CITY OF HAMILTON
HEALTHY AND SAFE COMMUNITIES DEPARTMENT
Housing Services Division

TO:	Chair and Members Emergency and Community Services Committee
COMMITTEE DATE:	August 11, 2022
SUBJECT/REPORT NO:	Service and Exit Agreements for Community Housing Providers at End of Mortgage (EOM) and Reinvestment of Mortgage Savings (HSC22040) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Kim Ryan (905) 546-2424 Ext. 6285 Kamba Ankunda (905) 546-2424 Ext. 4557 Brian Kreps (905) 546-2424 Ext. 1782
SUBMITTED BY: **SIGNATURE:**	Al Fletcher Acting Director, Housing Services Division Healthy and Safe Communities Department

RECOMMENDATIONS

(a) That the City enter into service or exit agreements with social housing providers for projects that reach End of Operating Agreement or End of Mortgage in 2022 or 2023 on such terms as the General Manager of the Healthy and Safe Communities Department ("GM"), or her designate deem appropriate and in form satisfactory to the City Solicitor and that the GM be authorized to execute the agreements and any associated ancillary agreements or documents and administer same in order to provide ongoing affordability for tenants and long-term sustainability for the project, in a form satisfactory to the City Solicitor;

(b) That the General Manager of Healthy and Safe Communities or designate be directed to reinvest annual savings derived from the maturation of social housing provider mortgages estimated to be $7.5 M over the next 10 years and beginning in 2023 in the estimated amount of $346 K;

(c) That the one-time enhancement to the Housing Services Division 2023 budget of $1.1 M for the purposes of providing rent supplements, operating subsidy or capital funding to social housing providers that have reached End of Mortgage and End of Operating Agreement be referred to the 2023 budget process;

(d) That the Social Housing Transition Reserve #112244 be utilized to capture fluctuations over the next 10 years (as per Table 1) where the net levy may experience savings and pressures due to the Federal Gazette funding wind-down in order to make available an annual budget of $1.856 M;

(e) That Healthy and Safe Communities Department and Corporate Services Department staff be directed to develop a long-term strategy for funding Social Housing Providers at End of Operating Agreement/End of Mortgage and report back to Council by June 30, 2023; and,

(f) That the Mayor, on behalf of Council, write to the Minister of Municipal Affairs and Housing and Minister responsible for Canada Mortgage and Housing Corporation to advocate for adequate funding to sustain local social housing stock as mortgages expire.

EXECUTIVE SUMMARY

Social Housing funding is governed by a framework of agreements and legislation that have remained largely unaltered for decades. Undergirding this framework is the idea that once the mortgage is paid off, the project will continue to operate with sufficient revenue to meet operating expenses, capital repairs and internally subsidize affordability for tenants now that its largest single expense has been eliminated. Experience has shown that in many cases this assumption is not true and that without ongoing support providers must increase rents or reduce the number of subsidies offered.

In 2011, the Province enacted the *Housing Services Act* (HSA) and associated regulations to provide rules for the funding and administration of transferred social housing projects. The Act provided that when the mortgage of a former federal housing provider is paid off, the housing provider can terminate its relationship with the Service Manager (SM) and would no longer have any obligations to administer or fund the federal housing provider. The HSA, however, was vague on the terms of the exit process and the future of tenants at End of Operating Agreement (EOA) and End of Mortgage (EOM). By 2016 some transferred projects started ‘de-listing’ from the HSA. De-listing is the process whereby a social housing project asks the Minister to remove a project from Reg 368/11 thus ending their obligations under the Housing Services Act and thus reducing the inventory of social housing available to meet community need.

To address de-listings and prevent the loss of valuable social housing stock, the Province implemented a three-year moratorium on delisting beginning September 2019. It then launched the Community Housing Renewal Strategy culminating into the enactment of Bill 184, *Protecting Tenants and Strengthening Community Housing Act* in July 2021 that gave the Province authority to protect and grow deeply affordable community housing supply, stabilize the sector, and ensure community housing is sustainable for those who need it.

On March 31, 2022, the Province notified SMs of the changes to regulations under the HSA including an amendment to Service and Exit Agreements. The Province amended Ontario Regulation 367/11 of the HSA, to establish baseline rules for Service Agreements between SMs and housing providers whose original obligations to provide social housing have come to an end, effective July 1, 2022. As per the new amendment, when housing projects reach EOA or EOM they will be presented with two options; continue to offer social and/or affordable housing under a new agreement within a new community housing framework or meet the prescribed requirements necessary to exit the City's community housing portfolio. The requirements to be met when exiting the City's community housing portfolio will ensure existing tenants are not displaced and longstanding public investment in community housing buildings is preserved. If a new agreement is not successfully negotiated with a provider, the existing rules under the HSA will remain in effect.

