Community Housing for the Future
Taking *Collective* Action Toward Resiliency

Solution Direction 2

New funding models and service agreements that reflect the different realities of providers and enable more autonomy for housing providers and service managers to plan for the long-term

This research paper is part of the Ontario Non-Profit Housing Association (ONPHA) Solutions Lab on "Community Housing for the Future: Taking Collective Action Toward Resiliency." This paper is for use by Lab participants and attendees, as part of their pre-read materials.

This document covers an introduction to the Solution Direction (one of five), an overview of the policy or environmental context within which this intervention lives, and a summary of the implications Lab participants should be aware of when designing for this Solution Direction.

Solution Direction Overview

This solution direction involves envisioning new funding models and service agreements which are linked to the metrics for success identified in **Solution Direction 1**.

This new funding model(s) would prioritize helping providers sustain and grow their organizations (where applicable), build their capacity, and have long-term resilience and sustainability for the future. At the same time, the new funding model(s) would consider service manager's desire to have flexibility to reinvest savings into local housing and homelessness systems.

"What if…"

This Solutions Lab aims to ignite new conversations among housing providers, service managers, and other stakeholders in the housing system in Ontario. When reviewing this paper and participating in the next workshop, consider envisioning the possibilities around the following potential scenarios:

- What if providers could leverage current **assets**, so they could engage in more capital repair work and expansion of their portfolios?
- What if **ownership** of affordable units changes? Where would these units go and what might that impact be for the overall system?
- What if service manager areas had the same **standards** and interpretation of the regulation across service manager areas?

Why are housing providers and service managers asking for a solution like this?

In conjunction with **Solution Direction 1**, this new funding model(s) would give providers the ability to make decisions within a framework of flexibility while recognizing that service managers have a role in maintaining, sustaining and growing the affordable housing stock in their communities.

This solution direction requires the new metrics for success created in **Solution Direction 1**, as these would be embedded in the requirements of the new funding model(s). This new model(s) could also take a longer-term view and support providers planning for long term cycles of capital repairs and be positioned to evolve their offerings over time as economic, political, social, and environmental shifts may take place. This initiative would require continued dialogue between service managers, housing providers (non-profit and co-op) and the province.

To help us design the components of this solution, we will:

- Work towards co-creating a set of principles for the new funding model(s) to be endorsed by housing providers and service managers, and eventually the province.
- Identify all the details that still need to be collaboratively discussed, explored and modelled to inform the creation of a new funding model(s) and accompanying service agreements (i.e. parameters around capital reserves and reinvesting surpluses, parameters around rent supplement agreements)
- Seek to create a set of scenarios faced by housing providers, which could be tested against potential funding models and consider the impacts of multi-year funding agreements for housing providers and service managers

The Surrounding Context

Demand for Affordable Housing at an All-Time High

Demand for affordable housing is at an all-time high in almost every community in Ontario. A hot real estate market, low vacancy rates (despite the current pandemic), and long waitlists for affordable housing (over 185,000 households on waiting lists across the province) are creating significant affordability challenges for low- and moderate-income households. Although federal, provincial and municipal governments have made the creation of affordable housing a priority, maintaining the long-term financial sustainability of the existing community housing sector is equally important, and sometimes conflicting with the need to build new affordable housing, as well as other government priorities.

Why are new funding models and service agreements needed?

Ontario's community housing sector has evolved significantly over the last few decades. There are 10 different legacy programs provided by some combination of time-limited capital funding, mortgage subsidies and/or operating subsidies to provide housing that is affordable to low-income Ontarians. Each legacy program has its own funding formula and program guidelines, leading to a complex patchwork of requirements over time. No new housing units have been constructed through legacy programs since 1995. Some community housing providers have developed new housing under other programs since then, though to date this number is relatively modest compared to the need.

From the 1970's to the early 1990's, the federal government supported non-profit housing development through a variety of ways, including unilateral federal funding and lending programs and cost-shared federal/provincial programs. In the early 1990's Ontario also funded many projects through unilateral provincial funding.

