

Corporate Report

DEPARTMENT/ DIVISION	Community Services Homes For The Aged	REPORT NO.	2007.022
DATE PREPARED	January 15, 2007	FILE NO.	10.4
MEETING DATE	January 22, 2007		
SUBJECT			Long Term Care Homes Act (Bill 140)

RECOMMENDATION

FOR INFORMATION ONLY.

EXECUTIVE SUMMARY

On October 3, 2006, the Minister of Health and Long Term Care introduced the Long Term Care Homes Act (“Bill 140”). Once it becomes law, Bill 140 will repeal the *Charitable Institutions Act, the Homes for the Aged and Rest Homes Act, and the Nursing Homes Act* replacing them with a single statute.

From a general perspective, Bill 140 is a highly detailed piece of legislation. The Bill will create a set of minimum standards that all Long Term Care Homes in the province, both public and private, are required to meet.

Bill 140 was given first reading on October 3, 2006, and was sent to the Standing Committee on Social Policy following second reading on December 5, 2006. It follows from government consultations that began in 2004. Public consultation sessions are being held in Toronto, Kingston, London, and Sudbury. The Bill, with the draft amendments, will go to Third Reading and will then come into force.

Please refer to attachment A “Summary of Bill 140” for more detailed information regarding the Bill.

DISCUSSION

There are several key issues that may have an impact on Municipal and Not for Profit Homes. For the purpose of this report, the key issues warranting comment are in the following areas: Resident Care and Rights; Operations of Homes; Licensing; and Accountability, Compliance and Enforcement.

Resident Care and Rights

Part II of the Bill addresses residents' rights. It includes a listing of services an operator must provide as well as extensive provisions relating to the prevention of abuse and neglect. Existing procedures concerning the reporting of a complaint have been expanded to a mandatory requirement to report suspected abuse or improper treatment of residents. Failure to report any occurrence of neglect or abuse is an offence. Ministry of Health inspections are mandatory under these circumstances following any report. There will now be strong whistle-blower protection for any complainant and protection for whistle-blowers against reprisals relating to reports and disclosures; penalties are also strengthened.

Bill 140 allows for the establishment of an Office of the Long Term Care Homes Resident and Family Adviser to assist and provide information to residents, families, and others and also advises the Minister on issues concerning the interests of residents.

Operation of Homes

Section 67 of Bill 140 imposes a duty on directors and officers of a corporate operator to take all reasonable care to ensure the corporation complies with all requirements of the Bill. Failure to meet the duty of reasonable care is an offence under the new legislation. With respect to Thunder Bay, City Council is the Board of Management for the Homes.

The Bill also introduces new and/or expanded requirements with respect to staff qualifications. Use of temporary and/or agency staff is limited in order to provide a stable and consistent workforce. Screening measures, including criminal reference checks, must be done prior to hiring staff and accepting volunteers. There is also a substantial set of new requirements related to orientation and training of staff, volunteers and those "who provide direct service to residents on a periodic visiting basis".

Licensing

Bill 140 generally mirrors the existing legislation that requires municipalities to establish a home. Establishment of municipal homes requires approval from the Minister and approvals do not expire. Approvals and beds assigned to municipalities are not transferable and the Minister cannot revoke approvals. Transfer of municipal beds will be done through surrender and reissue.

Charitable and other non-profit Homes will be issued licenses. The criteria for establishing, transferring, and licensing of homes are similar to existing legislation (for example, public interest test, including the balance between non-profit and for-profit homes).

Accountability, Compliance and Enforcement

Bill 140 proposes to legislate the annual, unannounced inspections by the Ministry of Health Inspectors. The Bill introduces a graduated scale of sanctions for homes that do not meet compliance standards. These sanctions are correction plans, compliance and work orders, financial sanctions, mandatory assisted management, and license revocation if licensed. The Bill also outlines a graduated review and appeal process to reflect the sanctions. These appeal rights are a change from existing legislation, where there is only a right of appeal relating to the refusals or revocation of a license.

Bill 140 would impose personal liability on directors for failing to take all reasonable care to ensure their homes meets all the requirements of the Act.

FINANCIAL IMPLICATIONS

Bill 140 introduces a higher degree of accountability for homes. The legislation places substantial emphasis on the enforcement of standards for which homes are accountable. It is anticipated that there will be additional and considerable staff time spent on compliance and documentation requirements which may impact on the ability to provide care at the bedside with the existing funding. The Bill is silent on additional Provincial funding being provided to assist in implementing these new legislative requirements and standards.

Bill 140 also requires Long Term Care Homes to ensure ongoing upgrading and makes structural compliance a condition of continued operation. There is, however, no additional capital funding programs to assist homes in meeting these requirements.

CONCLUSION

It is concluded that an amended version of the Long Term Care Homes Act (Bill 140) will likely soon become law in Ontario and, as the Board of Management for the City's Homes, City Council should be aware of the new requirements of the Act and of the accountabilities which are being proposed.

Once Bill 140 completes final reading, a follow up Report will be forthcoming and details provided identifying implications for the management of the Homes.

BACKGROUND

On October 3, 2006, the Minister of Health and Long Term Care introduced the Long Term Care Homes Act (“Bill 140”). Once it becomes law, Bill 140 will repeal the *Charitable Institutions Act, the Homes for the Aged and Rest Homes Act, and the Nursing Homes Act* and replace them with a single statute.

Bill 140 has completed second reading December 5, 2006 and has now been referred to the Standing Committee on Social Policy. Public consultations sessions are being held in Toronto, Kingston, London and Sudbury. The Bill with its draft amendments will go to Third Reading and will then come into force. The deadline for making submissions to the consultation process was January 19, 2007. A number of municipalities are making presentations to the consultation sessions to put forward the concerns that municipalities have about the new Act especially with respect to increasing standards and static funding.

REFERENCE MATERIAL ATTACHED

Attachment A – Long-Term Care Homes Act (Bill 140) Summary Brief

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This report signed and verified by Greg Alexander, General Manager - Community Services on January 17, 2007