



City of  
**Peterborough**

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**To: Members of the Joint Services Steering Committee**

**From: Malcolm Hunt, Director of Planning and Development Services**

**Meeting Date: February 11, 2016**

**Subject: Report PLHDJSSC16-001  
Kinsmen Garden Court – Planning for the future**

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## **Purpose**

A report to recommend that property tax incentives continue to be provided to Peterborough Kinsman Club Enterprises Limited (Kinsman) for Kinsmen Garden Court, 831 Dutton Road, Peterborough after this provider's Social Housing Operating Agreement expires on August 1, 2017.

## **Recommendations**

That Joint Services Steering Committee endorse the recommendations outlined in Report PLHDJSSC16-001 dated February 11, 2016 of the Director of Planning and Development Services, as follows:

- a) That a By-law be adopted authorizing City Council to designate the property at 831 Dutton Road as a Municipal Housing Facility (MHF) in accordance with By-law Number 12-094;
- b) That Peterborough Kinsman Club Enterprises Limited (Kinsman) continue to be exempt from property tax for municipal and school purposes, but that the exemption take the form of an annual rebate from the City, in an amount equal to the annual property tax paid for 831 Dutton Road, for five years commencing August 2, 2017, with the possibility of a subsequent five year renewal;
- c) That staff be authorized to negotiate the specific terms and conditions of a legal agreement with Peterborough Kinsman Club Enterprises Limited (Kinsman) to ensure affordable rents for a minimum of five years, with the possibility of a subsequent five year renewal;

- d) That staff report back on the long-term potential for the property, and undertake research and consultations in manner consistent with the development of the Strategic Plan for Social Housing, to obtain information that may have a direct impact on the City's interest in the property and the City's interest in maintaining or enhancing the Service Level for social housing.
- e) That a By-law be passed to authorize the Mayor and Clerk to sign agreements and other documents related to 831 Dutton Road.

## **Budget and Financial Implications**

The City currently receives \$2,450 in annual property taxes from 831 Dutton Road or about 3% of what would normally be levied. This property tax reduction is in lieu of an annual subsidy. The City and the County have not cost-shared this social housing expense. The City's annual forfeited revenue (about \$75,000 in 2015) has been borne solely by the City. In extending the property tax reduction past 2017, the cost-sharing arrangement that applies to all other social housing expenses would begin to apply.

The budget impact for the City is an estimated increase in property tax revenue of \$80,000 (vs \$2,450). There will be an increase in annual social housing expense (i.e. a rebate for property taxes) of \$37,000 from the City and \$43,000 from the County, starting August 2, 2017.

## **Background**

Over fifty years ago, the City of Peterborough and Peterborough Kinsman Club Enterprises Limited (Kinsman) collaborated to create rental housing at 831 Dutton Road. Kinsman seeks assistance from the City, as Service Manager for housing, to continue its mandate, and to jointly plan for the future use of the property. There is potential to extend the relationship between the City, the County and Kinsman for the benefit of senior tenants living in a well-run, financially stable housing project.

The social housing project is called "Kinsmen Garden Court", and it is part of the portfolio that the Service Manager (i.e. City of Peterborough) assumed from the province in 2000. It consists of sixty-six (66) apartments, rented to low-income seniors from across the Peterborough region. The apartments are in a park-like setting consisting of 5.52 acres in the City's north end. Hundreds of tenants have lived there, and many volunteers from the Kinsmen Club have served on the Board of Directors and in other ways, since 1961. About eighty low-income seniors currently live in the bachelor and one bedroom apartments.

There are six agreements that enabled this project to be developed, between Canada Mortgage and Housing Corporation (CMHC) and Kinsman, and between the City and Kinsman. Four agreements have already expired, and the last two agreements will expire on August 1 2017.

The agreements provide for government support including: use of land, reduced mortgage charges, and reduced property taxes. There is no on-going operating subsidy. When these agreements expire, the ownership of the property at 831 Dutton Road reverts to the City, mortgage payments end, and property taxes become fully chargeable. It would not be financially viable for Kinsman to continue to operate the project under its current mandate to serve low-income seniors without government assistance.

