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CANADIAN UNION OF PUBLIC EMPLOYEES
BRITISH COLUMBIA DIVISION

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September 3, 2008

Mayor & Council
District of West Vancouver
750 - 17th Street
West Vancouver BC V7V 3T3

Dear Mayor & Council:

Last year at the UBCM convention in Vancouver, mayors and councilors from across British Columbia passed a resolution raising concerns about the impact on local governments of the province's Trade Investment and Labour Mobility Agreement.

The resolution (attached) raised concerns about the deal's "negative impacts" and called for the agreement to either be changed or to have local governments exempted from its provisions. The resolution passed almost unanimously.

Over the past year the UBCM has pushed for changes and has achieved some success. Procurement levels that would trigger the agreement have been raised (though not as high as the national Agreement on Internal Trade). Some guarantees have been made protecting the regulation of land use.

However, on other issues the government not only refused to move, it refused to even negotiate. Don Lidstone QC of Lidstone, Young, Andersen, has advised the UBCM on this issue. Mr. Lidstone notes in his letter to the UBCM Executive Director that the province simply refused to amend the agreement on issues such as subsidies or incentives to business "that would otherwise be a valid exercise under the Community Charter or the Vancouver Charter." The government even refused an amendment permitting local governments to defend their own measures if they were challenged. As Mr. Lidstone says in his letter:

"Given the tenor of TILMA and the public policy positions of the Province in relation to liberalizing trade, investment and labour mobility under TILMA, the municipalities cannot assume the province will defend the measures of local governments before TILMA dispute settlement panels."

The TILMA agreement, as it currently stands, undermines the autonomy promised by the Community Charter and the ability of local governments to act in the interest and with the wishes of their residents.

Barry O'Neill, President
Mark Hancock, Secretary-Treasurer

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Some key issues where the UBCM was unable to persuade the province to make changes include:

- Service delivery is not protected from challenge as a restriction on private investment. Water and waste disposal may be exempted for now, but are subject to yearly review to see if they should be included. All other local government services where there is private competition could be challenged, because s. 11.4 of TILMA only protects public monopolies.
- Land use may not be clearly exempted from challenge. A panel could decide that the purpose of a land use bylaw is not "primarily directed at" land use, but for another purpose - e.g., subsidization. In trade panels decisions in the past, panels have rejected the respondent's characterization of a measure.
- The UBCM asked to be exempted from the requirement to reconcile standards with Alberta if the reconciliation undermined local control over what the community considers unacceptable business practices. Although the province said it could not provide a single example of such a contravention of Section 5 of TILMA, it still refused to exempt local governments from this requirement.

Most important, however, from CUPE's perspective, is that TILMA is fundamentally flawed in its relationship to local governments.

We believe that the strength of our province lies in our communities. We build our communities, not through a slavish devotion to international and interprovincial trade agreements, but through a commitment to build upon our local strengths. The UBCM in its communications noted that, "many local governments, in this period of climate change, economic challenge, and environmental awareness have adopted policies which support local procurement." We agree with this sentiment. The province, however, has said it will not amend TILMA to permit this. This sort of straight-jacket approach may be good for large corporations, but it is not good for the small and medium sized businesses that support our communities.

A local preference for local businesses is not unheard of even in today's globalized society. As Michael Shuman has pointed out in his book, *The Smallmart Revolution*, six American states now allow a bidding preference for in state businesses. More than two dozen American cities, including Washington DC, have enacted purchasing preferences for local businesses.

We believe the Province, both in its imposition of TILMA and its refusal to negotiate the changes needed by local governments, has undermined the autonomy of local governments promised in Section 1 of the Community Charter:

“1 (1) Municipalities and their councils are recognized as an order of government within their jurisdiction that

(a) is democratically elected, autonomous, responsible and accountable,

(b) is established and continued by the will of the residents of their communities”

The words in this clause were an important commitment to the communities of British Columbia. Regrettably, however, this is not the first time the province has subverted the power of local governments, both in municipalities and in school boards. In 2003, the Province passed Bill 75 which gave the government extraordinary powers to overrule local government actions perceived as being ‘constraints’ to development projects. Bill 48 gave Cabinet Ministers the power to overrule local decisions restricting fish farming. In 2006, the Province’s Bill 30 removed local zoning control from the local governments for any private power production installation of any type in BC. Most recently the Province stripped the power to manage transit away from locally elected officials in the lower mainland and handed it, along with what are really taxing powers, to an appointed board. Many other municipalities have found similar examples.

More and more the provincial government is undermining the power of local governments. But local governments in British Columbia have a long history of standing up for their citizens. Just because the Province has the power to do something does not make it right. Just because the provincial government wants something is no reason for local governments to either support or accept it if it does not serve the interests of their citizens.

The UBCM and their negotiators made great efforts to convince the government to change TILMA. Sadly, in key areas, they were not successful. TILMA is an agreement that is still bad for communities and bad for the people of British Columbia.

We urge you to make clear to the government and to your own citizens, both through your councils and through the UBCM, that TILMA, with its undermining of local powers, is not right for our communities.

Yours sincerely,



Barry O'Neill
President
CUPE BC Division

Resolution from the 2007 UBCM Convention

A3 TRADE, INVESTMENT AND LABOUR MOBILITY AGREEMENT (TILMA) Creston

WHEREAS the provincial governments of British Columbia and Alberta have entered into a Trade, Investment and Labour Mobility Agreement (TILMA), which came into effect on April 1, 2007 and which is intended to liberalize trade, investment and labour mobility beyond the level provided by the Agreement on Internal Trade that was brought into effect for British Columbia on March 31, 2002;

AND WHEREAS TILMA has the potential to have far reaching negative impacts on local government objectives:

THEREFORE BE IT RESOLVED that the Union of BC Municipalities review the Trade, Investment and Labour Mobility Agreement between British Columbia and Alberta, and enter into discussions with the provincial government and local governments, with the intent of either making changes to the agreement to more specifically address local government concerns, exempt local governments from the agreement, or request that the Province withdraw from the agreement altogether.

ON MOTION, was ENDORSED