Report to: Mayor and Members Board of Health

Submitted by: Dr. Elizabeth Richardson
Medical Officer of Health

Date: April 28, 2006

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SUBJECT: Review of Residential Care Facilities By-Law 01-156(20) SPH05032(a) (City Wide)

RECOMMENDATION:

That the revised process for the review of Schedule 20 of the Licensing Code By-law 01-156(20) with respect to Residential Care Facilities, as outlined in Appendix “A” to report SPH05032(a) be approved.

Dr. Elizabeth Richardson
Medical Officer of Health

EXECUTIVE SUMMARY:

In March 2003 an amendment of the By-law was passed in response to a staff report entitled “Collection of Personal Information at Residential Care Facilities” (FCS03020/PD03029/SPH03001) (City WIDE) (Item 3.7.1). At that time, staff committed to initiating a review of Schedule 20 within 2 years in response to a number of concerns challenging the need for a Bylaw.

A process for review of the Bylaw was approved by Committee in June 2005 as outlined in Report SPH05032. This report proposes a change in the By-Law review process in recognition of fiscal pressures while still allowing for an appropriate review of the By-law with more efficient use of resources.
BACKGROUND:

Residential Care Facilities provide 24-hour supervision and guidance with the activities of daily living for individuals who are elderly, developmentally delayed or suffer from mental illness or brain injury. In the City of Hamilton, they are licensed by the Building and Licensing Department and are regulated under Schedule 20 of City of Hamilton Licensing Code By-Law No. 01-156.

In March 2003 an amendment of the By-law was passed in response to a staff report entitled “Collection of Personal Information at Residential Care Facilities” (FCS03020/PD03029/SPH03001) (City WIDE) (Item 3.7.1). At that time, staff committed to initiating a review of Schedule 20 within 2 years in response to a number of concerns challenging the need for a Bylaw.

A number of key areas of concern with Schedule 20 have been expressed by City staff, operators, community physicians, advocates and families. Some of the expressed concerns include:

- If a tenant has experienced some decline in their health, physicians are requested to complete opinion forms to confirm that a residential care facility is capable of providing the level of care appropriate to that individual. Some physicians are concerned about the degree of liability they assume in validating a facility’s ability to provide a certain level of care;
- Physicians receive no compensation for completing the assessment and opinion forms;
- The requirement to have the assessment and opinion completed prior to an admission is an obstacle for operators to admit perspective tenants being referred from correctional facilities, hospitals or other Residential Care Facilities who do not have access to a medical professional in a timely manner;
- The requirements for transferring of tenants from one home to another are cumbersome;
- There is continued concern expressed by members of the Ontario Residential Care Association that further regulation outside their accreditation process is not necessary;
- There are only a limited number of categories under the By-law where Licensing inspectors can issue tickets;
- The growth in the industry coupled with the By-law’s inspection and licensing requirements have seriously challenged the City staffing resources available for these purposes;
- A formal complaint mechanism is required;
- It is believed that the demographic profile of the tenants in these facilities has changed over the years, reflecting the need based on an aging population;
- The “definition” of Residential Care Facilities needs to be further investigated as to whether or not it includes the large retirement home industry and those homes providing services to persons with special housing needs.

A proposed process for review of the Bylaw was approved by Committee in June 2005 as outlined in Report SPH05032. The proposal included an Advisory Group, Project Team and comprehensive process for consultation. The direct costs were estimated at
$15,000 which would be absorbed as a budget pressure in 2005. The indirect in-kind staff time was estimated to be $75,000-100,000/1-1.5 FTE across 12-16 staff positions.

**ANALYSIS/RATIONALE:**

The Review process was to be absorbed into the departmental budget and was to be completed by the Community Services Branch. After the disentanglement of the Public Health and Community Services Department, the responsibility for review of the By-law was transferred to Public Health Services. The proposed change in the By-Law review process recognizes fiscal pressures while still allowing for an appropriate review of the By-law with a more efficient use of resources.

The consultation process outlined in this report is more focused than was previously planned. Stakeholder groups will be consulted on proposed changes to the By-Law rather than at the beginning of the process in recognition of the fact that many of the stakeholder groups have had opportunities to voice their concerns. The key areas of concern outlined in the June 2005 report and review of existing program documents will serve as the background for developing potential changes to the Schedule.