During this time, **every housing project developed had its own operating agreement**, either with the federal government (through the Canada Mortgage and Housing Corporation (CMHC)) or the province. These operating agreements defined funding and lending arrangements and provider requirements around rent and subsidized units. The agreements were usually linked to a provider's mortgage, which was typically 35 years.

Over the past several years, there have been several changes and stages of devolutions that have impacted Ontario's housing system. Most notably:

- Most non-profit housing projects are now funded and/or administered through municipal service managers
- The provincial Housing Services Act, 2011 (HSA) replaced operating agreements for many housing providers, in particular projects that have some level of provincial funding, which are identified as HSA Part VII projects. Unlike these projects' original operating agreements, there are no end dates in the current legislation.

All of this has meant that several categories of non-profit housing providers have been created in Ontario, all with slightly different situations and potential impacts moving forward.

Provincial Reform Projects (Part VII of HSA)

The HSA sets out that service managers must provide an annual subsidy for housing providers' operating and mortgage costs, as well as rent-geared-to-income and property tax funding for Part VII housing projects. When the mortgage ends there is no need to continue providing the mortgage subsidy as the housing provider is no longer incurring any mortgage costs. This reduction in subsidy costs related to the administration of HSA related program costs is often referred to by services managers as "mortgage savings".

The province has clarified that when provincial reform projects reach end of mortgage, they will be obligated to continue providing rent-geared-to-income housing in line with the HSA unless they are actively removed from Ontario Regulation 368/11. Service manager obligations to fund these projects in accordance with the HSA funding formula will also continue.

The province has also stated that forthcoming regulations will "provide a streamlined legislative framework for community housing that will incent non-profit and co-operative housing providers to stay in the housing system once their original agreements and mortgages end".

The outcomes of EOM will vary among providers; however, according to two independent reports commissioned by ONPHA and the Cooperative Housing Federation of Canada (CHFC), many will be impacted:

- Most housing providers will see their negative operating subsidy[1] increase significantly. In some situations, negative operating subsidy will offset the full property tax and RGI subsidies, in which case housing providers will not receive a subsidy from their service manager and will be funding these costs entirely from their rental revenues and mortgage savings.
- As a result, total subsidy received by the provider will be significantly reduced and service manager financial contributions will be reduced.
- If nothing is done, most HSA housing providers are projected to be unsustainable into the future. The ONPHA study of 12 housing providers found that many providers will have the resources to either maintain subsidized rents or cover needed capital repairs but will not have the ability to do both without assistance.
- Over and above the lack of sustainability (due to costs of capital repairs and maintaining subsidized rents), providers may also face challenges around innovation and reinvesting in the growth of their portfolios.

[1] **Negative Operating Subsidies:** As it currently stands, the funding formula allows for a negative operating subsidy. To understand the issue with the **funding formula** as it currently stands, we first have to examine the operating subsidy component which is meant to bridge the gap between benchmarked revenues (rents and other revenue streams) and the actual costs (mortgage and operations). This negative subsidy occurs when the benchmarked revenues are greater than the project's total costs and the formula returns a negative number. While this can occur before a project reaches the end of mortgage, the impact becomes much more dramatic when the mortgage cost is removed.

- For the co-op sector, CHFC's projections show that if the funding formula is not changed, by 2032 most of the 21,000 co-op units will not receive any government subsidy because the co-op's negative operating subsidy would offset all of the RGI and property tax subsidies.

Former Federal Projects

The former federal projects were built between 1973 and 1985. Many have passed the end of their original 35-year operating agreements. Some are still operating under their original operating agreements with CMHC even though the non-profit projects are now administered by service managers. The Agency for Co-operative Housing manages the federal government's co-operative housing programs in Ontario, on behalf of CMHC.

The major difference between former federal projects and provincial reform projects is that former federal projects are still operating in accordance with their original agreements. Once the operating agreement ends, the obligations of both the housing provider and funder end. As a result, neither the province nor the service manager has any legal authority over the former federal projects at the end of operation agreement (EOA). As a result, housing providers will no longer receive funding from those original programs, and they will no longer be required to provide subsidized units.