The recommendations in this report provide the assurance that Kinsman needs to undertake the necessary legal work to be in a position to continue the project under its original model, for up to ten more years. The recommendations allow for time to consider the long-term interests in this specific property which has redevelopment potential. Also, the City is preparing a Strategic Plan for all social housing, as set out in the City's 10-year Housing and Homelessness Plan, which will be ready in 2016. A significant influencing factor in all this work will be any legislative or regulatory change announced by the province in the updated Long Term Affordable Housing Strategy, which is expected in early 2016.

### **A Strategic Plan for Social Housing End of Agreements**

Twenty social housing providers will have fully paid off mortgages, and will reach the end of their operating agreements, over the next decade. Already, two providers have expired agreements, and are continuing to provide affordable rental housing as non-profit housing corporations, without government funding. Kinsman is the third provider to reach this point, but the original arrangements regarding its property ownership, taxation and lack of operating subsidy are unique.

Report PLHDJSSC14-002 to Joint Services Steering Committee on June 12, 2014, and Report PLHD14-008 to Committee of the Whole on September 2, 2014 provided information about the broader issues facing the City, as Service Manager, in the provision of rent-geared-to-income units as agreements expire.

A Strategic Plan for Social Housing is one of the commitments in the 10 year Housing and Homelessness Plan. The Strategic Plan will help determine how to meet the City's Service Level for social housing after agreements expire, and establish a framework for the City's approach in this changing context. The agreements between the City and Kinsman concerning the land are unique but the City's approach with Kinsman will be informative for other social housing projects and for the development of the Strategic Plan. It is expected the Strategic Plan will be ready for City Council consideration in 2016.

### **Opportunities at Kinsmen Garden Court**

Kinsman presents the first opportunity for concrete discussions between the City and a social housing provider about continuing affordable rents, and the relationship between Kinsman and the City, after an operating agreement expires.

The Board of Directors of Peterborough Kinsman Club Enterprises Limited passed a motion wherein they agreed to enter into discussions with the City to consider various options of mutual benefit, on March 29, 2009. Since then, several meetings between Kinsman and City staff have ensued. The outcome of these meetings has been a good working relationship, focused on gathering information and exploring options for the future.

### **Findings of the Interdepartmental Committee**

An interdepartmental committee of City staff from Housing Division, Tax Office, and Legal Services has compiled and analysed key information about Kinsmen Garden Court including:

1. Kinsmen Garden Court Project Description (Appendix A)
2. Synopsis of Legal Agreements (Appendix B)
3. Financial Analysis and Building Condition (Appendix C)

As well, this interdepartmental committee has identified work that needs to be completed in advance of the August 1, 2017 end date, including:

1. Clearing historic property title issues for 831 Dutton Road.
2. Re-incorporating Kinsman Club Enterprises Ltd. Corporate as a non-profit corporation (i.e. corporation without share capital) under federal or provincial legislation.
3. Drafting a new operating agreement acceptable to both parties.

### **Link with Peterborough's emerging Strategic Plan for Social Housing**

In 2016, the City will develop a proposed Strategic Plan for Social Housing. The rationale for extending the relationship between the City and Kinsman for a five to ten year period is based on the need for time to create an acceptable strategic plan to govern decisions about expiring social housing projects. The specific approach for Kinsman takes into consideration some of the preliminary principles for the City's Strategic Plan for Social Housing, as previously approved by City Council.

#### **1. Tenants remain well-served with affordable rents and secure tenure**

The location, modest apartments, good maintenance practices and affordable rents have made Kinsmen Garden Court a highly desirable place to live. This report recommends that the City and Kinsman maintain a status quo approach for the next five to ten years, allowing tenants continue to live in housing they can afford and providing security of tenure.

Over the long term, any plans for redeveloping or changing the existing buildings must have a parallel plan for tenants which respects landlord-tenant law, offers reasonable choice and considers tenants' and other stakeholders' views about change.

## **2. Housing is remains financially viable, affordable and in good repair**

The property taxes that would otherwise come into effect in 2017 would render Kinsman financially unviable. A property tax refund or five years commencing August 2 2017, with the possibility of a subsequent five year renewal, will extend the benefit that Kinsman has had for the last fifty years. This will ensure that the project is not impacted by an unaffordable increase in property tax, and can remain financially viable, with adequate resources for capital repair, while maintaining low rents.

