THE DISTRICT OF THUNDER BAY
SOCIAL SERVICES ADMINISTRATION BOARD

BOARD REPORT

	REPORT NO.: 2021-49
MEETING DATE: OCTOBER 21, 2021	**DATE PREPARED: SEPTEMBER 10, 2021**
SUBJECT: NON-PROFIT HOUSING PROVIDER EXPIRY OF MORTGAGES	

RECOMMENDATION

THAT with respect to Report No. 2021-49 (Integrated Social Services Division) we, The District of Thunder Bay Social Services Administration Board, approve, on an interim basis, a continued subsidy relationship with Part VII non-profit housing providers whose mortgages have expired, as presented;

AND THAT as the new regulations for the Housing Services Act are developed and released, a full review and recommendation on the future status of non-profit housing provider relationships will be developed and presented.

REPORT SUMMARY

To provide The District of Thunder Bay Social Services Administration Board (TBDSSAB or the Board) with information related to upcoming changes for the *Housing Services Act, 2011* (*HSA*) and on the new *Protecting Tenants and Strengthening Community Housing Act, 2020* and the potential impact on contractual relationships and support of non-profit housing providers post mortgage expiry.

BACKGROUND

Across the province, District Social Service Administration Boards (DSSABs) and Consolidated Municipal Service Managers (CMSMs) are responsible for the administration of social housing as defined by the *HSA.* Under the *HSA*, Service Managers are required to ensure program compliance, maintain service level standards, manage federal and provincial investments, and ensure the effective operation of housing stock. All properties covered by *HSA* are designated under *Ontario Regulation 368/11: Designated Housing Projects.*

As the debentures related to public housing properties and mortgages for non-profit provider properties mature and operating agreements expire, the amount of federal funding will decrease. However, as long as the property remains listed in *O. Reg 368/11*, TBDSSAB, as the Service Manager, is responsible to ensure the long-term viability of the housing project. The Service Manager remains responsible for meeting the established service level standards despite the decrease in federal funding.

At the June 28, 2018 meeting, the Board received information regarding the decrease in Federal funding for social housing as mortgages mature and operating agreements expire (Report No.: 2018-45). As the original operating agreements and mortgages expire, the Federal funding assigned to the agreement is reduced accordingly. Ongoing operational support is expected to be maintained by the Service Manager, to continue the supply of community housing and meet existing service level standards established by the provincial government.

TBDSSAB has engaged with its non-profit housing providers to share information on the end of mortgage situation and develop an understanding of requirements at the provider level. Between 2017 and 2019, TBDSSAB also engaged the services of Housing Services Corporation (HSC) to assist in holding several workshops and presenting information to the non-profit providers, to assist in their understanding.

Throughout early 2019, the Ministry of Municipal Affairs and Housing (MMAH) established working groups to look at possible revisions to the *HSA* regulations related to the expiry of mortgages and operating agreements. Several groups were established, and TBDSSAB Administration participated in several of these technical tables.

In June 2019, the Ontario Municipal Social Services Association (OMSSA), submitted a letter to the Honourable Steve Clark, Minister of Municipal Affairs and Housing, urging the Minister to pursue measures to address the potential impacts of end of mortgages and operating agreements to ensure the long-term sustainability of the community housing system in Ontario. It was recognized that once mortgages and operating agreements expire, there was no clear direction for the continuation of relationships with the non-profit community housing providers other than the requirements in *O. Reg 368/11.*

At the July 18, 2019 meeting, the Board received information on the province's Community Housing Renewal Strategy, that included detail on the Canada-Ontario Community Housing Initiative (COCHI) as well as the Ontario Priorities Housing Initiative (OPHI) (Report No.: 2019-34). COCHI represents a re-investment of federal funding allowing Service Managers to address the challenges associated with housing projects reaching the end of their mortgages and/or operating agreements. COCHI funds are targeted towards protecting affordability for households in community housing, supporting the repair and renewal of existing social housing supply and expanding the supply of community housing. Housing projects and providers are eligible for COCHI funding as long as they are social housing providers that are listed in the *HSA* as of April 1, 2019.

