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A Tale of Two Casinos: Unequal Spaces of Local Governance

ALEXANDRA FLYNN*

Local actors, including resident and business associations, do not simply influence decision-makers, but can also reshape the purportedly neutral governance model within which decision-making takes place. In big cities like Toronto, this reshaping exacerbates the existing geographic and socio-economic unevenness. The work of James Scott, Mariana Valverde, and Cheryl Teelucksingh helps to explain how local actors interface with seemingly neutral governance bodies to have their interests heard, particularly in relation to locally undesirable land uses. The paper considers two case studies detailing the governance practices at work in differing decisions about casinos in the City of Toronto. A 2012-2013 debate about a casino in downtown Toronto saw a little-used bylaw invoked by city councillors to help them investigate the effects of a casino on “local” issues like traffic and planning. These empowered local actors played a central role in the debate. By contrast, in a 2015 debate about a casino in a poor neighborhood on the margins of the city, the debate proceeded through the usual decision-making process for “city-wide” deliberations, leading to fewer opportunities for involvement by local actors. The final section brings theoretical literature and case studies together to conclude that the institutions of local governance can be reshaped depending on the local actors involved, and claims that shifts in scale, from local to city-wide, have implications for the inclusivity and fairness of Toronto’s governance model.

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ROMANTIC STORIES ABOUND OF RESIDENTS RESHAPING CITIES, fighting for pizza and tandoori ovens in Toronto's parks, or getting court protection for beloved graffiti art in Brooklyn.¹ These stories have echoes in James Scott's *Seeing Like a State*, where he lamented top-down planned cities like Brasilia, while extolling Jane Jacobs' New York, which allowed residents to continuously recreate the city through a series of informal, "bottom-up," street-level practices.² Mariana Valverde challenged Scott's oversimplification of governance arguing that premodern and modern gazes are not mutually exclusive.³ Rather than adopting a single lens to understand how municipal rules are made, Valverde cautions us to see the hybrid forms of rule-making that operate unpredictably and which epitomize modern land use planning.

Through examining the legal institutions of Toronto's governance model, I enter this debate to argue that local actors, including resident and business associations, do not simply influence decision-makers, but can also reshape the purportedly neutral governance model within which decision-making takes place. This reshaping exacerbates the existing geographic and socio-economic unevenness of big cities like Toronto. I focus on two recent casino decisions taken by the City of Toronto. The first, in 2012-2013, involved casino development in Toronto's dense and affluent downtown core. The second, in 2015, concerned the expansion of an existing racetrack in a poor, suburban area of the city.⁴ In the 2012-2013 casino debate, several downtown casino options were identified as possible locations for a new casino in the City of Toronto. All were soundly rejected by City Council. In 2015, the expansion of the Ontario Lottery and Gaming (OLG) slots at the Woodbine Racetrack to a casino in Rexdale was approved quickly and with little community deliberation.⁵

This study is part of an ongoing account of the governance of cities, in particular the dis/empowerment of particular local actors.⁶ Part I situates the paper within relevant literature,

¹ City of Toronto Staff, "Policy on Outdoor Ovens in City Parks," Parks and Environment Committee (29 August 2011), online: <www.toronto.ca/legdocs/mmis/2011/pe/bgrd/backgroundfile-41502.pdf> [perma.cc/XK93-YADH]; Jennifer Bain, "Intersections: Tandoor oven one more reason to love R.V. Burgess Park," *Toronto Star* (4 July 2014), online:

<www.thestar.com/life/food_wine/2014/07/04/intersections_tandoor_oven_one_more_reason_to_love_rv_burgess_park.htm> [perma.cc:BWT5-YTNQ]; Alan Feuer, "Graffiti Artists Awarded \$6.7 Million for Destroyed 5Pointz Murals," *New York Times* (12 February 2018) at A17, online: <www.nytimes.com/2018/02/12/nyregion/5pointz-graffiti-judgment.html> [perma.cc/K6S4-8JXX].

² James Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1998).

³ Mariana Valverde, "Seeing Like a City: The Dialectic of Modern and Premodern Ways of Seeing in Urban Governance" (2011) 45:2 *Law & Soc'y Rev* 277 at 281.

⁴ This article does not reference the debates held in 2008 regarding the potential expansion of the Woodbine Racetrack to create a casino. For more information on these debates, see Steven Tufts, "Schumpeterian Unionism and 'High-Road' Dreams in Toronto's Hospitality Sector" in Ann Cecelie Bergene et al, eds, *Missing Links in Labour Geography* (Surrey: Ashgate, 2010) 83.

⁵ Thus the proposed casino in Rexdale is often referred to as a casino at Woodbine racetrack or the Woodbine expansion.

⁶ See eg. Carissa Schively, "Understanding the NIMBY and LULU Phenomena: Reassessing Our Knowledge Base and Informing Future Research" (2007) 21:3 *J Planning Literature* 255 (analyzing the complexity of research related to 'locally undesirable land use' (LULUs) and "not in my backyard" (NIMBY) phenomena in cities); Tee L. Guidotti and Sheila Abercrombie, "Aurum: a case study in the politics of NIMBY" (2008) 26:6 *Waste Management & Research* 582 (examining the importance of the political history of the community in regard to community responses to LULU and NIMBY phenomenon); Prashan Ranasinghe and Mariana Valverde, "Governing

including that of Scott and Valverde, regarding how local actors interface with seemingly neutral governance bodies to have their interests heard. This section theorizes the particular place of casinos in city debates. Part II details the two casino decisions in Toronto, which took place over an eighteen-month period. In the 2012-2013 decision, the Toronto-East York Community Council (TEYCC) was mobilized as a forum for deliberation. Usually, community councils do not play a role in “city-wide” debates, and the casino had been designated as a city-wide issue by city staff. However, in this case, the TEYCC was used to investigate the effects of a casino decision on “local” issues like traffic and planning. The TEYCC also empowered local actors to play a central role in the debate. By contrast, in 2015, the debate proceeded through the process for “city-wide” deliberations, with no community council involvement. Part III brings together the theoretical literature and case studies to conclude that the institutions of local governance can be reshaped depending on the local actors involved. This, I suggest, has implications for the inclusivity and fairness of Toronto’s governance model. In particular, the shift in scale, from local to city, results in differing degrees of city resources, information, and opportunities for involvement by local actors.

On the one hand, this is a paper about how provincial law constrains or enables municipalities to create governing models to make decisions on issues like casinos. On the other hand, I also seek to understand how institutions are used and acted upon outside of the formal contours of law. Hence, the paper steps outside of a doctrinal review of applicable legal codes, employing a mixed methodological approach that combines case studies, semi-structured interviews with city officials (staff and councillors), and a comprehensive document review of policy reports and newspaper articles produced in relation to the casino debates. This approach allows for an exploration of a particular context to understand how the people within interact with one another and the outside world.⁷ The aim of this paper and its approach is not to create a grand, generalized theory of urban governance in Toronto or elsewhere; but instead to understand and analyze how decision-making occurred in a particular place and time.⁸ The result is a detailed analysis of how Toronto’s decision-making bodies can be altered based on the participation of local actors and what this means for inclusive governance.

I. CITY GOVERNANCE AND UNEVEN DECISION-MAKING

Like most big cities in Canada, Toronto is deeply divided in terms of the socio-economic status of its residents.⁹ In one version of the city, we see a growing, prosperous, diverse urban space. Toronto, with a population of 2.6 million people at the last census count,¹⁰ is replete with

Homelessness Through Land-use: A Sociolegal Study of the Toronto Shelter Zoning By-law” (2006) 31:3 Canadian Journal of Sociology 325 (arguing that NIMBY phenomena related to municipal responses to homelessness are impacted by the specific “machinery” of municipal law, especially zoning bylaws, which are not guided by substantive democracy, equality or social justice).

⁷ Satnam Choongh, “Doing Ethnographic Research: Lessons from a Case Study” in Mike McConville and Wing Hong Chui (eds), *Research Methods for Law* (Edinburgh: Edinburgh University Press, 2007) at 70.

⁸ Gary Thomas, “Doing Case Study: Abduction Not Induction, Phronosis Not Theory” (2010) 16(7) *Qualitative Inquiry* 575 at 578. See, *contra*, Andrew Bennett, *Case Study Methods: Design, Uses and Comparative Advantages*.

⁹ David Hulchanski, *The Three Cities Within Toronto: Income Polarization among Toronto’s Neighbourhoods, 1970–2005*. (Toronto: University of Toronto Cities Centre, 2010).

¹⁰ City of Toronto, 2011 Census: Population and Dwelling Counts, at 1, online: <<https://www.toronto.ca/wp-content/uploads/2017/10/9726-2011-Census-Backgrounder-Population-Dwelling.pdf>> [perma.cc/HCM8-3XZT].

distinctions such as fourth safest¹¹ and fourth most livable city in the world.¹² This account portrays Toronto, whose motto is “Diversity Our Strength,” as welcoming, growing, economically successful, and thriving.¹³ However, this vibrant characterization obscures Toronto’s growing spatial injustice, visible when the lens of analysis zooms to the neighbourhood level. Under this view, low-income and visible minority residents inhabit different parts of the city than affluent or middle-class white Torontonians. Scholars Alan Walks and David Hulchanski have written extensively about the city’s rising levels of income inequality over the last three decades and the degree to which this inequality is spatialized and overlaid with racial inequality.¹⁴ As Roger Keil, Melissa Ollevier and Erica Tsang write, “Toronto’s view of itself as the most diverse city on the planet usually comes with the bravado of claiming normative superiority in questions of diversity, too.”¹⁵ The reality is a “paper-thin veneer” of multiculturalism, when in fact, poverty and inequality are socio-spatially located.¹⁶ Since 2009, when Keil, Ollevier and Tsang wrote their piece, the geographic disparities of low-income and racialized communities have become even more acute: income inequality is increasing by double the rate in Toronto as compared with the rest of the country.¹⁷ The United Way recently concluded that, “Left unaddressed, Toronto is at risk of becoming the income inequality capital of Canada.”¹⁸

This paper contributes to this conversation by asking how uneven local action affects these disparities. Illustration 1 shows a map of Toronto that reveals the connection between organized interest groups like neighbourhood and business improvement associations and the disparity in income levels described above. As this map shows, there is unevenness across the city in terms of which spaces have resident and business groups. This matters because of the important role that these organizations play in local governance, noted by some as integral to the proper functioning of local democracy, or a “buffer against state centralization.”¹⁹ One of the effects of this uneven

¹¹ Economist Intelligence Unit, *The Safe Cities Index (2005)* at 5, online: <safecities.economist.com/wp-content/uploads/2015/01/EIU_Safe_Cities_Index_2015_white_paper-1.pdf> [perma.cc:26WK-TEGJ].

¹² Economist Intelligence Unit, *Global Liveability Ranking (2016)* at 6, online: <www.eiu.com/public/topical_report.aspx?campaignid=liveability2016> [perma.cc:N6YZ-8BK9].

