

Clause embodied in Report No. 12 of the Administration Committee, as adopted by the Council of the City of Toronto at its meeting held on October 1, 2 and 3, 2002.

5**Electoral Boundaries Re-Adjustment Process**

(City Council on October 1, 2 and 3, 2002, amended this Clause by adding thereto the following:

“It is further recommended that the Electoral Boundaries Commission:

- (1) be advised of City Council’s support for the rationalization of the Federal riding boundaries (Wards 17, 21 and 15) along Eglinton Avenue West and Oakwood Avenue; and*
- (2) be requested to reconsider the splitting of the area south of Dundas Street West, particularly between Dufferin Street and the railway tracks.”)*

The Administration Committee recommends the adoption of the report (August 23, 2002) from the Chief Administrative Officer subject to:

(I) amending Recommendation No. (2) by adding after the word “designate” the words “the Chair of the Administration Committee and the Chair of the City’s Civic Participation Initiative”, so that Recommendation No. (2) now reads as follows:

“(2) the Mayor or his designate, the Chair of the Administration Committee and the Chair of the City’s Civic Participation Initiative, make a representation, based on the principles and analysis contained in this report, to the Federal Electoral Boundaries Commission for Ontario at the public hearings to be held in Toronto on November 22, December 9 and December 10, 2002;

(II) amending Recommendation No. (3) to read as follows:

“(3) the Federal government be requested to amend the *Electoral Boundaries Readjustment Act* so as to reduce the permissible variance from the provincial electoral quotient (i.e., population divided by number of electoral districts) to plus or minus five percent; and that the Federation of Canadian Municipalities be requested to advocate for this change;

(III) amending Recommendation No. (5) to read as follows:

“(5) the Provincial government be requested to amend the *Representation Act, 1996* to provide that the population of all electoral districts for the Ontario legislature be within plus or minus five percent of the provincial electoral quotient; and

(IV) amending Recommendation No. (6) to read follows:

“(6) the Chief Administrative Officer monitor voting trends in the City of Toronto’s electoral districts to determine whether there is any relationship between electoral district variance and voter turnout and, if so, whether certain communities face particularly severe electoral disadvantage;

so that the Recommendations now read as follows:

“It is recommended that:

- (1) the concept of “effective representation for urban Canadians” serve as the basis of the City of Toronto’s position on the federal and provincial electoral boundaries readjustment process;**
- (2) the Mayor or his designate, the Chair of the Administration Committee and the Chair of the City’s Civic Participation Initiative, make a representation, based on the principles and analysis contained in this report, to the Federal Electoral Boundaries Commission for Ontario at the public hearings to be held in Toronto on November 22, December 9 and December 10, 2002;**
- (3) the Federal government be requested to amend the *Electoral Boundaries Readjustment Act* so as to reduce the permissible variance from the provincial electoral quotient (i.e., population divided by number of electoral districts) to plus or minus five percent; and that the Federation of Canadian Municipalities be requested to advocate for this change;**
- (4) the Federal government be requested to amend s.51 of the Constitution Act, 1867 by eliminating the *Representation Act, 1985* “grandfather clause” provision which mandates that no province shall have fewer representatives in the House of Commons than it did during the 33rd Parliament;**
- (5) the Provincial government be requested to amend the *Representation Act, 1996* to provide that the population of all electoral districts for the Ontario legislature be within plus or minus five percent of the provincial electoral quotient;**
- (6) the Chief Administrative Officer monitor voting trends in the City of Toronto’s electoral districts to determine whether there is any relationship between electoral district variance and voter turnout and, if so, whether certain communities face particularly severe electoral disadvantage;**
- (7) the Chief Administrative Officer review the forthcoming proposal to be issued by the Federal Electoral Boundaries Commission for Ontario to determine whether or not it may be necessary for the City to take further action;**

- (8) copies of this report be distributed to the Prime Minister, Federal cabinet members, MPs from Ontario, the Premier of Ontario, the Minister of Municipal Affairs and Housing, MPPs representing the GTA, the Federation of Canadian Municipalities, the Association of Municipalities of Ontario, the Large Urban Mayors' Caucus of Ontario, and the Big City Mayors' Caucus; and**
- (9) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.**

The Administration Committee reports, for the information of Council, having forwarded a copy of the report (August 23, 2002) from the Chief Administrative Officer respecting Electoral Boundaries Readjustment Process to the Intergovernmental Affairs Committee for information.

The Administration Committee submits the following report (August 23, 2002) from the Chief Administrative Officer:

Purpose:

The purpose of this report is to recommend a position and actions that the City of Toronto can take to ensure that its interests with respect to electoral boundaries readjustment are fully considered by the Federal Electoral Boundaries Commission for Ontario, Members of Parliament and other relevant parties.

Financial Implications and Impact Statement:

There are no direct financial implications arising from the recommendations in this report.

Recommendations:

It is recommended that:

- (1) the concept of "effective representation for urban Canadians" serve as the basis of the City of Toronto's position on the federal and provincial electoral boundaries readjustment process;
- (2) the Mayor or his designate make a representation, based on the principles and analysis contained in this report, to the Federal Electoral Boundaries Commission for Ontario at the public hearings to be held in Toronto on November 22, December 9 and December 10, 2002;
- (3) the Federal government be requested to amend the *Electoral Boundaries Readjustment Act* so as to reduce the permissible variance from the provincial electoral quotient (i.e., population divided by number of electoral districts) to plus or minus 10 percent, unless exceptional circumstances justify a larger deviation; and that the Federation of Canadian Municipalities be requested to advocate for this change;

- (4) the Federal government be requested to amend s.51 of *the Constitution Act, 1867* by eliminating *the Representation Act, 1985* “grandfather clause” provision which mandates that no province shall have fewer representatives in the House of Commons than it did during the 33rd Parliament;
- (5) the Provincial government be requested to amend *the Representation Act, 1996* to provide that the population of all electoral districts for the Ontario legislature be within plus or minus 10 percent of the provincial electoral quotient, unless exceptional circumstances justify otherwise;
- (6) the City Clerk monitor voting trends in the City of Toronto’s electoral districts to determine whether there is any relationship between electoral district variance and voter turnout and, if so, whether certain communities face particularly severe electoral disadvantage;
- (7) the Chief Administrative Officer review the forthcoming proposal to be issued by the Federal Electoral Boundaries Commission for Ontario to determine whether or not it may be necessary for the City to take further action;
- (8) copies of this report be distributed to the Prime Minister, Federal cabinet members, MPs from Ontario, the Premier of Ontario, the Minister of Municipal Affairs and Housing, MPPs representing the GTA, the Federation of Canadian Municipalities, the Association of Municipalities of Ontario, the Large Urban Mayors’ Caucus of Ontario, and the Big City Mayors’ Caucus; and
- (9) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Background:

