Issues and Approaches in dealing with expiry of operating agreements
Summary from HSC Regeneration Forum – February 9, 2014

Table 1
Program Considerations

	Section 26/27 Non-Profit (similar to Section 61 Co-op)	Section 95 Private Non-Profit	Section 95 Non-Profit Co-op	Section 95 Municipal Non-Profit	Section 95 Urban Native Non-Profit (Full Assistance)	Public Housing	Housing Services Act, Part VII (Provincial Reform)
1. INCLUDED IN SHA FEDERAL FUNDING CALCULATION	No (there was no ongoing subsidy)	Yes	No (these have subsidy but are not subject to the HSA and are managed by agreement between CMHC and the Agency for Co-op Housing). They are outside the jurisdiction of the service manager	Yes	Yes	Yes	Only the former federal/provincial projects are included (no funding attached to the provincial unilateral programs: P3000, P3600, P10,000, JobsOntario Homes *complete list)
2. RGI UNITS INCLUDED IN SERVICE LEVEL STANDARD	No (although if provider had Rent Supplement units, those can be included)	No (although if provider had Rent Supplement units, those can be included)	No	Yes	No	Yes	Yes
3. FINANCED THROUGH:	50-year closed mortgages held by CMHC	35-year mortgages with regular renewal terms which vary by project. Some procured through the Ontario Financing Authority administered social housing mortgage	35-year mortgages with regular renewal terms which vary by project. Most have CMHC direct mortgages	35-year mortgages with regular renewal terms which vary by project. Some procured through the Ontario Financing Authority administered social	35-year mortgages with regular renewal terms which vary by project. Some procured through the Ontario Financing Authority administered social housing mortgage pool, some have CMHC	Fed/Prov debentures, debentures are serviced as a source deduction from the service manager's federal funding transfer. There are some projects which	Commercial loans procured through the Ontario Financing Authority administered social housing mortgage pool, a small group of former federal/provincial projects may still have

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		pool, some have CMHC direct mortgages		housing mortgage pool, some have CMHC direct mortgages	direct mortgages	have 35 or 50-year mortgages. Must confirm through title verification process	CMHC direct mortgages
4. PROGRAM FUNDING:	Provider received no operating subsidy. In exchange for a lower interest rate at time of commitment, the housing provider offered lower rents to households whose annual income fell below a certain amount.	2% write-down formula as identified in the Operating Agreement	2% write-down formula as identified in the Operating Agreement	2% write-down formula as identified in the Operating Agreement (although some SM's replaced this funding formula at download if MNP was amalgamated with the LHC/public housing)	2% write-down formula as identified in the Operating Agreement although most agreements were "Full Assistance" and not limited to the 2% formula. The provider receives the difference between revenues and expenses as its subsidy.	Operating subsidy to bridge gap between revenues and expenses (including capital repairs)	Subsidy calculated per Reg. 369/11
5. SERVICE MANAGER PROGRAM FUNDING OBLIGATIONS CONTINUE FOLLOWING	None	No	No	No (unless overridden by an SM agreement after download).	No	Yes	Yes (implications of Reg. 369/11 calculation following maturity of first mortgage TBD)

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DISCHARGE OF ORIGINAL FINANCING:							
6. CAPITAL REPAIR FUNDING STRATEGY:	Program design did not include reserve funding, provider responsible for funding major repairs itself	Specified in Operating Agreement	Specified in Operating Agreement	Specified in Operating Agreement	Specified in Operating Agreement	Program design did not include reserve funding, major repairs treated as an annual operating expense (HSA permits establishment of capital reserves)	Each housing provider has a benchmarked annual capital reserve contribution, indexed annually, additional contributions are subject to service manager approval