¹³ Derek Flack, “Toronto named most diverse city in the world,” *blogTo* (15 May 2016), online: <http://www.blogto.com/city/2016/05/toronto_named_most_diverse_city_in_the_world/> [perma.cc:7J5K-7XTV]. Saskia Sassen, “The Global City: Introducing a Concept (2005) XI:2 *Brown Journal of World Affairs* 27 at 39.

¹⁴ See e.g. Alan Walks, “Income Inequality and Polarization in Canada’s Cities: An Examination and New Form of Measurement” (Toronto: University of Toronto Cities Centre, 2013), online: <neighbourhoodchange.ca/documents/2014/04/walks-2013-income-inequality-rp227.pdf> [perma.cc:8NBE-ENSB].

¹⁵ Roger Keil, Melissa Ollevier and Erica Tsang, “Why is there no Environmental Justice in Toronto? Or is there?” in Julian Agyeman, Peter Cole, Randolph Haluza-DeLay, Pat O’Riley eds, *Speaking for Ourselves: Environmental Justice in Canada* (Vancouver: UBC Press, 2009) at 66.

¹⁶ *Ibid.* at 66, referencing Kanishka Goonewardena and Stefan Kipfer, “Spaces of Difference: Reflections from Toronto on Multiculturalism, Bourgeois Urbanism and the Possibility of Radical Urban Politics” (2005) 29:3 *Intl J of Urban and Regional Research* 670.

¹⁷ Toronto Foundation, “Gap Between Rich and Poor” in *Toronto’s Vital Signs Report (2016)* at 84, online: <torontofoundation.ca/wp-content/uploads/2018/02/TVS16FullReport.pdf> [perma.cc/SXL7-SSZ7] *Ibid.*, referencing World Council on City Data: WCCD Open City Data Portal. (2015), online: <open.dataforcities.org/> [perma.cc/278B-F22C] (Overall, more than 22% of Toronto’s residents live in poverty, similar to Boston and Los Angeles, and second only to London, UK).

¹⁸ United Way, “The Opportunity Equation: Building opportunity in the face of growing income inequality” (2015) at 3, online: <http://www.unitedwaytyr.com/document_doc?id=285> [perma.cc/NZZ5-A7J5].

¹⁹ Theda Skocpol, “The Tocqueville Problem: Civic Engagement in American Democracy” (1997) 21:4 *Social Science History* 455 at 457.

governance is the inequality in power that Torontonians have in shaping city spaces.²⁰ For example, land use planning processes in many urban centres empower community organizations to actively participate in decision-making with governments and developers.²¹

As has been exhaustively researched, such bodies are not demographically neutral and largely represent homeowners, as well as affluent, white interests.²² This means that local associations are not typically located in poorer areas of cities. Even where neighbours in less affluent areas, try to organize the optics of their action are perceived differently. For example, in her analysis of voluntary associations in Toronto, Cheryl Teelucksingh states: “[T]he interests of residents who are able to exercise power become packaged as collective interests, whereas the interests of the marginalized residents are localized to their own homes and limited spheres of interest. Marginalized residents ... often do not have the resources or opportunity to participate in advocating their interests.”²³ Thus, more affluent associations are seen as collectives that are legitimized in civic debates as those who fairly represent a broad constituency, not one-off voices without community buy-in.

²⁰ Nicholas Blomley, “Landscapes of Property” (1998) 32:3 *Law & Society Rev* 567 at 581.

²¹ Julian Agyeman and Tom Evans, “Toward Just Sustainability in Urban Communities: Building Equity Rights with Sustainable Solutions”(2003) 590 *The Annals of the American Academy of Political and Social Science* 35 at 48.

²² See e.g. Stephen R. Miller, “Legal Neighborhoods” (2013) 37:1 *Harv Envtl L Rev* 105; Aaron Moore, *Planning Politics in Toronto: The Ontario Municipal Board and Urban Development* (Toronto: University of Toronto Press, 2013); Robert J. Chaskin & David Micah Greenberg, “Between Public and Private Action: Neighborhood Organizations and Local Governance” (2015) 44:2 *Nonprofit and Voluntary Sector Qy* 248; Kent E. Portney & Jeffrey M. Berry, “Mobilizing Minority Communities: Social Capital and Participation in Urban Neighbourhoods” (1997) 40:5 *American Behavioural Scientist* 632; Stephen T. Buckman, “Upper Middle Class NIMBY in Phoenix: The Community Dynamics of the Development Process in the Arcadia Neighborhood? (2011) 19:3 *Jl of Community Practice* 308; Chaskin, Robert J. and Sunil Garg, “The issue of governance in neighborhood-based initiatives” (1997) 32:5 *Urban Affairs Rev* 631; Mark N. Wexler, “A Sociological Framing of The NIMBY (Not-In-My-Backyard) Syndrome” (1996) 26:1 *Intl Rev of Modern Sociology* 91 at 92; Peter T. Calcagno, Douglas M. Walker and John D. Jackson, “Determinants of the Probability and Timing of Commercial Casino Legalization in the United States” (2010) 142:1-2 *Public Choice* 69 at 89; Charles Piller, *The Fail-Safe Society: Community Defiance and the End of American Technological Optimism* (Berkeley: University of California Press, 1993); Amy Lavine and Norman Oder, “Urban Redevelopment Policy, Judicial Deference to Unaccountable Agencies, and Reality in Brooklyn's Atlantic Yards Project” (2010) 42:2 *The Urban Lawyer* 287 at 289.

²³ Cheryl Teelucksingh, “Spatiality and Environmental Justice in Parkdale (Toronto)” (2002) 24:1 *Ethnologies* 119 at 133.

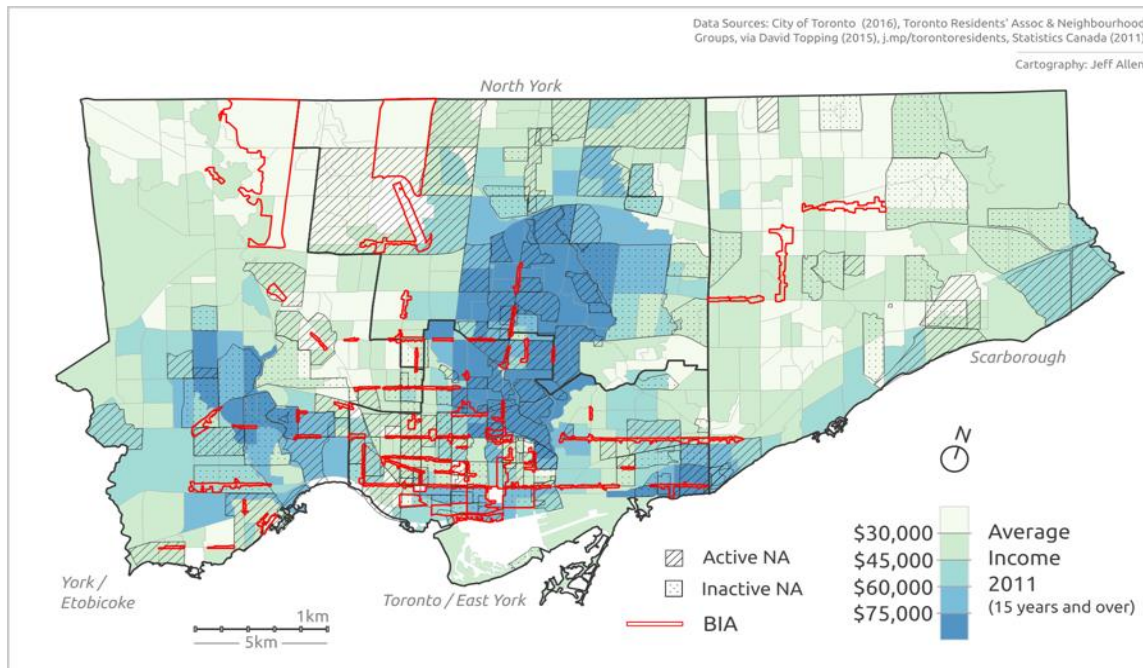


Figure 1: Resident Associations, Business Improvement Areas and Income (original research)

The spatiality of casino location within urban centres triggers important questions relating to the empowerment of local actors.²⁴ Particular communities, especially neighbourhood associations and homeowners, are able to assert claims of ownership over city spaces in order to restrict unwanted development, which in the downtown Toronto context includes casinos.²⁵ Sytze Kingma observes that the involvement of interest groups, including neighbourhood associations, cannot be disassociated from the geography of casinos and their interplay with urban development more broadly.²⁶ In understanding the geographies of casinos within urban areas, Nicholas Blomley notes how interest groups can yield significant power in mobilizing successful opposition to casino development in Vancouver's downtown core, even while casinos were under development in outer suburbs in the greater Vancouver area.²⁷ As such, some of the earliest casinos in Ontario are on First Nation reserve lands, and in rural Ontario or on edges of cities. Even while other forms of gaming, like bingo, may be restricted to poorer sections of cities,²⁸ casinos themselves are more likely to be located in areas with or near sizeable populations and with "underutilized resources," represented by high unemployment and housing vacancies.²⁹

²⁴ Michael Wenz, "The Spatial Evolution of Casino Gambling" (2008) 10:3 *Cityscape* 203.

²⁵ Blomley, *supra* note 20 at 589.

²⁶ Sytze Kingma, "Waterfront Ride: Urban Casino Space and Boundary Construction in the Netherlands" in . Raento & D Schwartz, eds., *Gambling, Space, and Time: Shifting Boundaries and Cultues* (Reno: University of Nevada Press, 2011) 83 at 84.

²⁷ Blomley, *supra* note 20.

²⁸ Kate Bedford et al, *The Bingo Project: Rethinking Gambling Regulation* (University of Kent, 2016) at 24, online: <kar.kent.ac.uk/58505/1/BT_121718_Bingo_v5.pdf> [perma:Y6KE-89DW].

²⁹ Wenz, *supra* note 24.

Amidst this landscape of local interests is an expectation that decision-making processes are fair and uniform across governmental spaces.³⁰ However some scholars believe that rule-making should be amenable to change based on citizenry input. In particular, James Scott treats “top down” processes as planning for an orderly society.³¹ Using several examples, Scott instead celebrates informal, street-level practices, stating “[s]trong neighbourhoods, like strong cities, are the product of complex processes that cannot be replicated from above.”³² Scott briefly uses the metaphor of a map to observe both planned and unplanned movements within urban spaces.³³ The planned neighbourhood, which shows movements between workplaces and residences is often “misrepresentative and indeed unsustainable,”³⁴ whereas in the second, the unplanned movements of baby carriages, shopping, strolling, and gazing is “far more complex” and “reveals different patterns of circulation.”³⁵ Scott concludes that institutions must engage “the enthusiastic participation of ... people.”³⁶ Scott suggests that, “[d]emocracy itself must allow the citizenry to “continually modify the laws and policies of the land.”³⁷ However, left out of Scott’s account is the possibility of inequalities, both spatial and socio-economic, whereby some local actors have the power to modify laws and processes, while others do not.

