

CITY OF BURNABY

HOUSING COMMITTEE AND SOCIAL ISSUES COMMITTEE

*HIS WORSHIP, THE MAYOR  
AND COUNCILLORS*

**F**

**RE: "REGULATION OF INDEPENDENT LIVING" DOCUMENT**

**RECOMMENDATIONS:**

1. **THAT** Council endorse the resolution presented in Attachment 1 of the report.
2. **THAT** a copy of this report be forwarded to: Murray Coell, Minister of Community, Aboriginal and Women's Services, Ida Chong, Minister of State for Women's and Seniors Services, Colin Hansen, Minister of Health Services, Mr. Arthur Kube, Council of Senior Citizen's Organization of BC, the Fraser Health Authority, and Burnaby's four MLA's.

REPORT

The Housing Committee, at its Open meeting held on 2003 December 16, and the Social Issues Committee, at its Open meeting held on 2004 January 28, received and adopted the attached report providing an overview of the document "Regulation of Independent Living" prepared by the Seniors Health and Housing Coalition. Both Committees supported a resolution requesting that the provincial government establish a comprehensive legislative and regulatory framework to address care, safety and security of tenure issues for residents of supportive housing and assisted living facilities and consult widely with local governments, seniors organizations and the general public in the development of the framework.

Respectfully submitted,

**Housing Committee**

Councillor C. Redman  
Chair

Councillor D. Johnston  
Vice Chair

Councillor C. Jordan  
Member

**Social Issues Committee**

Councillor D. Johnston  
Chair

Councillor L. Rankin  
Vice Chair

Councillor S. Dhaliwal  
Member

COPY - CITY MANAGER  
- DIRECTOR PLANNING & BUILDING  
- CHIEF LICENCE INSPECTOR  
- CITY SOLICITOR

TO: CHAIR AND MEMBERS  
HOUSING COMMITTEE

2003 December 10

FROM: DIRECTOR PLANNING AND BUILDING

OUR FILE: PL 16000 20  
Seniors Housing

SUBJECT: "REGULATION OF INDEPENDENT LIVING" DOCUMENT

PURPOSE: To provide an overview of the document "Regulation of Independent Living" prepared by the Seniors Health and Housing Coalition and propose a resolution on the matter for subsequent consideration by Council, pending concurrence from the Social Issues Committee.

---

**RECOMMENDATIONS:**

1. **THAT** the Housing Committee request the Social Issues Committee to adopt the resolution presented in *Attachment 1*, and recommend the same to Council.
2. **THAT** following Council adoption, a copy of this report be forwarded to: George Abbott, Minister of Community, Aboriginal and Women's Services, Katherine Whittred, Minister of State for Intermediate, Long Term and Home Care, Mr, Arthur Kube, Council of Senior Citizen's Organization of BC, the Fraser Health Authority, and Burnaby's four MLA's.

**REPORT**

**1.0 BACKGROUND**

Burnaby Council, at the Open Meeting held on October 27, received correspondence from Mr. A. Kube, 1<sup>st</sup> Vice-President of Council of Senior Citizens' Organization of BC and a copy of the document entitled "Regulation of Independent Living", prepared by the Seniors Health and Housing Coalition. The purpose of this document is to set out a consumer protection framework for residents in "independent living" which encompasses both supportive and assisted living. In the correspondence, City Council is asked to endorse the document. Arising from consideration of this correspondence, Council resolved to refer the letter and document to the Social Issues Committee for consideration and to the Housing Committee for information.

A report on the matter had been prepared for the 2003 November 26 Social Issues Committee meeting. As a quorum was not present, it could not be dealt with at that meeting. Rather than delay the process, this report is being sent to the Housing Committee, with a recommendation that the comments of the Social Issues Committee be obtained prior to the submission of the report to Council

## 2.0 A CHRONOLOGY OF PROVINCIAL AND CITY INITIATIVES RELATED TO SUPPORTIVE HOUSING AND ASSISTED LIVING FACILITIES

Over the last decade, several alternatives to the traditional nursing home have emerged for seniors and others looking for housing that provides some personal supports. Considering the projected increase in the number of seniors resulting from the aging of the "baby boom" generation, and the shift in focus to providing supportive housing and assisted living rather than traditional care facilities for frail seniors, it is expected that the number of supportive housing and assisted living facilities will increase substantially in the foreseeable future. The following discussion provides a chronology of actions taken by provincial ministries and the City with regard to supportive housing and assisted living in order to provide a context for the Coalition's document.

