To: Chair and Members Emergency & Community Services Committee

From: Joe-Anne Priel
General Manager
Community Services Department

Telephone: 905 546-4839
Facsimile: 905 540-5608
E-mail: Joe-Anne.Priel@hamilton.ca

Date: October 20, 2009

Re: Termination of Subsidy Agreement for St. Clair Lodge (CS09071) (City Wide)

Council Direction:

Not applicable.

Information:

A notice has been issued to Jennifer Wilson, owner and operator of St. Clair Lodge at 75 St. Clair Avenue in Hamilton, of the intent to terminate the City’s subsidy agreement with the St. Clair Lodge Residential Care Facility (RCF), effective November 9, 2009.

This RCF has a licensed capacity of 10 beds. At the time of the notice, there were six subsidized tenants residing at the residence.

In December 2008, a staff member of this RCF was charged with three counts of sexual assault and exploitation of vulnerable persons living at this residence. On January 16, 2009, staff from the Municipal Law Enforcement and Licensing Division and the Community Services Department (CSD) met with the owner to emphasize the need for the home to remain in compliance with Schedule 20 due to the serious nature of the charges and out of concern for the tenants.

The business license for the facility expired in June 2009. Staff worked with the facility to complete their license renewal. There were a number of areas of non-compliance that were identified for follow-up. On September 14, 2009, CSD and Public Health Services (PHS) attended the home to complete a non-compliance follow-up visit. At that time, new staff and a new operator were onsite. Neither the Licensing Division nor CSD had been informed of the change in ownership nor had the new operator applied for a license.

On September 21, 2009, staff consulted with the City’s Legal Services concerning the appropriate course of action for both the licensing of the RCF and the Subsidy Agreement.
On September 25, 2009, the Municipal Law Enforcement and Licensing Division notified the operator that the City of Hamilton was not prepared to renew the operator’s licence for this RCF under Schedule 20 of the City of Hamilton By-Law 07-170, due to a number of non-compliance issues (see Appendix A to Report CS09071).

The Subsidy Agreement is based on compliance with Schedule 20 of the City of Hamilton By-Law, 07-170, and all other by-laws and statutes. On October 9, 2009, the CSD notified Ms. Wilson, in writing, that the Subsidy Agreement with St. Clair Lodge will be terminated, effective November 9, 2009, (see Appendix B to Report CS09071).

CSD and PHS staff will meet with the tenants and their trustees on October 14, 2009. The tenants will be provided with the option to relocate to another subsidized RCF or remain in the home, if they so choose, as an RCF may operate without a license provided there are no more than four tenants residing at the home. Staff from CSD and PHS will assist tenants in their relocation. There are adequate vacancies within the system to accommodate the tenants’ relocation to another RCF.

Joe-Anne Priel
General Manager,
Community Services Department
September 24, 2009

St. Clair Lodge
Ms. Jennifer Wilson
75 St. Clair Avenue
Hamilton, ON L8M 2N6

Dear Ms. Wilson,

RE: Residential Care Facility Licence Application for Renewal

Please be advised that pursuant to City of Hamilton By-Law 07-170 as amended and the policy of City Council, this is your notice that your application for a renewal of your Residential Care Facility Licence is refused and a licence will not be issued based on the following grounds: That in accordance with Section 12(1)(c), Section 12(1)(d), and Schedule 20 of the City of Hamilton Licensing Code By-law 07-170 as amended, the business was not carried on in compliance with the law and would put public safety at risk.

1. There are, against Mr. Arthur Wilson, allegations and charges of assault relating to an incident that occurred on or about January 9, 2009 at the Residential Care Facility known as St. Clair Lodge. Mr. Arthur Wilson is a business co-owner of St. Clair Lodge, is a co-signatory on the Domiciliary Hostel Funding Agreement, and is listed as an employee.

2. An inspection by Public Health Services, Health Protection Division, Infectious Diseases, on April 7, 2009 found, pursuant to Schedule 20 of the City of Hamilton Licensing Code By-law 07-170 as amended and the Residential Care Facilities Guideline, the following in non-compliance.

   a. Section 5, staff on duty were not familiar with the Single Facility Incident Plan.

   b. Section 41, up-to-date physician's assessment was not obtained prior to admission of a new tenant.

   c. Section 46, one unstable tenant needed to be placed on a COAST alert.

   d. Section 47, prescription drugs were accessible to non-tenants and were not kept in a locked drug cabinet.
e. Section 48, the operator had not obtained consent from two tenants' physicians to allow the tenants to self-medicate.
f. Section 49, menus were not reflecting amounts and quantities of foods and fluids to be offered as per the Canada Food Guide.
g. Section 50, the operator had not ensured that one tenant had been given a TB skin test screening.
h. Section 52 and Section 56, the name and phone number of one tenant's physician was not noted on the file.
i. Section 56, the operator had not maintained an updated alphabetical list of the tenants including name, gender, age, and date of admission.
j. Section 56, tenants' files were incomplete and did not contain the necessary information.
k. Section 8, an employee's child had been at the home at the time of inspection. The operator had not ensured that, at all times, a qualified employee had been designated as the person responsible for the operation of the facility and whose primary duty was the supervision of tenants.