On May 21, 22 and 23, 2002, Council adopted Administration Committee Report No. 6(6)(d), which requested the Chief Administrative Officer, in consultation with the City Solicitor, to:

- (I) Report on the Riding Boundary Adjustment Process and other legislation which affects the representative equality of electors of the City of Toronto, and
- (II) Develop a position based on the “one person, one vote” principle for presentation to the Federal Electoral Boundaries Commission for Ontario, the Government of Canada, the Large Urban Mayors’ Caucus of Ontario, the Big City Mayors’ Caucus, the Federation of Canadian Municipalities and the Association of Municipalities of Ontario.

On August 17, 2002, the Federal Electoral Boundaries Commission (FEBC) for Ontario released its proposal for the readjustment of federal electoral districts in Ontario.

This report responds to Council’s request and comments on the FEBC for Ontario’s proposal. The report was prepared in consultation with the City Solicitor.

Overview:

This report recommends a position and actions that the City of Toronto can take to ensure that its interests with respect to electoral district readjustment are fully considered by the Federal Electoral Boundaries Commission for Ontario, Members of Parliament and other relevant parties.

This report also reviews the legislative origins, degree and impact of electoral disadvantage experienced by residents of the City of Toronto and other urban communities.

Comments:

The Federal Electoral Boundaries Readjustment Process:

Two inter-related federal electoral districting practices impact the representative equality of Ontario residents and individuals situated within urban communities in particular. The first practice involves the formula that is used to determine the representation of each province in the House of Commons. This formula results in significant inter-provincial disparity of voting power and representation.

The second exercise, which encompasses the first, is the decennial re-adjustment of federal electoral district boundaries within each province mandated by Section 51 of *the Constitution Act, 1867*. The *Electoral Boundaries Readjustment Act* (EBRA) specifies the mechanics and rules to be adhered to in carrying out this process. The EBRA places lead responsibility for readjusting electoral districts in the hands of independent Federal Electoral Boundaries Commissions (FEBCs), one of which is established for each province. The leeway afforded by the EBRA to establish electoral districts with variances of up to plus or minus 25 percent from the average constituency population (i.e., provincial quotient) can result in substantial intra-provincial disparity of voting power and representation.

Details concerning the legislation, mechanics, actors and timelines associated with these exercises are presented in Appendix A.

In 1996, the Government of Ontario enacted *the Representation Act, 1996*. This statute mandates that the number, name and boundaries of electoral districts in the provincial legislature shall correspond exactly to Ontario's electoral districts in the federal Parliament. Consequently, any changes made to Ontario's federal electoral districts impact Ontario residents' representation in both the House of Commons and the Ontario Legislature.

Under *the City of Toronto Act*, the Minister of Municipal Affairs and Housing defines the boundaries of the City of Toronto's 44 municipal wards through regulation. As such, the City's municipal ward boundaries can only be changed by regulation or through the introduction of new provincial legislation. Changes made to federal or provincial electoral districts do not automatically result in changes to municipal ward boundaries.

The Representation Formula:

After each decennial census, Canada's Chief Electoral Officer (CEO) receives a report from the Chief Statistician of Canada indicating the population, respectively, of Canada, each province, and each existing federal electoral district. Drawing on this data, the CEO calculates the number of seats in the House of Commons to be allocated to each province using a formula specified in sections 51 and 51A of *the Constitution Act, 1867*. (A copy of s. 51 is attached to this report as Appendix B). The current representation formula requires five sequenced calculations to be made.

- (1) 282 Seats – 1 Yukon – 1 NWT – 1 Nunavut = 279 Seats:

There were 282 seats in the House of Commons in 1985, when provisions in *the Constitution Act, 1867* concerning the representation formula were amended by passage of *the Representation Act, 1985*. This number therefore serves as the basis of the new representation calculation. One seat is reserved for each of the three territories, leaving further calculations to be based on the remaining 279 seats.

- (2) Total Population of Provinces ÷ 279 = Electoral Quotient:

The electoral quotient is used to determine how many seats each province would be entitled to if population were the *only* factor used to determine representation in the House of Commons.

- (3) Provincial Population ÷ Electoral Quotient = Provincial Seat Allocation:

The provincial seat allocation is the theoretical number of seats to which each province would be entitled if population were the *only* factor used to determine representation in the House of Commons.

- (4) Application of the "Senatorial Clause":

Section 51A of *the Constitution Act, 1867*, the so-called senatorial clause, enacted by *the Constitution Act, 1915*, mandates that no province shall have fewer seats in the House of Commons than it does in the Senate. The provincial seat allocation (based on population) is adjusted accordingly to accommodate the regional interests protected by the senatorial clause.

Amending the senatorial clause would require resolutions by the Senate, the House of Commons and the legislative assembly of each province. It is highly unlikely that this is achievable.

- (5) Application of the "Grandfather Clause":

The Representation Act, 1985 amended section 51 (1)(2) of *the Constitution Act, 1867* to guarantee that each province would have at least as many seats in the House of Commons as it had in 1976 during the 33rd parliament. This provision, referred to as the grandfather clause, prevents provinces from losing seats in the House of Commons even if their population declines or grows more slowly than that of other provinces.

Parliament has the authority to amend the grandfather clause by ordinary legislation.