- **1999:** Following consultation with local government, health officials, seniors groups and housing/health providers, the Office for Seniors for the Ministry of Health and the Housing Branch Office released a report entitled "Supportive Housing in Supportive Communities". The report defined supportive housing<sup>1</sup> and described assisted living as an extension of supportive housing that provides personal care in a housing-type setting.
- **November 2000:** In November 2000, amendments to the Burnaby Zoning Bylaw were adopted to specifically address supportive housing. The adopted text amendments recognized that supportive housing for seniors is distinct from traditional housing. In addition to providing shelter, supportive housing also includes a package of services, typically including meals, social activities and housekeeping. The Zoning Bylaw amendments made provision for two categories of supportive housing: Category "A" small scale projects, such as Abbeyfields, that would fit in single and two family neighbourhoods, and larger scale Category "B" projects that would be suitable in designated Town Centre and Apartment areas. The amendments specified parking and minimum unit size regulations that are particular to supportive housing.

---

<sup>1</sup>Supportive housing was defined as housing that combines building features and personal services to enable people to remain living in the community as long as they are able and choose to do so. It is housing with a combination of support services including at a minimum: a private space with a lockable door; a safe and barrier free environment; monitoring and emergency response; at least one meal a day available; and housekeeping, laundry and recreational opportunities. Nursing and other health-related services are delivered by the local health authority through special arrangement, or as they would be to any other individuals living independently in the community.

- **April 2002:** The Provincial Government announced its intention to develop 3,500 supportive living units throughout BC, aimed at seniors who need assistance with the tasks of daily living, but who do not need full-time nursing care. The 3,500 units would include 1,500 new units, conversion of 1,000 existing units (mostly older personal care units) and 1,000 units of rent supplements applied to private sector units. The Supportive Living program was a replacement for the previous HOMES BC program that was discontinued earlier in 2002.
- **July 2002:** Public comment was invited on Bill 16, proposed amendments to the *Community Care Facility Act*, which provided the legislative framework for assisted living and community care facilities, such as child care. With regard to seniors facilities, many individuals and organizations expressed the concern that assisted living residences were essentially unregulated. Also, supportive housing was not included in the regulatory framework.
- **August 2002:** After consideration of a report regarding Bill 16, Council expressed concern regarding the limited scope of application of the legislation and recommended that the Province amend the Bill to provide more extensive regulation of residents in assisted living residents.
- **November 2002:** Bill 73, the *Community Care and Assisted Living Act (CCALA)*, was passed by the legislature to address some of the concerns raised through the consultation on Bill 16. It established a mandatory registration process for assisted living residences, which are defined as projects that provide one or two "prescribed services."<sup>2</sup>
- **January 2003:** Council adopted recommendations of a report from the Social Issues Committee which expressed the City's continued concern with Bill 73's narrowness of application, the lack of provisions for accountability and monitoring for facilities not covered by the legislation, and the City's keen interest in participating in the review of associated regulations for the legislation. Council's resolution was sent to Katherine Whittred, Minister of State for Intermediate, Long Term and Home Care.
- **January 2003:** The Province renames the subsidized Supportive Housing program, *Independent Living BC*, in recognition of the goal of the program to provide both supportive housing and assisted living for those who require a higher level of care.

---

<sup>2</sup>"Prescribed services" may include: regular assistance with daily activities such as eating, mobility, dressing, grooming, bathing and personal hygiene, monitoring of diets, administering and monitoring the taking of medication, central storing or distribution of medications, management of residents' cash and valuables, structured behaviour management and intervention, psychosocial rehabilitative therapy or intensive physical rehabilitative therapy.

Implementation of this program is underway, and involves creating partnerships with Health Authorities, which provide the health-related services.

- **November 2003:** The Ministry of Health Services releases the results of its consultation process related to the registration process, the complaint resolution process and health and safety standards for assisted living facilities. Staff, in collaboration with staff from other municipalities, are currently reviewing the consultation documents and will provide comments to the Committee in the near future. Supportive housing facilities are not subject to the registration process.
- **Winter 2003:** The Ministry of Community, Aboriginal and Women's Services' consultation process on tenure and service protection issues is underway. The consultation pertains to all housing options that include a package of services (supportive housing and assisted living). Results from this consultation are not yet available.