## **3. City's Service Level for Rent-Geared-to-Income Housing is Maintained or Enhanced**

Kinsman could contribute to the City's Service Level for RGI after 2017, although it does not do so now. This report recommends a course of action that could lead to enhancing the City's Service Level as prescribed in the *Housing Services Act*.

In 2016, the Ministry of Municipal Affairs and Housing will release a revised Long-Term Affordable Housing Strategy. The provincial strategy and accompanying legislative changes are widely expected to provide more direction about which government sponsored units can be included in a municipality's Service Level reporting. This will help the City determine the best strategy to maintain or enhance the supply of affordable rental units that count toward the Service Level.

## **4. Housing Providers can meet their mission**

Kinsman was incorporated before non-profit legislation was enacted. It is currently a limited dividend corporation. Kinsman is working with its solicitor to re-incorporate as a new non-profit corporation under current legislation. Additionally, Kinsman will have to ensure an appropriate succession plan for Board members to ensure continuity in governance for the new non-profit. This work will include creating new corporate documents, passing new by-laws dealing with Board appointments, terms and other corporate governance issues. This is expected to be completed before August 2017.

Also, there are currently five (5) Property Identification Numbers (PINs) showing ownership by Peterborough Kinsman Club Enterprises Limited, Peterborough Kinsmen Club Enterprises, the Peterborough City Trust, and Anson House. This report recommends a timetable that will enable Kinsman to clear up irregularities in land title, and register title under one owner, before August 2017.

## **5. The City realigns resources and accountability as expiry dates approach**

The fiscal impacts on the City do not include a reduction in associated federal funding, as subsidy was never paid according to the terms of the original agreements. However, the property was and continues to be a City asset, and has potential for redevelopment, intensification and alternative use. The City's reversionary interest is to be preserved so that decisions about the site can be made in the long-term.

The expiry of the existing Operating Agreements, and proposed extended relationship with the City, requires that a new Operating Agreement be put in place, to create new accountabilities for Kinsman. As the project would become a designated Municipal Housing Facilities, a standard template would be used by Legal Services staff, with terms and conditions as detailed in Appendix D.

In 2016, the Housing Division will complete an operational review of Kinsman, which is a more in depth check than the regular annual review. This will ensure all current requirements for governance, financial management and operations are being fulfilled.

## Summary

The tenants at Kinsmen Garden Court need assurance of security of tenure and stability as the end date of operating agreements approaches. Peterborough Kinsman Club Enterprises Limited has expressed its interest in preserving the housing under its current mandate, and has determined the need for continued financial assistance from the City. Kinsman is in a good financial position now, and buildings are in adequate condition, but the expiry of operating agreements, which result in full property tax and City ownership of the land, creates a challenging future.

An interdepartmental staff committee has identified issues related to land title and corporate status that require time and attention to rectify. This report recommends that the City commit to a five to ten year plan to reimburse the property tax paid by Peterborough Kinsman Club Enterprises Limited, beginning in 2017. Work needs to commence in 2016 to enable this plan to be carried out. Subsequently, the City needs to determine its long term interest in the site.

Submitted by,

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### Attachments:

Appendix A – Project Description (2015)  
Appendix B – Synopsis of Historic Agreements (City, Peterborough Kinsman Club Enterprises Limited, Canada Mortgage and Housing Corporation)  
Appendix C - Financial Analysis and Building Condition  
Appendix D – Terms and Conditions of the New Agreement

## Appendix A - Kinsmen Garden Court Project Description

831 Dutton Road  
 Peterborough ON K9H 6K4

<p><b>Owner</b> Peterborough Kinsman Club Enterprises Limited</p> <p><b>Parking</b> Surface parking</p> <p><b>Construction Type</b> Constructed in three phases: 1961/1964/1967                  One storey townhomes, slab on grade, brick facade</p> <p><b>Heritage Features</b> N/A</p> <p><b>Amenities</b> Close to public transportation                  Fridge, stove, laundry facilities, storage lockers                  Common building                  Baseboard heat paid by landlord</p>	 
<p><b>Property Redevelopment Potential</b></p> <p>R4 zoning with adequate parking/landscaping would enable up to 120 residential units</p>	<p><b>Zoning</b> PS 2 – Public Service District                  Medium density</p> <p><b>Property size</b> 5.52 acres</p>
<p><b>Financing</b> Last mortgage paid off August 1, 2017</p> <p><b>Other</b> City has reversionary interest in land;                  Property taxes are \$2,450/yr, but would be \$77,855 in 2015; annual subsidy is zero</p> <p><b>PIN</b> 281210049 and 281210013 and 28121-0066(LT)</p> <p><b>Assessment</b> \$2,992,000 (MPAC 2015)</p>	<p><b>Rental Units</b> 66 units: 46 bachelor and 20 one-bedroom</p> <p><b>Accessibility</b> Ground related units</p> <p><b>Tenant Eligibility</b> Seniors 55+ with low incomes</p> <p><b>Average Rent</b> Low End Market Rent                  \$376/month inclusive of heat</p>