Table One - Application of the Representation Formula Using 2001 Census Data

	2001 Population/ (Percent change since 1996)	Theoretical Number of Seats (rounded)	Additional Seats due to Senatorial Clause	Additional Seats due to Grandfather Clause	Total Seats	Provincial Quotient
Newfoundland	512,930 (-7.0)	5	1	1	7	73,276
PEI	135,294 (+0.5)	1	3	0	4	33,824
Nova Scotia	908,007 (-0.1)	8	2	1	11	82,546
New Brunswick	729,498 (-1.2)	7	3	0	10	72,950
Quebec	7,237,479 (+1.4)	68	0	7	75	96,500
Ontario	11,410,046 (+6.1)	106	0	0	106	107,642
Manitoba	1,119,583 (+0.5)	10	0	4	14	79,970
Saskatchewan	978,933 (-1.1)	9	0	5	14	69,924
Alberta	2,974,807 (+10.3)	28	0	0	28	106,243
B.C.	3,907,738 (+4.9)	36	0	0	36	108,548
Provincial Total	29,914,315	278	9	18	305	
Nunavut	26,745 (+8.1)				1	
NWT	37,360 (-5.8)				1	
Yukon	28,674 (-6.8)				1	
National Total	30,007,094 (+4.0)				308	

Under the most recent application the representation formula based on the 2001 census, Ontario's representation in the House of Commons will rise by three seats from 103 to 106. The total number of seats in Parliament will increase by seven from 301 to 308.

Assessment of the Representation Formula:

As a liberal democracy Canada aspires to treat all citizens as political equals. This principle manifests itself, procedurally and substantively, by according each adult citizen the right to vote. Yet Canada is also a federalist country, which must find ways to accommodate the various, and often competing, interests of different regions.

Unlike the U.S. and many other federal states, Canada has only one effective legislative body at the national level (i.e., the House of Commons). The formula used to determine the allocation of seats in the House of Commons must therefore endeavour to accommodate both individual and regional claims to representation. In doing so, the formula inevitably privileges certain interests and certain groups of citizens over others.

The current formula favours provinces that perceive themselves to be threatened by demographic forces. Quebec, home to the bulk of Canada's French-speaking minority community, receives favourable consideration through the grandfather clause. The less populous and slower growing Maritime and Prairie Provinces benefit from the grandfather clause, the senatorial clause, or both.

Set against recent demographic trends, two key observations can be made about the impact of the current representation formula on the representative equality of citizens living in Canada's most urbanized provinces.

- (1) The senatorial and grandfather clauses disadvantage the country's fastest growing provinces:

As Table 1 indicates, the fast-growing provinces of Ontario, British Columbia and Alberta were the only ones that did not obtain extra seats from these clauses in the most recent (2001) application of the representation formula. The effect of these provisions is striking. For example, once electoral boundary readjustment based on the 2001 census comes into force, the average MP from Ontario with 107,642 constituents will represent 3.18 times as many people as an MP from PEI, who will serve an average of only 33,824 individuals.

- (2) Because the provinces with the fastest growing populations also happen to be the most urbanized provinces in the country, the senatorial and grandfather clauses disadvantage urban residents and urban interests.

Ontario, Alberta and British Columbia are not only the fastest growing provinces in Canada; they are also the country's most urbanized provinces. (See Appendix C).

Arguably, the under-representation of Canada's most urbanized provinces in the House of Commons is one of the chief factors responsible for the systemic inattention paid to urban residents and urban interests by federal parliamentarians and government officials.

The Impact of Urban Under-representation on Federal Priorities:

Beyond the mere fact of urban under-representation in Parliament, statistically speaking, is there any evidence that federal parliamentarians and officials systematically neglect the concerns, interests and issues that are most relevant to urban residents? In other words, is there any proof that urban residents are not effectively represented in Parliament? Yes.

A recent analysis of subjects discussed in the House of Commons reveals the extent to which rural interests and issues eclipsed urban ones during the most recent session of Parliament. A table comparing the frequency of mention of urban and rural issues is provided in Appendix D; an excerpt of this data is presented below:

Table Two - Frequency of Rural and Urban Issues in the Most Recent Parliament

Rural Issues	No. of times mentioned	Urban Issues	No. of times mentioned
Farm income crisis	700+	Food banks	1
Grain transportation	71	Public transportation	30
Foot and mouth disease	192	HIV/AIDS	50
Agriculture	143	Science and technology	8
Forest industry	109	Biotech industry	8
Curling	19	Toronto	13
Beef	44	Calgary	9
Canadian wheat board	21	Sustainable cities initiative	2

Source - Presentation by Joe Berridge at the Toronto City Summit, June 25, 2002. The source of the House of Commons data is:

http://www.parl.gc.ca/common/Chamber_House_iDebates.asp?Language=E&Parl=37&Ses=1

These figures testify to the lack of attention paid by federal parliamentarians to urban issues. The casual observation that there is a federal Ministry of Agriculture and Agrifood, as well as a Minister Responsible for Co-ordinating Rural Affairs, but no equivalent urban counterpart is further evidence of the systemic neglect of urban interests by the Federal government. Likewise, the Prime Minister's need to convene a special *ad hoc* caucus task force on urban issues, while laudable in its own right, corroborates the suggestion that the federal government does not have a permanent administrative body whose job it is to articulate or defend the nation's urban interests.

The causal chain linking urban under-representation in the legislature to the systemic neglect of urban interests by federal and provincial parliamentarians is easy to discern. In our district-based, first-past-the-post electoral regime, politicians have a strong incentive to adopt a parochial perspective. As discussed in this report, the current electoral system disadvantages the country's most urbanized provinces and, within each province, often results in the overrepresentation of rural areas. The resulting under-representation of urban areas, in turn, helps to account for the systemic neglect of urban interests by parliamentarians at both the federal and provincial levels.

Intra-provincial Electoral District Variances:

Urban residents are also disadvantaged by the rules that govern how the electoral boundaries within each province are drawn.

Section 15 (1)(a) of the EBRA specifies that the division of a province into electoral districts should be based on population such that each district is as close as reasonably possible to the electoral quotient for the province. The electoral quotient is the number that is obtained by dividing the population of a province by the number of seats in the House of Commons assigned to that province. However, EBRA section 15(2) provides that a commission may depart from this rule when it considers it necessary or desirable to do so:

“in order to respect the community of interest or community of identity in or the historical pattern of an electoral district in the province, or (b) to maintain a manageable geographic size for districts in sparsely populated, rural or northern regions of the province.”

