment from our elected officials.

The Calgary and District Labour Council welcomes an opportunity to meet with you on these timely issues and we respectfully request to do so. Please call Gordon Christie, Executive Secretary/Organizer of the Calgary and District Labour Council at (403) 262-2390, or email cdlc@telusplanet.net when such a meeting can be arranged.

Yours truly,

GORDON CHRISTIE,
Executive Secretary/Organizer,
Calgary and District Labour Council

Enclosures

PC: E. Stelmach, B. Mason, K. Taft