3. An inspection by Public Health Services, Health Protection Division, Infectious Diseases, on July 30, 2009 found, pursuant to Schedule 20 of the City of Hamilton Licensing Code By-law 07-170 as amended and the Residential Care Facilities Guideline, the following in non-compliance.

a. Section 5, staff on duty were not familiar with the Single Facility Incident Plan.
b. Section 13, employees had not been participating in continuing education.
c. Section 41, up-to-date physician's assessment was not obtained prior to admission of a new tenant.
d. Section 47, employees were not watching to ensure that tenants were taking medication. Medications were being dropped on the floor and being put back at employees' discretion. Request for medication inservice from a pharmacist was made.
e. Section 48, the operator had not obtained consent from one tenant's physician to allow the tenant to self-medicate.
f. Section 49, menus were not reflecting amounts and quantities of foods and fluids to be offered as per the Canada Food Guide.
g. Section 50, the operator had not ensured that two tenants had been given a TB skin test screening.
h. Section 56, two tenants' files were noted to contain information not listed in Section 56 (Resident Service contracts.)
4. An inspection by Public Health Services, Health Protection Division, Infectious Diseases, on August 26, 2009 found, pursuant to Schedule 20 of the City of Hamilton Licensing Code By-law 07-170 as amended and the Residential Care Facilities Guideline, the following in non-compliance.

a. Section 47, employees required permission from a regulated health professional and to be trained by that regulated health professional to administer medication. Pharmacist training on a safe medication system for all staff was requested.

b. Section 50, the operator had not ensured that one tenant had completed the second step of a 2 step TB skin testing.

Pursuant to Section 13(1) of the City of Hamilton By-Law 07-170 you are entitled to a hearing before the Hamilton Licensing Tribunal to seek to have your licence issued. To obtain a hearing before the Hamilton Licensing Tribunal you must file within thirty days from this date, a written request for a hearing with the Legislative Assistant of the Hamilton Licensing Tribunal, Office of the City Clerk, City Centre, 77 James Street North, Suite 220, Hamilton, Ontario L8R 2K3 together with the grounds for appeal of the decision of the Issuer of Licenses. This request must include any change of address for receipt of notice of the hearing. Please be advised that there is a $53.00 non-refundable fee required to be submitted at the time of filing of your appeal.

If you file your request for a hearing within the time limit, you will then be notified by the Legislative Assistant of the Hamilton Licensing Tribunal of the scheduled hearing before the Hamilton Licensing Tribunal. A hearing shall be commenced by the Hamilton Licensing Tribunal within 60 days from the date of receipt of your request for a hearing.

If you have any questions regarding this matter, please contact Vincent Ormond, Superintendent, Municipal Law Enforcement (Licensing & Permits) at 905.546.2424 extension 1358.

Yours truly,

William Young, CET, CMO, MLEO(c)
Director, Municipal Law Enforcement

WY/VO/kn

cc: Stephanie Paparella, Legislative Assistant
Betty Lou Purdon, Program Manager Residential Care Facilities and Hostels
Rachelle Harber, RCF Nurse Inspector
Jim Gordon, Municipal Law Enforcement Officer
October 8, 2009

Hand Delivered

St. Clair Lodge
75 St. Clair Avenue
Hamilton, Ontario
L8M 2N6

Dear Ms. Wilson;

RE: TERMINATION OF SUBSIDY AGREEMENT FOR FACILITY KNOWN AS ST. CLAIR LODGE

This letter is to advise you that your Subsidy Agreement with the City of Hamilton will be terminated effective November 9 2009.

This action is being taken because this Department has been notified that you have been refused a license to operate the above-mentioned facility due to issues of non-compliance with Schedule 20 of the City of Hamilton Licensing Code, By-law No. 07-170.

On January 16, 2009 staff met with you to discuss your responsibilities under the Subsidy Agreement. You were informed that you need to comply with all requirements of By-Law 07-170 and that failure to do so would result in the termination of your Subsidy Agreement.

The Subsidy Agreement is being terminated under the following terms:

1. Subsection 65 (a) which states:

   The City may terminate this Subsidy Agreement immediately upon giving written notice to the Operator if, in the sole discretion of the City, there has been a breach of any term, warranty, representation, condition or provision of this Subsidy Agreement . . .

   As a courtesy and to enable the tenants of the facility to be relocated, funding will continue until Friday November 9, 2009.

2. Section 31 which states:

   It is a condition of this Subsidy Agreement that the Operator, when carrying out its duties under this Subsidy Agreement, shall comply with . . . all applicable municipal . . . by-laws . . .

3. Section 33 which states:

   The Operator shall . . . comply with the by-laws . . . of the authorities having jurisdiction that are, or become in force during the performance of the services under this Subsidy
Agreement and which relate to the preservation of the public health and to health and safety.

4. Section 35 which states:

The Operator shall provide the General Manager with satisfactory evidence that a license under Schedule 20 of City By-law No. 07-170, as amended, has been issued for the operation of the residential care facility prior to the commencement of this Subsidy Agreement and thereafter annually on or prior to the renewal date of the Operator’s license as indicated by the City’s records.

Please be advised that City staff from Public Health Services and the Community Services Department will be at the facility on Tuesday, October 13, 2009 to meet with the tenants, their families and support agencies to announce the termination of the Subsidy Agreement and explain the options available.

If you have any questions or concerns, do not hesitate to contact Betty Lou Purdon, Program Manager, Residential Care Facilities and Hostels Unit at 905-546-2424 extension 4329.

I would request your full cooperation to ensure that the tenants are supported during this time of transition.

Sincerely,

Joe-Anne Priel
General Manager

cc. Gillian Hendry, Director, Social Housing and Homelessness Division
Betty Lou Purdon, Program Manager, RCFs and Hostels Unit
Robert Hart, Manager, Public Health Services
Vince Ormond, Co-ordinator, Licensing, Municipal Law Enforcement
Cathy Kenyeres, Manager, Accounts Payable, Corporate Services