### **3.0 THE ROLE OF THE CITY IN SUPPORTIVE HOUSING AND ASSISTED LIVING**

As indicated in the above chronology, the City has undertaken a number of activities in anticipation of future interest in development of supportive housing for seniors. Key actions, involve the creation of Zoning Bylaw text amendments to facilitate supportive housing and participation in consultation processes regarding proposed changes to Provincial programs and legislation.

All supportive housing developments (which includes assisted living) must undergo a Comprehensive Development rezoning and enter into a Housing Agreement which specifies the type of services that the operator intends to provide. It is recognized, however, that the City has limited ability and resources to monitor the provision and quality of the services, and that there is a need for consumer protection for residents in supportive housing and assisted living projects where housing and services are provided as a package.

### **4.0 OVERVIEW OF THE DOCUMENT "REGULATION OF INDEPENDENT LIVING"**

The Seniors Health and Housing Coalition is a group of seniors and housing advocates, researchers, and seniors, housing and health care organizations. The group was formed in response to policy and program changes that affect the provision and delivery of residential health care and affordable seniors housing.

The purpose of the Coalition's document is to set out a consumer protection framework for residents in "independent living" which encompasses both supportive housing and assisted living. In essence, the consumer protection framework is meant to address housing types for seniors in which services are included as a required component of occupancy.

The Coalition is concerned that the consultation on tenure and service protection issues for supportive housing and assisted living, which is being conducted by the Ministry of Community, Aboriginal and Women's Services (MCAWS) is being separated from the consultation regarding resident health and safety issues, for assisted living only, being conducted by the Ministry of Health Services (MHS). The Coalition contends that issues of consumer protection and tenure must be considered in concert with health and safety issues, and that failure to do so would lead to fragmentation, which could be detrimental to the well being of the frail elderly in supportive housing or assisted living complexes.

#### 4.1 *Proposed Consumer Protection Approach Developed by the Seniors Health and Housing Coalition*

The consumer protection approach proposed in the Coalition's document builds on the Residential Tenancy Act (RTA) and would be a parallel act to cover both assisted living and supportive housing. A summary of the Coalition's proposals is as follows:

- a) Full Disclosure of Information to Prospective Residents
  - All projects must provide full disclosure of relevant information, including the screening process used to select residents, eligibility criteria, full break down of costs of services, exiting processes, staffing levels.
- b) Rights
  - Housing providers and governments should recognize that people in supportive housing and assisted living are entitled to retain their rights as adults and should not be expected to relinquish these rights to receive support or care. The rights include the resident's choice to live with a spouse and to take personal risks with respect to their living environments.
- c) House Rules/Policies
  - House policies and rules should be reasonable and for the benefit of residents. Full disclosure of house rules should be made before residents move in.
- d) Resident Participation
  - Providers should encourage and support resident participation and input into the building's policies that are developed, activities, amenities and other issues that affect the quality of life for people in the building.
- e) Cost Controls
  - Regulations should reflect that fact that many residents have a fixed income and are in need of security of tenure.

- f) Liability for Damage
  - The responsibility should be on the housing provider to ensure that the physical environment is suitable for the needs of residents, recognizing that the residents in supportive housing and assisted living are more likely to use devices (wheelchairs, walkers, scooters) that can cause faster wear and tear.
- g) Reasonable Accommodation
  - Local Health Authorities must be responsible to work with housing providers to ensure that the changing needs of the residents can be reasonably accommodated and that people needing additional assistance are not automatically evicted.
- h) Changing Health Needs of Tenants
  - The changing health needs of residents should be met by making adjustments to the types of services provided or the manner in which they are delivered. Residents should only be required to move for health reasons after appropriate plans, services and accommodations have been put in place and the family and resident have agreed.
- i) Ending the Tenancy Agreement for Non-Health Related Reasons
  - The termination of tenancy for reasons other than health should parallel closely the existing provisions of the RTA.
- j) Review/Arbitration of Decisions by Provider to Terminate the Agreement
  - Given the vulnerability to this resident group, arbitrators dealing with tenancy issues at the Residential Tenancy Branch should have specific expertise. The arbitrator should also have broader powers to review considerations relating to conditions of the tenancy agreement.

