
Private Members and Public Policy

by Linda Jeffrey, MPP

In a parliamentary system most legislation is introduced by the Government. There are opportunities for private members to sponsor bills but many obstacles stand in the way. Great perseverance and energy are required by a private member who hopes to see his or her legislation enshrined in law. This article examines the work of one Member's attempt to make the installation of residential fire sprinkler systems mandatory in newly constructed homes.



My interest in making residential sprinklers mandatory in new home construction began during my first term on municipal council. While on Council I worked with a Fire Prevention officer to try to make group home and lodging house operators comply with the Fire Code and put together basic safety plans which would protect their occupants. The people who were living

in these homes were autistic, had mental health challenges and they were terminally ill. In the event of fire, many disabled individuals could not exit the homes in which they were living, without assistance. We were trying to get the group home operators to put in fire doors, to assist in delaying a fire in a room so that the occupants would have time to escape, or would be safe until the fire department arrived.

In Brampton's case, some home operators evaded the Fire Code by delaying this action. Even more troubling,

they changed, in name only, the operating definition of their home (from a group home to a foster "like" home).

In the course of dealing with these unscrupulous operators I met a firefighter who told me residential sprinklers were the ultimate solution because they give people time to escape the fire. I remembered those discussions when I was elected to the Ontario legislature in 2003.

Within about two or three weeks of the start of the session I was advised that I had been allotted a set date to bring forward Private Members' legislation. I scrambled to think of something that was meaningful to me that I could bring forward. Our Premier spoke to new members of our caucus early on in our mandate about Private Members Bills (PMB). I recall him giving a very inspirational speech. He spoke about being brave and doing things that you would be proud of in the future; and to challenge those around you to make things better. Not long after that speech I phoned my friend, Brian Maltby, who is a Division Fire Chief in Brampton and asked him to help me draft a piece of legislation on making residential sprinklers mandatory.

Brian jumped at the chance and agreed to help me. I remember a story he told me when I first got to know him. It is a chilling story of arriving at a fire in Brampton to find the mother standing outside her burned home, screaming that her babies were inside. Later he had to go back to tell that distraught mother that her babies were both dead. This was likely one of the darkest days of his career; and it is something that many firefighters dread. Having to go through a home and find those who were unable to escape is clearly a life altering experience. He told me that many of these deaths are preventable and

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that residential fire sprinklers were the next step to preventing fires.

For those not familiar with Private Members' legislation let me summarize a few of the problems. First a PMB cannot impose a cost. Second, they have a very slim chance of passing. They may make it through the first two readings fairly easily and be sent to be reviewed by a Committee.

Most Standing Committees have a heavy workload and they rarely get to Private Members' legislation.

I chair the Standing Committee on General Government, and I think two-thirds of all legislation that travels through our Legislature eventually comes to this Committee. Rarely, if ever, do we get to debate Private Members' legislation because all our time is scheduled to deal with government legislation. It is frustrating if you are an individual who has worked hard to bring forward something that you think will make a difference in your community.

I introduced my first Private Member's Bill entitled the *Home Fire Sprinkler Act* on November 2, 2004. It was *An Act to amend the Building Code, 1992*, respecting home fire sprinklers. Bill 141 would have amended the Building Code to prevent any person from constructing a new detached home, semi-detached home, or row house that was not equipped with a sprinkler system. During the first debate on my Bill, the Opposition asked why I limited the housing style where sprinklers could be installed. It was good advice and I took their words to heart. Unfortunately, Bill 141 died on the order paper.

My second Private Members' Bill, Bill 2, was introduced the following October when the House returned. This new and improved bill, based on advice I received from the Opposition, would have amended the Building Code to prevent anyone from constructing any dwelling not equipped with a sprinkler system. Simply put, no matter the type of new home purchased, you would be protected where you slept. Again, Bill 2 died on the order paper.

Following the failure of my second Private Members' Bill, I was disappointed, but it was clear that the public's perceptions on this issue were shifting in Ontario. The first time I spoke about the sprinkler issue at a Rotary Club, one of the Rotarians asked me why I cared about lawn sprinklers! Today, the public knows more about this issue – likely because their families and friends in the United States have had this technology in place for some time. In Ontario, I have seen the gradual knowledge on

this issue escalate over the last five years to the point where I am not starting from the beginning when I talk to a new audience.

In Toronto and other municipalities I have noticed a desire by elected officials to supersede provincial standards in certain areas like pesticide control and energy conservation. I am hoping this new-found interest by municipalities to take on responsibility for enacting higher standards for things like weed control and energy in their own communities, will extend to residential sprinkler systems in the future.

Einstein once said that the definition of insanity is to do the same thing over and over and expect a different outcome. So I decided to try a different tactic when I introduced the third version of my Private Members' legislation. My latest Bill is designed to engage municipalities in their desire to enact higher standards.

My current Bill would ultimately amend the *Building Code Act* to allow municipalities to enact a by-law that would require residential sprinklers to be installed in all new residential occupancies. Provincial laws set the minimum and maximum requirements for the construction of new buildings. This Bill proposes to change this by allowing these municipal by-laws to prevail over provincial laws.

