

Pre-“With All Due Respect” Commentary by Art Giacalone (June 2013):

A version of the following op-ed piece was published as a letter-to-the-editor in the weekly edition of *ArtVoice* on June 13, 2013 under the headline, “King Andrew’ Sixty Years Too Late to Control New York/Canadian Border,” [http://artvoice.com/issues/v12n24/letters_to_artvoice/king_andrew_too_late]; and as a guest column in the June 24, 2013 edition of *Buffalo – Business First* under the headline, “Authority’s role still a hot topic.”

“King Andrew” Sixty Years Too Late to Control New York/Canadian Border

It is difficult to be a fan of the Peace Bridge Authority (PBA) if you believe that government agencies should act openly and responsibly. Back in the pre-Cuomo days when they were still functioning as a “team,” the PBA’s U.S. and Canadian members routinely circumvented laws meant to protect the environment and ensure accessible and transparent government. Most egregiously, they refused to objectively and effectively deal with the adverse impacts of bridge traffic on the health of Lower West Side residents.

But the bullying and one-sided demands of New York Governor Andrew Cuomo, and the unquestioned support for a yet-to-be-defined Peace Bridge “expansion plan” expressed by the chorus of Cuomo sycophants, make the PBA’s conduct appear relatively reasonable. A recent example of behavior more apt to rile an adversary than lead to cooperation is the newly-adopted legislation introduced in Albany by State Senators Mark Grisanti and George Maziarz and State Assemblyman Sean Ryan. Their bill, currently awaiting the governor’s signature, is intended as a threat to dissolve the Peace Bridge Authority unless it cooperates – that is, gives in to – the demands of New York’s governor.

The Grisanti/Maziarz/Ryan legislation is simplistic, poorly reasoned, and based on a flawed interpretation of the 1933 statute that created the “Buffalo and Fort Erie Public Bridge Authority,” now known as the PBA. According to the bill’s sponsors, the PBA was formed “solely for the purpose of financing the construction of the Peace Bridge,” and was expected to dissolve once it repaid its bonds. That description of the 1933 legislation is patently false. Not only was the Peace Bridge already built and operating when the enabling statute was adopted, the original statute expressly states that the authority shall have the power “to maintain, reconstruct, repair and operate any properties acquired by it.” For 80 years, maintaining and operating the existing bridge has been the primary function of the PBA. For our elected representatives (especially, the two lawyers, Grisanti and Ryan) to claim otherwise is an embarrassment.

Additionally, while the 1933 statute does state that the PBA’s powers and duties would cease “when all of the bonds issued by the board have been paid in full or shall have otherwise been discharged,” that is not the end of the story. The legislation creating the PBA expressly empowers it to issue bonds “from time to time” and to establish maturity dates for the respective bonds for up to 50 years from the dates they are issued. Clearly, the PBA was not formed with an expectation that it would go-out-of-business once the bridge was paid for.

A June 6, 2013 op-ed piece in *The Buffalo News* in support of the proposed legislation, attributed to Messrs. Grisanti and Ryan, ends with the words: “[W]e need local control. It’s just that simple.” Sadly, it really is just that simple when one realizes that the term “local control” means “control by Governor Cuomo.”

Had Mr. Cuomo been governor 80 years ago, he would have had the “local control” he so dearly covets. The 1933 law created a nine-member board, with six U.S. residents appointed by New York’s governor, and only three Canadian members. That imbalance was corrected in 1957, however, when legislation adopted cooperatively in Albany and Ottawa created a true partnership, a ten-member board including five New Yorkers and five Canadians. Notably, one of the five New York seats on the PBA was assigned to the State Attorney General, further diluting the NY governor’s “control” over the board. The 1957 legislation, coincidentally approved by the Canadian Parliament two weeks after the birth of Andrew Cuomo, also established the current procedure where the PBA chair alternates each year between a U.S. and Canadian member.

It is hard not to root for the Canadians, if not the PBA itself, in this unnecessary and unseemly border dispute. New York’s governor has refused to engage in a meaningful discussion regarding significant issues, such as whether an expanded plaza on the U.S. side would actually reduce truck and auto congestion on the Peace Bridge, and what steps need to be taken to truly address the bridge’s impacts on public health, including the well-documented “asthma epidemic” and other respiratory ailments affecting Lower West Side residents.

The PBA’s current chairman, Canadian Anthony Annunziata, was quoted recently as saying, “All [Gov. Cuomo] wants is to be able to say he did it.” It is difficult to argue with that point. Whether his next campaign is for re-election to his current post, or a run for the U.S. presidency, it appears that Andrew Cuomo merely wants to proclaim that he accomplished what no other politician has been able to do for the past two decades, expand the Buffalo-side of the Peace Bridge. He’ll call that “progress,” regardless of the impact.

Sincerely,

Arthur J. Giacalone