THE UNIVERSITY AS URBAN DEVELOPER:

A RESEARCH REPORT

Mariana Valverde and

Jacqueline Briggs

Centre for Criminology & Sociolegal Studies, University of Toronto

September 30, 2015

THE UNIVERSITY AS URBAN DEVELOPER: A RESEARCH REPORT

Context: the university's multiple personalities

Universities exist to deliver higher education and to produce and facilitate research, but they are also important players in urban development. A recent Ontario report on the impact of "anchor" institutions on local development puts universities (and hospitals) at the top of the list[1]. The 'anchor' metaphor has two aspects. A university is itself anchored because, unlike other corporations, it cannot pack up and move to another jurisdiction; and, secondly, a large university in turn anchors and shapes the local economy[2]. Our report is limited to the university's internal governance, but we agree with the Mowat/Atkinson report that research is needed on the economic and social impact of universities[3].

The university's non-academic activities are so multifaceted that they could only be properly studied by a well-funded team composed of accountants, labour economists, experts in pension funds and in real estate, urban planners, civil engineers, and sundry other specialists. In the absence of such a team, we present here a modest first effort to document one hitherto unexplored aspect of the university: its role as a real estate developer and property owner.

An important caveat concerns the so-called federated universities (Victoria, Trinity, St. Michael's). These are academically integrated with the rest of the Faculty of Arts and Science at St. George; but the three federated universities are financially and legally autonomous, and so legally they are not part of 'U of T'. Victoria's unusually good financial health, for example, is in large part the result of being a major landlord, owning (among other assets) buildings on Bloor St. housing some of the most expensive retail in Canada. This rental income is not shared with the rest of 'the university'. This report excludes the three federated universities, but we hope to see future researchers fill out the picture; comparing and contrasting the financial and real estate

---

[1] Mowat Institute and Atkison Foundation report found at www.anchorinstitutions.ca

[2] In the US researchers have shown that universities and related enterprises (medical schools and hospitals in particular) have been playing a very important role in urban development and especially in the revitalization of inner cities of the rust belt (e.g. upper New York State, Philadelphia, Pittsburgh). See for example Carolyn Adams, "The Meds and Eds in urban economic development" Journal of Urban Affairs 25(5), 2003, 571-588, and John Gilderbloom and R.L. Mullins Jr, Promise and betrayal: universities and the battle for sustainable urban neighborhoods. Albany, State University of New York Press, 2005. In the US many private universities have displaced African-Americans in favour of university buildings and housing for largely white students, a story which is not applicable to Canada.

[3] The Mowat-Atkinson report favourably mentions some UTSC (Scarborough campus) procurement and non-academic employment policies as examples of how anchor institutions can foster an equitable local economy. It is interesting, however, that the university as a whole seems to not have such policies, to our knowledge.

dealings of the different legal entities found under the legally misleading "U of T" umbrella term would no doubt be enlightening[4].

While the initial mandate of our project – an offshoot of a larger, SSHRC-funded project on the governance of infrastructure projects in Ontario in which Mariana Valverde is the PI-- was to document university decisions concerning infrastructure, we were quickly drawn into the university's activities as a borrower, since new buildings are the most important cause of the university's imposing debt (about a billion dollars). Student debt is today an important topic, and government debt is a huge issue. By contrast, we know of no public or even intra-university discussions on the university's debt[5]. Pension fund liabilities, which have drawn much attention, can be reduced and even eliminated over time, albeit with hardships; but debt incurred in order to finance the construction or purchase of a building cannot be reduced.

Today 'U of T' is paying about $38 million a year just to meet interest payments on the most important type of debt. This fact is not secret[6] but it is certainly not widely known. Further, what is most problematic from the governance point of view is that future generations are being obligated (before they are even born, in the case of students) to pay back hundreds of millions in principal. Making such large-scale commitments (going into the 2050 decade) at a time of national economic uncertainties and weak provincial commitments to university funding may or may not be a wise decision, but it is certainly one that should have been broadly discussed.

The report presents information about how new buildings are imagined, financed, and built, focusing on the university's process for approving capital projects. We present a case study of the university's most expensive current capital project, the aquatic centre built at UTSC for the Pan Am Games. Secondly, we briefly discuss the university's borrowing practices and raise broader questions about accountability – accountability not only to current members of the university's constituencies but to the next generation as well, since both the buildings and the debt they cause govern the future as much as the present.

---

[4] See Larry Kurtz, "Leasing for profit and control: the case of Victoria University at the University of Toronto" in David C. Perry and Wim Wievel, eds., The university as developer: case studies and analysis. Cambridge, MA: Lincoln Institute for Land Policy and M.E. Sharpe. This anthology also contains a brief, limited account of Ryerson University's partnership with the developer of the AMC theatres at Dundas Square. These two articles are the only published research on Canadian universities' real estate ventures that we have located as of this writing.

