

CITY OF BURNABY

SOCIAL ISSUES COMMITTEE

HIS WORSHIP, THE MAYOR
AND COUNCILLORS

RE: BILL 73 - A NEW COMMUNITY CARE AND ASSISTED LIVING ACT

RECOMMENDATIONS:

1. **THAT** Council send a letter to Katherine Whittred, Minister of State for Intermediate, Long Term & Home Care, which:
 - a) expresses the City's appreciation and support for the changes incorporated into Bill 73 - notably expansion of the definition of "care" and addition of provisions for assisted living developments,
 - b) reiterates the City's continued concerns, as identified in Burnaby's submission on Bill 16 and outlined in Section 4.0 of this report, regarding i) the new legislation's narrowness of application and ii) provisions for accountability and monitoring for facilities not covered by the legislation, and
 - c) indicates the City's strong interest in participating in the forthcoming review of the associated regulations for the legislation, and the position that the revised regulations must continue to provide for a high standard of excellence for BC's care facilities and assisted living developments.
2. **THAT** copies of this report be sent to the Housing Committee, Union of BC Municipalities, the GVRD, the Fraser Health Authority, and Burnaby's four MLAs.

REPORT

The Social Issues Committee, at its Open meeting held on 2003 January 22, received and adopted the *attached* report reviewing Bill 73 - a new Community Care and Assisted Living Act. The report also provided background on Bill 16 which was superseded by Bill 73.

The Committee noted that the most noteworthy features of Bill 73, compared with its predecessor, are an expanded definition of “care” and the inclusion of a registration process for assisted living developments. The Committee advised that these features help to address some of the concerns previously expressed by the City. The Committee noted, however, that significant questions and concerns remain regarding the Bill’s narrowness of application, monitoring and accountability provisions, and forthcoming regulations.

Respectfully submitted,

Councillor D. Johnston,
Chair

Councillor L. Rankin,
Vice Chair

Councillor S. Dhaliwal
Member

TO: SOCIAL ISSUES COMMITTEE

2003 January 14

FROM: DIRECTOR PLANNING AND BUILDING

OUR FILE: 17.465

SUBJECT: BILL 73 - A NEW COMMUNITY CARE AND ASSISTED LIVING ACT

PURPOSE: To provide comments and recommendations regarding Bill 73 - a new *Community Care and Assisted Living Act*.

RECOMMENDATIONS:

1. **THAT** Council be requested to send a letter to Katherine Whittred, Minister of State for Intermediate, Long Term & Home Care, which:
 - a) expresses the City's appreciation and support for the changes incorporated into Bill 73 - notably expansion of the definition of "care" and addition of provisions for assisted living developments,
 - b) reiterates the City's continued concerns, as identified in Burnaby's submission on Bill 16 and outlined in Section 4.0 of this report, regarding i) the new legislation's narrowness of application and ii) provisions for accountability and monitoring for facilities not covered by the legislation, and
 - c) indicates the City's strong interest in participating in the forthcoming review of the associated regulations for the legislation, and the position that the revised regulations must continue to provide for a high standard of excellence for BC's care facilities and assisted living developments.
2. **THAT** copies of this report be sent to the Housing Committee, Union of BC Municipalities, the GVRD, the Fraser Health Authority, and Burnaby's four MLAs.

REPORT

1.0 BACKGROUND

At its meeting of 2002 December 09, City Council received a letter from Katherine Whittred, Minister of State for Intermediate, Long Term & Home Care, regarding Bill 73 - a new *Community Care and Assisted Living Act*. Council referred the letter to the Social Issues Committee (SIC) for review.

This report is intended to assist the SIC in its review. It consists of the following:

- background on the Province's *Community Care Facility (CCF) Act* review process and Bill 16 (a Bill tabled by the Provincial Legislature in the spring which has been superceded by Bill 73)
- a review of key changes between Bills 16 and 73 - most notably, whether the changes address concerns that the City had raised regarding Bill 16 in a submission in 2002 August
- conclusions and recommended actions for the Committee's and Council's consideration.

2.0 CCF ACT REVIEW PROCESS AND BILL 16

The *Community Care Facility (CCF) Act*, which was introduced in 1969, applies to a range of facilities that provide care to three or more persons. Examples include child care facilities (e.g., family child care, pre-school, group day care), group homes, and residential care facilities for seniors. Facilities deemed to be community care facilities are required to be licensed under provisions of the *Act*. In Burnaby, the CCF Licensing function is handled by the Fraser Health Authority (FHA). The *CCF Act* provides the general parameters for CCF Licensing, whereas specific facility requirements are contained in the Child Care Licensing Regulation and Adult Care Regulations, which accompany the *Act*.