Mariana Valverde challenged Scott’s oversimplification of municipal planning to argue that local governments “see like a city,” meaning they employ a combination of practices that use “both old and new gazes, premodern and modern knowledge formats, in a non-zero-sum manner and unpredictable and shifting combinations.”³⁸ Valverde rightfully details the history of zoning to showcase the medley of top down, orderly rationales alongside informal, resident practices, local backroom politics, and the many exceptions and exemptions that make Scott’s binary challenging to accept.³⁹ As she notes, “a constant stream of exceptions flows out of planning departments in a routinized manner shows that the ‘seeing like a state’ story does not capture the realities of planning.”⁴⁰ The key difference between the Scott and Valverde accounts is the unique governance of the city that allows local knowledges and administrative or institutional spaces to be adopted in unpredictable ways.⁴¹ To Valverde, cities are constantly invoking old ways of seeing (like antiquated nuisance arguments) and modern legislation (zoning bylaws), alongside street-level politics. Valverde concludes her article with the challenge that “seeing like a city” offers a different framework of urban governance that, “consists of being able to flexibly use a variety of legal and regulatory tools of quite contradictory provenances and logics.”⁴²

³⁰ Mariana Valverde, *Everyday Law on the Street: City Governance in the Age of Diversity* (Chicago: University of Chicago Press, 2012); Stanley M Makuch & Mathew Schuman, "Have We Legalized Corruption? The Impacts of Expanding Municipal Authority Without Safeguards in Toronto and Ontario." (2015) 53:1 Osgoode Hall Law Journal 301, online: <https://digitalcommons.osgoode.yorku.ca/ohlj/vol53/iss1/9>,

³¹ Scott, *supra* note 3.

³² *Ibid* at 144.

³³ For more on the metaphor of the map, see Boaventura de Sousa Santos, “Participatory Budgeting in Porto Alegre: Toward a Redistributive Democracy” (1998) 26:4 Politics & Society 461.

³⁴ Scott, *supra* note 3 at 348.

³⁵ *Ibid* at 347.

³⁶ *Ibid* at 356.

³⁷ *Ibid* at 357.

³⁸ Mariana Valverde, “Seeing Like a City: The Dialectic of Modern and Premodern Ways of Seeing in Urban Governance” (2011) 45:2 Law & Soc’y Rev 277 at 281.

³⁹ *Ibid* at 289-90.

⁴⁰ *Ibid* at 291.

⁴¹ Mariana Valverde, “Taking ‘land use’ seriously: toward an ontology of municipal law” (2005) 9 Law Text Culture 34.

⁴² Valverde, *supra* note 38 at 309.

This paper builds on Valverde's challenge by moving beyond zoning and planning to further query how local actors can shape the purportedly administratively neutral governance model within which decision-making takes place. I question how local actors move beyond influencing debates and outcomes, to influencing the institutional process in which decisions are made. In particular, I focus on the City of Toronto's institutional mechanisms for separating local from city-wide issues, which in turn effects the focus of staff information and the degree to which governance practices are meaningful and participatory. As Santos writes, "the concern has always been to ... improve the mechanisms of representation needed for participatory democracy to function adequately."⁴³ This is the focus of this paper: who gets to decide how the institutions of local governance should be used and shaped? In particular, what does uneven access to decision-making tell us about the inclusivity of city governance? This paper ultimately contributes to the scholarship on spatial justice in urban areas by arguing that local actors do not simply influence decision-making; they have the capacity to change the governance model itself.

II. THE MUNICIPAL ROLE IN CASINO CREATION

Under Ontario law, a municipal council must approve the placement of a casino within the boundaries of a city. Likewise, a municipal council has significant discretion in deciding how the debate will work its way through decision-making bodies.⁴⁴ However, as this section shows, the formal processes used to debate the introduction of a casino differed dramatically between Toronto's most recent two casino debates. The downtown debate featured the novel use of Community Councils to serve as a forum for the consideration of local effects of a casino. By contrast, Community Councils did not play a role in the decision taken a short time later in Rexdale. I argue that this differing use of governance bodies was based on the presence of local actors in the downtown debate. Their presence resulted in a significant difference in the availability of staff resources, the information produced, and the public visibility of each of the casino debates.

A. CONTEXTUALIZING THE DEBATE: THE HISTORY OF GAMBLING LEGISLATION IN ONTARIO

Understanding the history of gambling legislation in Canada assists in appreciating the events leading up to the 2012-2013 casino debate. Until 1969, gambling was illegal across Canada under the Criminal Code of Canada.⁴⁵ Gambling provisions had origins in English Law, enacted in the 14th century⁴⁶ in response to monarchs fearing that their archers "could be lost to 'idle' games of dice."⁴⁷ This legislation found its way into Canada's first Criminal Code in 1892 and prohibited common gaming houses, conducting lotteries, gambling at public conveyances, and

⁴³ Santos, *supra* note 33 at 486.

⁴⁴ See e.g. *Community Association of New Yaletown v. Vancouver (City)*, 2015 BCCA 227 .

⁴⁵ Ayesha Kapadia, The Issue of Legalized Gambling in Canada (2012), 1 J of History & Political Science at 1, online: < pi.library.yorku.ca/ojs/index.php/hpsj/article/viewFile/36240/32983 > [perma.cc/2DH3-8YX6]. See also Colin S. Campbell, "Canadian Gambling Policies," in *Casino State: Legalized Gambling in Canada*, James F. Cosgrave & Thomas R. Klassen, eds., (Toronto: University of Toronto Press, 2009) 69 at 79–80.

⁴⁶ *Gaming Act, 1388* (12 Ric. 2, Eng.), c 6.

⁴⁷ Judith A Osborne & Colin S Campbell, Recent Amendments to Canadian Lottery and Gaming Laws: The Transfer of Power between Federal and Provincial Governments (1988) 26:1 Osgoode Hall LJ 19 at 22, online: <digitalcommons.osgoode.yorku.ca/ohlj/vol26/iss1/2 > [perma.cc/T9TH-5AIZ].

cheating at play.⁴⁸ These piecemeal provisions more or less stayed the same until the striking of a federal joint committee in 1952, which found that existing laws led to fraudulent activities authorities were unable or unwilling to control.⁴⁹ The committee ultimately recommended relaxing criminal law provisions, but not without offering the following moral cautions:

The Committee does not wish in any way to give countenance to or encourage widespread organized gambling through lotteries or other means. It recognizes that *unrestrained gambling would produce grave moral, social and economic effects in the community* and it is of the opinion that the duty of the state is to ensure that lotteries and other forms of gambling are kept within limited bounds.⁵⁰

In 1969 and 1985, legislative changes were made to gambling. While federal prohibitions against gaming and betting remained the Criminal Code carved out an important exception which permitted provinces to conduct activities broadly defined as “lottery schemes.”⁵¹ The Province of Ontario moved quickly to introduce sweeping reforms.⁵² As noted by scholars Colin Campbell and Gary Smith: “Legal gambling in Canada now operates on a scale that was unimagined thirty years ago.”⁵³ From 1993 to 1997, the Province of Ontario provided licenses to charities to run temporary casinos as fundraisers. In 1997, the Province announced that it would develop permanent charity gaming clubs and introduce video lottery terminals, first at existing charity gaming clubs and racetracks and then in bars and restaurants. In response, the then City of Toronto, along with each of the other municipalities of Metro Toronto held referendums in tandem with the 1997 municipal election. Citizens voted uniformly and dramatically against the establishment of permanent charity casinos, stopping the initiative from proceeding.⁵⁴

In Ontario, most gambling activities are subject to a complex regulatory regime and a provincial crown corporation, the Ontario Lottery and Gaming Corporation (OLG), which reports to the Minister of Finance.⁵⁵ The OLG also has authority to establish a “gaming site” in any municipality located in Ontario, subject to a crucial limitation: prior to OLG authorization, a municipal council resolution must be passed supporting the establishment of a gaming site within

⁴⁸ 55-56 Vict C 29.

⁴⁹ Canada, *Reports of the Joint Committee of the Senate and House of Commons on Capital Punishment, Corporal Punishment and Lotteries* (Queen's Printer, 27 June, 11 July, & 31 July 1956) at 65-66, online: <lareau-legal.ca/JCSHCapital.pdf> [perma.cc/MJJ9-2UF4].

⁵⁰ *Ibid.* at 68.

⁵¹ *Criminal Code*, RSC 1985, c C-46, s 207. Under the Criminal Code of Canada, “lottery scheme” means a game or any proposal, scheme, plan, means, device, contrivance or operation described in any of paragraphs 206(1)(a) to (g), whether or not it involves betting, pool selling or a pool system of betting.

⁵² Osborne & Campbell, *supra* note 47 at 37.

⁵³ Colin S Campbell & Gary Smith, “Gambling in Canada-From Vice to Disease to Responsibility: A Negotiated History” (2003) 20:1 Can Bull Medical History/121 at 123.

⁵⁴ City Council, “Agenda” (February 4, 1998) at 9, online: <toronto.ca/legdocs/1998/agendas/council/cc/cc980204/agenda.pdf> [perma.cc/GFA7-WKS7].

⁵⁵ *Gaming Control Act, 1992*, SO 1992, c 24 online: <ontario.ca/laws/statute/92g24#BK7> [perma.cc/8LUX-DAUS]; *Alcohol and Gaming Regulation and Public Protection Act, 1996*, SO 1996, c 8, online: <ontario.ca/laws/statute/96a26?search=alcohol+and+gaming+regulation> [perma.cc/8SZU-2KF9]; *Good Government Act, 2011*, SO 2011, c 1, online: <ontario.ca/laws/statute/S11001> [perma.cc/6BPS-FMYE]; The adjudicative functions were transferred from the Alcohol and Gaming Commission of Ontario to the Licence Appeal Tribunal effective July 1, 2011.

the applicable municipal boundaries.⁵⁶ In providing its support, a municipality must seek “public input into the establishment of the proposed gaming site and give the Corporation, in writing, a description of the steps it took to do so and a summary of the public input it received.”⁵⁷ Ironically, the OLG itself is not obligated to seek public opinion or demonstrate to any government entity the process it undertook to approve gaming sites.