**Appendix B – Synopsis of Historic Agreements (City, Kinsman Club Enterprises, Canada Mortgage and Housing Corporation)**

The City of Peterborough provided property to Kinsman to enable the construction of the buildings. As well, the City provided exemption from about 97% of property taxes which would be otherwise be payable (By-Law 1960-132). There are three conveyances of property from the City to Kinsman (March 1961, September 1964 and February 1967). Each agreement addresses the City's reversionary interest using the same language and provides for nominal payments toward property taxes by Kinsman.

<b>Original Mortgage</b>	<b>Start date and Maturation Date</b>	<b>Number of Units</b>	<b>Annual Contribution by Kinsman toward Taxes</b>
\$166,770	1 March 1961 1 July 2006	30	\$750 (replaced by subsequent agreement)
\$100,000	1 September 1964 1 November 2014	20	\$1,250
\$107,489	1 February 1967 1 August 2017	16	\$450
\$374,259		66	\$1,700

Kinsman's contribution toward municipal property taxes should be \$1,700 annually. However, the current and historic value of Kinsman's payment, which has not been disputed by either party, is \$2,450 annually.

In 2006 and again in 2014, the City did not exercise its reversionary interest, because the project functions as a whole and not three distinct projects. There did not appear to be a reasonable way for the City to take title to a portion of the project, or to take any other action until such time that the City's reversionary interest applied to the entire site.

It is staff's position that the City is entitled to take ownership of the land, the buildings and other improvements thereon upon the discharge of all CMHC mortgages. It is a reasonable interpretation of the agreements that, once each CMHC mortgage has been paid off, the City is not required to buy the land, buildings or other improvements because the City: (1) provided the land free of charge in the first place; and (2) has been supplying consideration to Kinsman every year by way of foregoing the vast majority of the property taxes the City would otherwise have been entitled to collect.

Canada Mortgage and Housing Corporation (CMHC) provided low-interest mortgage financing, and Operating Agreements to Kinsman. The first mortgage matured on 1 July 2006, the second on 1 November 2014 and the last one matures on 1 August 2017.

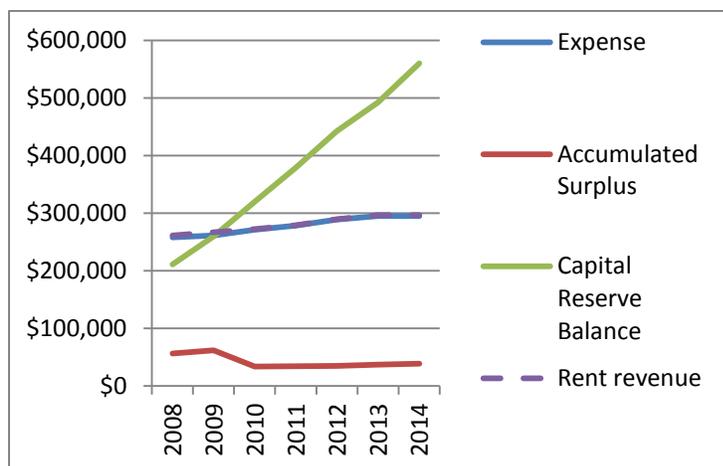
The essential terms of each agreement are the same, namely:

1. The City gave certain lands to Kinsman Club Enterprises;
2. A mortgage was registered on title in favour of CMHC;
3. Municipal property taxes and any local improvement charges were, during the term of each mortgage, to be paid by the City except for an amount to be paid by Kinsman;

4. Upon the discharge of each mortgage, the lands and premises and all the improvements were to revert to the City.

### Appendix C Financial Analysis and Building Condition

Currently, Kinsman has a strong financial standing and is in good physical condition. The annual operating budget is \$300,000, and the Capital Reserve Fund is \$600,000. Expenses and rent revenue are about equal, and the project ‘breaks even’ every year, as is expected for social housing projects. The project does not receive an operating subsidy from the City.