## 5.0 DISCUSSION

While staff has not attempted to analyze each of the foregoing proposals from a technical perspective, we believe that the thrust of the proposals is sound. We further believe that the proposals provide a useful contribution to the current deliberations on the regulation of supportive housing and assistive living for seniors.

Planning staff has been informed by representatives of MCAWS that the provincial government will be able to release the findings of their consultation process soon, and that implementation of the recommendations arising from the consultation process is not expected to occur until spring of 2004. For the information of the Committee, only stakeholders, such as facility operators, government program providers and Canada Mortgage and Housing Corporation (CMHC) were included in the consultation process.

The establishment of adequate tenure and consumer protection measures for residents in supportive housing and assisted living is a concern for local government, especially in the context of the expected increase in the number of such facilities in the foreseeable future. In the absence of a clear provincial regulatory framework, concerns regarding the tenancy rights and security of supportive housing and assisted living residents will potentially be brought to local government officials, who lack adequate tools, regulations or resources to deal with such concerns.

Local governments typically require that for-profit supportive housing and assisted living developments obtain a Business Licence. Local governments cannot, however, require that non-profit operators obtain a Business Licence. It is recognized that the Business Licence enforcement procedure, such as the ability to remove a licence, is not an appropriate mechanism to monitor and regulate tenure and consumer protection issues. At best, the power to revoke a business licence would only be appropriate in cases of bylaw violations or gross misconduct in relation to operation of the business.

## 6.0 CONCLUSION

In its report, "Regulation of Independent Living", the Seniors Health and Housing Coalition expresses its concern that consultation on tenure and service protection issues is being separated from consultation regarding resident health and safety issues. As such, the report lays out a framework for consumer protection for residents in "independent living" which encompasses both supportive housing (housing with hospitality services) and assisted living (housing with a higher level of hospitality and some "prescribed" care services).

The proposed framework builds on the Residential Tenancy Act (*RTA*) and would be parallel legislation to cover both supportive housing and assisted living.

It is important to note that the development of the framework for the newer models of seniors housing has been evolving rapidly, often creating confusion amongst stakeholders, housing providers and others. The concurrent consultation processes of the MHS and MCAWS, for example, are adding to the confusion. The proposals of the Coalition are considered a constructive effort to provide a link between the two processes and reduce the confusion.

Council, in its previous correspondence with the Province, indicated a strong interest in participating in the forthcoming review of associated regulations for the *CCALA*, recognizing that the details of the implementation of the legislation will be included in the regulations. Further, Council also expressed its concern for the lack of provisions for accountability and monitoring for facilities, such as supportive housing, not covered by the legislation.



A draft resolution on the regulation of independent living is presented in *Attachment 1*. It is proposed that a copy of this report be forwarded to the Social Issues Committee, seeking that Committee's comments prior to submitting the report and resolution to Council.



J.S. Belhouse, Director  
PLANNING AND BUILDING

BG/sla/jc  
Attachment

cc: City Manager  
City Solicitor  
Chief Licence Inspector

P:\Bvireports-housing committee\Regulation of Independent Living2.wpd

RESOLUTION

REGULATION OF INDEPENDENT LIVING

*WHEREAS* the City of Burnaby is deeply concerned with the well being of its seniors population and has introduced bylaw and policy changes to facilitate development of supportive housing in the community;

*AND WHEREAS* the City has previously expressed concerns to the Province regarding the proposed *Community Care and Assisted Living Act* - specifically with respect to the legislation's narrowness of application, lack of provisions for accountability, and monitoring for facilities, such as supportive housing for seniors, that is not covered under the legislation;

*AND WHEREAS* the consultation on tenure and service protection issues affecting both supportive housing and assisted living is being conducted by the Ministry of Community, Aboriginal, and Women's Services, while the consultation on resident health and safety issues affecting assisted living only is being conducted by the Ministry of Health;

*THEREFORE BE IT RESOLVED* that the Provincial Government establish a comprehensive legislative and regulatory framework to address care, safety and security of tenure issues for residents of both supportive housing and assisted living facilities;

*AND BE IT FURTHER RESOLVED* that the Province consult widely with local governments, seniors organizations, housing and health providers, and the general public in the development of the framework.