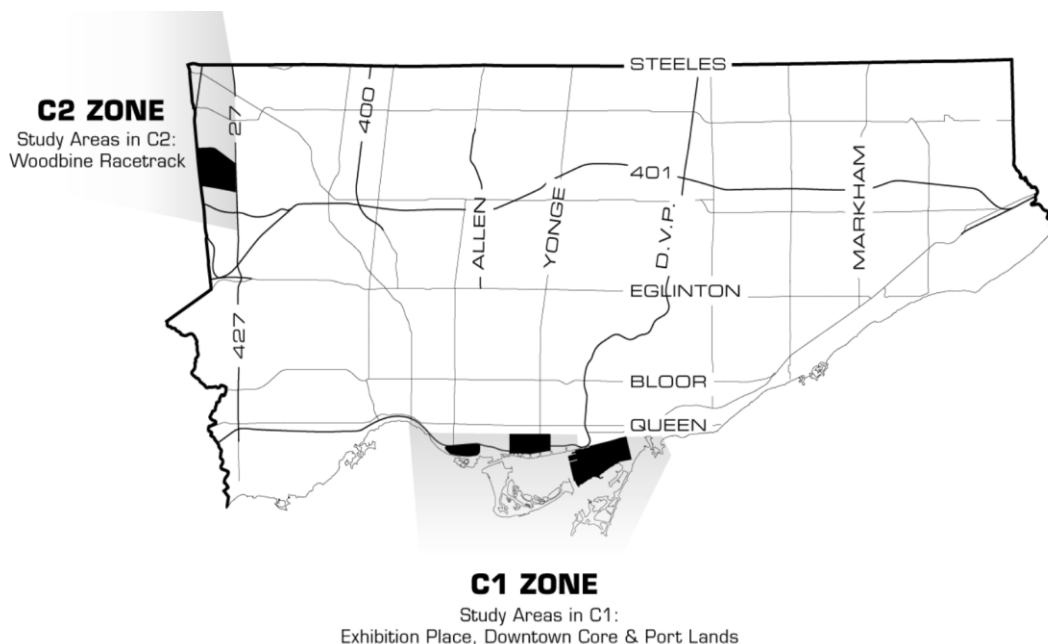


Figure 1: Map of Toronto’s Study of Casino Locations⁵⁸

Leading up to the 2012-2013 casino debate, there were some venues available for gambling in the Toronto area, including a racetrack, slot machines at the Woodbine Racetrack, and bingo activities, but there were no casino facilities in the city itself.⁵⁹ In 2010, the Province of Ontario directed OLG to raise its revenue in the areas of commercial and charitable gaming.⁶⁰ Two years

⁵⁶ *Ontario Lottery and Gaming Corporation Act, 1999*, S.O. 1999, c. 12, sch L.; O. Reg. 81/12: Requirements for Establishing a Gaming Site (2012) under the *Ontario Lottery and Gaming Corporation Act, 1999*, S.O. 1999, c. 12 subsection 2(3).

⁵⁷ *Ibid.* In 1997, a referendum was held, and all six municipalities in the pre-amalgamated Toronto fiercely opposed the creation of a casino.

⁵⁸ Executive Committee Meeting, *New Casino and Convention Development in Toronto* (15 April 2013) EX30.1 at 3 [hereinafter “Executive Committee meeting”], online: <<http://app.toronto.ca/tmmis/viewPublishedReport.do?function=getAgendaReport&meetingId=7605>> [perma.cc/LN2E-9BWA].

⁵⁹ City Manager, *Staff Report: Considering a New Casino in Toronto*, City of Toronto (22 October 2012), online: <toronto.ca/legdocs/mmis/2012/ex/bgrd/backgroundfile-51514.pdf> [perma.cc/3MMC-7T62] (Note that horsetrack racing has existed in what is now the City of Toronto since 1874. The existing Woodbine Racetrack opened in 1956).

⁶⁰ Member Motion, *Ontario Place: A Place for Families and a Public Space*, MM22.7 (City of Toronto, 10 & 11 April 2012) at s. 1(i)(ii), online: <app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX20.16> [perma.cc/92VC-P9QN] (the motion stated “It has been rumoured that the Provincial Government is considering building a new casino in the GTA and that Ontario Place is being considered”).

later, the OLG delivered a report which outlined a plan to “modernize” lottery and gaming in Ontario.⁶¹ OLG identified 29 zones across Ontario for locating gaming facilities with the intention of finding a private sector provider to develop or operate a casino in each zone. OLG’s top choice for a new casino was in Toronto’s downtown core, identified as the C1 Zone in Illustration 2.⁶² The Mayor of the by-then amalgamated city, Rob Ford, who had previously represented northern Etobicoke where Rexdale is located, enthusiastically welcomed the possibility of the casino on the basis that it would bring significant revenue to the city.⁶³ However, before any new gaming sites could be developed, provincial legislation required approval from City Council, along with proof that public input had been sought.⁶⁴

B. TORONTO’S GOVERNANCE MODEL: LOCAL AND CITY-WIDE PROCESSES

The decision-making process at City of Toronto follows a different process depending on whether the matter is city-wide or local, as shown in Figure 1. If a matter is deemed to be city-wide it is heard through a standing policy committee or by the Executive Committee. The mandate of the Executive Committee is to “monitor and make recommendations on the priorities, plans, international and intergovernmental relations, and the financial integrity of the City” including “Council's strategic policy and priorities in setting the agenda.”⁶⁵ A casino decision is a city-wide issue under this definition and therefore is heard by the Executive Committee. The Executive Committee is chaired by the Mayor, who hand-picks the members from amongst the city’s 44 councillors, usually drafting their staunchest supporters.⁶⁶ City Council makes the final decision on almost all matters, regardless of whether the process is local or city-wide.⁶⁷

⁶¹ City Manager, *Staff Report: New Casino & Convention Development in Toronto, City of Toronto* (5 April 2013) at 26, online: <.toronto.ca/legdocs/mmis/2013/ex/bgrd/backgroundfile-57336.pdf > [perma.cc/5BYU-FZGH].

⁶² *Ibid.* at 27.

⁶³ Rob Ford, “Why I want a casino,” *Toronto Star* (8 April 2013), online: <thestar.com/news/city_hall/2013/04/08/rob_ford_why_i_want_a_casino.html> [perma:E7XK-BPCQ].

⁶⁴ City Manager, *supra* note 59 at 28.

⁶⁵ *City of Toronto Municipal Code*, Ch 27, Appendix B-1 at s (I) and (2)(A)(1).

⁶⁶ *City of Toronto Act, 2006* SO 2006, c 11, s 189(1), [hereinafter COTA] Under the Act, “committee” means any advisory or other committee, subcommittee or similar entity of which at least 50 per cent of the members are also members of one or more municipal councils or local boards other than a police services board or public library board.

⁶⁷ *Ibid.* at 132(1) (“The powers of the City shall be exercised by city council”). See also *ibid.* at s. 22(1), which sets out which powers may not be delegated by City Council.

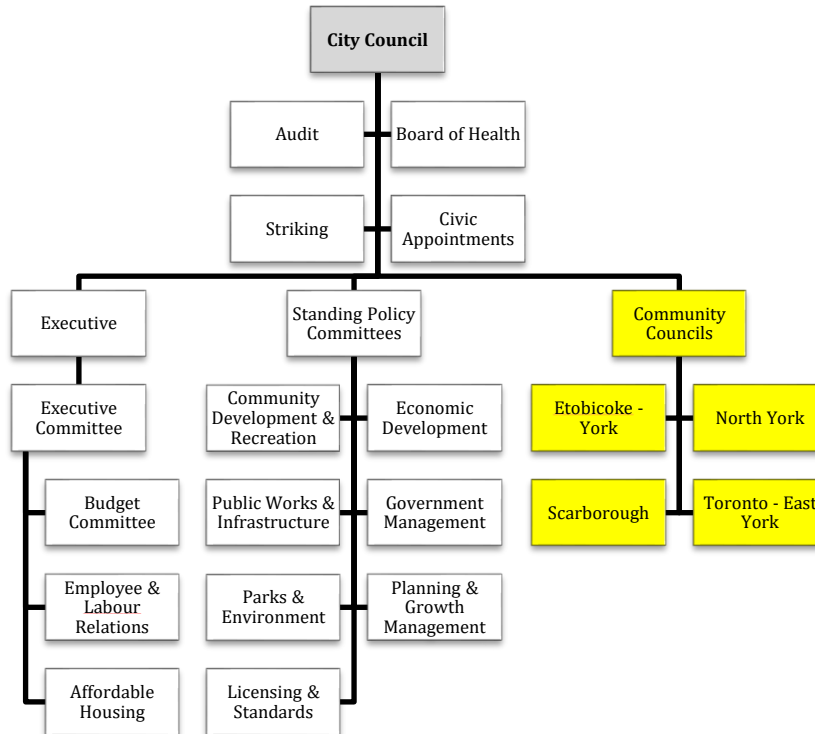


Figure 2: The City of Toronto’s governance model⁶⁸

The city’s four Community Councils, highlighted in yellow in Figure 2, decide local issues, mainly in the area of land use and planning.⁶⁹ Community Councils were created as a hasty political response to the provincial decision to amalgamate six lower-tier and one regional municipality in 1998 to create the current City of Toronto.⁷⁰ A senior staff member at the City, who helped design the Community Council model, said, “Community Councils were a last-minute addition, they were thrown in as a softening blow to amalgamation.”⁷¹ It was believed that these councils would soften the negative response the government received from amalgamation and would provide for decentralized governance within the province’s new, large municipalities.⁷² Community Council boundaries, depicted in Illustration 3, roughly match those of the pre-amalgamated municipalities.⁷³ The bodies were meant to provide stewardship from local planning matters to “keeping in touch with citizens and their concerns” and to serve as “a focal point for

⁶⁸ City of Toronto, “City Council and its Committees” (n.d.), online: <<http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=762b6804e1f22410VgnVCM10000071d60f89RCRD&vgnextchannel=9632acb640c21410VgnVCM10000071d60f89RCRD>> [perma.cc/U7G2-E628].

⁶⁹ Enid Slack, *Assessing Municipal Amalgamation in Toronto, Canada* (2005) 11: 71 Nat’l Sec & Def 49, online: <http://old.razumkov.org.ua/eng/files/category_journal/NSD71_eng.pdf> [perma.cc/LYK9-2QKC].

⁷⁰ Interview with City of Toronto staff member #2, Shelter, Support and Housing Administration Division Toronto, Ontario, Canada (2 February 2016).

⁷¹ Interview with City of Toronto staff member #1, City Clerk’s Office, Toronto, Ontario, Canada (18 December 2015).