In departing from the goal of achieving numerical parity among electoral districts, the EBRA specifies that a commission shall make every effort to ensure that:

“except in circumstances viewed by the commission as being extraordinary, the population of each electoral district in the province remains within twenty-five per cent more or twenty-five per cent less of the electoral quota for the province.”

Thus, while acknowledging the primacy of population in setting electoral boundaries, the EBRA nevertheless provides the boundary commissions with significant flexibility to deviate from numerical parity among electoral districts.

Assessment of the EBRA’s Allowance for Variances of Plus or Minus 25 percent:

The EBRA’s allowance for variances of plus or minus 25 percent favours regional claims to representation above individual claims to representation on an intra-provincial level. Consequently, urban residents in Ontario and elsewhere find themselves at a distinct disadvantage whenever, as has often been the case, FEBCs:

- (a) adopt a place-based notion of “community of interest” or “community of identity”, but restrict it to such communities as are found in remote, northern or rural areas, and then; and
- (b) elect to establish rural and/or northern districts with constituency population variances significantly below the provincial quotient.

A compelling case can be made that recent demographic and technological changes have substantially weakened the legitimacy of these practices.

It has traditionally been suggested, for example, that it is necessary for rural MPs to have fewer constituents than their urban counterparts because of the difficulty and expense of communicating with individuals in vast, sparsely populated areas. When MPs travelled by train and communicated by telegram this argument had some merit. There can be little doubt, however, that dramatic improvements in communication technology and transportation services since the EBRA was passed in 1964 have substantially reduced the cost and time it takes for a rural or northern MP to remain in contact with his or her constituents.

Recent demographic shifts have further undermined the justification for large electoral district variances. Due to the rapid diversification of Canada’s major cities over the past 40 years, a typical MP from Toronto, Montreal or Vancouver now confronts a constituency communications challenge no less daunting than that faced by the average rural MP. Many big city MPs represent ethnically and racially diverse constituencies comprised of highly mobile individuals who speak many different languages and who, in many cases, have only recently arrived in Canada. In

1996, visible minorities comprised 29.5 percent of the GTA's population but only 5.3 percent of the population in the rest of the province. Similarly, 21.4 percent of the households in the GTA in 1996 spoke neither French nor English as their home language, compared with 5.5 percent of households outside the GTA. As of 1996, the GTA was also home to five times as many recent immigrants to Canada (i.e., individuals who immigrated between 1991-1996) as the non-GTA area (9.6 percent versus 1.9 percent of the population).

A second rationale used to support electoral variances of plus or minus 25 percent is that Canada's rural and northern regions constitute unique "communities of interest" and "communities of identity". Such claims are no doubt true. But as the racial, ethnic and linguistic diversity of Canada's population grows with every census, it becomes less and less tenable to privilege place-based claims to representation alone. In a culturally and racially heterogeneous society, geography is not the only – and seldom the primary – basis of individual, group or political identification.

Why Is Urban Under-representation Problematic?

The under-representation of urban communities in Federal and Provincial parliaments is problematic for at least three reasons. First and foremost, tolerating a system that significantly dilutes the value of urban votes without appropriate, adequate or compelling justification belies Canada's commitment as a liberal democracy to treat all citizens as political equals.

Second, Canadian cities' ability to successfully compete and thrive in an international context is compromised by under-investment in urban infrastructure and the general neglect of urban interests by Federal and Provincial parliamentarians. Since it is now widely recognized that Canada's future prosperity depends on the success of its major urban centres, the under-representation of urban interests in Federal and Provincial parliaments should be of concern to all Canadians.

Third, the under-representation of urban centres disproportionately impacts minority ethnic and racial communities. Toronto's recent demographic history illustrates the seriousness of this issue. Whereas only 3.1 percent of the population of the City of Toronto were members of visible minority groups in 1961, this figure had risen to over 50 percent by 2001. Many visible and ethnic minorities continue to face a variety of obstacles that limit their ability to participate fully in Canada's public, social and economic institutions. Accordingly, the overlap of urban under-representation with the concentration of minority communities in our nation's largest cities presents a significant challenge to Canada's commitment to social justice and equity.

The Under-representation of Toronto and GTA Residents:

Table three illustrates the degree to which urban under-representation manifested itself in Ontario between 1991-2001. Electoral district groups with a positive variance from the province's electoral quotient are underrepresented relative to their share of the population, while groups with a negative average variance are over-represented relative to their share of the population.

Table Three - Variances among Electoral District Groups in Ontario (1991-2001)

Electoral District Averages (Number of districts)	Area (km ²)	1991 Population	1991 Variance	2001 Population	Change in Population (1991-2001)	2001 Unadjusted Variance**
City of Toronto (22)	31	103,444	5.7%	112,795	9.0%	4.8 %
Other GTA Districts (19)	301	99,935	2.1%	132,765	33.0%	23.3%
GTA (41)	156	101,818	4.0%	122,049	20.1%	13.4%
Non-GTA Districts (62)	15,750	95,328	-2.6%	103,323	7.9%	-4.0%
*Urban Districts (51)	57	102,123	4.3%	114,842	12.6%	6.7%
*Rural Districts (52)	18,846	93,781	-4.2%	106,790	13.0%	-0.8%
All Ontario Districts (103/106)	9,543	97,912	0%	110,777/ 107,642	13.1%	0.0%

* Statistics Canada defines any region with more than 400 persons/sq. kilometre and at least 1,000 people as an “urban” area. Conversely, any area with fewer than 400 persons/sq. kilometre is defined as “rural”.

** The “unadjusted variance” is the variance experienced by each electoral district group in 2001 measured against a provincial quotient of 97,912 – as determined by dividing Ontario’s total population in 2001 by the 106 electoral districts to which it is entitled according to the most recent application of the Representation Formula.

In 1991 the average electoral district in Toronto had 5.7 percent more constituents than the average electoral district in the province. Similarly, the average electoral district in the GTA had 4.0 percent more constituents than the average electoral district in the province. A typical rural district, in contrast, had 4.2 percent fewer constituents than the average electoral district in the province.

It is also interesting to note that despite the fact that over 80 percent of Ontarians lived in urban areas in 1991, 52 percent (52 of the 103) of the federal electoral districts in Ontario established during the readjustment based on the 1991 census qualified as “rural” according to Statistics Canada’s definition of a rural area being any region with a population density of fewer than 400 persons per square kilometre.