In the spring of 2006, I worked with the mayor and the fire chief of the City of Toronto to try and insert the life safety benefits of residential sprinklers through the *City of Toronto Act*, which was a Government Bill. I was unsuccessful. Months later, I spoke in favour of an NDP Private Members' Bill entitled *Fire Protection Statute Law Amendment*, again trying to make a friendly amendment which would have inserted the life safety benefits of residential fire sprinklers. Again I was unsuccessful.

My goal has always been to get this issue to a public hearing of a legislative committee. Over the last five years I have tried to educate my colleagues and the public about this issue. I believe it is important for us, as elected officials, to bring forward legislation that we think is meaningful, and also to support complementary legislation which secures the safety of all people that we represent in Ontario. I continue to dialogue with members of my caucus, my Cabinet, and all members of the Legislature, because I believe this issue goes beyond partisan politics.

One of the objections I frequently encounter is that we do not need sprinklers because most houses have smoke alarms. Smoke alarms do what their name implies – they provide early detection and warning of the smoke from fire, but they take no action on the fire itself. When the smoke alarm goes off you have only a matter of minutes to safely exit your home. If you are elderly, impaired, dis-

abled, or if you are a child, then your ability to safely exit a building requires more time.

A fire doubles in size each minute so, the first two or three minutes are absolutely critical. If you have sprinklers in place it can help catch the fire at the smallest stage. Sprinklers do not always extinguish the fire, but they can hold it in check until the fire department arrives.

Let me give you a real example I read about in the newspaper recently. A stovetop fire broke out around 12:30 a.m. on a Saturday. The two occupants of the apartment had gone to bed; apparently not realizing one of the stove's burners was still turned on. The food on the stove caught fire. The fire spread to the cabinets. Fire sprinklers doused the blaze and the occupants were awakened by the sprinkler system's water flow alarm which sounds when the sprinkler is discharged. When the firefighters arrived they found the apartment's two occupants waiting safely outside, along with three neighbours who evacuated from an upstairs unit of the fourplex when they heard the alarm. The fire was extinguished by a single sprinkler head. Damage was estimated to be \$5,000.

Smoke alarms are not enough. The contents found in the average home today have drastically changed and the impact and consequences of a fire, as compared to as few as twenty years ago, has really changed. The interior finishes of the upholsteries and the carpet are laminates, and the contents are made of synthetic foams and plastics which result in fires that burn hotter and burn more quickly. These synthetics produce higher concentrations of toxic smoke, imposing a higher risk to occupants and responding firefighters.

The National Fire Protection Association reports that people with smoke alarms in their homes have a 50 percent better chance of surviving a fire. If you have a sprinkler with that smoke alarm, your chances increase to an 82 percent survival rate.

For those who have children, this is particularly important. CTV News did a story a couple of years ago about a smoke alarm test of children aged five to fourteen. Each child was told that the smoke alarm would be tested during the night and when they heard the alarm to get out of bed and come down stairs. That night when the smoke alarm was activated not one child got out of bed. Many of them never did truly awaken. Many just pulled the covers over their head. It is clear from this experiment and subsequent studies that children have a much deeper sleep cycle than adults.

One in ten Canadians has experienced a home fire and sadly, on average, more than 100 people die in a fire every year in Ontario. They happen in a place where you should feel the safest – in your home. Without sprinklers, the heat and the smoke from a fire travel so quickly that

furniture and possessions are engulfed within minutes. Fires typically burn from 10 to 15 minutes before firefighters arrive. Sprinklers are a proven automatic technology, like an airbag in your car. They do not rely on changed human behaviour to prevent an accident or a loss of life.

Opposition and Support for Residential Sprinklers

If government has not yet embraced this issue it is because of resistance from groups like the Greater Toronto Home Builders' Association, along with the Urban Development Institute, the Ontario Home Builders, and The Canadian Home Builders Associations.

I must be doing something right because these powerful and well-funded special interest groups have mounted a rather professional, organized resistance to this issue. Home Builders' Associations have tried to discredit the entire concept of residential sprinklers and argue that governments are developing policies based entirely on politics, rather than on the actual merits of the issue.

Opposition groups claim the cost of sprinklers is excessive. In September 2008, the Fire Protection Research Foundation, an affiliate of the National Fire Protection Association, assessed the cost of installing residential sprinklers. According to the report, the cost of installing residential fire sprinkler systems to the home builder averaged \$1.61 per sprinklered square foot.

*Obviously the more homes you build,
the lower the cost and frankly I do not
know what price I would put on the
life of someone I love.*

Homeowners choose granite kitchen countertops, widescreen televisions, and whirlpool bathtubs, but skimp on technology that has the potential to save their lives and those of the people they care about. Homeowners stand to benefit. Ultimately they will have a safer home in which to live and decreased costs because their insurance premiums will be lower.

Another criticism of residential sprinklers is that they are unreliable and accidental discharge is common. Sprinklers "gone wild" is a recurrent plot devised in the movies. Movies would have you believe that if you ignite a lighter beneath a sprinkler head it will trigger an explosion of water. This makes for great excitement on the movie screen but in reality each sprinkler head works independently of all others.