TBDSSAB entered into a Transfer Payment Agreement (TPA) with the province to participate in the COCHI and OPHI programs. The TPA included an Investment Plan which outlines how the annual COCHI and OPHI funding will be used over the first 3-year funding period (2019-20 to 2021-22).

The *Protecting Tenants and Strengthening Community Housing Act, 2020* introduces a number of future changes that will impact the *HSA* and its regulations and may significantly change the relationship between housing providers designated under Part VII of the *HSA* and Service Managers. Work on regulations related to the new Act are ongoing.

COMMENTS

In Ontario, there are approximately 1,475 housing providers designated under Part VII of the *HSA* (Part VII housing providers). Over the next decade, the mortgages for most of these housing providers come to an end. For TBDSSAB, there are 19 Part VII non-profit housing providers with mortgages and agreements in place. The amount of funding allocated to the 19 housing providers is prescribed through a provincially mandated funding formula in the *HSA* regulations and funded through the municipal tax base.

There are also 2 Urban Native Housing (UNH) providers (Native People of Thunder Bay Development Corporation (NPTBDC) and Geraldton Native Housing Corporation (GNHC)) that are administered under separate federally originated agreements and included in the *HSA*. Under the terms of these agreements, as the operating agreement and mortgage term reach expiry, there is no further obligation to maintain a relationship for the provision of housing. However, there is opportunity to establish new arrangements and funding supports to maintain these expired housing units in the community housing portfolio. The use of COCHI funding helps to facilitate this, along with municipal funding. As of the end of 2020, 79 UNH units have reached the end of mortgage/agreements, with another 46 units expiring in 2021 (31 NPTBDC +15 GNHC). As stated in the terms of funding identified in the COCHI agreement, 100% federal COCHI funding may be used to establish rent supplement agreements in order to retain these expired UNH units.

Service Managers provide an annual subsidy for housing providers' operating and mortgage costs, as well as rent-geared-to-income and property tax funding. When the mortgage ends there is no need to continue providing a mortgage subsidy as the housing provider is no longer incurring any mortgage costs. Ongoing operating supports will still be required to maintain the viability of many of these providers, as rent revenues may be insufficient to address ongoing operational expenses. COCHI provides for some investment towards this. The future relationship between Service Managers and housing providers is still being defined by MMAH, through consultations with Service Managers and the housing sector. The final strategy will be introduced as new or redefined regulations under the *HSA* and *Protecting Tenants and Strengthening Community Housing Act, 2020.*

Both the Province and Service Managers have an important role in addressing Ontario's community housing needs. The Province of Ontario establishes the legislative framework under the *HSA* for community housing, homelessness services and many related funding frameworks and programs. Service Managers are responsible for planning and managing housing and homelessness, including the funding and administration of community and affordable housing. Municipalities are the largest contributors of funding for local housing services.

At this point it is the recommendation of Administration to maintain the current housing stock of community housing, utilizing the COCHI funding as well as municipal investment, as the housing needs in the District currently exceed the supply of housing units. Administration will be evaluating each housing provider over the coming years to determine the best option for the ongoing relationship following mortgage maturity, following the options to be provided under the new regulations. As a Service Manager for social and affordable housing under the *HSA*, TBDSSAB does conduct cyclical operational reviews for the Non-Profit Housing Providers. TBDSSAB does have a policy established to guide these operational views (TBDSSAB #HS-02:122).

TBDSSAB will continue to work closely with its housing providers in advance of mortgage maturity to determine financial viability and establish a project-specific plan. Should it be determined that a specific property is deemed not financially viable after the federal funding ceases, options will then be explored and presented to the Board for consideration.

The current options for continuing a funding relationship post expiry of a non-profit housing provider mortgage include the continuation of the existing subsidy payment less mortgage amount, establishing a new funding formula based on actual and estimated expenses, or establishing a rent supplement agreement that supports individual units based on tenant rent-geared-to-income calculations. The use of portable housing benefits, or the Canada Ontario Housing Benefit, are options that would support the tenant in their rent payment. There is also the potential to cease the funding support for a non-profit provider, however this would then eliminate the availability of the housing units for eligible housing applicants and create an unmet gap in the Ministry's service level standard requirements. This would also negate the previous investment in that housing provider and their property. Once the new regulations are established, additional options may be available.