[5] When we say 'the university' we mean the tri-campus conglomerate minus the federated universities; when we say 'the administration' we refer to Simcoe-Hall-based personnel who make decisions that in some cases affect one campus only but which are not within the (limited) jurisdiction of campus-specific governing entities. UTSC and UTM have gained some autonomy, but virtually every new building has to be proposed and approved by the central administration (see Governing Council, Policy on Capital Planning and Capital Projects, 2012). The St George campus, on its part, does not function as a financial entity, as far as we can see.

[6] The university's Financial Report for 2015 is available online through the Governing Council website.

·

> **Note on sources**: We conducted six interviews with university administrators, one with an elected official and one with a student leader, as well as several conversations with others with knowledge of the broader context, but we rely mainly on documents obtainable either from the University of Toronto Governing Council or from the City of Toronto. Information about Pan Am venues available through Infrastructure Ontario and the local press was also collected. Documents and interviews are mentioned here only if cited; a full list of sources can be made available upon request. A major caveat is that key Governing Council decisions concerning real estate are discussed in camera, which means that those in the room at the time cannot discuss even their own objections with the broader university community.

1 Dreaming big in Scarborough: the Pan Am games, the 'three Davids', UTSC, and 'priority neighbourhoods'

The Pan Am Games were awarded to Toronto in November 2009. When asked why, in the aftermath of a global financial crisis that severely affected the university's endowment fund, the university would choose to play an active role in the Pan Am Games' most expensive (by far) venue, two people interviewed mentioned (separately) "the three Davids". These were: David Miller, mayor of Toronto during the bid process, David Naylor (then U of T president) and, most importantly, David Peterson, former Ontario Liberal premier, U of T chancellor 2006 to 2012 and leader of the Toronto 2015 organizing committee.

In keeping with his progressive agenda, Mayor Miller was keen to use the Pan Am Games to bring more sports opportunities to priority neighbourhoods in Scarborough. Similarly, many university officials at UTSC had long been keen to build stronger links with the local community, and had for some time discussed the possibility of a jointly owned athletic facility. During the bid process, the town of Markham had shown interest in hosting the aquatic centre venue. Threatened with missing the chance to obtain Pan Am funding to build a high-quality sports facility, administrators and a keen group of UTSC students moved to propose an aquatic centre that would bring international athletes to Scarborough, and whose dual legacy role would be to foster university athletics and recreation, on the one hand, and bring world-class sports facilities to Scarborough youth on the other hand. Students had in the past prioritized hockey along with swimming, but hockey (ice hockey, that is[7]) is not a Pan Am sport. And of course the distribution of Pan Am sports across a large number of venues meant that any one location would end up with a highly specialized facility, rather than a more general athletic centre.

[7] Field hockey is a Pan Am sport. For the Pan Am Games the back campus had the open grass taken out and replaced by fenced-in turf, a decision that caused much controversy. The 'legacy' justification in this case was that U of T athletes playing field hockey, lacrosse, and certain types of soccer would benefit greatly from the new fields, even though other U of T members would no longer be able to casually play frisbee or soccer, as in the past.

When Rob Ford was elected Toronto mayor in 2010, one crucial element of this ambitious plan vanished. Miller's Transit City plan had envisaged an LRT running through Scarborough, with a stop at the site of the aquatic centre. Once Miller became history, retaining the Pan An aquatic centre in a rather remote spot was still adequate for Pan Am athletes, who would travel by chartered bus on special HOV lanes; but without an LRT, the site was no longer ideal for community members without cars. It is not even very convenient to UTSC students: once the centre opened, some complained that the swimming facilities are 'too far' from the main academic buildings, as well as being too oriented to high-level athletes rather than ordinary students.[8]

2. Building on a landfill site: the $52 million question

The hopeful talk about underprivileged youth, university sports, and LRT's seems to have distracted attention from unpleasant facts about the site. The Scarborough campus ends at the border of the city-owned (decommissioned) Morningside garbage dump[9], and the city-university toxic borderland in question was the designated aquatic centre site.

Whether a former garbage dump from which methane is (in 2015) still escaping, through vents, was/is the best site for any building, even a non-residential one, would seem to be an obvious question. But the official record only shows one member of Academic Board (and nobody at Business Board or at Governing Council itself) raise the possibility of leaving the landfill site alone and using the south side of the Scarborough campus instead (Jan. 2011 Academic Board minutes).

At their January 2011 meeting, Business Board members did voice worries about the university's potential liability for future methane gas explosions, but in such a way as to suggest that the choice of site was irrevocable. President David Naylor reassured them that contemporary regulations about landfill sites "reduce the risk of exposure and associated health problems to an almost infinitesimal level". Perhaps cowed by Naylor's reputation as a medical researcher, the members (according to the minutes) did not go on to ask whether the building project might be moved some distance from the landfill. Business Board members treated the choice of site as a

---

[8] See Slide 12 in the powerpoint slides on the centre presented at the Campus Actitivies Committee, Nov. 11, 2014. There were also some positive comments, however; we do not want to imply that in 2014 UTSC students had generally negative feelings about the facility.

