BRIEFING DOCUMENT

TOPIC: YWCA COMMUNITY BOND FINANCING

IN BRIEF

At its recent meeting, the Finance Committee of the YWCA Board of Directors recommended moving forward with the development of a community bond to support financing for the YWCA's Elm Centre Project. This briefing document provides responses to questions posed by the Finance Committee, proposed term sheet parameters and an outline of proposed next steps for the project.

FINANCE COMMITTEE QUESTIONS & RESPONSES

1. Would the bond include a prepayment option?

If the YWCA would like to have the ability to prepay the principal on the bonds, this feature could be included. However, it would be advisable to discuss this and the other key terms of the bonds with one or more lead investors to determine whether this feature would affect the interest rate investors want on the bonds or whether the investors would expect the payment by the YWCA of a prepayment penalty. SVX recommends that, if desired, the YWCA include a prepayment option after a set time period (~3 years) without any associated fee or penalty.

2. What would be used as collateral?

It is important to note that the bond is currently being developed as an unsecured loan so there would be no collateral. We understand that the YWCA Toronto would be the issuer of the bonds and that therefore there would be no guarantees either.

3. Could we get a credit rating – we thought this would be cost prohibitive?

It would be cost prohibitive to obtain a rating from an agency like Moody's or S&P. In our experience, our likely investor base (Canadian foundations) have made many deals in this investment range ($50k-$5M) without a credit rating. However, we are investigating lower cost options from local credit agencies and financial institutions.

4. Would CMHC guarantee it?

We have made no investigation regarding a CMHC guarantee. We doubt that this would be possible without giving mortgage security and as noted about in #2, this bond is contemplated to be unsecured.

5. Would there be any tax implications or government funding implications to consider?

The YWCA should consult with its tax advisors with respect to the tax implications of the bond offering. The YWCA should also consult with its key government funders to determine if there are any implications of the bond funding, for example if the YWCA has agreed not to incur a certain amount or a certain type of debt. We have examined implications related to Infrastructure Ontario, HST, and the Income Tax Act.

Infrastructure Ontario

With respect to the Infrastructure Ontario funding, the loan documents will need to be reviewed and consent may need to be obtained from Infrastructure Ontario. It is possible that the bond will need to be subordinated to the IO loan. Catherine Barr from IO has advised the SVX team that each loan is crafted to the particular participant. Therefore, we would have to review YWCA's loan agreement in order to provide a definitive answer to your question. In general, IO would like each subsequent debt incurred by the YWCA to be subordinated to its loan. However, IO does not usually impose any prohibitions on arranging additional funding through other debt instruments. It would largely depend on the financial viability of the project at the time of approval of the IO loan. Post-approval, IO still requires "project monitoring reports" in order to assess the project's development. Major changes in an organization's financial situation may trigger some obligations under the loan contract. But again, these potential obligations would be subject to YWCA's particular agreement. In general, IO indicated that its loans do not tend to constrain the financial management of its program participants.

The YWCA should also review any other bank loan and other material contracts to determine if any consents are required or there are other restrictions. We would be pleased to assist with this review.

HST Implications

A promissory note is considered a "financial instrument" and, therefore, exempted from any HST requirements. The issuer would have no HST-related reporting obligations.

Implications related to income taxes are outlined in the appendix.

6. Charitable tax status implications?

We had a conversation with Mark Blumberg (Blumberg, Segal LLP) regarding charitable tax implications for the community bond. Based on that conversation and our research, there should be no negative charitable tax implications relating to the issuance of the bond.

In general, there are a number of investigations that should be made:

- **Corporate Objects/By-Laws:** Is the issuance of the security within the parameters of YWCA's By-Laws?
- **Private benefit:** Is there an undue private benefit being made through the security? Given that the bond will be providing a modest to market rate return, and no charitable tax advantage is being provided to investors, there is no undue private benefit being derived through the bond.

In fact, many charities lend money to other charities. The Canada Revenue Agency is actually holding a consultation over the coming months to revise and re-draft its Community Economic Development strategy so that it can provide clearer ground rules for these kinds of activities.