Attachment #1 outlines the current subsidy amounts provided to TBDSSAB's non-profit housing providers, and a comparison of future funding options. This also identifies the municipal and federal funding amounts for each provider.

Attachment #2 compares the subsidy rates for each non-profit housing provider with the elimination of the federal funding and mortgage expenses with the cost to establish rent supplement agreements for each provider.

Attachment #3 identifies the mortgage expiry dates for each non-profit housing provider.

Attachment #4 presents technical information on the end of operating agreements and expiry of mortgages for community housing units, prepared by the MMAH.

Based on the current information, it is prudent that TBDSSAB continue relationships with the Part VII non-profit housing providers once the mortgages for each expire. As the new regulations for *HSA* are developed and released, a full review and recommendation on the current and future status of non-profit housing provider relationships will be developed.

FINANCIAL IMPLICATIONS

There are no immediate financial implications with this report, however as mortgages mature and operating agreements expire, the resulting financial implications will be presented to the Board through the annual Budget process, beginning with the 2022 Operating Budget.

CONCLUSION

It is concluded that this report provides the Board with information on the upcoming changes to the *HSA* and a recommendation to maintain an interim subsidy funding relationship with non-profit housing providers whose mortgages are expiring. The potential impact on contractual relationships and support of non-profit housing providers post mortgage expiry will be fully explored once the new Housing Services Act regulations are developed.

REFERENCE MATERIALS ATTACHED

Attachment #1	Current Subsidy and Municipal/Federal Funding Allocations
Attachment #2	Comparison of Funding Models – Subsidy Agreements vs. Rent Supplement Agreements
Attachment #3	Non-Profit Housing Provider Mortgage Expiry Listing
Attachment #4	Ministry of Municipal Affairs and Housing Technical Backgrounder, 2019

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Attachment #1
Current Subsidy and Municipal/Federal Funding Allocations

2021 Provincial Reformed Budget

Housing Provider	2021 Budget Subsidy ($)	Federal Block Funding ($)	Municipal Share ($)
Beendigen Inc.	348,000	81,068	266,932
Chateaulac Housing Inc.	111,800	-	111,800
Fort William Branch No. 6	175,800	77,928	97,872
Geraldton Municipal Non-Profit	355,000	114,126	240,874
Greek Orthodox of Holy Trinity	540,500	256,486	284,014
Holy Cross Villa of Thunder Bay	147,000	74,612	72,388
Holy Protection Millenn. Home	179,500	-	179,500
Kakabeka Legion Park	123,300	37,283	86,017
Kay Bee Seniors Non-Profit	207,200	73,630	133,570
Lakehead Christian Seniors Apt	120,000	52,677	67,323
Lutheran Community Hsg. Corp.	1,079,900	102,325	977,575
Manitouwadge Municipal NP	675,500	273,788	401,712
Marathon Municipal NP	685,400	198,488	486,912
Matawa Non-Profit Hsg. Corp.	151,600	-	151,600
Red Rock Municipal Non-Profit	54,700	35,512	19,188
St. Paul's United Church	258,800	-	258,800
Suomi Koti of Thunder Bay	224,600	136,597	88,003
TB Deaf Housing	109,000	60,886	48,114
TB Metro Lions Housing Corp.	429,400	60,507	368,893
TOTAL	**5,977,000**	**1,635,913**	**4,341,087**

Attachment #2
Comparison of Funding Models
Subsidy Agreements vs. Rent Supplement Agreements

Scenario 1
2021 Provincial Reformed Budget
Remove Federal Funding and Mortgage Subsidy