Central to these agreements is a Financial Plan (FP) to ensure sustainability of the project and ongoing affordability for tenants. The FP must address the operating and capital needs of the project and be revisited every 5 years. The Canada Ontario Community Housing Initiative (COCHI) provides one vehicle to fund these new service agreements. The current funding is fully allocated to fund rent supplements for providers whose mortgages have been paid off and require funding to remain sustainable and provide funding for capital repairs. Additional funding is required in order to provide sufficient incentive for providers to remain within the Community Housing system.

As part of the National Housing Strategy, the federal government has already begun reinvesting the savings it would have realized from the pay out of mortgages. In partnership with the Province of Ontario, it has created the Canada Ontario Community Housing Initiative (COCHI) which is primarily intended to support providers that have reached End of Mortgage and End of Agreement. This is a valuable resource for Hamilton to address some of the needs of Social Housing providers at End of Mortgage, but it is not sufficient to meet all the financial needs.

It is recommended that the levy savings associated with social housing mortgages that are ending between 2023 to 2032 be reinvested annually to provide financial support to housing providers. In 2023, the mortgage savings is calculated to be approximately $346 K once all other existing social housing obligations are funded. In 2022 and 2023, approximately 2,100 units will reach their end of mortgage. To secure the future of these units and preserve within social housing inventory, it is recommended that an additional $1.1 M in funding for rent supplements, operating subsidy and capital repairs be referred to the 2023 budget process.

Long term plans could not be drawn up until the Ministry of Municipal Affairs and Housing (MMAH) provided their new regulatory framework and funding approach. Information regarding the regulatory changes have been shared with the social housing providers through a written Communique. Providers are being engaged through an upcoming housing provider meeting that will discuss the approach to moving forward. Now that this information is available, staff from the Housing Service Division and Finance will prepare an in-depth financial analysis and funding strategy for Council’s consideration with the intent of protecting City investment in social housing projects.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The Housing Services Division is currently reviewing the 10-year impact of the declining Federal Gazette funding and the associated impact of savings resulting from end of mortgage and agreements for social housing providers.

Please refer to Table 1. Current forecasts determine that there will be savings of $7.5 M over the next ten years. Housing Services is proposing that the mortgage savings are reinvested into the retention of existing housing services stock. Housing Services Division is requesting that a levy enhancement be approved at $1.1 M in the 2023 base. Given there are fluctuations in the net impact of the mortgage savings, to manage a consistent base budget, Housing Services will use the Social Housing Transition Reserve #112244.

The base funding for $1.856 M will be used to provide funding to address social housing repairs and maintain affordability for tenants under the amended Ontario Regulation 367/11 of the HSA.

Table 1: Illustration

	2023	2024	2025	2026	2027-2032	Total
Net levy mortgage savings	$346 K	$224 K	$899 K	($381 K)	$6.47 M	$7.558 M
Base levy request	$1.1 M	$1.1 M	$1.1 M	$1.1 M	$6.6 M	$11 M
Reserve: Draw/(Surplus)	$410 K	$532 K	($143 K)	$1.14 M	($1.94 M)	-
Available for Distribution	$1.856 M	$1.856 M	$1.856 M	$1.856 M	$11.13 M	$18.554 M

In 2022 and 2023, almost one fifth of Hamilton's units in provincial projects will reach EOM and resources will be required to negotiate Financial Plans and agreements so they to remain within the Community Housing system.

Over the next year, the Housing Services Division will support housing providers to conduct Building Condition Assessments of all provincial projects reaching end of mortgage by 2032. This will exclude CityHousing Hamilton, which has recently completed BCAs for its projects. to determine their capital needs. Housing Services will also work with providers who have reached or who will shortly reach EOM to review their viability and assess the financial needs to determine the mix of funding that will be required in the upcoming years to inform the Housing Services Division 10-year plan.

Staffing: A temporary Business Support Services Coordinator will be hired to negotiate and monitor the new service and exit agreements and assist with development of the report regarding the system requirements and strategy. The position will be funded from the reinvestment of social housing funding in the amount of $112,167.