In the Speech from the Throne in 2002 February, the Provincial Government announced its intention to introduce a new *CCF Act*. The announcement was in keeping with the Provincial Government's New Era commitment to streamline, deregulate, and eliminate red tape, where appropriate. The Government tabled the proposed new *Act* (Bill 16) in April, inviting comments through written submissions, community consultation meetings, and an interactive government website.

Council considered a staff report on Bill 16 at its meeting of 2002 August 12. The report acknowledged that, as the existing *CCF Act* is over 30 years old, the legislation was due to be reviewed and updated. It concluded that some of the changes proposed through Bill 16 were positive, but cited three broad areas of concern:

- *narrowness of application* - the new legislation's specific focus on facilities that care for "vulnerable and dependant" persons may be too limited
- *monitoring and accountability provisions* - questions existed about how (or if) monitoring and accountability would occur for facilities that would be precluded from the new *CCF Act*, such as assisted living developments or recovery homes

- *regulations* - as the specific requirements for adult and child care facilities are contained in the regulations, and the regulations were not part of the current legislative review, it was too early to determine whether future regulations would continue to maintain a high set of standards for community care facilities in BC.

In accordance with the report, Council forwarded its comments and concerns on the Bill to the Provincial Community Care Licensing Branch. The GVRD, other municipalities, and various community organizations and citizens also made submissions - many echoing concerns raised by Burnaby.

3.0 BILL 73

In 2002 November, the Provincial Government introduced Bill 73 - a new *Community Care and Assisted Living Act*. The new legislation replaced Bill 16 and responds to some of the comments raised through the consultation process. Bill 73 has received Third Reading and is expected to be brought into force this spring.

The two most significant differences between Bills 73 and 16 are:

- *Expansion of definition of "care:"* In addition to covering children who receive prescribed programs and "vulnerable and dependant" adults, the definition in Bill 73 also explicitly covers children and youths in supervised residential programs. The expanded definition also stipulates that, to be covered, the adult residents of community care facilities must be receiving "three or more prescribed services."¹
- *Addition of provisions for assisted living developments:* Whereas Bill 16 contained no references to assisted living, Bill 73 has added a section to cover the regulation of such developments. The new Bill defines an assisted living residence as:

"premises or part of a premises, other than a community care facility,

- a) in which housing, hospitality services and at least one but not more than two prescribed services are provided by or through the operator to three or more adults who are not related by blood or marriage to the operator of the premises, or

¹ Specific information about "prescribed" services will be included in regulations accompanying the legislation. The press release for Bill 73 cited the following examples of prescribed services: assistance with activities of daily living, management of medication and valuables, nutrition services, behaviour management, and rehabilitative therapies.

- b) designated by the Lieutenant Governor in Council to be an assisted living residence.”

Assisted living residences will not be licensed per se; however, they will be regulated through a separate registration process. Under the new legislation, the Minister will designate an Assisted Living Registrar, assigning that person broad powers to ensure the health and safety of residents.

4.0 DISCUSSION

With the foregoing as context, from the City’s perspective, the key question needing to be asked is “does Bill 73 address concerns raised by Burnaby over the previous draft legislation?” This question is examined below.

4.1 First Concern: Narrowness of Application - As noted, the revised legislation is broader in scope than its predecessor. It specifically covers residential programs for children and youths. Also, it includes a registration process for assisted living developments, which is consistent with the City’s previous request that the Province consider developing a graduated or two-tier approach to CCF Licensing (i.e., establishing separate, less onerous regulations for facilities deemed to be more residential in nature than other licensed facilities). Despite its improvements over Bill 16, the revised legislation is still considered to be too restrictive. For example, the Province recently launched a consultation process concerning “independent living options” for seniors. One of the options under consideration, “independent housing with support,” appears to be targetted to “vulnerable” seniors - people who are unable to continue living safely on their own in the community. Nonetheless, the “independent housing with support” category, as proposed, would fall outside the purview of CCF Licensing or assisted living registration.²

Alcohol and drug recovery facilities are another type of operation continuing to be precluded from Bill 73. As indicated in the City’s previous submission, in the absence of licensing for such operations, uncertainties exist regarding physical and service standards for the developments, the qualifications and abilities of the operators, and the ongoing capacity of facilities to meet the health and safety interests of the residents. From the perspective of the broader community, a key concern is that some facilities that may formerly have required a CCF License (e.g., alcohol and

² The Province issued a consultation paper on independent living with support options in 2002 December. Staff will seek to gain additional information on the proposals and inform the Social Issues and Housing Committees in due course.

drug recovery homes), may no longer need one. In the absence of CCF Licensing, the “comfort level” that may have previously existed in the community may disappear and opposition to such facilities may grow. Municipalities may, in turn, feel increased pressure to deny approval of such facilities in the future - especially if the unlicensed facilities no longer fit within the municipalities’ planning or zoning framework.³ Also, as with the community, municipalities may lack the “comfort” that the unlicensed facilities can be successfully integrated into their residential neighbourhoods.