Housing Provider	2021 Budget Subsidy ($)	Less Mortgage ($)	Revised Budget 100% Municipal ($)
Beendigen Inc.	348,000	(167,184)	180,816
Chateaulac Housing Inc.	111,800	(67,164)	44,636
Fort William Branch No. 6	175,800	(147,312)	28,488
Geraldton Municipal Non-Profit	355,000	(156,660)	198,340
Greek Orthodox of Holy Trinity	540,500	(289,373)	251,127
Holy Cross Villa of Thunder Bay	147,000	(108,540)	38,460
Holy Protection Millenn. Home	179,500	(175,499)	4,001
Kakabeka Legion Park	123,300	(61,014)	62,286
Kay Bee Seniors Non-Profit	207,200	(146,168)	61,032
Lakehead Christian Seniors Apt	120,000	(124,612)	-
Lutheran Community Hsg. Corp.	1,079,900	(601,386)	478,514
Manitouwadge Municipal NP	675,500	(387,051)	288,449
Marathon Municipal NP	685,400	(381,239)	304,161
Matawa Non-Profit Hsg. Corp.	151,600	(85,632)	65,968
Red Rock Municipal Non-Profit	54,700	(58,513)	-
St. Paul's United Church	258,800	(180,408)	78,392
Suomi Koti of Thunder Bay	224,600	(287,216)	-
TB Deaf Housing	109,000	(39,252)	69,748
TB Metro Lions Housing Corp.	429,400	(211,131)	218,269
TOTAL	**5,977,000**	**(3,675,354)**	**2,372,687**

<u>Scenario 2</u>
2021 Provincial Reformed Budget
Rent Supplement All RGI Units

(RGI Units funded at the 2021 Budge Average Subsidy for Private Landlord Rent Supp ($688/unit/month)

Housing Provider	# of RGI	# of Mkt	Total # of units	Revised Budget 100% Municipal ($)
Beendigen Inc.	30	-	30	247,680
Chateaulac Housing Inc.	11	1	12	90,816
Fort William Branch No. 6	23	16	39	189,888
Geraldton Municipal Non-Profit	28	-	28	231,168
Greek Orthodox of Holy Trinity	50	-	50	412,800
Holy Cross Villa of Thunder Bay	30	-	30	247,680
Holy Protection Millenn. Home	21	9	30	173,376
Kakabeka Legion Park	8	2	10	66,048
Kay Bee Seniors Non-Profit	16	14	30	132,096
Lakehead Christian Seniors Apt	24	6	30	198,144
Lutheran Community Hsg. Corp.	100	9	109	825,600
Manitouwadge Municipal NP	61	15	76	503,616
Marathon Municipal NP	64	16	80	528,384
Matawa Non-Profit Hsg. Corp.	12	-	12	99,072
Red Rock Municipal Non-Profit	4	8	12	33,024
St. Paul's United Church	22	8	30	181,632
Suomi Koti of Thunder Bay	40	20	60	330,240
TB Deaf Housing	8	-	8	66,048
TB Metro Lions Housing Corp.	48	-	48	396,288
TOTAL	**600**	**124**	**724**	**4,953,600**

Attachment #3
Non-Profit Housing Provider Mortgage Expiry Listing
As mortgages mature and operating agreements expire, the resulting financial implications will be presented to the Board through the annual Budget process, beginning with the 2022 Operating Budget.

Housing Provider	Initial Mortgage Date	Mortgage Expiry
Lakehead Christian Senior Citizens Apt Inc. - Phase 1	January 1, 1983	2018
Holy Cross Villa of Thunder Bay	January 1, 1987	2022
Manitouwadge Municipal Housing Corp. - Phase 1	May 1, 1987	2022
Beendigen Inc. - Phase 1	December 1, 1988	2023
Fort William Branch No. 6 Housing Corp.	January 1, 1988	2023
Kay Bee Seniors Non-Profit Housing Corp. - Phase 1	March 1, 1988	2023
Suomi Koti of Thunder Bay Inc.	April 1, 1988	2023
Manitouwadge Municipal Housing Corp. - Phase 2	March 1, 1989	2024
Marathon Municipal Non-Profit Housing Corp. - Phase 1	July 1, 1989	2024
Red Rock Municipal Non-Profit Housing Corporation	February 1, 1989	2024
Lakehead Christian Senior Citizens Apt Inc. - Phase 2	January 1, 1989	2024
Chateaulac Housing Inc.	May 1, 1990	2025
Manitouwadge Municipal Housing Corp. - Phase 3	April 1, 1990	2025
Marathon Municipal Non-Profit Housing Corp. - Phase 2	May 1, 1990	2025
Beendigen Inc. - Phase 2	January 1, 1991	2026
Lutheran Community Housing Corp. of Thunder Bay - Luther	January 1, 1991	2026
Manitouwadge Municipal Housing Corp. - Phase 4	November 1, 1991	2026
Marathon Municipal Non-Profit Housing Corp. - Phase 3	July 1, 1991	2026
Greek Orthodox Community of the Holy Trinity Non-Profit Housing Corp.	January 1, 1992	2027
Kakabeka Legion Seniors Development Corp.	April 1, 1992	2027
Lutheran Community Housing Corp. of Thunder Bay - Kings	March 1, 1992	2027
St. Paul's United Church Non-Profit Housing Corporation	July 1, 1992	2027
Lutheran Community Housing Corp. of Thunder Bay - Bay	March 1, 1993	2028
Geraldton Municipal Housing	January 1, 1994	2029
Holy Protection Millennium Home	September 1, 1994	2029
Lutheran Community Housing Corp. of Thunder Bay - Pioneer	May 1, 1994	2029
Kay Bee Seniors Non-Profit Housing Corp. - Phase 2	November 1, 1995	2030
Matawa Non-Profit Housing Corporation	February 1, 1996	2031