[9] The landfill is clearly visible in maps reproduced in City Council documents, but we do not know if Governing Council members had these maps in accessible form. One former member of Governing Council told us that GC committee members often receive hundreds of pages of documents a few days before the meeting, which made her feel she could not ask critical questions because she never had time to read the documentation. In general, documents available through the City on this project are informative, clearly written, and always have live hyperlinks to background staff reports, by contrast with Governing Council documents, which are very difficult to use and do not have hyperlinks or even footnotes to prior documentation.

fait accompli – in keeping with how capital projects are generally handled in Governing Council committees[10].

When asked why a landfill was chosen as site, one senior administrator[11] told us that "the biggest thing here is [was] opportunity. The university needed land for expansion, the city needed it for the Pan Am [aquatic] centre…" This is no explanation at all, since the university owns plenty of other land, as does the city, and there is no reason why a jointly owned building needed to be erected in jointly owned land[12].

The language of 'opportunity' that is echoed in many documents (and statements by university officials to the local press) obscures the decision-making chain.[13] What is clear, by contrast, is that the particular choice of site made an already expensive building far more expensive. Some of the reports to committees of Governing Council state that the remediation came in "under budget"[14]; this sounds good, but only in a few instances was it revealed that the estimated cost of the remediation was set at **$52 million**. No information was provided on which consulting firm came up with this figure, and why after going to that expense, vents were still needed to let the methane escape. The university, which owned somewhat more than half of the land in question, chose to budget **$30 million** for remediation, with the city committing $22 million.[15]

Two administrators were asked why the Province --which had previously spent vast sums to remediate the land that became the Pan Am athletes' village-- did not contribute to the soil

---

[10] Since Governing Council documents are hard to search, while researching this particular project we also gained much information about the approvals process for other buildings, such as the new law school. We are thus basing this comment on a sample that is much larger than one.

[11] In pursing the question why the university chose to pay for the majority of the soil remediation costs, several sources referred us to Prof. Scott Mabury. Although his assistant did attempt to schedule a meeting with us, once we emailed a few questions ahead of time to save time, Prof. Mabury chose to cancel the interview, referring us to Scarborough-campus officials. Scarborough officials were forthcoming; but they are not responsible for major financial/legal decisions, such as offering to pay $30 million for soil remediation ($25 million of that being central university commitments, not Scarborough funds).

[12] For example, Victoria University owns the neoclassical building on Bloor and Queen's Park E. that was built as a School of Household Science, but 'U of T' owns that land.

[13] The most extensive discussion of the project took place at Business Board in Jan. 31 2011 [see minutes of that meeting, available from Governing Council website, henceforth BB]; see also BB October 2011, and minutes of Governing Council, Sept. 2013.

[14] The phrase 'under budget' is constantly used in Infrastructure Ontario documents to justify public-private partnership projects; but as the Auditor General of Ontario's critical discussion of IO, in the AG's 2014 annual report, comments, if the budget is set very high from the beginning anyone can then claim to have come in under budget.

[15] The university borrowed $25 million for this purpose. In keeping with the university's general practice, however, information about the eventual outcome of the soil remediation project is not publicly available.

remediation. Both of them stated that no level of government provides funds for soil remediation. It is in fact true that landowners are legally responsible for cleaning up soil; but what is also true is that governments all over the world including Ontario often contribute funds to remediate brownfield sites, in order to facilitate economic development. In the absence of government help for remediation, and in the aftermath of the city's abandonment of the Scarborough LRT, it might have been wise to explore other possible sites.

3. The university plays 'high-performance' poker with the province – and ends up with not one but two facilities for elite athletes

In January of 2011 Business Board approved the $30m budget for the university's share of the UTSC soil remediation, as just mentioned. But, oddly, this decision was used to pressure the province to provide $20 million not for the UTSC facility (to which the province had already committed serious Pan Am funding) but for a different proposed building, one also devoted to high-performance sport and sports science, the Goldring Centre (at St. George). Academic Board minutes state: "Prof. Misak [then provost] explained that the University was hopeful that it would receive $20 million from the Province to use for the St. George campus athletic facility. If that were to occur, the $20 million of borrowing capacity, which would have been used for the St. George campus project, would then become available and could be used for the UTSC land remediation project." (Report 171 of Academic Board, Jan. 2011).

As intimated (but not actually explained) in Prof. Misak's rather confusing comments, the reason why the university needed to play this game with the province is simple: the university had maxed out its credit card, and could not simply borrow another $20 million in order to fund the soil remediation. But if the province could be persuaded to break with its usual practice of not funding university sports facilities and promise $20 million (later increased to $22.5 million) for the not yet built Goldring Centre, then the university would not, technically, go over its debt ceiling.