These figures also underscore the rapid population growth in the GTA communities outside the City of Toronto. Between 1991-2001, the population of non-Toronto GTA communities increased by 33.0 percent. In contrast, the City of Toronto’s population grew 9.0 percent during this period, while growth outside the GTA stood at a more moderate 7.9 percent. Accordingly, the variance of the average non-Toronto GTA district rose sharply from 2.1 percent in 1991 to 23.3 percent in 2001. To address this imbalance, the FEBC for Ontario has recommended that

the province's three new electoral districts be situated within the GTA but outside the City of Toronto. The FEBC also proposes to shift one electoral district from Northern Ontario (which experienced a net decline in population) and the Hamilton-Niagara region (which experienced very limited population growth) to the suburban area outside Toronto, resulting in a total of five new seats in the GTA region.

“Effective Representation” versus “Equal Representation”:

The process described in this report includes several steps where electoral district allocation and boundaries may be adjusted in a manner that disadvantages urban residents throughout Canada and in Ontario in particular. Toronto's residents can be disadvantaged on both counts. It is therefore critical to ask whether, in a Canadian context, the notion of “one person, one vote” implies equal or effective representation.

Section 3 of the Canadian Charter of Rights and Freedoms (the “Charter”) states the following:

“Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.”

In its 1991 ruling in *The Attorney General for Saskatchewan v. Roger Carter*, Q.C. the Supreme Court of Canada interpreted section 3 of the Charter as granting a right to effective representation, not a right to equality of voting power. This position stands in contrast to the ruling of various American courts, which derive a principle of equality of voting power from the equal protection clause of the U.S. constitution. The Supreme Court of Canada rejected the American model stating that “democracy in Canada is rooted in a different history than in the United States”.

The reasoning offered by the Court to countenance the special treatment of northern districts and the rural/urban disparity in Saskatchewan in its 1991, ruling established a legal precedent applicable throughout Canada. Writing for the majority, Justice McLachlin determined that “the purpose of the right to vote enshrined in s. three of the Charter is not equality of voting power per se, but the right to “effective representation”. She explained that absolute voter parity does not permit sufficient flexibility to meet the practical difficulties inherent in representative government in a country such as Canada.

While the majority opinion did not explicitly define effective representation, it argued that “factors like geography, community history, community interests and minority representation may need to be taken into account to ensure that our legislative assemblies effectively represent the diversity of our social mosaic”. The Supreme Court nonetheless acknowledged the primacy of population in drawing electoral boundaries. To wit, the majority asserted that “only those deviations should be admitted which can be justified on the ground that they contribute to better government of the populace as a whole, giving due weight to regional issues within the populace and geographic factors within the territory governed”.

Electoral Boundary Readjustment Practices in Other Jurisdictions:

In the past few years, many jurisdictions in Canada and elsewhere have limited the degree of electoral advantage accorded to rural, sparsely populated areas in order to better respect the notion of “one person, one vote”.

In Saskatchewan, for example, provincial electoral districts in the more populous southern area of the province must be within five percent of the applicable constituency population quotient. Manitoba draws a similar distinction between its northern and southern electoral districts for MLAs using the 53rd parallel as a dividing line. South of the 53rd parallel constituency population variances are limited to plus or minus 10 percent, while variances of plus or minus 25 percent are tolerated for electoral districts north of the 53rd parallel.

Like Canada, Australia is a federal Commonwealth parliamentary democracy with a large landmass and a highly urbanized population. In every Australian state except Western Australia and five (5) sparsely populated districts in Queensland, electoral district variances of no more than plus or minus 10 percent are tolerated. At the national level, similar to the United States, seats in the upper chamber (the Senate) are divided equally among the States irrespective of their population. In Australia’s lower chamber (House of Representative), boundaries are drawn with the aim that in three years and six months time the number of electors in each district within a State or Territory will vary by no more than 3.5 percent from the quotient for that region. When the redistribution itself comes into force, electoral district populations may not vary by more or less than 10 percent from the State or Territorial quotient.

Recommended City Position: “Effective Representation for Urban Canadians”:

In its presentation to the FEBC for Ontario and other parties with an interest in the electoral boundary readjustment process, the City of Toronto should endorse the notion of “effective representation for urban Canadians”. It is advisable for the City of Toronto to champion this concept in lieu of strict adherence to equal representation for the following reasons.

In the first place, advocating the concept of “effective representation for urban Canadians” is likely to be both palatable and persuasive because it reflects the Supreme Court of Canada’s position that the Charter guarantees effective representation to every citizen. Conversely, supporting a position based on the concept of equal representation would run against the grain of prevailing constitutional jurisprudence and limit the City’s ability to achieve greater urban representation.

Second, the principle of equity underpinning the concept of effective representation is the same principle that the City applies when it makes special accommodation for various community, ethnic and racial groups that are an integral part of Toronto’s social mosaic. Equitable treatment, not equal treatment per se, is the hallmark of Toronto’s embrace of diversity and its recognition of itself as city of individuals, neighbourhoods and communities.

Third, as a city which is at the forefront of the call for a “new deal” for Canada’s cities, it would be neither prudent nor logical for Toronto to advocate that all regions in Canada be treated the same no matter what. Supporting a principle that discounts altogether the importance of “place”

in public policy is simply not in Toronto's interest. After all, a central plank of the "new deal" envisioned by the C5 mayors is a call for significant, sustainable infrastructure investment in housing and public transportation in Canada's largest cities.

Finally, if current demographic trends persist, the City of Toronto will soon find itself in a situation where it could actually benefit from a system that did not allocate seats strictly on the basis of population.

For all of these reasons, advocating a position based on the concept of "effective representation for urban Canadians" will maximize the City's credibility when calling for greater political representation for urban residents in general and for Toronto's residents in particular.