4.2 Second Concern: Monitoring and Accountability Provisions - As indicated in the City’s previous submission, a key benefit of CCF Licensing is its monitoring and accountability framework. Specifically, through the CCF Licensing process, residents and the community are afforded assurance that facilities will be monitored and required to meet specified standards. Assuming it is effective (which can only occur over time), the new assisted living registration process should provide similar assurance regarding monitoring and standards for those developments. It is thus believed that the Province deserves to be acknowledged for responding to the concerns raised by Burnaby and others about the absence of assisted living provisions from Bill 16. For facilities that continue to be precluded from the new *CCF Act*, however, questions remain about how (or if) the monitoring and accountability will occur. For example, will pressures be placed on municipalities to establish a monitoring system, either through business licences or other vehicles (which could be viewed as a form of downloading)? Will facility operators be expected to establish a self-monitoring system? Could an independent accreditation system (e.g., the US-based CARF accreditation organization) address the monitoring and accountability concerns?

4.3 Third Concern: Regulations - As indicated, the *CCF Act* provides the general parameters for CCF Licensing. Specific facility requirements are contained in the Child Care Licensing Regulation and Adult Care Regulations, which accompany the *Act*. These regulations are not part of the current review, but will be reviewed after Bill 73 is enacted. The Province has already indicated that the revised regulations will follow an outcome-based model (i.e., focusing on what needs to be achieved rather than a proscriptive approach which details how things should be done). In the

³ The Burnaby Zoning Bylaw, for example, defines group home as “a residential care facility for not more than six persons in care that is operated in a private dwelling house and licensed under the *Community Care Facility Act*.” A Small scale unlicensed residential care facility, such as a 6-bed alcohol and drug recovery home, would not meet this definition and could not be approved as a group home in Burnaby’s residential areas.

words of a legal firm reviewing Bill 73: “The regulations will put the flesh on the skeleton. Only then can we assess the full impact of the new Act.”⁴ Given the importance of the regulations, it is considered appropriate for the City to inform the Province of its continued keen interest in participating in the future review of the *CCF Act* regulations. It is also proposed that the City stress the position that the forthcoming regulations must maintain a consistently high set of standards for community care facilities in BC (i.e., existing standards should not be “watered down” in the revised regulations).

5.0 CONCLUSION AND RECOMMENDATIONS

This report has sought to assist the Community Issues & Social Planning Committee in its review of Bill 73 - a new *Community Care and Assisted Living Act*. To that end, it has provided background on Bill 16 (which was superceded by Bill 73) and the City’s submission concerning that Bill. The report also reviewed the key revisions incorporated into Bill 73 - primarily focusing on whether the revisions address concerns that the City had raised regarding the earlier Bill.

The most noteworthy features of Bill 73, compared with its predecessor, are its expanded definition of “care” and its inclusion of a registration process for assisted living developments. These features help to address some of the concerns previously raised by the City. That said, significant questions and concerns remain regarding the Bill’s narrowness of application, monitoring and accountability provisions, and forthcoming regulations.


It is therefore recommended that the Committee request Council to submit a letter to the Minister of State for Intermediate, Long Term & Home Care, which:

- expresses the City’s appreciation and support for the changes incorporated into Bill 73 - notably expansion of the definition of “care” and addition of provisions for assisted living developments,
- reiterates the City’s continued concerns regarding: a) the new legislation’s narrowness of application, and b) provisions for accountability and monitoring for facilities not covered by the legislation, and
- indicates the City’s strong interest in participating in the forthcoming review of the associated regulations for the legislation, and the position that the revised regulations must continue to provide for a high standard of excellence for BC’s care facilities and assisted living developments.

⁴ Staples McDannold Stewart. Bill 73 - Community Care and Assisted Living Act: A Commentary, December, 2002.

It is also recommended that copies of this report be sent to the Housing Committee, Union of BC Municipalities, the GVRD, the Fraser Health Authority, and Burnaby's four MLAs.

Staff will monitor future developments regarding the new *Community Care and Assisted Living Act* and its regulations, keeping the Committee and Council apprized, as appropriate.



J.S. Belhouse, Director
PLANNING AND BUILDING

JF/jc

cc: City Manager
City Solicitor

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