7. What is the legal work involved to protect investors?

The YWCA must conduct the offering in accordance with applicable securities laws, which provide certain investor protections. One key requirement of securities laws is that any offering of securities like the bonds must be made either by way of a prospectus or an exemption from the prospectus requirements. We understand that the offering will be made in accordance with the accredited investor exemption, which means that each of the investors should have the sophistication to make their own examination of the offering with the help of their legal and financial advisors (if desired). Each investor will be advised to seek independent legal advice.

The securities laws provide investors in certain situations a right to rescind the purchase of the bonds and/or seek damages against the YWCA where there are misrepresentations. It is therefore important that all information provided to the investors be carefully reviewed by the YWCA and legal counsel to avoid making any material misstatements or omissions. The YWCA will also be making certain customary representations to the investors in the note purchase agreement about its due incorporation, authority to issue the bonds, etc.

8. How much would the broker charge to handle each investment?
We understand that the offering will be exempt from the dealer registration requirement under the accredited investor exemption. Therefore, there is no need to have a broker and therefore no brokerage fees. The SVX will not be a broker for the transaction; it acts as a matchmaker between investors and ventures. The issuance of the bonds and ongoing administration of the financing would be paid for by YWCA Toronto, including the processing of interest payments to investors.

9. Who would administer the investments and serve the investors?
The YWCA will need to identify someone internally who can administer the loans or outsource this work to an agency to handle such things as investor communication and interest payments. The more investors there are, the bigger this job will become. The SVX would support investor outreach and engagement prior to closing and will assist with the logistics involved in closing as well as support post-transaction engagement with investors via standard reporting materials on finances and impact.

10. Would this have an impact on our liability insurance?
The bond should not have any impact on the property or Directors and Officers (D&O) liability insurance for YWCA Toronto. However, it is recommended that YWCA representatives contact its insurance provider to determine whether the community bond financing would have any insurance implications.

11. Can we get a blueprint of next steps going forward?
See below.

12. Is there a limited liability amount in our legal agreement with Skylaw and if so, for how much?
As is customary for legal engagements, there is no limitation of liability in the agreement with SkyLaw. A draft engagement letter setting out the terms of the engagement is attached.

13. Would there be any covenants on the bond?
Yes, there will be basic customary covenants contained in the note purchase agreement, including:

- Repayment of principal to investors at maturity (subject to prepayment option);
- Payment of interest at pre-determined intervals to investors (ie. interest paid on a semi-annual basis);
- Disclosure of audited financial statements to investors; and
- Reasonable efforts to maintain SVX listing.

OTHER QUESTIONS & RESPONSES

1. What type of documentation will be issued?

The community bond financing will be a loan by the investors to the YWCA. The YWCA may wish to prepare an offering memorandum to be presented to potential investors. The loan will be evidenced by a promissory note issued to each investor, pursuant to a "note purchase agreement" signed by the YWCA and all investors.

2. Are there any important considerations for investor management?

Consideration should be given to providing in the note purchase agreement for the bond/note holders to appoint a single representative to act as spokesperson in the event of disputes with the YWCA and to facilitate collective investor protection. It will be important to avoid any one investor calling his loan unilaterally. Accordingly, we recommend that investors be allowed to take certain actions (especially calling the loan) only with the approval of a majority or super majority (66% or 2/3rds), in terms of dollars loaned, of the note holders.

3. What materials are required by the SVX and Skylaw?

The SVX will require relevant materials as per the Listings Requirements (previously distributed). SkyLaw will assist the YWCA in performing customary due diligence for the offering and typically would review the following materials:

- Existing material agreements to which the YWCA is a party (including the agreement with IO);
- Existing banking documentation;
- Letters patent and by-laws;
- Board resolutions; and
- Confirmation of charitable status from Canada Revenue Agency.

We would also recommend having a meeting between the YWCA, Kevin and Wendy to discuss the steps involved in the process and the process for completing this diligence and the offering memorandum.