⁷² Andrew Sancton, *Canadian Local Government: An Urban Perspective* (Don Mills ON: Oxford University Press, 2011) at 155.

involving people in community affairs,”⁷⁴ but this was not how they ended up being used. City Council approved a number of guiding principles to help determine which issues should be considered local and city-wide,⁷⁵ but in practice, the local issues decided by Community Councils are those matters delegated under the procedural bylaw, including traffic calming, on-street parking, and fence exemptions.⁷⁶ What is considered to be local versus city wide has changed over the years, and neither staff nor City Council has offered a rationale for the local versus city-wide binary, nor how to reconcile arguments that an issue could, in fact, be both.⁷⁷

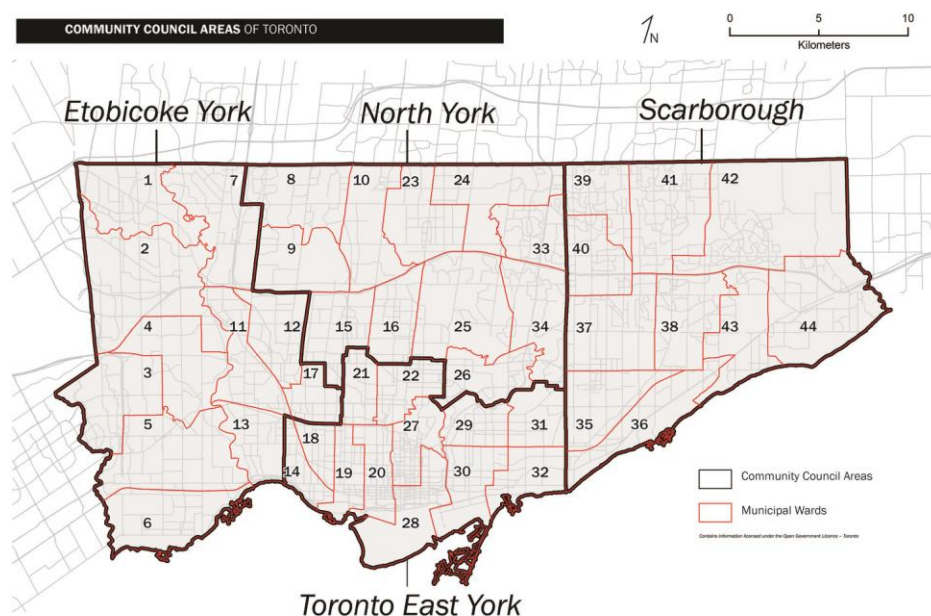


Figure 3: Map of City of Toronto wards and Community Council boundaries⁷⁸

The OLG’s preferred area for a casino was in the downtown core, which was the focus of the 2012-2013 debate. The 2015 debate centered on the expansion of the Woodbine gaming facility in Rexdale, located in the city’s northwest (Ward 02 in Illustration 3). In both debates, the City Manager’s Office concluded that: “a citywide perspective should be taken”.⁷⁹ Like other city-wide issues, the casino debates would be heard first by the Executive Committee and then ultimately

⁷⁴ Toronto Transition Team, *New City, New Opportunities* (Toronto, December 1997).

⁷⁵ *Toronto Municipal Code*, C 27 Council Procedures, §27-152 states that community councils have: “The authority to make final decisions with respect to the following matters, to the extent that the authority has not already been delegated to staff, is delegated to the Community Councils, with the exception of matters affecting more than one Community Council, and matters that, in the opinion of the City Manager, have City-wide significance.” See also City Manager, “Report to Executive Committee: Delegation of Certain Matters to Community Councils,” City of Toronto (2 January 2007) at 3, online: <<https://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-586.pdf>> [perma.cc/HQR4-AHVU] .

⁷⁶ Toronto Municipal Code Ch 27, Appendix B, IV.

⁷⁷ Interview with City of Toronto staff member #1 (18 December 2015).

⁷⁸ “Community Councils of Toronto”, (2017), online: *Draw the Lines: Toronto Ward Boundary Review | MAPS* <<http://drawthelines.ca/maps/>> [perma.cc/2W3E-VUT3].

decided by City Council.⁸⁰ However, for the first time since their creation, Community Councils were used as deliberative forums in a city-wide debate, as described in the next Part.

III. THE DIFFERING RESULTS OF THE 2012-2013 AND 2015 CASINO DEBATES

Toronto City Council made polar opposite decisions as to whether to allow a casino within its boundaries over an eighteenth month period. The decision to approve the suburban, but not the downtown proposals, given the different demographics of the areas, is perhaps not surprising, given what we already know about the power of local residents to influence decisions. However, what stands out in these cases was the degree to which local actors were not just able to influence the decision, but to shift the manner in which the city's governance bodies heard the issue.⁸¹ The Rexdale debate took place amidst the standard city-wide processes, whereas the downtown debate used a decision-making process that had not previously been seen. Embodying Valverde's notion of "seeing like a city," the shift demonstrated how legal logics like the procedural bylaw are interconnected with street-level action, such as the involvement of local actors. Local actors did not simply influence what the decisions would be; their presence permitted a shift in the decision-making forum that would hear the issue.

A. THE 2012-2013 CASINO DEBATE: A LOCAL ROLE FOR A CITY-WIDE ISSUE

The first staff report written regarding the 2012-2013 casino debate focused on city-wide concerns like the operating budget, jobs for city residents, and tourism.⁸² Staff were also asked by the Executive Committee to recommend preferred locations, size, and type of facility, and to negotiate revenues from the province for hosting a casino, known as the hosting fees.⁸³ The local effects of a potential casino, like traffic or the implications for the immediate community around the proposed site, were not part of this first study.⁸⁴ The Executive Committee also directed that the consultation process be overseen by the city's top bureaucrat, the City Manager's Office. Throughout the month of January 2013, City of Toronto staff and consultants oversaw five public consultation sessions throughout the city,⁸⁵ conducted a poll, and undertook stakeholder interviews

⁸⁰ City Manager, *Staff Report: Considering a New Casino in Toronto*, (City of Toronto:22 October 2012), online: <www.toronto.ca/legdocs/mmis/2012/ex/bgrd/backgroundfile-51514.pdf> [perma.cc/EAA6-3E8Q] ("Should Council consider new casino development, a citywide perspective should be taken to support the potential that exists in both the C1 and C2 zones").

⁸¹ Due to constraints in scope, there are important legal and social dimensions related to casinos that are not considered in this paper, including the accountability of governments in proposing new government sites and the effects of gambling addictions on families and communities. For more information on these issues see esp. Colin S. Campbell, "Canadian Gambling Policies," in *Casino State: Legalized Gambling in Canada*, James F. Cosgrave & Thomas R. Klassen, eds (Toronto: University of Toronto Press,2009).

⁸² City Manager, *supra* note 59.

⁸³ *Ibid* at 17.

⁸⁴ City of Toronto, *Appendix E to the Final Report: Social Considerations of Establishing a New Casino in Toronto*, (City of Toronto: (n.d.)), online: <toronto.ca/legdocs/mmis/2013/ex/bgrd/backgroundfile-57342.pdf> [perma.cc/46R4-2S4Z].

⁸⁵ Glyn Bowerman, "Toronto When The Chips Are Down" (16 April 2013) Humber College YYZ Magazine.

to understand whether the public supported the introduction of a casino.⁸⁶ At the first consultation session, hundreds of residents demanded more than information about the effects of a casino. A councillor attending the session stood on a chair and invited participants to an upstairs committee room to “have an actual conversation.”⁸⁷ The format for the remaining consultation sessions “was changed to include presentations by city staff, more formal facilitated discussion groups and the opportunity to make statements during an open microphone session”.⁸⁸

Community consultations were soon displaced by the intense campaign that had been mounted against the idea of a downtown casino.⁸⁹ The opposition campaign was spearheaded by No Casino Toronto (NCT), a local advocacy group started by three women in the spring of 2012.⁹⁰ They objected in particular to Ontario Finance Minister Dwight Duncan’s vision of a casino-anchored “golden mile on Toronto’s waterfront,” stating that it would, “harm neighbourhoods.”⁹¹ The involvement of NCT was amplified by their political connections to local councillors.⁹² The three women approached downtown councillors very early in the debate to make clear their opposition.⁹³ They were described as “relentless” at mobilizing support against a casino anywhere along the city’s downtown.⁹⁴ Their intention in reaching out to councillors was to strategize on the nuanced process for decision-making at City Hall.⁹⁵

NCT was effective at bringing together multiple voices, including other activists⁹⁶ and gathered high-profile members from the arts, business and academia like Richard Florida.⁹⁷ They

⁸⁶ The Environics poll was a telephone survey of 902 Torontonians, with representation from across the City of Toronto. Environics, Toronto Resident Casino Poll Prepared for the City of Toronto (n.d.) online: <https://www.toronto.ca/legdocs/mmis/2013/ex/bgrd/backgroundfile-57344.pdf> [perma.cc/RDY4-7F3T].

⁸⁷ Staff, “Anti-casino side hijacks first public consultation on Toronto casino plan” (9 January 2013) Metro News, online: <http://metronews.ca/news/toronto/503047/anti-casino-side-hijacks-first-public-consultation-on-toronto-casino-plan/> [

⁸⁸ DRPA Consultants, *City of Toronto Casino Consultation: Final Consultation Report* (Toronto, 2013) at 9..

⁸⁹ Hamutal Dotan, “Duly Quoted: Paul Godfrey on a Downtown Casino” (9 January 2013), *Torontoist*, online: <torontoist.com/2013/01/duly-quoted-paul-godfrey-on-a-downtown-casino/> [perma.cc/9CLR-26GV] (OLG chair states that casinos should be downtown, not where residents live). See also Mike Adler, “Scarborough councillors have mixed views on Toronto casino plan”, (16 January 2013), *Toronto.com*, online: <toronto.com/news-story/1491405-scarborough-councillors-have-mixed-views-on-toronto-casino-plan/> [perma:7AQJ-PU7Y] (Scarborough councillors weigh their approval of a casino based on its location).

⁹⁰ Elizabeth Church, “Anti-casino lobby ramps up campaign”, *The Globe and Mail* (13 April 2013), online: <theglobeandmail.com/news/toronto/anti-casino-lobby-ramps-up-campaign/article11181058/> [perma.cc/W9LG-2638].

⁹¹ David Rider, “Grassroots campaign opposing a Toronto casino draws influential members”, *The Toronto Star* (16 November 2012), online: <thestar.com/news/gta/2012/11/16/grassroots_campaign_opposing_a_toronto_casino_draws_influential_members.html> [perma.cc/KLV7-E2B2].

⁹² *Ibid.*

⁹³ Interview with City of Toronto councillor #1 (5 July 2016). As part of a larger project, approximately ten semi-structured interviews were conducted with former and current City of Toronto councillors and staff between December 2015 and July 2016.

⁹⁴ *Ibid.* See also No Casino Toronto, “Don’t Gamble with our City” (8 April 2013), online: <<https://www.youtube.com/watch?v=UaKMOF2-6UA>> [perma.cc/8FTL-HQAQ].

⁹⁵ Interview with City of Toronto councillor #1 (5 July 2016). See also City Council, “Petitions RM35.3” (21 May 2013), online: <app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.RM35.3>.