Legal: Amendments to Ontario Regulation 367/11 of the Housing Services Act (HSA), 2011 establishes baseline rules that govern new Service Agreements between Service Managers (SM) and Housing Providers. Upon reaching End of Operating Agreement or End of Mortgage, SMs are required to negotiate a new service agreement or exit agreement with the provider. The regulations do not specify a funding formula for the new agreements, but they do stipulate that the agreements should provide for the sustainability of the physical asset and affordability for existing tenants. Should a new agreement not be negotiated, the existing HSA requirements would remain in effect. Other regulation changes require the SM to maintain Service Level Standards for the number of Rent Geared to Income Units.

HISTORICAL BACKGROUND

The City of Hamilton's role in social housing administration has changed since 2000, when the Social Housing Reform Act (SHRA, 2000) was passed. With the passage of the SHRA the Province transferred program administration and funding responsibilities for social housing to local Service Managers ("SM") across the province thereby placing the funding and financial burden on the municipal tax levy.

As a SM, City of Hamilton has the legislated responsibility to fund and administer a portfolio of approximately 14,763 social housing units which consists of a mix of Rent-Geared-to-Income (RGI) and market units. Created through a variety of legacy senior government programs, units are operated by a range of non-profit community housing providers. The City also has a role in the delivery of social housing as the sole shareholder of CityHousing Hamilton (CHH),

In 2021, Hamilton's subsidy obligations amounted to roughly $47.2 M annually for prescribed social housing programs. Approximately $14.6 M in federal funding was provided in 2021 to offset these subsidy costs. However, this federal funding continues to decline and is expected to be fully exhausted by 2032. The trend of increasing expectation to download expenses to municipalities must be met with clear strategy for advocacy for adequate and appropriate funding levels from upper levels of government

The original operating agreements under which projects were developed are set to expire at mortgage/debenture maturity. This milestone, deemed the Expiry of Agreement (EOA) for former federal providers and End of Mortgage (EOM) for HSA providers, is a key transition point because it's also the point at which federal funding retires and HSA funding is decreased.

Under the Community Housing Renewal Strategy, the Province took measures to better understand and mitigate the impact of EOA/EOM for housing providers, SMs and the community housing sector. In September 2019, the Province implemented a pause for a three-year period of removing 'designated housing projects' from the legislation as it reviewed the regulations.

On September 5, 2019, Council approved Report HSC19042(a) allowing the General Manager of the Healthy and Safe Communities Department or his/her designate be authorized and directed to deliver and administer the Canada-Ontario Community Housing Initiative (COCHI). COCHI funding is an investment to offset the ongoing decline of federal funding for social housing. It provides a tool for SMs to address the challenges associated with projects reaching the end of their operating agreements and/or mortgage maturity as well as much needed capital repairs.

On July 21, 2021, the Province passed Protecting Tenants and Strengthening Community Housing Services Act (Bill 184) providing clarity for housing providers on the expiration of their EOA or EOM and a process for a housing provider to legally cease to be a 'designated housing project'. The Act gave the Province authority to protect and grow deeply affordable community housing supply, stabilize the sector, and ensure community housing is sustainable for those who need it. Additionally, it allowed for a more streamlined legislative framework for administration and delivery of community housing.

On March 31, 2022, the Province informed SMs of changes to regulations under the HSA. As part of ongoing efforts towards social housing modernization, the Province amended regulations in four areas of the HSA: including the service level standards, service and exit agreements, access system requirements, and income and asset limits.

The amended Ontario Regulation 367/11 of the Housing Services Act requires SMs to establish baseline rules for Service Agreements between SMs and housing providers whose original obligations to provide social housing have come to an end, effective July 1, 2022. As per the new regulatory requirement, when housing projects reach EOA or EOM they will be presented a choice of two options; continue to offer social and/or affordable housing under a new agreement within a new community housing framework or meet the prescribed requirements necessary to exit the City's community housing portfolio. The requirements to be met when exiting the City's community housing portfolio will ensure existing tenants are not displaced and longstanding public investment in community housing buildings is preserved. In the event an agreement is not successfully negotiated, the previous expectations under the HSA will remain in effect.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The Housing Services Act (HSA), 2011 (and its predecessor legislation) established rules to govern the administration of all transferred social housing buildings. In the case of former federal projects, the operating agreements between the Canada Mortgage Housing Corporation (CMHC) and the housing provider remained intact. The Housing Provider would offer housing at the "High Need (HNH) threshold" (also referred to as affordable rent) in exchange for funding that generally coincided with their original mortgage terms of 50 years. The Legislation further provided that when the mortgage of a former federal housing provider is paid off, termed End of Agreement (EOA), the housing provider can terminate its relationship with the City and the City would no longer have any obligations to administer or fund the federal housing provider.