Technical Backgrounder
Ministry of Municipal Affairs and Housing

End of Operating Agreements and Mortgages in Community Housing

Purpose

This backgrounder is intended to provide community housing providers and Service Managers with a better understanding of what happens at the end of a housing project's operating agreement and/or mortgage. It is not intended to provide analysis on the impacts that the end of operating agreements and mortgages might have on housing providers or Service Managers. The Ministry of Municipal Affairs and Housing is working to better understand these impacts and put in place an improved framework for community housing as part of its Community Housing Renewal Strategy.

Community Housing Renewal Strategy

This backgrounder complements the Ministry of Municipal Affairs and Housing's Community Housing Renewal Strategy, launched in April 2019, which outlines the government's approach to preserving Ontario's community housing assets. To learn more about the Strategy, please visit: www.ontario.ca/page/community-housing-renewal-strategy

Issue Summary

Many community housing providers (private and municipal non-profits and cooperatives) are reaching the end of their original program obligations and/or mortgage. The end of operating agreement / end of mortgage issue has different implications for projects and units depending on what funding program they were originally developed under.

Projects that were entirely funded by the federal government have an operating agreement with a set end date. The agreement ends when the project's mortgage matures, at which point the

Key Facts:

- Legacy agreements to provide community housing between government and housing providers were time-limited, for 35 to 40-year periods. Many are now coming to an end
- Some housing providers are no longer required to provide affordable or subsidized housing once their agreement expires or mortgage matures. So far, this has resulted in a loss of roughly 6,500 community housing units
- Over the next three years, 289 community housing providers with 41,000 units will reach the end of their legacy agreements
- By 2027, the number of units reaches 106,600

Disclaimer:

Information in this document is general in nature and intended for consultation purposes. Housing providers, Service Managers and community housing residents with questions about their specific circumstances should seek advice from independent legal counsel as needed.

housing provider no longer receives any guaranteed government funding and the housing provider's obligations to provide subsidized housing concludes.

Rent supplement agreements are also coming to an end. No stock was created under these agreements. Instead, the government agreed to fund a provider to provide subsidized units until a date specified in their rent supplement agreement. The provider's obligation to provide subsidized units concludes with the end date of these agreements.

The Housing Services Act, 2011 does not specify an end date for the obligations of projects that were either partially or entirely funded by the province (called "provincial reform" projects). This means that provincial reform projects must continue to provide affordable housing – including rent-geared-to-income housing – after their original mortgage matures, until they are actively removed from the Housing Services Act (at the Minister's discretion). In exchange, they continue to receive a subsidy from their Service Manager, calculated with the funding formula set out in the Act.

For some provincial reform projects, once the mortgage has matured, the total Service Manager subsidy calculation could result in a negative number (because the mortgage costs are no longer included in the subsidy calculation). A negative total Service Manager subsidy calculation does not result

What is Community Housing?