Sprinkler technology is mature, and safe; and accidental activation is extremely rare. The sprinkler technology is faster and more effective than in the past. These heat-activated units are designed so that, at 130 degrees, a cosmetic plate falls off the sprinkler head. Activation occurs a few seconds later, at about 155 or 165 degrees, when a fusible metal link or a liquid-filled capsule breaks and releases pressurized water.

The odds of a sprinkler head being activated accidentally, due to a malfunction defect, are one in 16 million. You have a better chance of being hit by lightning than having your properly installed fire sprinkler going off by accident.

Builders would argue that they are building safer homes; using fire resistant materials and hard-wired smoke alarms. But it is clear that these measures are not enough – people are still dying. We need to do more to protect what we value most. Firefighters stand to benefit as injuries and death will be reduced in number. They will no longer be put at the same level of risk that they are with an unsprinklered home. Residential sprinkler installation would result in a safer workplace.

Who supports residential sprinklers? The firefighting community supports residential fire sprinklers including the Canadian Association of Fire Chiefs, the Ontario Association of Fire Chiefs, the Canadian Council of Fire Marshals and Fire Commissioners, the Ontario Municipal Fire Prevention Officers Association, the National Fire Protection Association, the International Association of Fire Chiefs, the Ontario Fire Marshal, the International Association of Fire Fighters, Fire SAFE Ontario, and the insurance industry.

I think individual builders are another ally. And, in time, I believe the Associations who currently oppose this legislation will be my best advocates – they just do not know it yet. There clearly are individual builders who want to build a safer product and are looking for a way to make it possible. These are business people who are flexible enough to adapt to shifts in consumer needs. They identify innovative building practices and deliver a product that consumers feel comfortable purchasing. Builders want repeat customers. If you feel a builder is someone who constructs a safe home, you will not only tell your friends but, given an opportunity, you may buy another home from that same builder.

How receptive is the general public to the idea of residential sprinklers? We know that residential fire sprinkler systems not only save lives, but they also reduce the number of injuries from fire and significantly reduce the cost associated with fires. We would never think of buying a car today without seatbelts or without air bags. Why is it so difficult to contemplate putting sprinklers in

your home, the place where you spend up to two thirds of your day?

Every day, you spend the majority of your waking hours in a building that is sprinklered. Commercial and industrial facilities are all routinely sprinklered. When you go to church, to the library, to the mall, or to school, they are all sprinklered. But when you go home you are not protected.

What is Happening Elsewhere?

In 1990, Vancouver became the first large Canadian city to enact a residential sprinkler by-law. In the 18 years since its enactment, while there have been a number of fire deaths in unsprinklered homes, there has not been a single fire related fatality in a home that has a properly installed and maintained residential fire sprinkler.

New Brunswick, Nova Scotia, P.E.I. and Newfoundland have all required their older nursing homes to be retroactively sprinklered, and I can assure you that other provinces are watching with great interest. Despite countless coroners inquests over the last two decades, there has been a resistance to retroactively sprinkler these long-term care facilities.

In Ontario the Building Code includes earthquake protection. No one has died recently as a result of earthquakes. Surely it is time we had a building code to require residential sprinklers considering how many lives are lost as the result of fires.

Only a couple of months ago, in September, the International Code Council met in Minnesota where there was an historic vote on residential sprinklers. The International Code Council is an association dedicated to building safety and fire prevention. They develop the codes used to construct residential and commercial buildings, including homes and schools. This vote on residential sprinklers was highly anticipated and there was furious lobbying by the building industry to defeat the resolution as this was the second time it had been brought forward. The builders were paying to fly people down to Minneapolis to vote against this resolution. In the end safety prevailed and the resolution passed.

A Happy Ending?

Although none of my bills have yet passed, it is clear to me that Private Members' legislation can really increase

awareness. As elected officials, we have a great opportunity to talk about what's important in our communities.

It is important that we acknowledge and celebrate when there is significant progress on an issue. Recently, the Ontario government introduced an amendment to the Ontario Building Code which would require new multi-residential buildings over three storeys' to have residential sprinkler systems as of April 2010. Ontario was the only province in Canada that did not mandate residential fire sprinklers in high-rises. Certainly a great first step and one that I believe will ultimately save lives. I attribute our government's efforts to the work being done by the fire safety community and the awareness created by my successive efforts in the Legislature on this issue.

I no longer wonder if residential fire sprinklers are going to happen. I now just wonder when it will happen. Governments have a responsibility to introduce legislation that they believe will ensure the safety and well-being of our communities. That is why we have passed legislation on a variety of issues, ranging from automobile safety to construction standards. I want Ontario to be the first province in Canada to mandate residential fire sprinklers.

When it comes to public policy on residential sprinklers let me paraphrase a wise man who once said: the best time to plant a tree was 25 years ago; the second best time is today. It is never too late. The best time to have installed residential fire sprinklers would have been 25 years ago. The second best time is today.