4. Can the promissory note be transferred or sold?

Yes, with the consent of the YWCA and confirmation that it is permitted under applicable securities laws and provided the transferee agrees in writing to be bound by the note purchase agreement to the same extent as the original investor.

5. What are the mechanisms for calling the loan?

The note purchase agreement would contain the procedures for the YWCA to prepay the loan including notice requirements and the manner of payment. We do not contemplate that the investors would have a right to call the loan (ie, demand early payment of the principal)

6. Who are prospective investors in the community bond?

We believe that foundations and high net worth individuals are the most likely investors in YWCA's community bond based on our conversations and available research. Many foundations lend capital to charitable organizations.[1] A recent Canadian study of nine

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[1] Strandberg, Coro. The State of Community/Mission Investment of Canadian Foundations: A Report of Community Foundations of Canada and Philanthropic Foundations Canada. April 2010.

major foundations in Canada discovered that there were $32 million community/mission investing assets in their endowments, representing four per cent of their total assets. These foundations reported a total of 50 current community/mission-related investments, with variable interest rates. The primary form of investments (74 per cent) was through debt in the form of loans, lines of credit or mortgages at or below market rate. Equity investments accounted for 20 per cent of product types. Other investments (6 per cent) included a fixed income deposit, loan guarantee, and interest rate offset. The purpose of the investments included non-profit infrastructure (53 per cent in affordable housing, community facilities, real estate, renovations and property development), working capital (26 per cent in capacity building, franchising, general purpose, fundraising, international development), and pooled loan funds or venture capital (21 per cent).

KEY QUESTIONS FOR YWCA

Key questions for YWCA include:

1. What are the use of proceeds of the bond offering?
2. What internal and board approvals are required?
3. Does Infrastructure Ontario (IO) have a mortgage on the property and are there any restrictions on issuing the bonds?
4. Who will be handling administration of the community bond financing within YWCA?

PROPOSED TERM SHEET PARAMETERS

Issuer	YWCA Toronto
Issue Amount	$1 million
Instrument/Security	Promissory Note (Referred to as a community bond)
Subordination	[To be determined.]
Security or Guarantee	None
Term & Maturity	Series A: 25 years (January 1, 2037) for a total of $500,000 Series B: 35 years (January 1, 2047) for a total of $500,000
Use of Proceeds	The proceeds would be used to support financing for YWCA Toronto’s Elm Centre project.
Minimum Investment	$50,000
Interest Rate	Series A: 3.0%; Series B: 3.5%.
Interest Payment Frequency	Semi-annual
Prepayment	The community bond may be prepaid in whole or in

	part (provided that the minimum prepayment shall be an amount equal to 25% of the outstanding principal balance) [three] years after the bond is issued, without penalty or premium, by paying the investor such principal amount of the bond that is to be prepaid, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment.
Information and Reporting Obligations	YWCA will provide to each investor a copy of its annual audited statements and annual report.

NEXT STEPS

MILESTONE	DATE
Response Submission for YWCA Finance Committee	June 13th, 2011
YWCA Finance Committee Meeting	June 20th, 2011
Deadline for Decision to Move Forward with Community Bond Financing	July 8th, 2011
Preparation of Offering Memorandum (if desired) and completion of internal approval process and due diligence	July/August 2011
Preparation of note purchase agreement and related documents	July/August 2011
Preparation and review of term sheet with lead investors	July/August 2011
Listing on SVX	September 12th, 2011
Investor Engagement and Outreach for Fundraising	September –November, 2011
Closing	December 1st, 2011

APPENDIX

Income Tax Act Implications

The federal Income Tax Act exempts registered charities[1] and non-profit organizations,[2] and the Ontario Income Tax Act incorporates these federal exemptions.[3]

Unlike registered charities, a non-for-profit organization does not have to comply with the various reporting requirements and restrictions on the use of funds provided under the Act. However, it does not receive certain benefits, such as the ability to issue receipts for income tax purposes to donors, as well as, exemptions from other taxations.[4]

In order to be considered a "charitable organization" for the purposes of registration under the Income Tax Act:[5] the purposes of the organization must be charitable, and must define the scope of the activities engaged in by the organization; and all of the organization's resources must be devoted to these activities unless the organization falls within certain exemptions regarding political activities. A “charitable foundation” provides funds to charitable organizations or other “qualified donees” so that those organizations may carry out their charitable activities.