Table 2
Policy & Program Considerations and Opportunities

QUESTIONS	Federal Programs – Projects with Operating Agreements	HSA - Public Housing	HSA - Part VII
WHAT SPECIFIC POLICY OR PROGRAM ISSUES OR QUESTIONS ARISE?	❖ Housing provider relationship with tenants may change. Housing provider may become more like a private landlord. May get negative reaction from tenants post EOA. Very important to start talking to tenants early, they should be informed how things work and how they will be affected. ❖ Loss of affordable housing stock. Stock will start disappearing from service manager control after mortgages expire. Even less stock will be available to accommodate families on the service manager waiting list. Will providers with terminated agreements want to continue with their mandate or will they choose to raise rents? ❖ It is being observed by some service managers that housing providers with a good level of capital reserves are choosing to leave and raise their rents to market rents. ❖ Some housing providers want to provide internal subsidies but do not want to pick tenants from the central waiting list. They wish to be able to pick they own tenants as it allows them to ensure viable tenancies and solid revenue flow. There is a business side to it as well – for projects that take on new financing, lenders may prefer that RGI tenants were not there (or alternatively, they would prefer that the housing provider can demonstrate ongoing cash	❖ Aging stock, some obsolete stock, some not accessible ❖ The buildings need reinvestment, and there are no reserves ❖ There is a perpetual obligation of SMs to maintain public housing ❖ What is the definition of RGI? (also, be clearer about utilities, appliances, difference across projects) ❖ What will count as SLS? e.g., RGI or something else… ❖ Comprehensive strategy needed for capital repairs ❖ Funding needed for capital repairs ❖ Strategy to get projects successfully to the end of the life of the building – one for asset management and one for finances - end of the mortgage/debenture payments ❖ End of federal funding for social housing	❖ Loss of federal subsidy ❖ Capital deficiencies; capital deficits; ❖ Sound governance cannot always compensate for state of the asset ❖ Viability not assured even when mortgages paid out – but we are working with that assumption ❖ Subsidy formula may not make any sense without 1st mortgage – and it is still viable? Enforcement? What if the provider refinances – can you use the new mortgage in the funding formula? ❖ Some projects may not be able to make it to the end of their first mortgage without additional capital funding ❖ Varying abilities to use surpluses in social housing (Council decisions) ❖ Not clear how to address providers that have accumulated deficits ❖ What continues to apply post EOA – e.g., Board authority regarding targeting plans; level of RGI units in a building; participating in the coordinated wait list, etc.

QUESTIONS	Federal Programs – Projects with Operating Agreements	HSA - Public Housing	HSA - Part VII
	flow). ❖ Loss of HST rebate - Housing providers now have to think how to move expired project assets into new corporate structures to continue getting their HST rebates and their municipal designation. ❖ Mission and mandate of housing organizations play a role here, the mission of the organization will impact what will happen post EOA.		❖ Where should SLS be fulfilled? ❖ GST implications (CRA issue) ❖ What is the definition of RGI?
WHAT ISSUES OR QUESTIONS ARISE WHEN CONSIDERING RE-FINANCING OR REDEVELOPING?	❖ As housing providers gain 100% control over the asset, there should be no issues with refinancing or redeveloping except to the extent that they must follow the rules established by lenders or the planning departments of municipalities	❖ Public housing obligations do not follow the dollars once the units are sold ❖ Refinancing: sector-based, cost-effective options ❖ Province retained environmental liability. The process for navigating this is not clear or widely understood.	❖ With no mortgage, no obligation to provide subsidy, and federal subsidy lost ❖ With a new mortgage, the SM has a choice whether or not to provide subsidies to the provider for the mortgage ❖ Contingent liabilities ❖ Can providers generate more revenue, through a change in RGI mix; more non-rental revenue; redevelopment options