As corollaries to the concept of "effective representation for urban Canadians", the City of Toronto's position on the readjustment of federal and provincial electoral district boundaries should include the following principles:

- (a) to respect the equal dignity and political autonomy of all citizens of Canada resident in Ontario, population should serve as the primary factor in setting and readjusting electoral district boundaries;
- (b) the effective representation of communities (both place- and identity-based), recognition of distinct geographic and infrastructure elements, and anticipated future population growth should serve as secondary factors in determining electoral boundaries. Variances from the average electoral district population of no more than plus or minus 10 percent should be tolerated only when compelling evidence demonstrates that such variation is necessary to accommodate these secondary factors;
- (c) electoral district boundaries should not be drawn for the sake of administrative convenience or partisan political advantage. Setting federal and provincial electoral district boundaries that correspond with existing municipal boundaries, while desirable, is not an imperative; and
- (d) the number of federal or provincial electoral districts within a municipality that vary from the provincial quotient by more or less than 10 percent should not increase from one representation order (e.g., readjustment exercise) to the next.

Assessment of the Federal Electoral Boundaries Commission for Ontario's Proposal:

The FEBC for Ontario released its proposal for the readjustment of Ontario's federal electoral districts on August 17, 2002. The full report may be accessed on line at: http://www.elections.ca/scripts/fedrep/ontario/ontario_general_e.htm Interested parties can request an opportunity to make a representation before the Commission at a series of public hearing that it will hold across the province. The Commission will hold hearings in Toronto on November 22, December 9, and December 10, 2002. These hearing are an opportunity for the City of Toronto to provide input into the process of readjusting Ontario's federal electoral districts.

The proposal's most significant recommendation is to accommodate population growth in the Greater Toronto Area outside the City of Toronto by situating five new electoral districts in this region. One electoral district each from Northern Ontario and the Hamilton-Niagara region will be moved to the suburban area outside Toronto, along with the three new electoral districts to which Ontario is entitled according to the most recent application of the Representation Formula based on the 2001 census.

On the basis of population alone, the City of Toronto would be entitled to 23 electoral districts. Despite this fact, the Commission recommends only 22 electoral districts for Toronto. To account for demographic shifts within the city, the Commission proposes to alter the current boundaries of 15 of these 22 ridings.

Measured against the concept of "effective representation for urban Canadians" and the associated principles outlined in the previous section of this report, the FEBC for Ontario's proposal is somewhat disappointing. The proposal neither limits nor justifies the advantage it accords to the province's rural and northern areas to an appropriate degree. Some of the most significant shortcomings of the proposal are listed below:

- (a) 49 of the 106 electoral districts proposed by the FEBC for Ontario have a variance in excess of +/- 5 percent from the provincial quotient. 19 of these 49 districts have a variance in excess of +/- 10 percent;
- (b) under the boundary readjustment based on the 1991 census, only one of Toronto's 22 electoral districts had a variance of more than 10 percent. Under the new proposal, three of Toronto's 22 electoral districts have a variance in excess of 10 percent;
- (c) the Commission acknowledges that on the basis of population alone, Northern Ontario would only be entitled to eight electoral districts instead of the 11 that it currently has. Nevertheless, its proposal recommends taking only one district away from this area for reallocation to more populous regions. The proposal reports that "just as the Commission is unwilling to accept significant overrepresentation in this region, it is also unwilling to accept the drastic reduction of representation for Northern Ontario that would result from decreasing the number of electoral districts from 11 to eight". The Commission offers no further justification for this critical decision. Nor does the Commission acknowledge that changes in demographics and technology over the past 10 years have weakened the rationale for having rural districts with substantially smaller constituency populations than urban ones; and
- (d) the proposal endeavours to respect existing municipal boundaries. However, its commitment in this regard significantly compromises the representative equality of constituents in the electoral districts of Scarborough East (with a constituency population 14.33 percent greater than the provincial quotient), Scarborough Centre (+14.35 percent), and Scarborough Rough-River (+10.66 percent). By extending the boundary of Scarborough-Rouge River and Scarborough East into the neighbouring districts of Oak Ridges-Markham (-0.26 percent) and Pickering-Durham (-7.43 percent), the under-representation of Scarborough's residents could be substantially reduced.

It is also noteworthy that the FEBC for Ontario’s proposal adheres much less closely to numerical parity among districts than the recommendations made by almost all of the other boundary commissions.

Table Four - Comparison of 2002 Federal Electoral Boundary Commission Proposals.

Province	Provincial Quotient	Federal Electoral Districts	Number of Districts with Variance Greater than 10 percent	Number of Districts with Variance Between 5- 10 percent	Number of Districts with Variance less than 5 percent
Nova Scotia	82,546	11	0	9	2
Newfoundland	73,276	7	5	2	0
PEI	33,824	4	0	0	4
New Brunswick	72,950	10	2	1	7
Quebec	n/a	n/a	n/a	n/a	n/a
Manitoba	79,970	14	0	0	14
Saskatchewan	69,924	14	1	1	12
Alberta	106,243	28	5	9	14
B.C.	108,548	36	2	5	29
Ontario	107,642	106	19	30	57
Toronto	112,795 (average pop.)	22	3	6	13

In light of this assessment, it would be advisable for the Mayor or his designate to make a representation addressing each of these concerns when the FEBC for Ontario holds its public hearings in Toronto on November 22, December 9 and December 10, 2002.

Conclusions:

Urban residents in Ontario are disadvantaged through two inter-related electoral re-districting practices.

The first practice, which disadvantages all residents of Canada’s most urbanized provinces (Ontario, BC and Alberta), relates to the number of seats in the House of Commons allocated to each province. As required by *the Constitution Act, 1867*, this process prevents any province from having fewer seats in the House of Commons than it does in the Senate or than it did during the 33rd Parliament in 1976. The resulting inter-provincial disparity in voting power is striking: the average federal electoral district in Ontario has 3.18 times as many constituents as a riding in PEI.

The second practice concerns the manner in which electoral district boundaries within each province are drawn and, in particular, the criteria that may be used to justify broad deviations from provincial electoral quotients (e.g., the figure that results from dividing a province’s population by the number of federal electoral districts to which the province is entitled.) To respect the political equality of Canadian citizens, *the Electoral Boundaries Readjustment Act*

begins with the premise that all federal electoral districts should have the same number of constituents. However, various provisions of this statute permit substantial departures from this standard. The resulting intra-provincial disparity in voting power can be considerable. For instance, under the current readjustment proposal for Ontario's electoral districts, Scarborough Centre will have 50.7 percent more constituents than Parry Sound-Muskoka (123,089 versus 81,705).