⁹⁶ Bowerman, *supra* note 85

⁹⁷ David Rider, “Grassroots campaign opposing a Toronto casino draws influential members,” *The Toronto Star* (16 November 2012), online: <thestar.com/news/gta/2012/11/16/grassroots_campaign_opposing_a_toronto_casino_draws_influential_members.html> [perma:5U58-8GT2]. See also Richard Florida, “Casinos Ruin Cities”, *Huffington Post* (17 April 2013),

collaborated across ideological boundaries, including those who opposed a casino on business and economic grounds.⁹⁸ NCT had a steering committee who met regularly to discuss strategy and included an emphasis on messaging and social media.⁹⁹ They also used a range of canvassing and media techniques, including Facebook.¹⁰⁰ They built a website, attended meetings and debates, contacted other organizations, handed out buttons, created an online petition, used a Twitter account to report news and to live-tweet key City of Toronto meetings, and helped distribute lawn signs. They used innovative approaches like setting out exactly how residents could sign up to deputize at Executive Committee and what individuals could say,¹⁰¹ and distributing a YouTube video explicitly for sharing on social media.¹⁰² The result was the mobilization of hundreds of participants at the municipal meetings where the issue was heard.¹⁰³

Local business improvement areas and neighbourhood associations also joined the opposition, as did organizations from outside the immediate vicinity, including over two hundred religious leaders.¹⁰⁴ According to one councillor, getting the faith community on board was an important strategic decision.¹⁰⁵ The Federation of North Toronto Residents Association, an umbrella organization of resident associations in northern Toronto, was another important catalyst in mobilizing councillors from outside the downtown core to the “no” side.¹⁰⁶ John Sewell, former mayor of Toronto, wrote:

[F]ew community leaders favour a large casino in downtown Toronto. As one can see from the ads placed in the daily papers by No Casino Toronto, virtually everyone who cares about the city and participates in its public life is opposed. They come from every sector.¹⁰⁷

Pro casino advocates did not mobilize a campaign, nor did they have such a unified voice outside

online: <https://www.huffingtonpost.ca/richard-florida/toronto-casino-rob-ford_b_2164882.html> [perma.cc/E6EM-PAS3]; Interview with members of No Casino Toronto, Toronto, Ontario, Canada (11 May 2015).

⁹⁸ David Olive, “In Toronto casino debate, it’s time to walk away from the table”, *The Toronto Star* (29 March 2013), online:

<thestar.com/business/2013/03/29/in_toronto_casino_debate_its_time_to_walk_away_from_the_table_olive.html> [perma.cc/6YKF-6GZQ].

⁹⁹ Interview with City of Toronto councillor #1 (5 July 2016).

¹⁰⁰ No Casino Toronto Facebook Page, online: <[facebook.com/NoCasinoToronto?fref=ts](https://www.facebook.com/NoCasinoToronto?fref=ts)> [perma.cc/F49H-6LFX]. The Facebook page had 15,326 likes. The Twitter feed had 1,189 followers.

¹⁰¹ No Casino Toronto, “Friday Deadline: Sign up to speak at the Mayor’s Executive Committee” (nd), online: <us6.campaign-archive2.com/?u=8b04c2e2b0af73d1226a1c173&id=89b6463dd3> [perma.cc/PN5C-4HWZ],

¹⁰² *Ibid.*

¹⁰³ City Council, *supra* note 95.

¹⁰⁴ City of Toronto, *supra* note 84; Letter from York Quay Neighbourhood Association to Toronto City Council (15 January 2013), online: <toronto.ca/legdocs/mmis/2013/ex/comm/communicationfile-35545.pdf> [perma.cc/Y4JW-A6VU]; Letter from Scott James to Mayor Rob Ford and City Councillors (5 February 2013), online:

<toronto.ca/legdocs/mmis/2013/ex/comm/communicationfile-35551.pdf> [perma.cc/Y7EF-PWPK]; Margaret Wente, “Dead man’s hand: Just say no to casinos”, *The Globe and Mail* (11 April 2013), online:

<theglobeandmail.com/globe-debate/dead-mans-hand-just-say-no-to-casinos/article11017537/> [perma:NTR9-VZVU].

¹⁰⁵ Interview with City of Toronto councillor #2 (7 July 2016).

¹⁰⁶ Interview with City of Toronto councillor #1 (5 July 2016).

¹⁰⁷ John Sewell, “Sewell: casino divides city, fight takes flight”, *Post City Toronto* (6 May 2013), online: <http://www.postcity.com/Eat-Shop-Do/Do/May-2013/Civic-war-Casino-divides-city-fight-takes-flight/index.php?fb_comment_id=481300708609712_4145965> [perma.cc/4BT2-MNH4].

of City Hall.¹⁰⁸

In the face of this vocal and widespread opposition, local politicians who objected to a downtown casino considered the standard consultation process – mandated by the Executive Committee, administered by the City Manager’s Office, and delivered through in-person consultation sessions and petitions – to be inadequate.¹⁰⁹ In response, councillors for the downtown area advocated for a novel, more formalized local consideration of the issue by using the procedural bylaw to argue that, “Community Councils are entitled to hear from the public about local needs and neighborhood issues.”¹¹⁰ Even though the City Manager had identified that the decision was one of city-wide interest,¹¹¹ the TEYCC convened Community Council meetings staffed by city bureaucrats to inform the public of the casino issue.¹¹² The use of TEYCC to deliberate on the local effects of a downtown casino provided resources and attention to the opposition campaign. A senior staff member explained the committee was a means to “create a legitimate ... political entity that would become a place of energy for the counter argument, the anti-casino voice.”¹¹³ To one of the local councillors, the impetus for the TEYCC’s involvement was the lack of staff reports available on the local effects of the casino. These are produced when requested by elected officials:

[W]e didn’t feel like we were getting enough of an opportunity to evaluate what the impacts were on a local level of a citywide decision. The decision was very specific, about two neighborhoods, but, with respect to the Toronto East York Community Council district, there was no member of the Community Council on executive where the item was being debated. And we wanted to get ... down into what planning implications, what traffic implications, what social development impacts ... a casino would have on a neighbourhood.¹¹⁴

The TEYCC was able to create more opportunities for civic engagement, in part via the production of dozens of staff reports on the impacts of a casino.¹¹⁵ The reports, focused on local

¹⁰⁸ See esp Toronto Life, “The definitive guide to the supporters and opponents of a Toronto casino”, *Toronto Life* (10 April 2013), online: <<https://torontolife.com/city/toronto-politics/toronto-casino-yes-versus-no/>> [perma.cc/V5TS-SARZ].

¹⁰⁹ Interview with City of Toronto councillor #3 (18 July 2016).

¹¹⁰ Interview with City of Toronto staff member #1 (18 December 2015). See *supra* note 74.

¹¹¹ See City Manager, *supra* note 59 at 1 (“Should Council consider new casino development, a citywide perspective should be taken to support the potential that exists in both the C1 and C2 zones”) [could not find quote in the article,].

¹¹² Toronto-East York Community Council Subcommittee, “Public Consultation with Business Improvement Areas and Local Business Representatives in the Casino Zones Identified in the Toronto and East York District” TZ1.2 (11 January 2013), online: <app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.TZ1.2>; Toronto and East York Community Council, “Response to Various Motions Respecting Casinos in Toronto and East York District” TE20.47 (6 November 2012), online: <happ.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.TE20.47>. Under Chapter 27, TEYCC could only make recommendations to Council on “local” official plan and zoning by-law amendments, or planning applications that “are not of city-wide interest,” neither of which applied in this case. Nor could TEYCC make recommendations at the committee level, as there was no planning report and no involvement for the committee.

¹¹³ Interview with City of Toronto staff member #5, City Planning, Toronto, Ontario, Canada (18 May 2016)

¹¹⁴ Interview with City of Toronto councillor #1 (5 July 2016).

¹¹⁵ See Toronto-East York Community Council, “Zoning Status of Casinos in Toronto and East York” (11 September 2012), online: <app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.TE18.55>; Toronto and East York Community Council, “Zoning Status of Casinos in Toronto and East York TE19.9, (10 October 2012)

planning, transportation, and impacts on local businesses, were brought by staff to the TEYCC and “allowed [councillors] to question staff in far greater detail and to scrutinize the assumptions that were being made by various actors and players.”¹¹⁶ One councillor said:

What we did have is the ability to create a forum for the casino exploration and use that forum to get the information we need, ... to get staff in front of us and push them on things like parking requirements and cost of parking spaces, and vehicle studies and do all the stuff from the areas where Community Council had jurisdiction to deal with is as a land use issue.¹¹⁷

Another councillor described the Community Council itself as “a tool of extraordinary importance,” stating that the TEYCC “gave us ... space to think out loud” in contrast to the Executive Committee, which had become “a decision-making body and not a debating and research body.”¹¹⁸

The staff reports generated by the Community Council, together with the City Manager’s final report, were delivered to a special meeting of the Executive Committee held in April 2013, with options on how City Council could proceed.¹¹⁹ While the City Manager’s report focused on economic, city building, social, health, and fiscal criteria, the Community Council reports detailed local impacts like planning and traffic. The Executive Committee meeting had hundreds of deputants and submissions, largely from those opposed to a casino. After hearing the extensive opposition, the Executive Committee, whose members had been hand-picked by Mayor Rob Ford and had been in favour of a downtown casino throughout the debate, approved the creation of a

online: <app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.TE19.9>; Toronto and East York Community Council, “Response to Various Motions Respecting Casinos in Toronto and East York District,” (City of Toronto: 6 November 2012), online: <app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.TE20.47>; Toronto and East York Community Council, “Response to Various Motions Respecting Casinos in Toronto and East York District” (22 January 2013), online: <app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.TE21.29>; Director, Community Planning, Toronto and East York District, *Response to Various Motions Respecting Casinos in Toronto and East York District - Fifth Supplementary Report* (14 February 2013), online: <toronto.ca/legdocs/mmis/2013/te/bgrd/backgroundfile-56318.pdf> [perma: 8T2Q-FU93]; City Solicitor, *Casino in Toronto and East York District - Exhibition Place, Report from the City Solicitor*, (City of Toronto: 6 February 2013), online: <toronto.ca/legdocs/mmis/2013/te/bgrd/backgroundfile-55991.pdf> [perma: Y2XL-33NR]; City Manager and City Solicitor, *Response to Motion Respecting a New Casino - Securing Conditions from OLG*, (City of Toronto: 20 February 2013), online: <toronto.ca/legdocs/mmis/2013/te/bgrd/backgroundfile-56324.pdf> [perma: PLC7-F3VS]; General Manager, Economic Development & Culture, *Use of Exhibition Place Grounds as a Public Event Space* (City of Toronto: 25 February 2013), online: <<https://www.toronto.ca/legdocs/mmis/2013/te/bgrd/backgroundfile-56371.pdf>> [perma.cc/6JE2-FZJQ]; City Council & Board of Health, “The Health Impacts of Gambling Expansion in Toronto” (City of Toronto: 7 November 2012), online: <app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.HL18.1>; Toronto Board of Health, “Community Health Impacts of a Casino in Toronto” (City of Toronto: 28 January 2013), online: <app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.HL19.4>.

¹¹⁶ Interview with City of Toronto councillor #1 (5 July 2016).

¹¹⁷ Interview with City of Toronto councillor #2 (7 July 2016).

¹¹⁸ Interview with City of Toronto councillor #2 (7 July 2016).