Federal programs assumed that after the mortgage debt is retired, a housing project should be able to generate sufficient revenue to continue to provide affordable rent at the High Need (HNH) threshold, without receiving subsidies. Indeed, some housing projects are viable as affordable rental properties post-EOA. However, this is impacted 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 affordable rent without subsidy.

In the case of the HSA housing projects (also referred as Provincial reformed housing projects) their operating agreements were deemed null and void, replaced instead by legislation and prescribed service level standards. Service level standards are a key accountability measure the Province utilizes to maintain its oversight of community housing, and the City is required to report on its progress toward meeting service levels annually. Mandated service levels have remained unchanged since 2011 and are divided into three categories. The City is required to provide a minimum of:

- 9,257 units to households at or below the Household Income Limit (HIL) threshold,
- 5,174 units to households at the High Need (HNH) threshold, and
- 332 units to households in modified units.

Every housing provider is required to contribute to the Service Level Standards and offer housing in a combination of the HIL and HNH. Hamilton has not met the service level for ‘Households at or Below HIL’ since 2017. This is largely due to the large number of households living in social housing whose incomes are too high for them to qualify for RGI. A second reason is the large number of CHH units offline for re-development. After housing providers’ mortgages are paid-off, they are required to continue to offer units at or below the thresholds of deep affordability for the same number of units even though they have lost crucial SM funding. In reality, many housing providers may not have sufficient funds to offer low or affordable units despite mortgages having been paid in full.

As a result, both the loss of low or affordable units and the financial sustainability of social housing is at risk and it is unlikely that the SM will be able to achieve these service level standards in the future without partnerships with its non-profit housing providers to ensure the provision of low or affordable units in their buildings.

The Province has amended Ontario Regulation 367/11 of the Housing Services Act (HSA), to establish baseline rules that should govern new Service Agreements between Service Managers and housing providers whose original obligations to provide social housing have come to an end, effective July 1, 2022. As Per the new regulations, when housing projects reach EOA or EOM they will be presented a choice of two options; continue to offer social and/or affordable housing under a new agreement within a new community housing framework or meet the prescribed requirements necessary to exit the City's community housing portfolio. If the negotiation of a new agreement is unsuccessful, the existing rules under the HSA will remain in effect.

RELEVANT CONSULTATION

In 2016, Report CES16064 highlighted actions that could be undertaken to preserve social housing in Hamilton in the face of ending federal agreements. This built on the City of Hamilton's decision 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 meant increasing subsidy year over year for these organizations funded on the property tax levy.

In 2020, the City of Hamilton retained Housing Services Corporation (HSC) to undertake a financial viability assessment of two Municipal Non-profit housing providers that had reached their EOM: Glanbrook Non-Profit Housing Corporation and Stoney Creek Community Homes Inc. The purpose of the assessment was to understand both the current and future financial projections for two housing providers, and to model a number of scenarios in order to assess the potential impact of their EOM on future financial viability.

Housing Services Division staff have continued consultations with social housing providers through Provider Meetings and EOA/EOM discussion continue to be a standing item on the Agenda. Housing Services Division staff continue to use lessons learnt from City's consultation with HSC and other Service Managers in the Greater Toronto Area (GTA) to support social housing providers nearing EOA/EOM to understand financials in anticipation of a reduction in funding at EOA/EOM. Staff will continue this engagement as a long-term stability plan is developed.

Housing Services staff have been working with staff from Corporate Finance to determine the impact of decreasing federal funding and assess the needs of providers for ongoing funding to be able to maintain service levels.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Because of these mortgage debt maturities, the funding and municipal costs for subsidy funding and administration will begin to fluctuate. However, the obligations to provide housing remains a perpetual requirement under current legislation, and as a result, the financial sustainability of the social housing portfolio in Hamilton is a growing concern.

Former Federal housing providers in Hamilton began reaching End of Operating Agreement (EOA) in 2000. By 2026 the last project EOA will reach EOA. Federal projects represent a total of 4601 “affordable units”. While these units do not count toward the Service Level Standard, they do constitute a valuable source of affordable housing. Over time, Housing Services staff worked with federal providers to encourage them to continue to provide affordable rents. This has primarily been achieved through offering rent supplements to subsidize tenants. Of the 4601 federal units, 2954 have been retained and the balance have been lost from the community housing system. Some may still operate as “affordable housing,” but with no oversight of their rents while others have been sold to the private market.