"Community housing" is community based housing owned and operated by non-profit housing corporations, housing co-operatives and municipal governments or district social services administration boards, and provides subsidized or low-end-of market rents (includes housing sometimes referred to as "social housing" and "affordable housing")

O. Reg. 369/11 prescribes the subsidy formula for Part VII housing projects. For most projects, the subsidy formula is made up of three components:

- **Operating Subsidy** = Project Indexed Benchmark Operating Costs + Actual Mortgage Payments – Project Indexed Benchmark Revenues.

+

- **RGI Subsidy** = Lesser of *Indexed Benchmark* or *Actual* Market Rent for RGI units – Actual Rent paid from RGI units.

+

- **Property Tax Subsidy** = Actual Property Taxes for the project.
  - For example, if the operating subsidy is $10, RGI subsidy is $15, and property tax subsidy is $5; the Service Manager subsidy is $30.

in an amount owing by the housing provider to the Service Manager. This result means that the total subsidy a provider receives from the Service Manager will be nil ($0).

A mortgage payment is one of the components of the operating subsidy calculation. When a mortgage payment becomes $0, the operating subsidy component can become a negative amount. When this happens, the total subsidy calculation may also result in a negative amount.

- For example, if the operating subsidy is -$23, RGI subsidy is $15, and property tax subsidy is $5; the total subsidy is -$3.
- In this scenario, the total Service Manager subsidy to the housing provider becomes nil ($0).

End of Operating Agreements and Mortgages

"Community housing" is a general term that includes legacy social housing projects that were developed through federal and/or provincial funding programs from the 1950s to 1995. Ten different programs provided some combination of time-limited capital funding, mortgage subsidies and/or operating subsidies to provide low-income Ontarians with stable housing.

Each legacy program was designed with its own funding formula and program guidelines, leading to a patchwork of complex requirements over time. Some community housing projects have rents set at low-end of market rates, while others have rents that are geared to the income of residents (sometimes called "deeply affordable" or "subsidized" rents). Many projects include both types of units.

In the mid-1990s, the federal government stepped back from direct involvement in community housing, transferring responsibility to the provinces and territories. No new housing has been constructed through legacy housing programs in Ontario since 1995[1], although both the federal and provincial governments have funded the development of new affordable housing.[2]

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[1] *Some community housing providers have developed additional housing under affordable housing programs; however, this number is modest.*
[2] *Community housing developed through legacy social housing programs refers to government-assisted housing that provides lower-cost rental units to households with low to moderate incomes. Households living in social housing typically receive rent-geared-to-income assistance and pay 30 per cent of their*

While all provinces and territories participated in various legacy housing programs, Ontario is the only province that further transferred responsibility for the administration of legacy housing programs to the municipal level, through the 47 Service Managers. This means Ontario's context is unique among the provinces and territories as it relates to the end of operating agreements and mortgages issue.

In Ontario, community housing is provided through one of the following:

- Municipal governments or district social services administration boards (sometimes called "public housing" or Local Housing Corporations)
- Non-profit housing corporations (both municipal and private) and housing co-operatives
- Private landlords

Key Facts:

- Over 250,000 households currently live in community housing in Ontario
- About 185,000 pay a rent-geared-to-income rent
- From 1991 to 2016, the number of households in Core Housing Need[1] increased from 11.9% to 15.3% of Ontario households – from 408,000 in 1991 to 748,000 households in 2016

The end of operating agreements and end of mortgages (and associated issues) directly affects approximately 60% of the community housing supply that is owned by non-profits, housing co-operatives, and private landlords. The remaining 40% of community housing supply is owned and operated by Local Housing Corporations, with no operating agreement or mortgage in place. These projects were developed through debentures rather than mortgages.

At the time of transfer from the province to municipalities, a distinction was made between community housing projects that were built under programs funded solely by the federal government (federal projects), and programs that received some form of provincial funding (provincial reform projects). The end of operating agreement and/or mortgage issue has different implications depending on which category a project is in.

It is important to distinguish between the two categories of housing projects and their respective issues. These distinctions are outlined in the following two sections.

gross income in rent. Affordable housing refers to housing for low-to-moderate-income households priced at or below the average market rent or selling price for comparable housing in a specific geographic area.