The Goldring Centre, an architecturally impressive $60 million building that opened in 2014 across the street from Varsity stadium, seems to have been brought into being by $28.5 million in donor funding[16]. That donation was in hand, an unusual situation, but even that donor funding would not suffice. Someone at the university thus managed to persuade the provincial government that if the university went ahead with the soil remediation, thus facilitating the Games, then the province would make an exception, for the Goldring centre only, to its policy of not funding university sports buildings.

The Ontario government's policy of not funding college and university sports has made university sports and recreation facilities dependent on a combination of compulsory student

[16] The Goldring family, which has in the past donated to other university projects, includes Judy Goldring, who was soon to become chair of Governing Council (in 2013).

fees, memberships sold to outsiders, and (in the case of Goldring) academic and research funding flowing through Kinesiology and Physical Education. The Goldring's centre's upscale facilities have some space for ordinary students and intramural sports, but they are mainly devoted to kinesiology research, sports science, sports medicine, and varsity teams. Students at St. George, including the vast majority of the university's graduate students, have had their compulsory fees raised by about $30 per year in order to pay for the operating costs of a facility mainly designed for sports science and varsity athletes. The new St. George Goldring levy brings us to the unpleasant topic of the UTSC student levy.

4. The UTSC referendum and the student levy

In the spring of 2010, UTSC students voted 62% in support of a compulsory levy to help fund the aquatic centre. At that time there were no details about who would sort out the conflicting needs of the different user groups: UTSC students and employees, community members buying memberships, high-performance national athletes, and Scarborough residents accessing recreation programs run by the city's parks department. Despite this lack of information, students who voted 'yes' committed to paying $40 per term themselves (though some believed the $40 was for the whole year) and, more importantly, imposing a $140 per term levy on future students, starting in 2014 – by which time the vast majority of the voting students would of course have graduated.The $280 yearly fee will increase by 4% each year.

In regard to ongoing operating costs, the UTSC students' already existing athletic fee (it was stated at Academic Board on January 27 2011) would be sufficient to cover "the university's share of the operating costs", estimated then at $1.5 million (the yearly operating cost was then estimated at $12 million).

What about construction costs? The new levy was the key here. Students and others were told that this student levy would generate $30 million. This of course would be a small part of a building costing $205 million. The federal and the provincial governments paid most of the consts (how much each paid is unclear, since documents available from Infrastructure Ontario and from the university always group federal and provincial funds as 'government'[17].

Even though governments paid most of the construction costs, the student levy, spread over 25 years, was clearly not available to pay contractors in 2012-14 (the building period). So how much did the university borrow to pay its share of construction costs? We do not have a clear answer to this apparently simple question. The confused information we do have is worth presenting here since it sheds much light on broader governance issues.

---

[17] A redacted 'project agreement' for the aquatic centre venue is found on the Infrastucture Ontario website, but the document's hundreds of pages are quite uninformative, being largely identical with the text of other IO agreements governing contractor responsibilities, the lenders' role, and so on. The schedules attached to the agreement are somewhat more informative but only marginally so. The IO website is an excellent illustration of the fallacious idea that transparency is produced if selected lengthy documents are made available to the public.

In 2011 the university committed almost $60 million as its share of a total capital budget of $205 million. The $60 million or so was said to include $11 million from UTSC's own funds, with the rest to be funded by the new student levy. How much the student levy would raise was not clearly explained; the $30 million figure was used repeatedly, without anyone taking out their calculator to multiply the $280 fee times 10,000+ students times 25 years, which adds up to more than twice the $30 million figure.

The fine print, however, reveals that the $30 million figure was in"2008 dollars"—a way of presenting information that obscures the actual amounts at play. It was explained at Business Board on January 31, 2011 (and only there) that $30 million in 2008 dollars amounts to $43.8 million in actual money[18], and it was said there that this would cover most of the university's share of construction costs, set at $54.8 million. But in other situations the $30 million figure was used without qualification.

Not everyone accepted the $30 million figure, though. At the University Affairs Board meeting held on April 20, 2010, a representative of the Part-Time Students' associations claimed that students at UTSC had been seriously misled. First, she stated, students thought they were committing future students (starting in 2014) to paying $140 per year, when in fact the actual levy was $**140 per term** (we do not know if that was indeed most voters' impression.) She then pointed out that $280 per year, times 10,000 students, times 25 years, adds up to **well over $60 million** – even without including either enrolment increases or the inflation raises that are built into the levy.[19]

This critic also reported that students had been misleadingly told that there would be no sports facility at all if they voted against the levy for the aquatic centre, and that the facility would move elsewhere if the referendum failed. The speaker may not have known that there was some truth in that rumour; as mentioned at the outset, Markham had expressed an interest in the Pan Am aquatic centre.