On August 1 2017, operating agreements will expire and the mortgages will be discharged. At this time, about \$80,000 in annual property tax will come due and about \$12,000 in annual mortgage payments will no longer be payable. This would leave a net annual operating deficit of \$65,550 (\$80,000 less \$2,450 in current annual property tax and \$12,000 in mortgage savings). To fill that gap would require a rent increase of about \$83/unit/month.

Currently, rents are below market and are roughly comparable to an RGI unit in a typical senior’s social housing project. However, rents are fixed and not calculated based on 30% of household income (unlike an RGI unit). The average rent is \$376/month inclusive of utilities, roughly comparable to 60% of average market rent (AMR).

About seven units per year are vacated and rented to new tenants selected from Kinsman’s chronological waiting list, and not from the Housing Access Peterborough Waiting list (unlike an RGI unit). The waiting list for Kinsmen Garden Court is four to five years long and consists of applicants from the City and County of Peterborough.

#### Building condition assessment

The project consists of thirteen separate one storey, slab on grade buildings. The apartments are electrically heated, as are the common area, and laundry facilities. There is sufficient parking for tenants and guests.

The Building Condition Assessment (BCA) and Reserve Fund Study (RFS), completed in 2015, identify this property as being in good condition with few exceptions. The BCA

captures upgrades made over the past five (5) years, and itemizes a 30 year forecast of ongoing capital repairs. The RFS, which previously indicated a significant shortfall in the Capital Reserve Fund, now reflects a housing provider that is financially stable.

Specifically, the 2015 BCA shows that about \$350,000 in capital repairs (i.e. replacement of copper plumbing, doors, electrical service and panel) will be required in 2020 to 2022 and a similar amount required by 2030. The annual contribution to the Capital Reserve Fund will need to be higher than in previous years; creating pressure to increase rents.

The 2010 BCA and RFS identified the property as being in fair to good condition, with original interior finishes, and a five (5) year Capital Expenditure Forecast of over \$1M in upgrade and repair recommendations. The RFS also identified that if Kinsman followed the recommended action items identified in the BCA, its Capital Reserve Fund balance would have a negative balance in 2012.

Since that time, the Kinsman has initiated a revitalization process that has included the installation of all new exterior doors and windows to reduce heating costs. Kinsman adopted an annual phased-in approach to replacing the kitchens, washrooms and flooring in many apartments with about half of the units remaining to be completed. The City provided about \$60,000 toward this work. The balance of the Capital Reserve Fund is about \$600,000.

## **Appendix D – Terms and Conditions of the New Operating Agreement between the City and Kinsman Club Enterprises**

Kinsman Club Enterprises has confirmed its acceptance, in principle, of the terms and conditions of a new operating agreement with the City, as outlined in this report.

The agreement will contain an accountability framework structured as a charge for the value of foregone property taxes and registered on the title. The agreement will contain the following terms and conditions:

- A five (5) year term, commencing on August 2, 2017, renewable to August 2, 2022;
- A property tax exemption as a Municipal Housing Facility for up to ten (10) years, applied as a rebate for paid taxes;
- Adherence of the provider to Property Standards By-law and Site Plan Agreement;
- Affordable housing – the rents must remain at or below the prescribed level for possible inclusion in Service Level reporting;
- Annual Occupancy Reporting – information required from Kinsman to ensure compliance;
- City's reversionary interest in the property will continue;
- Consequences of Sale or Default – the steps to be followed should the property be sold or should default occur.
- Insurance – City approval of insurers and the insurance policies carried by the owner/landlord, including the limits of coverage and the provisions thereof;
- Limitations on Kinsman on taking out any new mortgage financing without prior written approval from the City;
- Process for Income Screening for new tenants – the method and criteria for selecting in-coming tenants, maintenance of the waiting list and the maximum income for tenants; and,
- Rent Supplement Agreement – conditions under which rent supplement funding from existing programs could be provided.