Category 1: "Federal Projects" and the End of Operating Agreements

Approximately 25% of Ontario's community housing supply falls under the first category. These projects were unilaterally funded by the federal government and are owned and operated by non-profits, housing co-operatives[3], and private landlords. They are governed by the terms of their original operating agreement or rent supplement agreement with the federal government, as required by the Canada-Ontario Social Housing Agreement. With the exception of federally funded housing co-operatives, Service Managers are responsible for overseeing original project operating agreements or rent supplement agreements. This includes providing funding in accordance with the terms of the operating agreement.

Operating agreements and rent supplement agreements are contracts with clear end dates. For a project's operating agreement, this end date generally coincides with the date of mortgage maturity. At the end date, the housing provider no longer receives government funding to subsidize mortgage payments, operational costs and/or households' rents. Similarly, the housing provider's obligations to provide subsidized housing concludes.

Even though providers will no longer have to pay the mortgage once it matures, some of these housing projects may not be financially viable. This may be in part because projects face significant and costly capital repair expenditures as major building systems reach the end of their life cycle.

Some may be viable but may not be able to continue to provide affordable units – especially rent-geared-to-income units -- without ongoing funding after their operating agreement expires. Some providers who will be sustainable in the long-term may be able to continue offering housing at affordable to moderate rent levels and self-subsidize some rent-geared-to-income rents.

After an operating or rent supplement agreement expires, neither the province nor Service Managers have any legal authority over these projects. It is up to the provider to decide how to operate these projects within broader requirements (i.e. Articles of Incorporation, and other legislative requirements such as those under the Residential Tenancies Act, etc.). In some cases, providers may consider raising rents to market rates, or selling or consolidating housing assets. Service Managers and housing providers are free to enter into new contractual arrangements.

[3] *Federally administered housing co-operatives were not transferred to the Province. They are administered by a federal agency, the Agency for Co-operative Housing.*

A significant number of rent supplement agreements – wherein the government subsidized a portion of a household's rents – were made in partnership with private landlords. It is unlikely that private landlords will want to continue to provide deeply affordable rent-geared-to-income rents after their agreement expires, without a further agreement and government subsidy.

Category 2: "Provincial Reform Projects" and the End of Mortgages

Community housing provided by non-profits and housing co-operatives in projects that included provincial funding are distinct from federal projects. These provincial reform projects had their original operating agreements terminated when responsibilities were devolved to Service Managers. The rules and requirements governing operations, including rules for how projects are funded, were taken from the original agreements and transferred into legislation (the Social Housing Reform Act, 2000, subsequently replaced by the Housing Services Act, 2011).

When the original operating agreements were replaced with a legislative framework, the legislation did not specify when the provider's obligations to provide subsidized housing would conclude. However, providers retained their original mortgages for individual projects, which will begin to mature in the year 2021.

Provincial reform projects that are not actively removed from O.Reg. 368/11 under the Housing Services Act, 2011, must continue to provide affordable housing – including rent-geared-to-income housing -- in accordance with the Act. In exchange, they continue to receive a subsidy from their Service Manager, which is calculated according to the funding formula set out in O.Reg 369/11.

Where the mortgage has been paid off, the mortgage component of the operating subsidy will be zero. In some cases, as per O.Reg. 369/11 s.12 which is the total Service Manager subsidy, this may result in the total Service Manager subsidy being calculated as a positive number, or a negative number, or zero.

Service Managers should interpret a negative total Service Manager subsidy calculation for a Part VII housing project to mean $0 subsidy payable to the housing provider.

A negative total Service Manager subsidy calculation does not result in an amount owing by the housing provider to the Service Manager.

Subsidy overpayments can only be recovered by the Service Manager where a subsidy estimate calculated at the beginning of the year is greater than the actual subsidy entitlement calculated at the end of the year using housing provider's financial statements and the Annual Information Return.

It is important to note the funding formula in O.Reg. 369/11 under the Housing Services Act is the minimum Service Manager subsidy required for a housing provider. Service Managers have the discretion and flexibility to a provide a subsidy over and above these minimum requirements to meet housing needs in their respective communities and to promote the long-term sustainability of housing providers.