However, what was never discussed, as far as our research reveals, is whether the university could have chosen to limit its Pan Am involvement to the modest plans made for its St George venues, especially after the death of the Scarborough LRT and the tallying of the costs of USC soil remediation. University and/or UTSC authorities could have planned, for Scarborough, an affordable and modest multi-sport facility, perhaps partnering with the city's parks and recreation department. Of course Pan Am funding would not have been forthcoming for this; but the decisions that were taken made the future recreation and fitness of the UTSC community

[18] It was explained to us by an economist that terms such as '2008 dollars' are meant to capture not only inflation but also the varying cost of borrowing money at different points in the business cycle.

[19] This may or may not have been Joetia Gupta, APUS representative, who was quoted criticizing the vote and the information distributed before the vote in a Toronto Star March 21, 2010 story, "U of T students vote in favour of levy for Pan Am aquatic facility".

depend wholly on meeting other people's needs - the needs of a very small number of Pan Am Games sports and the future needs of national team athletes. In keeping with this logic, a squash club that had existed at UTSC was evicted for the Games (though some say the club mainly served non-students).

A former student leader who worked hard to persuade others to vote 'yes', interviewed in the spring of 2015, told us that he had thought that future students would pay $140 per year, not per term, and that he had been under the impression that the levy would raise a total of $30 million. (A UTSC official interviewed in September 2015 also believed the fee to be $140 per year). That former student leader, furthermore, expressed great surprise when told by the interviewer that the university community would only be able to use the two pools (by far the biggest and most important facility within the centre) 9% of the time – a figure that takes us into the next section.

5. The co-owners' plans for the future of the facility

Scarborough officials and students, we believe, became committed to the Pan Am aquatic centre project out of the best motives. They wanted UTSC to have top-notch sports facilities, and they knew that the provincial funding that is available for academic buildings was not available for recreation and sports. (Although the province's $20 million commitment to the Goldring Centre shows exceptions are sometimes made). UTSC managers wanted to strengthen links with the community, especially 'priority' neighbourhoods. And co-owning and co-managing a major sports and recreation building with the city of Toronto was certainly an innovative strategy helping to open the university up to the world around it.

But local UTSC actors, even if they had more critically evaluated the pros and cons of getting involved in megasports events, could not act on their own. Many if not most decisions with important legal and financial consequences for UTSC are actually taken somewhere else. The 'elsewhere' is not necessarily the provost's office. Sundry actors, from powerful deans and principals, to private donors, to provincial government officials, often push 'the university' to act. And yet, it is the central university authorities and Governing Council in particular who bear the responsibility, legally and ethically, for authorizing major buildings and authorizing the large debts that build them. The co-ownership agreement that binds the city of Toronto and the University in jointly owning and running the Toronto Pan Am Sports Centre (TPASC) is signed not by the Principal at Scarborough but by Vice-Provost Scott Mabury, on behalf of 'the' university.

So how will the aquatic centre be run, now that the Games are over?

First one needs to consider the operating costs. Other Pan Am Games venues will require upwards of a million dollars per year. But the particularities of 'high-performance' swimming and diving put the UTSC facility in a league of its own. In October of 2011, a report to Business Board stated that the yearly net operating costs would be **$12.6 million**. In September of 2013, a City report on the 'governance structure' for the TPASC gave **$14.1 million** as the estimate for the yearly operating budget. (A small university department can be comfortably run with a budget of $3 million per year, to put the figure in perspective). Most recently, a story in the Globe and Mail put the operating costs at **$18 million** per year[20], although UTSC currently uses the $14.1 million figure. Either way, the facility's operating costs are about ten times those of running the Milton Velodrome, and more than ten times those of running the Pan Am stadium at York University. The risk inherent in that operating cost is increased by the fact that hockey and soccer leagues can be found to pay considerable sums to rent facilities, but neither swimming nor diving are commercially viable[21].

Much obfuscation about how operating costs will be covered has been caused by the provincial government's vagueness about the 'Legacy Fund'. Media stories and documents (including the Globe and Mail story just cited) claim that the province's Legacy fund will distribute $4.1 million per year **for the first three years**, for the aquatic centre specifically. However, the September 2013 city manager's report on the facility told Toronto city council that the legacy fund contributions would likely be in the order of $4 million a year --but for **twenty years**. If that 20-year figure were true, then the city's share of operating costs would indeed be $3.6 million per year over the twenty-year period of the city-university co-owners' agreement.

Other references to the Legacy Fund and the TPASC specify three years as the time period for the $4m commitment, but the city documents' confusion is reflected elsewhere. For example, a 2013 powerpoint slide presentation shown at Business Board claims that Legacy Fund contributions are $4 million per year – without any qualifications as to the certainty of that sum and as to the time period involved.

Several national teams are indeed taking up residence at TPASC. However, there is no publicly available information on how much rent they are paying[22]. One reason for the vagueness is that an overarching federal body known as CSIO is the one official, committed tenant, reported to be paying $2.5 million per year. But whether national sports organizations such as Swim Canada are themselves paying rent to the facility on top of the CSIO rent, or whether the CSIO rent covers some or all of the national teams, is unclear. When inquiring we were told the national teams do pay rent over and above the CSIO rent; but what is significance from the governance point of view is that there is virtually no evidence of any serious discussion at Business Board or other committees of the wisdom of being 50% owner of a facility that has huge operating costs and insufficient revenue streams.