¹¹⁹ City Manager, *supra* note 59 at 1. The City Manager also provided City Council with several options in respect of a new gaming facility in the C2 zone: Maintain the current gaming use at Woodbine (no Council approval needed); expand the Woodbine gaming facility into a casino by adding live dealer table games; and attach conditions to a resolution supporting the establishment of a gaming site.

downtown casino conditional on a minimum annual hosting fee for the city of \$100 million.¹²⁰

By the time that issue was to be heard by City Council less than a month later, Mayor Ford had suffered a drug-related scandal, the provincial Liberals had a new premier, and the province had reversed its position on hosting fees.¹²¹ Mayor Ford delayed and then cancelled the special City Council meeting scheduled for 21 May 2013, declaring the proposals to build a casino in downtown Toronto “dead” unless OLG could guarantee hosting fees.¹²² One of the councillors within the TEYCC area pursued a petition to hold the meeting on 21 May 2013, gathering the required number of signatures, driving throughout the city over the weekend, and reaching the Clerk’s Office to file the petition on 19 May 2013 as the bells at Old City Hall rang - just in time.¹²³ At the meeting, City Council rejected the option to have a casino in the downtown core by an overwhelming majority.¹²⁴

The scandal involving Mayor Ford was a significant reason for the casino’s ultimate demise. While this is a fascinating story in its own right, here I am more interested in the process that was used to hear the debate and, in particular, how the widespread opposition of local actors allowed for a change in how the issue was debated and decided. As in the land use planning context that Valverde observed, the 2012-2013 case study unveils the multiple rules and practices that operate together in the context of municipal governance: vocal activism resulted in a unique use of the procedural bylaw to use a forum that further magnified this opposition. The malleability of the governance model enabled the public in this part of the city to have access to staff resources in the form of dozens of reports, opportunities for consultation with staff and the institutional legitimacy these opportunities created. While Scott would have likely appreciated the power of street-level actors to modify the rules, any such modification was absent when a similar decision had to be made about a casino proposed for Rexdale a short time later, as we will see in the next section.

B. THE 2015 CITY-WIDE CASINO DECISION

¹²⁰ *Ibid.* See also Elizabeth Church, “Casino approval becoming a long shot”, *The Globe and Mail* (10 April 2013), online: <theglobeandmail.com/news/toronto/casino-approval-becoming-a-long-shot/article11044013/> [perma.cc/ZPV7-U3WB].

¹²¹ Elizabeth Church, *supra* note 90; Editor, “Toronto casino: No special deal means proposal may be dead”, *Toronto Star* (20 March 2013), online: <thestar.com/news/gta/2013/03/20/toronto_casino_no_special_deal_olg_chair_says.html> [perma.cc/7JYN-4UN7]. But see John Lorinc, “The Casino Debate and Non-Fiction Numbers”, *Spacing Magazine* (16 January 2013), online: <spacing.ca/toronto/2013/01/16/lorinc-the-casino-debate-and-non-fiction-numbers/> [perma.cc/GY7R-LHK7], who noted that the consultant report used as the basis for economic analysis suggested a range of possible revenues from hosting fees, some as low as \$18 million.

¹²² Hamutal Dotan, “Rob Ford Proclaims Toronto Casino ‘Dead’” (16 May 2013), *Torontoist* online: <torontoist.com/2013/05/rob-ford-proclaims-toronto-casino-dead/> [perma.cc/V6SW-KUZX]. See also, Elizabeth Church, “Special meeting for Toronto casino debate scheduled for May 21”, *The Globe and Mail* (1 May 2013), online: <theglobeandmail.com/news/toronto/special-meeting-for-toronto-casino-debate-scheduled-for-may-21/article11650673/> [perma.cc/2TLA-MDQT].

¹²³ Mike Layton *et al.*, “Petition under S.27-30 of The City of Toronto Procedures” (19 May 2013), online: <toronto.ca/legdocs/mmis/2013/rm/bgrd/backgroundfile-58463.pdf> [perma.cc/2326-NREN].

¹²⁴ City Manager, *supra* note 61. Ultimately, the final presentation by the City Manager suggested that the new hosting fee formula proposed by OLG would result in between \$55 and \$61 million in annual revenue: see City Manager, “New Casino and Convention Development in Toronto: City Manager Report to City Council”, (City of Toronto: 21 May 2013) at 16, online: <toronto.ca/legdocs/mmis/2013/cc/bgrd/backgroundfile-58464.pdf> [perma.cc/N9UQ-WD2D].

A municipal election was held on October 25, 2014, a little over one year after the 2012-2013 casino debate, resulting in the replacement of Toronto's mayor. Between the two casino decisions, Mayor John Tory replaced Mayor Rob Ford, promising a more professional and transparent government.¹²⁵ Rob Ford returned to his previous role as councillor of north Etobicoke, where Rexdale and the proposed casino site are. Ford's untimely illness and death meant that he did not involve himself in the casino debate. A few months after the election, Councillor Crisanti, whose ward was next to the Woodbine Racetrack, located in Rexdale, re-opened the casino debate.¹²⁶ Councillor Crisanti had been named deputy mayor, tasked with increasing economic growth in the Etobicoke-York area of the city.¹²⁷ Mayor Tory affirmed Councillor Crisanti's reopening of the issue, saying, "I have said all the way along that I support us taking a second look at casino gambling at Woodbine... It's all about jobs for me. It's all about jobs and economic development, not gambling."¹²⁸ Crisanti also noted the importance of considering the local voice in any casino deliberations.¹²⁹

In early 2015, the Executive Committee requested that the City Manager study the planning implications of a casino in Rexdale, the economic impact, employment issues, social costs, incremental costs associated with expanded gaminglike police, fire and emergency medical services costs. As in the 2012-2013 debate, senior city staff deemed the matter to be a city-wide issue, which meant that decision-making would proceed through the Executive Committee to City Council.¹³⁰ The local effects that had justified the use of Community Councils in the 2012-2013 debate - traffic, local planning, the impact on area businesses - were not included in the laundry list of information and analysis that the Executive Committee asked the City Manager's Office to gather.

The difference between the downtown and Rexdale debates was not really whether the casino issue was local or city-wide, as indeed these categorizations ignore the overlap in such designations. Instead, the difference was the relative lack of involvement from councillors or local advocacy groups, either within or outside of Rexdale.¹³¹ In the 2012-2013 debate, the large number of local actors justified the novel involvement of the Community Council. This in turn led to greater access to staff resources and far greater information on the ramifications of the casino proposal. In 2015, there was no opposition campaign, nor did local councillors push for studies of the local effects of a casino or for involvement by the Community Council. Thus, publicly

¹²⁵ Hamutal Dotan, "Toronto Election 2014: John Tory on Seven Key Issues" (22 October 2014), *Torontoist*, online: <torontoist.com/2014/10/toronto-election-2014-john-tory-on-seven-key-issues/> [perma.cc/5D34-GWJF].

¹²⁶ Natalie Alcoba, "Deputy mayor wants Toronto to reopen casino debate with report on Woodbine Racetrack expansion", *National Post* (18 March, 2015), online: <news.nationalpost.com/toronto/deputy-mayor-wants-toronto-to-reopen-casino-debate-with-report-on-woodbine-racetrack-expansion> [perma.cc/69YE-UAHY].

¹²⁷ Rider, David. "Casino debate could focus on expanded gaming at Woodbine racetrack." *thestar.com*. (March 11, 2015).

¹²⁸ Chris Fox, "Ford says expanded gaming at Woodbine would benefit Toronto as a whole", *CP24.com* (24 June 2015), online: <cp24.com/news/ford-says-expanded-gaming-at-woodbine-would-benefit-toronto-as-a-whole-1.2437623> [perma.cc/L7E7-25XH].

¹²⁹ E-mail from Councillor Crisanti to City Clerk, Councillors and Mayor (4 November 2012), "Casinos in Toronto", online: <toronto.ca/legdocs/mmis/2012/ex/comm/communicationfile-29803.pdf> [perma.cc/P379-HWYE].

¹³⁰ Laura Armstrong, "Is the third time a charm for Rexdale revitalization?" (15 March 2015), *Toronto Star*, online: <thestar.com/news/gta/2015/03/15/is-the-third-time-a-charm-for-rexdale-revitalization.html> [perma.cc/5AGZ-M2HN].

¹³¹ City of Toronto, "Health Impacts of Expanded Gambling at Woodbine Racetrack" (1 July 2015), online: <app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.HL4.2>. In the former debate, councillors from across the city were involved, while in the latter there were only a small number of dissenting councillors, all from outside the Woodbine area.

available information and public debate about the effects of a Woodbine expansion were not part of the conversation at all.

Rexdale is located in Etobicoke, a municipality prior to the 1998 amalgamation of five entities into the current City of Toronto. The Community Council boundaries do not exactly match those of the previous city but Rexdale is within the boundaries of the Etobicoke-York Community Council (EYCC). It is one of the city's most economically vulnerable areas.¹³² At the time of the decision, more than half of Rexdale residents were first-generation Canadians;¹³³ nearly 40 percent of working adults had low-wage, part-time jobs without benefits or security; and half of the resident students dropped out of high school, double the Toronto average.¹³⁴ The Woodbine Racetrack represented 10% of the workforce in a community that had seen a 26% decline in jobs over the last 10 years. It employed 5,000 people in Rexdale alone.¹³⁵ Crisanti stated at a Woodbine public consultation meeting, “[I] can tell you that Woodbine has been a great community partner, they do a wonderful job, and they employ about 7,500 people – and this is also about protecting the jobs that are currently there.”¹³⁶ The point about protecting jobs was not elaborated on further, but the implication was that a vote against adding a casino to the existing Woodbine facilities would result in losing some of the already limited employment in the area.

In Rexdale, the public engagement process was overseen by the City Manager's Office. The most compelling reasons behind supported for casino expansion were the potential creation of 2,600 new jobs and the promise of a community benefits agreement with the City of Toronto.¹³⁷ Indeed, support increased to 72 percent when it was suggested that expansion would bring new commercial development such as hotels, restaurants or entertainment venues,¹³⁸ even though 70 percent of responders were dubious that expansion would lead to full-time, permanent jobs, and worried that expansion would contribute to an increase in problem gambling.¹³⁹ These findings were echoed in a public consultation session, which had few attendees and proceeded without controversy.¹⁴⁰ Casino support was based on the potential increase in jobs and the promise – however dubious residents were – of economic development in an area of the city where it was badly needed.¹⁴¹ As a former city staff member noted, “nobody really cared, because for them out

¹³² Christopher Hume, "Casino suddenly seems respectable — in Rexdale: Hume" (28 June 2015), *Toronto Star*, online: <thestar.com/news/gta/2015/06/28/casino-suddenly-seems-respectable-in-rexdale-hume.html> [perma.cc/T86R-TMDH].

¹³³ City of Toronto, *Rexdale-Kipling, Social Profile #4 - NHS Languages, Immigration, Income* (2011), online: <<https://www.toronto.ca/ext/sdfa/Neighbourhood%20Profiles/pdf/2011/pdf4/cpa04.pdf>> [perma.cc/7QVS-TKEX].

