



INFORMATION REPORT

TO:	Chair and Members Emergency & Community Services Committee
COMMITTEE DATE:	December 12, 2016
SUBJECT/REPORT NO:	Social Housing - End of Federal Operating Agreements Impact and Analysis (CES16064) (City Wide)
WARD(S) AFFECTED:	City Wide
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SIGNATURE:	

Council Direction:

Not applicable.

Information:

Background

Federally funded housing projects were part of the 1999 Social Housing Agreement between the Canada Mortgage and Housing Corporation (CMHC) and the Province of Ontario and later included as part of the transfer of social housing to municipalities in 2001. As part of the transfer, these federally funded housing projects became regulated by the City, as Service Manager, pursuant to the *Housing Services Act, 2011* (the "Act") for the remaining duration of the original operating agreements. Report CES16064 focuses on federally funded housing projects known as "Section 27 and Section 95" as these are the projects for which there is no ongoing legislated mandate for the housing project or the Service Manager following the expiration of the operating agreement.

Generally, federal operating agreements have terms that coincide with the length of the housing project's mortgage. These agreements set out the amount, duration and conditions of the subsidy and when the mortgage for the housing project is paid off, the associated federal funding subsidy ends. Depending on the funding program, the subsidy is usually slightly higher than the mortgage payments. One of the most challenging issues facing social housing in Canada is the end of these federal operating agreements (commonly referred to as "EOA").

Federal programs assumed that after the mortgage debt is retired, a housing project *should* be able to generate sufficient revenue to continue to provide rent-geared-to-

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income housing, without receiving subsidies. Indeed, some housing projects are viable as affordable rental properties post-EOA. However, the majority of federally funded projects already struggle to provide rents that meet deep affordability, even with the existing subsidy, and will not be viable projects post-EOA. This is further compounded by capital repair pressures, high costs of unit turnover and the lack of adequate reserves and resources. Without some form of subsidy, it is not feasible for all projects to continue to provide rent-geared-to-income housing. Even fewer projects can support rent-geared-to-income housing if the project has to service new debt raised by accessing equity to address capital repairs without subsidy.

Hamilton Context

Funding for projects developed through the different federal programs comes from the CMHC and represents approximately \$21M annually. CMHC funding declines as the operating agreements expire and, by the year 2031, Hamilton will no longer receive any funding for projects developed under these agreements. Generally, as federal funding agreements expire, the housing projects become a free and clear asset for a housing provider to do with what it chooses, without any obligations under the legislation for the provider or the City. Most housing providers are committed through their corporate mandates to continue to operate affordable housing but there is no longer a regulatory framework to guide how projects are to be operated, including the level of affordability or the requirement to select tenants from the coordinated social housing waitlist.

The Housing Services Corporation, a non-profit organization that provides various services to the social housing sector, conducted an initial EOA review of Hamilton's social housing portfolio in 2014, which included preliminary viability analyses for each housing project. In Hamilton, there are 43 social housing providers, 26 of which have housing portfolios that are either entirely or partially impacted by federal EOAs. Approximately 2,446 units of approximately 14,000 are subject to federal EOAs. Following EOA, there is no longer a contractual or legislated obligation for a social housing provider to operate that housing project as rent-geared-to-income housing. This contributes to the very real possibility that some housing will no longer be available to serve the needs of low income households. Although there is no legislated requirement for the City to fund the majority of housing projects impacted by EOA, the potential loss of units could put significant pressure on the remaining housing stock and the coordinated social housing waitlist.

Beginning in 2002, federal operating agreements with providers in Hamilton began to expire and, as a result, several social housing projects in Hamilton no longer receive funding. These projects are no longer required to operate in accordance with the Act or the local policies of the Service Manager. Appendix A to Report CES16064 lists the social housing projects for which the end of federal operating agreements have already occurred.

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Appendix B to Report CES16064 sets out the social housing projects which continue to receive funding under federal operating agreements and the respective expiration dates.

What changes for a housing project at EOA?

There are several key changes for a housing project post-EOA with various implications. These are summarized in Table 1 below, grouped to highlight how many are interconnected.

Table 1 – Changes and Implications at EOA

Key Changes	Implications
<p>Providers are no longer required to provide rent subsidies potentially forcing some tenants into economic eviction.</p> <p>Tenants no longer have recourse to the City if they have complaints.</p>	<p>Many tenants will no longer have the right to receive a subsidy to offset their rent and will be moved to market rents, with the protection against annual rent increases afforded by the limits prescribed by the Provincial guidelines. Tenants receiving rent supplements under separate agreements (e.g. Ontario Community Housing Assistance Program) will continue to receive these supplements.</p> <p>Tenants will only have recourse to the Landlord Tenant Tribunal to address concerns with Landlords and/or rental units. Currently, social housing tenants may access the Social Housing Review Panel to address issues around rent calculation, eligibility, offers of housing and other local policy areas.</p> <p>Some existing tenants will return to the centralized waitlist to access rent-geared-to-income housing.</p>
<p>The project is no longer bound by the roles and responsibilities of their operating agreement.</p> <p>Operating agreement provisions requiring household income limits no longer apply.</p>	<p>The operating agreements set out the level of subsidy to be provided, often the mandate of the housing project (e.g. seniors, families) and the income limits of the households who can receive subsidy.</p>
<p>The project is no longer subject to the</p>	<p>The legislation which creates the</p>