The outcome of EOA will vary among housing providers:

- Some housing projects may not be financially viable in part because the projects face significant capital expenditures as the major building systems reach the end of their life cycle.
- Many projects will be viable but may not be able to continue to provide affordable units without ongoing funding after their operating agreement expires.
- Some projects may be sustainable in the long-term and able to continue to offer housing at affordable and moderate rental levels and self-subsidize rent-geared-to-income units.

Basically, it is up to the housing provider how to operate these units within broader requirements, for example their Articles of Incorporation and the Residential Tenancies Act. Some options available to providers are:

- Implementing a mixed-rent model (with some subsidized and some market rent units)
- Selling or consolidating assets
- Using "mortgage savings" to fund capital repairs while maintaining affordability
- Entering into new contractual agreements with their service managers.

There is an opportunity to enter into new mutually beneficial agreements between housing providers and service managers once the operating agreements end. Most federal housing co-ops have entered into a new, simplified rent supplement agreement with the federal government to continue to offer rent-geared-to-income units.

Who is not impacted by End of Mortgage / End of Operating Agreement?

There are also several other types of projects that are not impacted by end of mortgage and end of operating agreement. While many of these providers may also be facing funding challenges, addressing these issues falls outside of the scope of this initiative and Solution Direction.

These other projects include:

- Public housing projects, built primarily between 1964 and 1973 and now owned and operated by municipally owned local housing corporations.
- Affordable housing projects developed under programs from the past 20 years including the Affordable Housing Program, the Investment in Affordable Housing Program, the IAH-Extension, and most recently the National Housing Strategy suite of programs, i.e. Co-investment Fund, Rental Construction Financing.
- Supportive and alternative housing projects that are administered through MOH or MCCSS.

It is important to note, however, that some providers operate both provincial reform and other types of projects that will not experience end of mortgage, or provincial reform alongside properties under federal programs. For some providers with this mix, their federal projects may be currently “carrying” or making their provincial reform projects financially viable.

Current Issues

As provincial reform and former federal projects reach the end of their mortgages or operating agreements there is a real risk of losing community housing supply. Much of Ontario’s community housing stock is old and needs major repairs – some has already been taken out of use because of its poor condition. In some communities, the housing built decades ago no longer meets the needs of people today.

Many non-profit and co-operative housing providers don’t know what the obligations or opportunities will be when their original program obligations end, presenting significant challenges to long term planning. Many are faced with financial or other challenges to continue to offer housing to people who need it the most. At the same time, service managers’ commitments to address housing and homelessness issues in their communities is challenged by significant and increasing financial strain which has been intensified as a result of the pandemic.

Providers and service managers share in the difficulty of long-term under-funding as a sector. Providers and service managers share similar objectives around fostering housing opportunities for all. Service managers and their local councils have budgetary pressures which may threaten what and who is funded, if a local council chooses to re-direct funds away from current obligations. Addressing this unknown will help provide stability to the sector.

Housing Provider Analysis

To help inform the impact of end of mortgage on provincial reform projects, ONPHA and CHFC commissioned individual analyses of sample projects (22 projects in total, representing a range of project size and location). The analyses were both undertaken by David Robertson, an independent auditor (CPA, CA) with over 20 years of experience working in the affordable housing sector. Both analyses found that many providers will have the resources to **either** maintain subsidized rents or cover needed capital repairs at the end of mortgage. They **will not have the ability to do both** regardless of whether the total subsidy received from the service manager does not fall below zero.

ONPHA projects that the vast majority – if not all – of the Part VII HSA (or provincial reform) housing projects will be unable to cover both RGI subsidy programs and necessary capital repairs within the current funding model structure when they reach end of mortgage. Further, due to negative or low cash flow, providers will have limited or no ability to service debt through private lending institutions or even through current National Housing Strategy initiatives. Negative cash flow can ultimately lead to bankruptcy. Both situations will prevent them from leveraging assets to undertake vital capital repair work, let alone to expand their portfolios to increase affordable housing options for Ontario. This will also impact decisions around potential mergers and amalgamations. Viable organizations will be hesitant to take on projects that are locked into a legislative funding model that is resulting in negative cash flow, possible bankruptcy and an inability to address significant capital repair needs.