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QUESTIONS	**Federal Programs – Projects with Operating Agreements**	**HSA - Public Housing**	**HSA - Part VII**
WHAT OPPORTUNITIES ARE THERE?	❖ Some properties have significant parcels of land, some of it is valuable ❖ SM can do some matchmaking, explore where housing provider assets can be transferred to the housing providers that want to continue provide social housing. Some housing providers who no longer want to operate as housing providers want to transfer the assets to the SMs or to like-minded housing providers. ❖ SM can provide information to housing providers and offer them some options for moving forward. ❖ To help save the stock SMs can provide tax incentives or property tax rebates to housing providers, subject to them meeting certain conditions. Carrot approach/tax incentives do not necessarily have to come from municipal government. Incentives can come from federal or provincial government. ❖ Providing development incentives for redevelopment projects - especially for non-profits that want to redevelop. SMs to develop criteria for providing such incentives for projects. ❖ Not having to use the centralized waiting list can be one of the incentives to keep housing providers in the system, as long as housing providers keep serving low income families.	❖ Some properties have significant parcels of land, some of it is valuable ❖ Scattered units – could be sold and new buildings built elsewhere; SLS replacement elsewhere ❖ Clarification of the ability to disentangle social housing land from RGI subsidies (eg. Regent Park units moved "offsite" into new buildings over the downtown east side of Toronto).	❖ Want flexibility to manage providers on a portfolio-wide basis ❖ When mortgage is paid out, allow a new mortgage to replace the first in formula ❖ SMs have limits to their advances on subsidies; give grants to providers – repayable or non-repayable (e.g., emergency capital repairs) ❖ Ensure providers have the BCAs and plans up-to-date ❖ Coordinate bulk purchasing for providers – may produce operational savings and/or ensure better quality of repair work being completed ❖ Technical expertise; strategic asset management software; best use information from BCAs to make decisions about EOAs and financial forecasting ❖ Redeploy surpluses into capital repair projects; based on BCA data ❖ Mortgage pool has been good for the sector ❖ Need something province-wide to access funding to extend the life of the provincial social housing portfolio successfully.

Table 3
Considerations and Opportunities from a Service Manager and Housing Provider Perspective

QUESTIONS	**Considerations/Opportunities**
WHAT ARE THE CONSIDERATIONS FROM A SERVICE MANAGER PERSPECTIVE?	❖ Advantages of being part of a bigger municipal/regional system, with respect to infrastructure, asset management planning cycles ❖ Consider housing as infrastructure – more attention now to municipally-owned social housing as an asset ❖ Facility Condition Index – what investments are required to make what improvements, so when to divest/sell ❖ Building mandates; building forms; housing/household needs and demands ❖ Access to supports ❖ Historic special needs arrangements that may be locked in regulation – difficult to sustain over the long-term ❖ Groups that are not using their full RGI target – move forward on a joint agreement that is acceptable to both SM and providers ❖ Greater flexibility to asset manage needs on a portfolio-basis ❖ Managing the social housing wait list ❖ Human services perspective ○ Senior tenants aging-in-place; some incomes have gone up to market but tenants don't want to leave; also later LTC admissions – more supports needed for some tenants; working with LHINs ❖ Shifting tenant demographics ❖ Geography matters vis-à-vis wait times ❖ How else can housing need be addressed since some wait times are very long ❖ Significant staffing resources going into managing the wait list; sometimes few households placed ❖ Proposed HSA changes: e.g., allow market rent in public housing; get rid of 100% RGI projects; flexibility to move between MNP and public housing, particularly with an amalgamated corporation ❖ What kind of flexibility will be gained by redeveloping? ❖ How to make the best use of the resources available? ❖ How to make the system sustainable? ❖ Historic program barriers may no longer be value-added, but can impede progress ❖ When redeveloping and there are not high land values, how to ensure viability when developing a mixed income community ❖ How to move the conversation forward on SLS, keeping in mind SHA program requirements ❖ Consolidation opportunities - phase 2