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<p><i>Housing Services Act, 2011.</i></p> <p>The legislated administrative, monitoring, reporting and funding relationship with the City ends.</p> <p>Projects are no longer subject to City local rules, including approval for rent increases for spending from capital reserves.</p> <p>The project is no longer eligible for future streams of social housing capital funding, unless the City agrees to a new form of partnership.</p> <p>City assistance is no longer available if the project falls into difficulty.</p> <p>The project is no longer eligible for City resources, such as any asset management/planning services.</p>	<p>monitoring and oversight relationship with the City, as Service Manager, no longer applies.</p> <p>The housing project is no longer required to select tenants from the coordinated social housing waitlist.</p> <p>Housing providers can access the project's capital reserves without restriction or approval from the City. If a project requires additional capital repairs, it is no longer eligible for current funding streams offered to social housing projects by any order of government (e.g. Social Housing Improvement Program).</p> <p>In the past, the City has been able to assist some housing providers that experience difficulties with projects and there is no longer a statutory requirement or framework for providing this assistance.</p>
<p>The federal subsidy ends and, if the mortgage maturity date coincides with the end of the subsidy, the project can be leveraged for greater operating income and borrowing capacity.</p> <p>The project no longer requires Service Manager or Ministerial consent to be mortgaged or redeveloped.</p> <p>In the case of a provider with only federal projects, Service Manager or Ministerial consent is not required to amend its Articles of Incorporation.</p>	<p>Providers are free to access the equity in these housing projects for other purposes, such as development or expansion or funding capital repairs.</p> <p>Providers will be able to amend their corporate mandates and change their objects.</p> <p>A housing provider may cease to offer affordable rents.</p>

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Mitigating factors and other actions taken to date

There have been a variety of specific efforts undertaken over the years targeted to preserve the long-term affordability of social housing, specifically these federally funded projects.

1. Benchmarked Funding (Replacing Federal Operating Agreements)

Some social housing providers found the funding model associated with the federal operating agreements to be insufficient to deliver high quality housing that met affordability requirements. In an effort to preserve project viability, long-term affordability and meet local service level standards, the legislation permits Service Managers and housing providers to agree to replace federal agreements with the provincial benchmarking system for funding. The benchmarking formula in the Act was established to ensure that social housing providers received adequate funding to operate their housing projects. The main drivers in the “benchmark” formula are operating costs (maintenance, administration, mortgage principle and interest, taxes) and revenue (market rents, rent-geared-to-income, parking, and laundry).

On the request of their respective Boards of Directors, the City of Hamilton agreed to replace the federal operating agreements for Hamilton East Kiwanis Non Profit Homes (Kiwanis) in 2007 and McGivney Non Profit Homes (McGivney) in 2012 with the benchmarking funding model set out in the Act for provincial projects. This has meant increased subsidy year over year for these organizations funded on the property tax levy. The City continues to receive the CMHC funding for the federal projects operated by these three providers but this funding gradually declines to zero by 2021. When the CMHC funding has expired, these providers will be entirely funded by the property tax levy. Appendix C to Report CES16064 sets out those social housing projects which receive levy funding partially offset by declining federal funding.

2. Corporate Mandates of Housing Providers

Every housing provider has Letters Patent or Articles of Incorporation (the “constating documents”) that set out its name, purpose and other fundamental matters. Non-profit organizations and registered charities may only carry out activities that advance the purposes set out in its constating documents. Although a housing provider can amend its purposes to reflect new activities, there are implications and legislative requirements to do so and, it is a safe assumption, that most housing providers are fundamentally committed to the continued provision of affordable housing through the philosophical or ideological motives which inspired its corporate mandate and purpose. This means that most housing projects with expired agreements have continued to provide affordable housing despite the loss of federal funding, although many may be finding it challenging to do so.

3. *Ontario Community Housing Assistance Program (OCHAP)*

OCHAP provides federally funded rent supplements to federal housing projects. Rent supplements provide rent-geared-to-income (RGI) subsidy to a provider for a specific number of units, but do not include any obligation to fund operating, maintenance or capital. There is no expiration date associated with OCHAP funding. In Hamilton, there is funding for approximately 731 OCHAP rent supplements, of which 183 are offered in projects for which the EOA has already occurred and 548 are offered in projects with EOAs occurring in the future, which will preserve some units for RGI housing.