For the year 2022-2023, 23 mortgages for provincial social housing projects will reach End of Mortgage (EOM) representing a total of 2,087 units. By 2032 all existing mortgages (another 8,083 units) will reach EOM.

The Housing Services Act (HSA) and accompanying regulations prescribe the 5 (five) factors that govern the funding of social housing including; benchmarked revenue, benchmarked operating costs, actual mortgage costs, actual property tax and the Rent-geared to Income (RGI) subsidy. When the mortgage ends there is no requirement to continue providing the mortgage portion of the subsidy and therefore creating a reduction of subsidy often referred to as “mortgage savings.”

In 2020, the City of Hamilton retained Housing Services Corporation (“HSC”) to undertake a financial viability assessment of the first two housing providers to reach EOM: Glanbrook Non-Profit Housing Corporation and Stoney Creek Community Homes Inc. The purpose of the assessment was to understand both the current and future financial projections for two housing providers, and to model a number of scenarios in order to assess the potential impact of their EOM on future financial viability. This viability assessment served as a pilot project to help staff understand the impact of EOM on their financial needs.

The result of the financial viability assessment determined that without some form of subsidy Glanbrook Non-profit Housing Corporation and Stoney Creek Community Homes Inc. would quickly experience challenges maintaining deep affordability of 91 housing units. Upon Council approval, the City allocated $180,000 in COCHI rent supplements, was able to support these community housing providers and maintain the deeply affordable units. These are two examples of projects that have already come forward to council and received support to maintain inventory.

The sustainability analysis also demonstrates that the circumstances of each project are unique, but that generally without additional subsidies provided at EOM, providers will struggle to maintain existing service levels as they would resort to increasing rent to meet operational and maintenance costs. This would result in the City of Hamilton not meeting service levels, fewer RGI units available to residents and longer waits on the Access to Housing (ATH) waitlist.

COCHI funding from the provincial and federal government offers a partial solution. This funding is a reinvestment of federal savings as mortgages are paid off. In 2022/23, Hamilton received $4.6 M in COCHI funding. This funding is intended to support providers at EOA and EOM. It can be used by SMs to provide funding for new builds, capital repairs, and transitional operating subsidy. $800K has been allocated for rent supplements and $3.4 M for capital repairs with the balance going to Building Condition Assessments and administration

Dedicating the full amount of funding to rent supplements would leave no provincial/federal funding for capital repairs and new builds. While Building Condition Assessments are currently being updated, data from the existing Building Condition Assessments which were completed in 2016 indicates significant capital funding is required to keep all social housing totalling nearly 12,000 units in a state of good repair over the life of each building.

Another way to provide additional funding to providers is through reinvesting mortgage savings. The annual mortgage ‘saving’ amounts for the providers reaching EOM in 2023 amounts to approximately $346 K and it is estimated that by 2032 the “mortgage savings” will amount to $7.5 M. The Housing Services Division (HSD) is recommending that the mortgage savings realized in 2023 in the amount of $346 K be retained and an enhancement in 2023 of $1.1 M be approved to be invested into the local housing system. This investment would provide HSD with a funding stream in order to continue to meet the need of the prescribed service level standards. Coupled with the inception of the new legislation, this new funding stream will allow the continuation of the City to offer both low and affordable housing under a new agreement and within a new community housing framework. Staff will work under the legislation to secure new agreements with community providers in order to maintain the status quo and in some cases increase the number of low and affordable units, in the interest of ensuring stability among tenants in Hamilton.

For a longer-term analysis and plan, staff will explore all the opportunities available including further utilization of mortgage savings, consulting community housing providers on the choice they wish to undertake; completing building condition assessments and financial viability assessments to understand the needs of each housing community provider, as well as establishing an open reserve to fund fluctuations from both mortgage savings and federal funding decreases year over year.

Community housing is an important resource in Hamilton, and it is critical the existing units be retained within the system. The costs associated with ongoing rent subsidy and capital repairs required to encourage projects to stay within the system will be substantial. Advocacy must be undertaken with the provincial and federal governments to encourage them to provide more funding for this purpose given the existing competing demands on municipal budgets.

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

APPENDICES AND SCHEDULES ATTACHED

None