The membership of the Advisory Group has been expanded to include the community members that were originally part of the Project Team. The Project Team consists of City employees only and will now function as an internal workgroup with a project lead.

Please refer to Appendix A for further details on the revised review process.

**ALTERNATIVES FOR CONSIDERATION:**

1. Revise the review process as proposed in this report.
2. Defer until 2007 for consideration as an enhancement in the 2007 budget process.
3. Proceed as outlined in Report SPH05032. This would require reallocation of present workload with the removal of existing work or hiring of an external consultant. This program is not a mandatory program under the Ministry of Health and Long Term Care and as such does not qualify for the use of Ministry funding. Public health Services would not be able to recover the cost for this review from the Province and could not present this as a budget pressure. The direct costs of $15,000 would have to be enhanced from the City Directly. Revenues generated from the Licensing fee’s only cover the immediate costs for staffing and ancillary cost to operate the program and have no gapping dollars attached.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

There are Public Health Services, Community Services, Licensing and Legal Services staffing implications for staff participation in the Advisory Group and Project Team. A 0.3 FTE position over a 1 year period within Public Health Services will act as the Project
Lead to coordinate the meetings, develop options for changes to the By-law and compile feedback from the workgroups and stakeholders.

**POLICIES AFFECTING PROPOSAL:**

Outcomes of the review will have a direct impact on the administration of the domiciliary hostel program and the Residential Care Facilities licensed under the By-Law.

**RELEVANT CONSULTATION:**

Staff from Community Services Department were consulted on the proposed review change.

**CITY STRATEGIC COMMITMENT:**

By evaluating the “**Triple Bottom Line**”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

**Community Well-Being is enhanced.** ☑ Yes ☐ No
Public services and programs are delivered in an equitable manner, coordinated, efficient, effective and easily accessible to all citizens.
The By-Law oversees facilities that provide care to individuals who are elderly, developmentally delayed or suffer from mental illness or brain injury. Review of By-Law will provide an opportunity process for ensuring these vulnerable individuals in our community are receiving adequate housing and care.

**Environmental Well-Being is enhanced.** ☐ Yes ☑ No

**Economic Well-Being is enhanced.** ☑ Yes ☐ No
The proposed change in the By-Law review process recognizes fiscal pressures while still allowing for an appropriate review of the By-Law with a more efficient use of resources.

**Does the option you are recommending create value across all three bottom lines?**
☐ Yes ☑ No

**Do the options you are recommending make Hamilton a City of choice for high performance public servants?**
☑ Yes ☐ No
The creation of a respectful, desirable and supportive workplace.
Appendix A: Revised process for review of the Residential Care Facilities By-Law 01-156

May 2006
- Report to the Board of Health outlining revised process

June 2006
- Recruitment and Formation of Advisory Group and Project Team

June-December 2006
- Advisory Group
  - Internal membership as outlined in previous report + community members originally suggested as members of Project team

  Suggested Membership:
  1-2 Councillors (Councilor Merulla and Bratina have already been put forward by Council)
  Director, Community Programs Branch
  Director, Health Protection Branch
  Program Manager, Housing Development and Partnerships
  Assistant Corporate Council, Legal Services
  Manager, Standards and Licensing
  Manager, RCF
  RCF Operator from ORCA
  RCF Operator from Ontario Homes for Persons with Special Needs
  1 other RCF Operator
  Mental Health Rights Coalition Representative
  2 Tenants

  - Meet 2-3 times to review proposed By-Law changes, stakeholder feedback and revised schedule
  - Reports to MOH

- Project team
  - Internal workgroup

  Suggested Membership:
  Project lead
  Manager, RCF
  Manager, Health Protection
  Manager, Community Programs
  RCF Nursing inspector
  Public Health Inspector
  Housing Policy Officer
  Corporate Counsel
  Licensing Coordinator
o Key activities: develop Terms of Reference for Project Team and scope of review
o Project Lead
  ▪ 0.3 FTE over 1 year
  ▪ review documents and develop straw dogs
  ▪ coordinate internal meetings and stakeholder consultations
  ▪ compile feedback and draft revised schedule

- Process
  o Use key areas of concern identified in June 2005 report and existing program documents as starting point to develop straw dogs for changes to schedule
  o Consult with identified stakeholder groups on proposed changes
  o Revise schedule based on feedback from stakeholders

When does the report come back to BOH?