[20] "Were the Games worth it?" Globe and Mail August 22, 2015, M1.

[21] Even hockey arenas are difficult to sustain, financially, due to their operational costs, but hockey arenas and soccer pitches are generally more viable than facilities devoted to other sports (interview with sports venue management expert).

[22] Swim Canada and Dive Canada answered questions over the phone about their role at TPASC; while waxing enthusiastic about the quality of the facilities, they were unable to give a clear picture of their organizations' financial contribution, as distinct from CSIO's.

Even if the federally funded sports organizations are paying not $2.5 but $3.5 million per year (as some documents suggest), and even if the Legacy Fund provides $4 million for three (or even more) years, that still leaves close to $10 million to be covered in the first three years, and much more in subsequent years. In this context, Kinesiology Dean Ira Jacobs' remark to the Toronto Star that the TPASC would be a "self-funding facility" is naïve and misleading.[23].

So what is the financial plan? The legal co-owners' agreement is that the university will bear **no less than 17%** of the operating expenses, with the city funding **no less than 31%.** Another 30% percent of the operating expenses are supposed to be paid for by CSIO (although this seems to be a ceiling more than a floor, since the 'no less' language is not used here), while 22% is supposed to come from 'other Third Party users' (community members buying memberships, one assumes, or perhaps special event rentals). The 22% of the $14 to $18 million has no justification; one suspects that it was arrived at by adding the existing three institutions' contribution and subtracting that total from 100. (The student levy is not included in these calculations as a separate item).

The bottom line is that the city and the university, as co-owners, are legally obliged to pay equal shares of any shortfalls in revenue. The only truly stable revenue stream is the $280 yearly student fee; the federally funded athletes are probably in for the long haul, but even if they stay for a long time the rent they pay will not suffice. The financial uncertainty, we believe, is worse for the university than for its co-owner, the city. The city could raise recreation fees and/or it impose a local development charge; but how the university might meet its obligations to cover its half of the operating cost shortfall is not obvious.

Having covered some of the financial uncertainties, let us review the benefits that each gets.

USER	*Pools usage (two 50-meter swimming pools and one diving pool)*	*Field House (gym and multipurpose rooms)*	*Office space*
CITY	**27%**	**36%**	**39 sq. m**
CSIO AND OTHER HIGH PERFORMANCE	**41%**	**15%**	**2,780 sq m.**
UNIVERSITY	**9%**	**27%**	**280 sq. m**
OTHER USERS	**23%**	**22%**	**0 sq. m.**

As stated above, CSIO and national athletic bodies are paying only 30% of the operating costs. Clearly, the chart shows that they are obtaining much more than 30% of the benefits.

[23] Jacobs said that funding has been set aside for the first few years, but after that "we expect this to be a self-funding facility" ("Pan Am Games opens doors to state-of-the-art Scarborough aquatic centre", Toronto Star, 5 May 2015).

As if these figures and especially the 9% of the pool time available to the university were not bad enough, the icing on the governance cake is that the Governing Council website, so voluble on other matters, does not feature the 9% or the 27% figures in any document we have been able to locate[24]. It is only by searching the City of Toronto website that one finds a clear and concise account of who is paying what money for what benefits[25].

It is important to underline that the aquatic centre (now TPASC, Toronto Pan Am Sports Centre) is not a public-private partnership. But that may be its future. While researching this report we wondered why the university and the city would have chosen to set up the TPASC, legally, as a **for-profit** corporation. Neither of the two entities is itself a for-profit corporation, after all. But the co-owners' and shareholders' agreements contemplate the possibility the huge building that cost so much trouble and expense could be repurposed and parts of it be leased or sold – with no requirement that the tenants or purchasers be non-profit entities. Section 10.03 of the Co-owners' agreement states that after 18 years there will be a review, at which time strategies such as asking governments to pay more on behalf of 'high performance' athletes are to be contemplated; but whether that works or not, the co-owners can then consider "repurposing, down-sizing or closing the project", or selling either the whole thing or part of it.

But, interestingly, the same clauses about re-purposing, selling, and/or closing part of the building are repeated in an earlier section entitled "Revenues" (7.02). So it will not be necessary to wait 18 years to consider turning the aquatic centre into either a public-private partnership or a completely private one; "**repurposing, down-sizing, and closing portions**" of the building can be contemplated "**with a view to eliminating structural deficits".** (The student levy, by contrast, runs for a fixed term of 25 years; it is doubtful that if half of the building becomes a Cineplex the students would have the levy reduced by half).

Clearly, someone had done the calculations and realized that the operating costs are far too large for the city and the university to bear, especially since the federal government's share of operating costs is far lower than the benefits that accrue to national athletes.