ONPHA's Recommendations

ONPHA's initial analysis shows that a single policy option or solution may not be ideal for every type of Part VII *HSA* housing provider across the province. As a result, ONPHA is recommending that the province provide two options for housing providers when they reach the end of mortgages:

1) A **Legislative Stream** that would maintain the current HSA operating framework (or something similar) but alter the funding formula to prevent against negative operating subsidy. With this, ONPHA is also recommending the re-evaluation of current benchmarks to align more closely with today's realities and the development of targeted initiatives to address outstanding capital repair and deferred maintenance costs.

2) A **Rent Supplement Stream** that would give housing providers that are financially and operationally equipped the ability to "opt-out" of the legislative framework and enter into individual rent supplement agreements with their service manager. This model would give those who would be viable the ability to be more flexible and innovative and to leverage their assets for renewal and expansion.

CHF Canada Recommendations

The Co-operative Housing Federation of Canada recommendations is in keeping with ONPHA's recommendation:

- That the service agreement regulation includes a simplified funding formula that ensures that service managers fund the cost of rental assistance and property tax. This would allow housing providers to either fund their own capital repairs or finance new loans to undertake major capital work. This would make housing providers less reliant on government funding for capital repairs and ensure the long-term financial sustainability of community housing providers in Ontario.
- The rules governing the oversight and administration of housing providers in service agreements should be simplified and reflect the level and purpose of funding. Exit agreements should ensure that households on assistance are protected and continue to receive a comparable level of assistance in their current home. If that is not possible, they should be able to stay in their home until they can be provided another RGI unit within a reasonable distance.

Service Manager Analysis

Service managers also undertook analysis by a third party (KPMG) to review a model calculating mortgage savings and capital needs and consolidate data representing about 51,000 Part VII housing units. The results of the analysis showed that total mortgage savings over 40 years for the 28 service managers included in the study would be approximately $10.4 billion, which is projected to be even higher once the other 19 service managers are considered.

It is service managers' position that any changes to the HSA funding model, as a result of *the Protecting Tenants and Strengthening Community Housing Act*, should permit municipalities to:

- redirect mortgage savings to ensure publicly-funded community housing assets remain in a good state of repair
- invest in new supply, programs and services in line with each service manager's 10-year housing and homelessness plan. This includes providing capital funding and other assistance to Part VII housing providers.

Under the current HSA regulations, service managers retain these savings and may reinvest them in line with their housing and homelessness plans. It is service managers' position that to ensure a holistic approach to the overall housing and homelessness system, new HSA regulations should not prescribe how municipal mortgage savings are treated and instead continue to leave these decisions to the sole discretion of service managers, and new funding arrangements should help to sustain the housing system without 'overfunding' individual community housing providers.

Keeping the savings in the housing system at the service manager level will allow existing publicly funded community housing to be preserved, while also enabling reinvestment that advances local housing goals without overfunding individual housing providers and ensuring there is no additional financial burden on municipal taxpayers. The service managers' recommended approach seeks to address the significant community housing capital repair needs, while advancing critical housing and homelessness initiatives to help residents find and keep appropriate housing they can afford and respecting the municipal role in funding and planning for the community housing system. There is however no mechanism that guarantees all service managers will be able to keep mortgage "savings" within the community housing system.

Service Manager Recommendations

Service managers recommend that they retain the savings realized in their service area once mortgages come to an end, and have flexibility to reinvest those savings into the service manager's local housing and homelessness systems under the following priorities:

Priority 1 Address unfunded capital needs through service agreements with housing providers to keep buildings in a good state of repair for current and future residents as set out in local 10-year housing and homelessness plans

Priority 2 Manage other housing and homelessness pressures identified in local 10- year housing and homelessness plans or other strategic plans, such as increasing and redeveloping the supply of affordable housing or enhancing homelessness-related supports

Priority 3 Fund other municipal pressures, provided all housing needs are met as identified by each service manager's strategic plans

Current Opportunity

As the Part VII mortgages come to an end, there is a real opportunity to reinvest savings and leverage assets to help address capital repairs and increase Ontario's affordable housing supply.