¹³⁴ Bob Hepburn, “Rexdale hub a beacon for area hurt by poverty and crime,” (27 June 2012), *Toronto Star* online: <thestar.com/opinion/editorialopinion/2012/06/27/rexdale_hub_a_beacon_for_area_hurt_by_poverty_and_crime.html> [perma.cc/46PK-RNF7].

¹³⁵ Letter from Nick Eaves to Mayor John Tory and Deputy Mayor Vincent Crisanti (6 March 2015) at 2, online: <toronto.ca/legdocs/mmis/2015/ex/bgrd/backgroundfile-77988.pdf> [perma.cc/MX78-MEV2].

¹³⁶ Cynthia Reason, "Woodbine Racetrack employees say 'get the shovel in the ground' on casino expansion" (12 May 2015) *toronto.com*, online: <insidetoronto.com/news-story/5614095-woodbine-racetrack-employees-say-get-the-shovel-in-the-ground-on-casino-expansion> [perma.cc/FZ7P-9JXW].

¹³⁷ City Council, “Expanded Gaming at Woodbine Racetrack: Appendix C Results of Public Engagement” (15 July 2015), online: <<https://www.toronto.ca/legdocs/mmis/2015/ex/bgrd/backgroundfile-81786.pdf>> [perma.cc/perma.cc/C3LM-NBN4] at 6.

¹³⁸ *Ibid* at 6.

¹³⁹ *Ibid* at 5.

¹⁴⁰ *Ibid* at 3-8.

¹⁴¹ Interview with City of Toronto councillor #2 (7 July 2016).

there it was about jobs, it wasn't about quality of life next door and all these things that come into play down here [in downtown Toronto]."¹⁴² As one columnist wrote:

Rexdale had two options in the casino debate: Take it or leave it. It's easy for a councillor to say a casino will bring the wrong kinds of jobs when the neighbourhood that councillor represents is chock full of them. In Rexdale, almost any job is better than none.¹⁴³

This brings to mind Teelucksingh's analysis of the diminution of the voices of marginalized residents, whose interests are localized to their own homes and limited spheres of interest with little capacity to engage in advocacy.¹⁴⁴ It could be that, despite the appearance of Rexdale resident support, other civic conversations were taking place that did not have access to city decision-makers. A city staff member, with a long history of community involvement noted, "it's not that the communities are not politicized and particularly engaged, it's just they're engaged in ways that you don't understand and you are not plugged into."¹⁴⁵ This staff person added:

[Councillors need] to say: 'communities are engaged in ways that I'm not familiar with, so how can I find out where those communities' conversations are taking place, whether they are in mosques or community centers, or ... people's living rooms, wherever.'¹⁴⁶

A few popular media accounts noted some discord with the proposal to expand Woodbine from those who lived nearby.¹⁴⁷ As one resident noted in one of such articles, there were other ways of seeing the jobs question, "If you get on building the [Light Rail Transit], we can bring condo development; we can bring retail development, all sorts of development. I don't think we need a casino to be the catalyst for that."¹⁴⁸

But another councillor described it differently, stating that ultimately this was the decision that the local community wanted: "if the folks in Rexdale want a casino, let them have it."¹⁴⁹ They added, "If you don't build the [neighbourhood] association, if you don't build the activity, if you don't engage in that front, you get what you deserve. So, if you're complacent about it, or apathetic, or disengaged, or marginalized, there's a price to pay for that."¹⁵⁰ To this councillor, it is up to the local community and its councillors to "make its own mistakes." There is no point in having outside voices help them to organize or colonize the area:

I'm not going to have time to go up there and orchestrate the neighbourhood for them. But I have seen people try and do that, it's sort of like they're missionaries going into the suburbs to try and urbanize somebody. [They have] to make their own mistakes.¹⁵¹

¹⁴² Interview with City of Toronto staff member #4 (7 May 2016).

¹⁴³ Andray Domise, "Woodbine casino would be good for Rexdale", *Toronto Sun* (9 July 2015), online: <torontosun.com/2015/07/09/woodbine-casino-would-be-good-for-rexdale> [perma.cc/Y583-TW4B].

¹⁴⁴ Cheryl Teelucksingh, *supra* note 33, at 133.

¹⁴⁵ Interview with City of Toronto staff member #3 (17 February 2016).

¹⁴⁶ *Ibid.*

¹⁴⁷ Natalie Alcoba, "Deputy mayor wants Toronto to reopen casino debate with report on Woodbine Racetrack expansion," *National Post* (18 March, 2015), online: <news.nationalpost.com/toronto/deputy-mayor-wants-toronto-to-reopen-casino-debate-with-report-on-woodbine-racetrack-expansion> [perma.cc/M69X-LJ2V].

¹⁴⁸ Armstrong, *supra* note 130.

¹⁴⁹ Interview with City of Toronto councillor #2 (7 July 2016).

¹⁵⁰ *Ibid.*

¹⁵¹ *Ibid.*

The involvement of outside voices in the 2012-2013 was not framed as “colonizing” the downtown core.

In the end, the Executive Committee and then City Council quickly voted to expand the Woodbine Racetrack to create a casino in Toronto’s northwest with little opposition.¹⁵² Unlike the debate eighteen months earlier, the Community Council and advocates from outside the geographic area played no role in the debate, beyond the usual cookie-cutter consultation processes. There were few jobs in Rexdale, very high unemployment rates, and signs of economic development initiatives coming from either the City or the Province of Ontario were bleak. The process diminished the contribution of local actors to decision-making, particularly the contribution of Rexdale residents. It may well be that the ward councillor fully represented the views of their residents in opting to the promise of new employment to the area. However, the Rexdale debate demonstrated the degree to which some residents, in some city geographies, are able to participate in decision-making to such an extent that the process itself transforms, leading to greater city resources, information and consideration in governance processes.

IV. CONCLUSION: A GOVERNANCE MODEL (RE)CREATED (UN)EQUAL?

This article has tried to show how urban actors can impact law and governance in one particular urban context. What I hope is that this research can add to debates about the uneven participation of local actors and the role that they play in municipal debates, including through the power to influence how decision-making itself will proceed. These different outcomes on a similar policy issue tell us that governance is not uniform across the city, not just in terms of the influence of local actors on decision-making, but also in regard to the ways in which local actor involvement can lead to shifts in how decision-making takes place. This raises important questions as to the power of some local actors, and how city governance should be structured in light of this difference in power.

We already know that governance spaces differ across Toronto, due in part to the presence of resident and business associations in some, but not all areas of the city, and the way in which these bodies reflect income disparities and home ownership status. In the 2012-2013 casino decision, well-connected local actors mobilized an intense campaign against the creation of a downtown casino and were able to access governmental actors. But what was new was that this mobilization led to a shift in the decision-making process, whereby the usual city-wide process was changed to include local considerations through the use of Community Councils. This resulted in the use of more city resources, including staff time and reports, and greater information concerning the local impacts of a downtown casino. By contrast, in the 2015 decision, decision-making proceeded through the usual city-wide process, without information on the local impacts of a Woodbine expansion, nor as many opportunities for civic engagement.

A simplistic explanation of the difference between the two decisions is that a downtown casino would negatively colour the playground of the more privileged residents of the city, who may not go to or care about Rexdale. As the *Toronto Star* reported, “most Torontonians couldn’t care less. Unaware and indifferent, we are happy with it as long as it won’t be in our backyard. Let

¹⁵² City Council, “Expanded Gaming at Woodbine Racetrack” (7 July 2015), online: <app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.EX7.4> [perma.cc/648C-ZHVH].

Rexdale enjoy what the rest of us don't want."¹⁵³ The absence of local actors in the 2015 decision reinforces the extent to which the advocacy groups involved in the earlier debate were dominated by those who had little interest in events in a poor area like Rexdale. This was the case even though many of the issues that local actors cared about in 2012-2013 debate - like local jobs - were mirrored in the 2015 decision.

A more nuanced analysis is that the lack of interest in Rexdale revealed the extent to which governance bodies are not institutionally neutral, but malleable. In 2012, local actors were able to influence the formal governance model in a manner that Rexdale residents were not. Local actors did not just influence the overall debate or the way in which councillors chose their position on the issue, as Kingma and Blomley have capably recounted. Instead, the impact of local actor involvement was a shift in the scale of deliberation to Community Councils, allowing deeper engagement and greater use of staff resources.¹⁵⁴ A comparative look at these two decisions reveals the extent to which local actors can move beyond simply impacting decisions, to demonstrate how local actors can impact the process of decision-making itself. When combined with Teelucksingh's findings as to how particular resident groups and opposition are noticed and integrated, and the privileging of the voices of particular local actors, these decisions raise distressing questions about the accessibility and fairness of the governance model.

In order for institutional structures to legitimately capture the "enthusiastic participation" of its citizens, it must be capable of being reshaped.¹⁵⁵ If these structures instead reflect a top-down approach divorced from the real lives of residents, the administrative framework cannot capture the activity going on the street. When applied to the casino decisions, we can further see how the formal rule-making plays out when the power of local actors is amplified. Scott might have applauded the Jane Jacobs-like power of local actors to mobilize such an intensive campaign that the administrative model had to shift in order to provide a "theatre" (as once staff member put it) to have their issues considered.¹⁵⁶ This shifting did succeed in capturing life on the street, in that it reflected the power of particular local actors. The contrasting case studies reveal that the power of local actors is not merely their presence as resident's or business associations, nor their capacity to influence decisions. This power can also be seen in their street-level power through the form of a revised governance model, with the inclusion of Community Councils in a city-wide matter.

However, the casino debates also raise alarm bells regarding how this unique combination of legal technicalities and insider knowledge that characterizes municipal governance. The legal technicality of the procedural bylaw included an opportunity to use Community Councils to serve as a forum for neighbourhood debate and deliberation, as had been contemplated at amalgamation. However, this combination of legal technicality and insider influence exacerbates the existing unevenness in Toronto's governance model. The 2012-2013 debate didn't simply reflect the power of residents to influence decision-making in the city's downtown; it resulted in a change in how the decision was heard, greater staff resources, more information on the proposal's implications, and greater engagement opportunities. The justification for a review of the local effects of a casino in 2012-2013 debate was relevant in Rexdale eighteen months later, yet the lack of access for local actors meant that such issues were left unstudied. This is a cautionary tale. Support for street-level

¹⁵³ Hume, *supra* note 132.

¹⁵⁴ Peter Baker & Geoff Kettel, "New Casino and Convention Development in Toronto" (2013), online: <www.toronto.ca/legdocs/mmis/2013/ex/comm/communicationfile-35949.pdf> [perma.cc/9A7Q-A4M4]

¹⁵⁵ Scott, *supra* note 3 at 356.

¹⁵⁶ Interview with City of Toronto staff member #5, City Planning, Toronto, Ontario, Canada (18 May 2016).

action, especially where it has the power to change the decision-making process, must pay careful attention to the spatial and socioeconomic unevenness of cities.

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