QUESTIONS	Considerations/Opportunities
	❖ Negotiations with the Ministry on SHA programs ❖ Greater clarity on the requirements and program obligations of SHA re: consents and redevelopment
WHAT OPPORTUNITIES ARE THERE (SM)?	❖ SMs could link to corporate asset management – good to leverage the public housing value – potential investment opportunities ❖ SM's could develop a capital strategy which includes several features: o Flow of F/P $'s for repairs if and when it becomes available o Preservation of investment o Mitigation strategies to make best use of $'s o Bulk purchasing, phasing work to manage bottom-line o Need to invest in technical supports ❖ Put your affordable housing portfolio as a CIP (Community Improvement Plan)– can start offering incentives, e.g., DC relief, etc. to develop/redevelop housing ❖ Link housing to transit expansion; e.g., key corridors; Metrolinx connection ❖ *Green Energy Act* – municipally-owned social housing is not included in the reporting, but should/could be in order to attract energy investment/efficiency improvements ❖ Redevelopment best practices ❖ Use rent supplement to support redevelopment ❖ Change mandates on buildings to support local housing needs (eg if the demand on the waiting list is for seniors housing, take semi-vacant housing and change the mandate to accommodate the waiting list demand). ❖ SLS: some projects today are not viable because of a high RGI mix; where doing redevelopment, looking at changing the RGI/market targets in order to make them more viable; also SM pays less subsidy and can use the RGI assistance elsewhere ❖ Flexibility on definition of RGI (for example, some RGI tenants receive less subsidy per month than those in receipt of a housing allowance but the housing allowance subsidies cannot be counted towards a service manager's service level standard). ❖ Needs of communities have changed – needs have grown since SLS have been set in the 1990s ❖ Moving forward: flexibility key (e.g., changing mandates; how to fulfill SLS; how to be innovative) ❖ Rent scales issues (eg. The difference between the shelter component of social assistance for households living in the private market vs. those in social housing).
WHAT ARE THE CONSIDERATIONS FROM A HOUSING PROVIDER	❖ Housing providers should be able to manage on a portfolio basis, post expiry. ❖ HST issue, municipal status and the qualifying non-profit status. ❖ Where in HSA it says that housing providers have to continue to provide provincial reformed projects? Some of that information may be in a transfer letter that

QUESTIONS	Considerations/Opportunities
PERSPECTIVE?	every nonprofit had to sign at devolution. ❖ In case of federal projects, housing providers can do what they want going forward after the CMHC agreements expire. ❖ RTA: rent increase provisions. After mortgages expire, does the whole RTA begin to apply? The answer is YES but who communicates that to the housing provider? What happens at the Tribunal in these cases? ❖ Post-expiry a housing provider must follow GAAP principles – which do not have depreciation exemptions as opposed to old rules for replacement reserves contained in agreements. Undervaluing assets may have impact to financial status of the corporation. ❖ Changing the way rents get subsidized. Providing homemade subsidy programs (instead of RGI). 80 percent of AMR could be another option. Creating municipal rent supplement programs. ❖ New AHP developments are adding additional units into the system. ❖ Capital reserves: surpluses are being shuffled around. ❖ Even without the mortgages, there are some projects that are in trouble with reserves depleted. ❖ One section 95 project with a mortgage was in trouble. SM converted the project to provincial reformed with a new agreement because SM wanted the project to continue operating and continuing housing low income tenants. Long term rent supplement agreement was signed between the SM and the housing provider ❖ Housing provider/SM relationship. What changes after EOA? Presentation of finances to the SM may change. Changes audited financial statements of the housing provider as well. Some audits do break things down by program/portfolio. ❖ If there are old rent supplement program as part of expired s27 and s95 projects – what changes? Is it just rent supplement relationship that is retained? Housing providers do not seem to know. The answer is YES but the communication from service manager to housing provider may not be clear. ❖ Some Housing providers who could have got SHIRP funding, choose not to get the funds because they did not want to sign a 10 year affordability agreement. ❖ After EOA, there is no "mommy" to declare a project a PID and step in.
WHAT OPPORTUNITIES ARE THERE (HP)?	❖ Dissolving and transferring assets - not profits with non-viable operations can get in touch with another nonprofit with similar values and mission and handing their assets over (as long as this new nonprofit can handle operating additional assets). ❖ Focus on <u>Business</u>- housing providers have to become entrepreneurial to be sustainable. Have to consider the business aspects. What is the best way to manage these assets, since the government's rules are no longer there to be followed? ❖ Social return on Investment - Providing housing services can save a lot of system wide costs such as health, crime-related costs, corrections etc. ❖ Amalgamation opportunities