Protecting Tenants and Strengthening Community Housing Act, 2020

Among other things, the Protecting Tenants and Strengthening Community Housing Act, 2020 (the Act) introduces a number of future changes to the Housing Services Act, 2011 (HSA) and its regulations that will significantly change the relationship between housing providers and service managers.

The province has also recently released their new Community Housing Renewal Strategy through which they have committed, among other things, to:

- protect and expand affordable housing options over the long-term
- incent non-profit housing providers to stay in the system once original obligations end
- help housing providers improve their capacity to operate in a business-like manner

If left unaddressed, the current issue with the HSA funding model will prevent this from happening. The Act and its regulations provide an opportunity for stakeholders to collaborate on solutions to promote the long-term sustainability of the sector.

Exit Agreements

The changes in the Protecting Tenants and Strengthening Community Housing Act provide a mechanism (exit agreements) for delisting housing projects from the HSA and removing them from all related obligations (e.g., operating and reporting standards, maintaining a set number of RGI units). To become delisted, a housing project would need to meet prescribed criteria (to be determined through regulation), the housing provider and the service manager would need to enter into an exit agreement that complies with prescribed requirements (to be determined through regulation) and jointly notify the Minister of Municipal Affairs and Housing.

Service Agreements

In addition to the delisting process, the Protecting Tenants and Strengthening Community Housing Act introduces another mechanism in which housing projects would still be governed in part by the HSA and housing providers would enter into service agreements with service managers in compliance with prescribed requirements (to be determined through regulation). These requirements may include operating obligations for the housing provider and funding commitments from the service manager.

Many of the details related to the exit and service agreements will be determined through regulation. In preparation for upcoming consultation on applicable regulations, Solution Direction 2 could focus on co-creating a set of principles for the new funding model(s) and service agreements endorsed by housing providers and service managers.

Solution Direction 2 is focused on the opportunity for stakeholders to collaborate on solutions for new funding models and service agreements that reflect the different realities of providers and enable more autonomy for housing providers and service managers to plan for the long-term.

This solution is primarily focused on those Part VII housing providers that are subject to the funding model established in the operating framework of the Housing Services Act, however identified outcomes could also be applied to former federal non-profit housing projects.

Implications

Competing Issues

There are several competing issues that impact this solution and present risks to this Solution Direction, including but not limited to:

- Service managers are faced with all-time high demands for affordable housing supply and homelessness supports in their communities.
- Subject to Ministry-approved Exit Agreements, some housing providers may no longer have to provide affordable or subsidized housing once their agreement expires or mortgage matures, resulting in a potential loss of up to 6,500 community housing units[2].
- Community housing infrastructure is aging and in need of significant capital repair.
- Housing providers are unable to both maintain subsidized rents and cover needed capital repairs within the current HSA Part VII funding formula.
- Service managers are unable to guarantee long-term full re-investment of mortgage savings.

---

[2] Note that we have not assumed all 6,500 units will be “lost”, however the system may not be able to track what has happened to these units in the same way, and thus it will be difficult to identify whether they remain affordable or not.

- There has been no recent assessment of the sustainability of the current funding formula, nor a re-evaluation of current benchmarks to determine whether they are meeting the current needs of housing providers

What should we keep in mind when developing this solution?