A final caveat is that the TPASC story is by definition unusual, given that it is not an academic building and that swimming and diving facilities suitable for international competitions are far more expensive than other athletic projects. But while the scale of the operating costs, and the way in which federal and provincial sports bodies arranged to derive great benefit from a facility that is heavily funded by ordinary 'low performance' students is also unusual, the story reveals

---

[24] The 35-page co-ownership agreement was attached to the minutes of Governing Council for October 30, 2013, and so is notionally available to university members; but the division of facility space is not mentioned in this version. There is a "Sports Legacy Plan" that is supposed to be attached as Schedule F to the co-ownership agreement, but that page is blank and there were no additional pages.

[25] See City Manager's report to Executive Committee of Council, Sept. 10 2013 (the chart here is modified from the one in this document). See also City Manager's report to Executive Committee March 3, 2014.

certain governance practices that are not unusual and that are rather worrisome. One such underlying story concerns the university's penchant for going into debt to build fancy new buildings.

II. BUILDINGS, DEBTS, AND GOVERNANCE

The University of Toronto is one of many institutions, inside and outside of Canada, whose development ambitions greatly surpass their ability to finance capital projects. Debts are thus incurred. But debts are not all the same. The TPASC story is unique in one respect, namely that the university had never previously worked with Infrastructure Ontario (IO), the specialized agency of the Ontario government. Indeed, in one of Prof. Mabury's regular reports to Business Board on capital projects (September 2012) TPASC was omitted, and when asked why it did not appear on the list, Mabury replied that it was excluded because it was a project of IO and therefore not of the university (this was remedied in subsequent reports). The IO website makes it seem as if private financing was used for this project, in keeping with what they always call 'the IO model'[26]. That, however, is false. It is clear from university and city documents that these two institutions chose to borrow money themselves for their portion of the building costs. The province used private financing for its share. But the city and the university, which have very good credit ratings and can obtain money cheaper than private institutions, did their own borrowing. That was a wise choice, and one that no doubt displeased the IO managers, who believe that only discipline of private lenders makes contractors finish their projects on time.

However, the rejection of the IO model by the city and the university did not so clearly avoid the risks and obscurities of private financial markets. The reason is that the university relies not on ordinary bank loans or mortgages when it wants to build or buy a building, but rather on a financial instrument known as 'debentures'.

In 2001 the University of Toronto broke new ground in Canadian university finance by deciding to issue debentures; other universities have followed suit. What are debentures? As we understand it, they can be seen as a type of bond; issuing debentures it is a way to borrow money without posting any particular collateral. Municipalities and large well-known companies issue debentures on their general reputation. Further, debentures are long-term. Along the way interest payments are made, with the principal due only in the distant future.

[26] The typical IO project has a consortium of banks, insurance companies, pension funds etc. fronting the construction money, with the government then paying back the amount at specified times, plus a 'risk' premium. Projects are often misleadingly described as 'privately financed' at no cost to the taxpayer, when in fact taxpayers, or future taxpayers, have to not only pay back the initial sum but also an additional sum, since lenders only lend at a profit. Such financing is more expensive in the longer run, but it has the political virtue of not causing a deficit in the year in which the project is financed.

By issuing debentures, therefore, the university is simply moving debt repayment off into the future (30 years, often), with the remoteness of the principal payment being seen as justifying the rather steep interest rates that those who buy debentures demand. Now, governments can, if required, raise taxes when debt repayments are looming as debentures reach their term. But the university cannot unilaterally raise most tuition fees, and certainly cannot raise government grants. In that sense it is taking a bigger risk than a government.

As a final note regarding how the university has managed to incur serious debt but retain its good credit rating, we turn to a particular moment of remarkable financial inventiveness does.[27].

From 2011 to 2012, the university's high levels of debt worried members of Business Board. In April 2012 a report to Business Board stated that "the university is very near to the maximum of its permissible capacity according to its current borrowing strategy". But it was claimed athat "there is a clear need for additional borrowing… to build the facilities needed…"

Also in 2012, new accounting rules had caused a $1 billion pension fund liability to suddenly appear on the university's books. But, in the nick of time, a new way of valuing assets – in this case, the university's land—emerged as the solution to the university's accounting woes. Business Board was told, in April of 2012, that "debt on our balance sheets has increased by a balance [factor?] of ten since 2000. Interest and other debt service costs require about $30 million from the operating budget." But this gloom was followed by the good news: the value of the university's land, previously set at $76 million, was to suddenly increase – not just by the billion dollars required to offset the $1 billion pension liability, but by much more than that: **by $2.085 billion**. Thus, over $2 billion suddenly appeared in the 'assets' column of the university's books -- no doubt to the relief of Business Board members.