The degree of electoral disadvantage currently faced by urban residents is highly problematic for at least three reasons:

- (i) it is incompatible with Canada's commitment to "effective representation" and the fundamental democratic precept of "one person, one vote";
- (ii) it disproportionately impacts many of the country's racial and ethnic minority communities; and
- (iii) it jeopardizes the international competitiveness of Canada's largest cities, the engines of the Canadian economy.

In order to maximize its ability to advance the representative equality of Toronto's residents, this report advises Council to embrace the concept of "effective representation for urban Canadians" and to advocate that:

- (a) Federal and provincial electoral districts be established with constituency population variances of no more or less than 10 percent from the electoral quotient, unless extraordinary circumstances justify otherwise; and
- (b) Parliament amend the federal statute which prevents a province from having fewer seats in the House of Commons than it did during the 33rd Parliament (1976).

This position implies much closer – but not strict – adherence to the notion of "one person, one vote", reflects the Charter protected right to effective representation, and anticipates the City's long-term representational interests.

Therefore it is recommended that:

- (1) the concept of "effective representation for urban Canadians" serve as the basis of the City of Toronto's position on the federal and provincial electoral boundaries readjustment process;
- (2) the Mayor or his designate make a representation, based on the principles and analysis contained in this report, to the Federal Electoral Boundaries Commission for Ontario at the public hearings to be held in Toronto on November 22, December 9 and December 10, 2002;

- (3) the Federal government be requested to amend *the Electoral Boundaries Readjustment Act* so as to reduce the permissible variance from the provincial electoral quotient (i.e., population divided by number of electoral districts) to plus or minus 10 percent, unless exceptional circumstances justify a larger deviation; and that the Federation of Canadian Municipalities be requested to advocate for this change;
- (4) the federal government be requested to amend s.51 of the Constitution Act, 1867 by eliminating *the Representation Act, 1985* “grandfather clause” provision which mandates that no province shall have fewer representatives in the House of Commons than it did during the 33rd Parliament;
- (5) the provincial government be requested to amend the *Representation Act, 1996* to provide that the population of all electoral districts for the Ontario legislature be within plus or minus 10 percent of the provincial electoral quotient, unless exceptional circumstances justify otherwise;
- (6) the City Clerk monitor voting trends in the City of Toronto’s electoral districts to determine whether there is any relationship between electoral district variance and voter turnout and, if so, whether certain communities face particularly severe electoral disadvantage;
- (7) the Chief Administrative Officer review the forthcoming proposal to be issued by the Federal Electoral Boundaries Commission for Ontario to determine whether or not it may be necessary for the City to take further action; and
- (8) copies of this report be distributed to the Prime Minister, Federal cabinet members, MPs from Ontario, the Premier of Ontario, the Minister of Municipal Affairs and Housing, MPPs representing the GTA, the Federation of Canadian Municipalities, the Association of Municipalities of Ontario, the Large Urban Mayors’ Caucus of Ontario, and the Big City Mayors’ Caucus.

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List of Attachments:

- A. Key Components of the Federal Electoral Boundary Readjustment Process.
- B. Section 51 of *the Constitution Act, 1867*.

- C. The Under-representation of Canada's Most Urbanized Provinces in the House of Commons.
- D. Frequency of Mention of Rural and Urban Issues in the 37th Parliament.

Appendix A: Key Components of the Federal Electoral Boundary Readjustment Process:

Section 51 of the Constitution Act, 1867 mandates that a readjustment of federal electoral district boundaries occur following each decennial census. *The Electoral Boundaries Readjustment Act* (EBRA) specifies the mechanics and rules to be adhered to in carrying out this process.

The EBRA places lead responsibility for recommending electoral boundary changes in the hands of Federal Electoral Boundaries Commissions (FEBCs). One commission is established for each province. The current FEBC for Ontario was established on April 16, 2002. Each commission has three members, two of whom are appointed by the Speaker of the House of Commons, with the third member (who serves as chairperson) appointed by the Chief Justice of the province.

After each decennial census, Canada's Chief Electoral Officer (CEO) prepares a return showing the population of Canada, the population of each province and the population of Canada by electoral districts. The Chief Electoral Officer sends the return to each province's commission and calculates the number of members of the House of Commons to be assigned to each province using the representation formula specified in *the Constitution Act, 1867*. As discussed in this report, the formula is a significant contributor to the under-representation of urban interests and Ontario residents in the federal parliament. The most recent application of the representation formula based on the 2001 census determined that Ontario's representation in the House of Commons should rise by three seats from 103 to 106. The total number of seats in Parliament will increase from 301 to 308.

In recommending electoral boundary changes, the commissions must follow guidelines set out in the EBRA. Urban residents can be disadvantaged by the EBRA provision which allows boundary commissions to establish districts with constituency populations that are 25 percent greater or smaller than the average constituency population within the province in order account for geographic, community of interest, community of identity and historical factors.

Each FEBC is required to hold at least one public meeting on its recommended boundary changes. The FEBC for Ontario will hold hearings on its readjustment proposal in Toronto on November 22, December 9 and December 10, 2002.

After the hearings, each commission sends its completed report to the Speaker of the House via the Chief Electoral Officer. The FEBC for Ontario must submit its report by April 16, 2003. In turn, the Speaker relays the report to the Parliamentary standing committee responsible for election matters. This committee has approximately 30 days to consider objections to a report. Any such objections must be signed by at least 10 MPs and filed with the clerk of the committee.

The Parliamentary committee is required to return the report to the Speaker along with the minutes of any meetings at which objections were considered. The Speaker then sends the report and minutes back to the appropriate FEBC for reconsideration. The FEBC has thirty days to consider objections and return its final report, with or without amendments based on the objections, to the Chief Electoral Officer. The recommendations contained in this final report are binding.

The Chief Electoral Officer consolidates all of the FEBC's recommendations into a draft "representation order" describing and naming the federal electoral districts of each province. The EBRA requires that the Governor in Council, within five days after receiving the draft representation order, to proclaim the representation order to be in force.

The new boundaries cannot be used in an election unless at least one year has passed between the date the representation order was proclaimed and the date that Parliament is dissolved for a general election. As the timeline below indicates, a new representation order will not come into force until March 2004 at the earliest.