- The ultimate decision on the new funding model(s) will be made by the province.
- Solutions need to achieve the long-term sustainability of the community housing system and ensure a vibrant Ontario where everyone has a safe and affordable place to call home.
- Subsidies to existing RGI tenants must be protected through any transition, for the lifetime of those tenancies
- The new funding model(s) will have both direct and indirect impacts across all parts of Ontario's housing system, including on municipal budgets which are already experiencing significant and increasing financial strain.
- Housing providers and service managers have differing opinions on how the funding model should be adjusted at end of mortgage, both stakeholders wanting to maximize flexibility in deciding how the mortgage "savings" from end of mortgage are utilized. Housing providers want to ensure they stay in business, can address much-needed capital repairs, continue to serve their tenants and have flexibility for the ability to leverage their assets and mortgage savings to renew or expand their portfolios. Service managers want to retain the savings realized in their service area once mortgages come to an end and have flexibility to reinvest mortgage savings into the service manager's local housing and homelessness systems.
- Good solutions provide new opportunities and flexibilities for both housing providers and for service managers.
- There are many details that need to be discussed and explored in developing the new model(s), including, but not limited to:
    - surplus sharing requirements and the redistribution of surplus funds
    - parameters around capital reserves and reinvesting surplus
    - parameters around rent supplement agreements
    - target affordable rent threshold for rent supplement model
    - stability for existing tenants

Defining "Success"

OHPHA has articulated what success looks like from its perspective. This is a good place to start when collaborating on the development of success criteria by other key stakeholders, including service managers, co-ops, sector associations, and the province.

- **All levels of government and non-profits** work together to support the housing needs of communities and individuals
- Housing money **stays within the housing system**
- Decades of public and housing provider **investment** in non-profit housing is **preserved and protected**
- The sector can **renew, expand and become self-sustainable**
- Housing **affordability is maintained**
- Tenants maintain **security of tenure** and there is minimized disruption
- The solution is connected to **long-term planning** and **long-term solutions**

- The **long-term capital repair** needs of housing providers are factored in
- There could potentially be **different solutions** for different types of housing providers
- Housing providers have **flexibility and choice** around achieving affordability and managing assets
- Housing providers can be **innovative and attract investment** from government and private investors based on sound business principles
- Housing providers can access the value of their assets and opportunities to **leverage assets to grow and improve stock.**

Resources

Association of Municipalities of Ontario. Fixing the Housing Affordability Crisis: Municipal Recommendations for Housing in Ontario (August 14, 2019). https://www.amo.on.ca/sites/default/files/assets/DOCUMENTS/Reports/2019/FixingHousingAffordabilityCrisis20190814.pdf

Co-operative Housing Federation of Canada. Understanding End of Mortgage (2019). https://chfcanada.coop/wp-content/uploads/2019/10/EOM-Briefing-Note_2019.pdf

Financial Accountability Office of Ontario. Housing and Homelessness Programs in Ontario (2021). https://www.fao.on.org/web/default/files/publications/FA1906%20Affordable%20Housing/Housing%20and%20Homelessness%20Programs-EN.pdf

End of Mortgage Task Force. Municipal Recommendations to Continue Investing in Local Housing and Homelessness System (September 2020). https://yorkpublishing.escribemeetings.com/filestream.ashx?DocumentId=17530

Ministry of Municipal Affairs and Housing. Technical Backgrounder: End of Operating Agreements and Mortgages in Community Housing (September 2019).

Ontario Non-Profit Housing Association. Bill 184: Summary of ONPHA's legal analysis (June 2020). http://qc.onpha.on.ca/2020/06/bill-184-summary-of-onphas-legal-analysis/

Ontario Non-Profit Housing Association. Housing Services Act Funding Formula Issue: Negative Operating Subsidy at End of Mortgages (July 2019). https://test.onpha.on.ca/Content/PolicyAndResearch/COMMUNICATION_WITH_GOVERNMENT/2019/Housing_Services_Act_Funding_Formula_Issue_-_Briefing_Note_2019.aspx

Ontario Non-Profit Housing Association. Session #608: End of Mortgages: What You Should Know as a Housing Services Act Provider (November 2019).

Robins Appleby. Legal Analysis of Bill 184, Protecting Tenants and Strengthening Community Housing Act (May 7, 2020). Legal analysis -Bill 184 - Protecting Tenants and Strengthening Community Housing Act (onpha.on.ca)