Removal from the Housing Services Act, 2011

The Minister can end a housing provider's obligations under the Housing Services Act by removing the project from regulation O.Reg. 368/11. This process occurs on a case-by-case basis and is informally referred to as "de-listing." To date, most examples of de-listing concern federal projects after their operating agreement concludes.

When a housing project is listed in O.Reg 368/11, certain exemptions apply, such as certain exemptions from the Residential Tenancies Act, (i.e. the Rent Guideline Increase) and potential exemption from payment of Land Transfer Tax.

For federal projects (Category 1), their obligations to provide rent-geared-to-income housing conclude at the end of their operating agreement, whether or not they are removed from O.Reg 368/11. However, once they are removed from the regulation, they may no longer be entitled to legislative and regulatory exemptions.

Obligations for provincial reform projects remain in place so long as they are listed in O.Reg 368/11, as mentioned in the previous section. Some provincial reform housing providers believe that their obligations to provide rent-geared-to-income housing ends once their mortgage is paid off, as is generally the case with federal projects. However, this is not the case. Even in situations where a provider's mortgage has matured and/or the provider receives nil ($0) in total subsidy from their Service Manager, they remain bound by the Housing Services Act so long as they are listed in O.Reg.368/11.

As with federal projects, if a provincial reform project is de-listed from the Housing Services Act, they may no longer be entitled to legislative and regulatory exemptions.

During the transition to an improved legislative framework, announced as part of the Community Housing Renewal Strategy, the province will take measures to protect tenants and their communities. As part of this, the Ministry of Municipal Affairs and Housing will pause the practice of removing housing projects from O.Reg. 368/11 for a three-year period. Exceptions may be considered on a case-by-case basis.

Stewardship of Community Housing Assets

Community housing assets were developed and have been maintained through billions of dollars of government and community investment and tenant rents. A key feature of the Housing Services Act, 2011 is the ability to protect these investments through ongoing oversight of the assets. However, these controls only apply to provincial reform projects (not federal projects). For example, the Housing Services Act, 2011, its regulations and directives:

- Prevent housing assets from being sold without the permission of the Service Manager (or the Minister in certain cases).
- Require the reinvestment of the proceeds of any sale of non-profit / co-operative housing assets back into community housing assets.
- Provide measures for a Service Manager to intervene in the operations of a non-profit or co-operative housing provider if the provider does not adequately manage a project. For example: if a provider contravenes the Act, or becomes bankrupt, the Service Manager has remedies they can apply to address the triggering event (such as removing a board of directors or suspending subsidy payments).

Key Facts:

- Ontario has over 1,000 community housing providers, ranging in size and capacity
- Housing developed under legacy programs includes about 228,000 physical units, which accounts for about 23% of all purpose-built rental housing in Ontario
- The insured replacement value of this housing is over $30 billion – not including land

Once a provincial reform project is removed from the Act (de-listed), these protections are no longer in place. This means that the ability of the province and Service Managers to influence the use and disposition of these assets decreases.[4]

Federal projects may have similar types of provisions included in their original operating agreement. For these projects, once their operating agreement ends, these provisions are no longer in place.

Moving Forward with Community Housing Renewal

Ontario's Community Housing Renewal Strategy outlines the government's commitment to create a more streamlined legislative and regulatory environment for

[4] *Outside of an operating agreement or legislation, a non-profit or co-operative provider continues to be governed by other legal parameters such as the organization's incorporating instruments, the Corporations Act and the Cooperative Corporations Act, which continues to impact the organization's ability to dispose of assets/generate profits etc.*

community housing that will incent non-profit and co-operative housing providers to stay in the system once their original obligations end.

In the coming months, the province will work with its partners to explore changes to the community housing system, and will work with the sector to explore how Ontario's vital community assets can be protected over the long-term.

Contact Information

Service Managers and housing providers can direct comments and questions to the Ministry of Municipal Affairs and Housing at the contact information provided below:

Mail:

Ministry of Municipal Affairs and Housing, Housing Policy Branch
777 Bay Street, 14^{th} Floor, Toronto ON M5G 2E5

Email:
HousingPolicy@ontario.ca