2002 Federal Electoral Boundaries Readjustment Timeline:

Phase of Readjustment Process	Date or Timing
Allocation of seats among provinces using Representation Formula	March 12-13, 2002
Establishment of Federal Electoral Boundaries Commission for ON	April 16, 2002
Release of FEBC for Ontario's readjustment proposal	August 17, 2002
Public hearings on FEBC for Ontario's proposal (Hearings in Toronto on November 22, December 9, and December 10)	October 21 – December 10, 2002
Deadline for submission of FEBC for Ontario's proposal to Chief Electoral Officer for referral to House of Commons Committee via the Speaker	April 16, 2003 (unless the Commission files for an extension of up to six months)
Filing of objections by Members of Parliament with the Committee	Within 30 days from the day the report is referred to the Committee
Completion of review by House of Commons Committee and return of report to FEBC for final consideration	Within 30 days of expiration of date for filing objections
Submission of FEBC's final report to the Chief Electoral Officer	Within 30 days of return of report to the FEBC
Chief Electoral Officer (CEO) prepares draft "Representation order"	Upon receipt of last FEBC's final report
Governor in Council proclaims Representation Order	Within 5 days of receipt of draft representation order from CEO

The new Representation Order comes into force upon the first dissolution of Parliament that occurs at least one year after the proclamation of the Representation Order. This will not occur until March 2004 at the earliest.

Appendix B: Section 51 of the Constitution Act, 1867:

51. (1) The number of members of the House of Commons and the representation of the provinces therein shall, on the coming into the force of this subsection and thereafter on the completion of each decennial census, be readjusted by such authority, in such manner, and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules:

1. There shall assigned to each of the provinces a number of members equal to the number obtained by dividing the total population of the population of the provinces by two hundred and seventy-nine and by dividing the population of each province by the quotient so obtained, counting any remainder in excess of 0.50 as one after the said process of division.

2. If the total number of members that would be assigned to a province by the application of rule 1 is less than the total number assigned to that province on the date of coming into force of this subsection, there shall be added to the number of members so assigned such number of members as will result in the province having the same number of members as were assigned on that date.*

(2) The Yukon Territory as bounded and described in the schedule to chapter Y-2 of the Revised Statutes of Canada, 1985, shall be entitled to one member, and the Northwest Territories as bounded and described in section 2 of chapter N-27 of the Revised Statutes of Canada, 1985, as amended by section 77 of chapter 28 of the Statutes of Canada, 1993, shall be entitled to one member, and Nunavut as bounded and described in section 3 of chapter 28 of the Statutes of Canada, 1993, shall be entitled to one member.

51A. Notwithstanding anything in this Act a province shall always be entitled to a number of members in the House of Commons not less than the number of senators representing such province.**

* As enacted by *the Constitution Act, 1985 (Representation)*, S.C. 1986, c. 8, Part I, which came into force on March 6, 1986 (See SI/86-49).

** As enacted by *the Constitution Act, 1915*, 5-6 Geo. V, c. 45 (U.K.).

Appendix C: The Under-representation of Canada's Most Urbanized Provinces
in the House of Commons

Province or Territory	Number of Population Living in Urban Areas	Extra seats from senatorial + grandfather clauses	Number of Canada's Population	Number of Seats in House of Commons
Ontario	84.7	0	38.0	34.4
B.C.	84.7	0	13.0	11.7
Alberta	80.9	0	9.9	9.1
Quebec	80.4	7	24.1	24.4
Manitoba	71.9	4	3.7	4.5
Saskatchewan	64.3	5	3.3	4.5
NWT	58.4	-	0.1	0.3
Yukon	58.7	-	0.1	0.3
Newfoundland	57.7	2	1.7	2.3
Nova Scotia	55.8	3	3.0	3.6
New Brunswick	50.4	3	2.4	3.2
PEI	44.8	3	0.5	1.3
Nunavut	32.5	-	0.1	0.3
National Total	79.7	27	100.0	100.0

Source: Statistics Canada. "Population Counts, for Canada, Provinces and Territories, and Census Division by Urban and Rural, 2001 Census – 100 percent Data"; 2001.

Appendix D - Frequency of Mention of Rural and Urban Issues in the 37th Parliament:

Rural Issues	Number of times mentioned	Urban Issues	Number of times mentioned
Farm income crisis	700+	Food banks	1
Grain transportation	71	Public transit	30
Foot and mouth disease	192	HIV/AIDS	50
Agriculture	143	Science and technology	8
Forest industry	109	Biotech industry	8
Curling	19	Toronto	13
Beef	44	Calgary	9
Canadian wheat board	21	Sustainable cities initiative	2
Farm Credit Corporation	252	Housing	119
Gun control	108	Transportation	31
Farms/farmers	68	Air pollution/smog	19
Fisheries	50	Vancouver	17
Mining industry	75	Montreal	10
Dairy industry	30	Edmonton	9
Grain industry	22	Automobile industry	6

Rural Issues	Number of times mentioned	Urban Issues	Number of times mentioned
Salmon (Atlantic and Pacific)	25	Theatre	1
Atlantic Canada	12	Urban communities	3
Cod	4	High tech	6
Drought	4	Pollution	5
Agricultural subsidies	162	Culture	0
Seasonal workers	23	Homelessness	19

Source: Presentation by Joe Berridge at the Toronto City Summit; June 25, 2002. The source of the House of Commons data is:

http://www.parl.gc.ca/common/Chamber_House_iDebates.asp?Language=E&Parl=37&Ses=1

The Administration Committee reports, for the information of Council, having also had before it a communication (August 27, 2002) from Mr. Alan Heisey, entitled "Slow Senate Reform...until House of Commons representation is fairer", which was forwarded to Members of Council with the September 10, 2002, agenda of the Administration Committee and a copy thereof is also on file in the office of the City Clerk, City Hall.

The following persons appeared before the Administration Committee in connection with the foregoing matter and filed a written submission in regard thereto:

- Mr. Alan Heisey; and
- Mr. John Adams.

(City Council on October 1, 2 and 3, 2002, had before it, during consideration of the foregoing Clause, a communication (September 22, 2002) from Alan Heisey Sr., Heisey Publishing, forwarding comments with respect to the electoral boundaries readjustment process.)