Generally, an organization that devotes substantially all of its resources, rather than all, to charitable activities will run afoul of the general requirement of exclusive charitability found in the definitions of "charitable foundation" and "charitable organization" in the Income Tax Act. However, the pursuit of a purpose which would be non-charitable in itself may not disqualify an organization from being considered charitable if it is pursued only as a means of fulfilment of another, charitable, purpose and not as an end in itself.[6]

The Income Tax Act charitable organization provisions pose a number of problems as the Act does not define what is or is not a charitable activity. Another problem is the Act's focus on "charitable activities" rather than purposes. The difficulty is that the character of an activity is at best ambiguous. It is really the purpose in furtherance of which an activity is carried out, and not the character of the activity itself, that determines whether or not it is of a charitable nature. Accordingly, the inquiry must focus not only on the activities of an organization but also on its purposes. Unfortunately, this distinction has often been blurred by judicial opinions, which have used the terms “purposes”, and "activities" almost interchangeably.[7]

A charitable organization is permitted to carry on a related business, including revenue-generating activities, without losing its charitable status.[8] "Related business" is defined to include a business that is unrelated to the objects of the charity if substantially all of the people employed by the charity in the carrying on of that business are not remunerated for such employment.[9] Otherwise, it is not sufficient that all of the profits of the business are dedicated to the foundation’s charitable objectives.[10]

We were unable to identify any case law or other jurisprudential source that dealt with the issuance of a debt instrument as an “activity.” However, according to Donald Bourgeois, “A charitable organization may borrow from either a financial institution or from a donor,”[11] thus suggesting that such activity would not pose a risk to an organization’s charitable status. Bourgeois notes, nevertheless, that the common law generally prohibits many kinds of financial transactions between an organization and its directors/trustees, including loans, on the basis of their fiduciary obligation to the organization.[12]

The Income Tax Act does limit the ability of public and private foundations in incurring debts, “other than debts for current operating expenses, debts incurred in connection with the purchase and sale of investments and debts incurred in the course of administering charitable activities.”[13] This ground for revocation of charitable status does not extend to charitable organizations.

Please note that the research in the appendix on the Income Tax Act was performed by the SVX, and it does not constitute formal legal advice.

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[1] Income Tax Act, R.S.C. 1985, c. 1 (5th Supp), s. 149(1)(f)
[2] Income Tax Act, R.S.C. 1985, c. 1 (5th Supp), s. 149(1)(l)
[3] Income Tax Act, R.S.O. 1990, c. I.2.
[4] Donald J Bourgeois, *The Law of Charitable And Not-For-Profit Organizations*, Third Edition (2002: Butterworths Canada), page 315
[5] Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.), s. 149.1(1) "charitable organization".
[6] Canadian Encyclopedic Digest, Charities (Ontario), Chapter XVIII (Exemptions from Tax) (Thomson Reuters Canada), para. 92.2
[7] Canadian Encyclopedic Digest, Charities (Ontario), Chapter XVIII (Exemptions from Tax) (Thomson Reuters Canada), para. 92.3
[8] Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.), s. 149.1(1) "charitable organization", (2)(a)
[9] Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.), s. 149.1(1) "related business"
[10] Earth Fund/Fond pour la Terre v. Minister of National Revenue, 2002 FCA 498, 2003 D.T.C. 5016 (Eng.)
[11] Donald J Bourgeois, *The Law of Charitable And Not-For-Profit Organizations*, Third Edition (2002: Butterworths Canada), page 466
[12] Ibid, page 332
[13] Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.), s. 149.1(3)(d), (4)(d)