This magic-wand move was a crucial precondition for all of the major financial decisions of that time, including TPASC. How the particular number was determined is a mystery. No doubt an appraisal was done by someone, but no informatioin on this is found in any of the documents consulted. It seems to us that while a small plot on the edge of one of the campuses could be appraised by a real estate appraiser, one cannot multiply that by the total number of plots of land on which the university stands to get a global figure. This is partly due to the 'anchor institution' issue (U of T could not very well move to Sudbury in order to realize its real estate assets) and partly due to the restrictioins imposed by planning law. Even the developer-friendly OMB would not approve selling Convocation Hall to a condo developer --and if something can't be sold, it can't be properly appraised.

[27] The total debt ceiling is set by Governing Council, or more precisely by Business Board, using a ratio of assets to debt that we are told is normal for large risk-averse institutions. We are thus not accusing anyone of financial mismanagement; rather, we are highlighting the absence of a university-wide discussion about how buildings are financed (and of a more basic discussion about the future liabilities created by the recent building boom in all three campuses).

Conclusion: are capital projects opportunities – or liabilities?

Some private universities in the US have large endowments and, especially since they often sit in rather deprived urban areas where real estate is cheap, they can buy buildings outright before they need them – they 'land bank', as a study of the University of Pennsylvania has shown. The University of Toronto, however, which unlike private universities cannot raise most tuition fees, cannot afford to buy or build buildings without taking a very close look at both future operating costs and at the debt that is incurred. But the neoliberal language of 'opportunity' seems to have clouded people's eyes. At the January 2011 meeting of Business Board, someone asked whether the aquatic centre, then in planning phase, was a wise idea, given the $1 billion deficit in the university pension plan. The answer was that the new project was indeed in "an uneasy juxtaposition" with the newly discovered/acquired pension fund liability, but that Pan Am funding made TPASC "an excellent opportunity."

Given ever-rising operating costs, and the fact that neither governments nor private donors ever give **all** of the money that is necessary for a building, is it helpful to describe potential new buildings as 'opportunities'? Are they not rather liabilities? Administrators sometimes do raise the operating cost issue in governance meetings; but nowhere do we seem to be having any collective, open discussion about who will pay back the vast sums borrowed to build the various cathedrals of science, business, and sports that have sprouted in all three campuses in recent years.

Some new buildings are no doubt necessary to deliver our academic programs; but it does not seem that members of the university have ever had an opportunity to reflect, with proper information, about what the costs and benefits of each building are to each constituency.

The background information needed to discuss capital project policies in an informed manner is either not available or available only by piecing together bits from numerous documents that have been scrutinized with a fine-tooth comb (as researching this report has showed us). The University of Toronto does not claim to be democratic; but it does claim to be a 'community' in which students and other groups freely elect representatives and faculty enjoy freedom of speech. Even those limited rights to participate in decision-making cannot be properly exercised, however, if multi-million dollar decisions are not subject to proper discussion by representative groups who have accurate information in user-friendly formats.

QUESTIONS FOR DISCUSSION

Let us conclude with a series of questions.

1. Many departments and faculties want/need new space or more modern space. Who actually decides which building projects will go ahead? Professionals such as assistant deans? Academics such as deans? The provost's office?

2. Why do the committees that are supposed to consider projects always approve them?

3. Who makes decisions on how buildings are configured and designed? Are these matters seen as concerning only the architects, the relevant dean, and the departments? Is there no public interest in university planning, as there is in urban and regional planning?

4. Why is there little or no organized reflection on buildings and facilities after they start to function? Governing Council committees were once promised after-the-fact project reports, which would be extremely helpful to guide future decisions. But if these exist they are not available.

5. Who makes decision about non-academic facilities and spaces, especially at St George?

6. If each building is approved as a separate project, as appears to be the case, is there anyone whose job is it to see whether the current distribution of space, in the university as a whole, fosters community or rather fosters inequalities between faculties and between constituencies?

7. Why are governing council documents so user-unfriendly? Large donors reportedly get special reports and statements (whether these are in English or in accounting-speak we do not know).What about the university's main funders, who are now its students? Do they not deserve information in an accessible form? What about faculty members and other employees? Administrators often complain about misinformed criticisms in the student press or at certain meetings. But it is their responsibility to provide information.

8. When should decision-making be secret? The University of Toronto Act states that Governing Council can go in camera when discussing "intimate" financial and personal matters concerning "any person". Going in camera to discuss candidates for president is appropriate; but using the in camera mechanism to pre-empt any discussion, beyond the few people in the room at the time, of the pros and cons of major real estate deals and construction projects is wholly inappropriate.

9. Why are large-scale liabilities described as 'opportunities'?

10. What would it take to initiate a 'blue-sky' conversation about university governance? And by 'governance' we do not mean what administrators mean: that is, the formalistic process by which documents and proposals go through various committees until Governing Council puts the final rubber stamp on them. By governance we mean the decision-making process as a whole, including practices of information sharing and information concealment, practices of document writing and minute-keeping, as well as

the governing habits that result in some people and constituencies being informed (though rarely truly consulted) about impending policies and decisions, with other groups relegated to the passive role of reading fait accompli announcements on the university's website.