4. *Capital Funding Contractual Obligations*

Capital funding opportunities offered to social housing providers by the City or provincial and federal governments have included obligations that housing projects remain affordable and operated as social housing under the Act. For example, housing projects which received funding under the *Social Housing Retrofit and Renovation Program (2012)*, *Social Housing Improvement Program (2016)*, *Municipal Capital Grant Program (2016)* or the *Social Housing Apartment Retrofit Program (2016)* are required to remain as “social housing” subject to the Act, for a period of five years following the date of funding and an additional five years as “affordable housing”, regardless of the end of any federal operating agreement. In addition, with municipal funding, staff have included the specific obligation to select tenants from the coordinated social housing waitlist.

5. *Sector Collaboration*

Organizations that support the social housing sector have been actively bringing together resources and experts to consider the issue of EOA. The City of Hamilton has been an active participant in these discussions. Hamilton participated in the Ontario Municipal Social Services Associations’ EOA Task Force which resulted in a planning framework, tools and legal opinion for consideration by housing providers and takes part in regular discussions with the Service Manager Housing Network that includes broad issues, including EOA. Most every other Service Manager in the Province is facing challenges related to EOA but the challenges vary greatly depending on the composition of the funding programs, the portfolio size, the general market conditions and the extend of need in the community.

6. *Advocacy*

Although the concerns about EOA flows from federal funding for social housing, the City’s response to the Province’s update to its Long Term Affordable Housing Strategy in the spring of 2015, included a call for Provincial advocacy to the federal government for continued funding through a National Housing Strategy or, alternatively, a commitment to upload the costs of social housing back to the provincial level.

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In 2016, the federal government announced that it was working towards the development of a National Housing Strategy and began extensive consultation. The City submitted a comprehensive response (CES16051) to the consultation framework for National Housing Strategy. The City's response included, among other things, the following comments regarding EOA:

One of the most pressing issues facing the sustainability and financial strength of social housing providers is the on-going expiration of long-term operating agreements. With the onset of mortgage maturity and expiring agreements, Service Managers in Ontario must make complex decisions about maintaining legislated service level standards while facing aging housing stock and declining federal funding. Social housing providers are challenged to maintain operational viability when subsidies decrease or terminate at operating agreement / mortgage expiry. The end of operating agreements threatens to chip away at the supply and preservation of housing that meets deep affordability needs as some social housing providers re-assess their mandates and commitments to social housing.

7. Housing Provider Engagement and Consultation

The City, as Service Manager, has been working with housing providers to understand *their* long term plans around EOA, develop transition plans to ensure the housing needs of current tenants will be met, and to develop strategies to ensure a continuum of affordable housing for our community. There are a multitude of potential strategies available to each housing provider depending on their corporate mandates, financial viability and strategic goals.

In July, 2016, staff convened a special meeting of housing providers with housing projects impacted by EOAs to have an initial exploratory conversation and to better understand housing providers' plans. Staff determined that while most of the larger housing providers have a very clear understanding of the implications of EOAs and have incorporated EOA considerations into long term strategic planning, many of the smaller housing providers were unaware of the changes that would occur at EOA.

Next Steps:

Housing Services' staff is planning several key next steps:

1. Continued Strategic Engaging of Housing Providers

Housing Services Division is meeting with key housing providers on November 18, 2016. The goal is to develop a strategic framework and agreed upon guiding principles which can help guide long term planning and decision making about the future of social housing in Hamilton. The intention is that this will be the first of ongoing meetings and

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recognizes that complex issues, such as EOA, require a concerted, collaborative and ongoing effort.

In addition, staff from Housing Services will arrange to meet with the board of directors for housing providers with EOA considerations to provide updates and engage them in conversations about planning for EOAs.

2. Engaging other Stakeholders

Given the broad range of implications related to EOA, Housing Services will begin a process to engage other important and related stakeholders. These stakeholders include: tenants, key service providers (agencies, supportive housing providers), the private landlord sector, Housing Help Centre and the Hamilton Community Legal Clinic. This will largely be accomplished by utilizing existing groups such as the Housing and Homelessness Planning Group and the City's Housing and Homelessness Advisory Committee.

3. Develop a Social Housing Companion Strategy to the Housing & Homelessness Action Plan

The City's 10-year Housing & Homelessness Action Plan includes five broad outcome areas (supply, affordability, supports, quality and equity) and 54 specific strategies designed to achieve measurable targets that support the outcomes. Of the 54 strategies, 19 are specific to social housing. A focused social housing companion plan can align with the existing Action Plan and facilitate implementation of these 19 strategies. In addition, it can embed the strategic framework and guiding principles for Hamilton's social housing system and include other strategies and actions required to promote and maintain a sustainable, high quality social housing system.

APPENDICES AND SCHEDULES ATTACHED

Appendix A to Report CES16064: Social Housing Projects with Expired Operating Agreements

Appendix B to Report CES16064: Housing Projects with current Federal Operating Agreements

Appendix C to Report CES16064: Housing Projects funded by tax levy partially offset by Federal Funding