

For Information Only

Municipal Obligations to Operate a Long-Term Care Home

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Resolution

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Finance Implications

There are no financial implications associated with this information report to Council. The net cost for Pioneer Manor that is on the 2017 property tax levy is \$3.9 million.

Background

This report is as a result of an information request stemming from Pioneer Manor's May 31, 2016, Bed Redevelopment presentation to Council. Council requested a follow up report regarding the municipal obligations under the *Long-Term Care Homes Act, 2007*.

On December 14, 2011, a similar Request for Decision was brought to Council to determine the City of Greater Sudbury's (CGS) commitment to the Operation of Pioneer Manor.

Municipalities & Long-Term Care Homes

The municipal operation of long-term care homes (LTCH) in the Province of Ontario dates back over 135 years. Their inception was predicated on the desire of municipalities to give back to the very founders of their communities. The use of tax dollar subsidy allowed for a standard of quality and care that was otherwise not accessible or available. [1]

- Long-term care homes in the province 627
- Total number of beds 78,120
- Municipal homes – 103 (16%) representing 16,433 beds (21%) of the total
- Private sector - 57% with the remaining 27% operated by not-for-profit corporations [2]
- In Sudbury, Pioneer Manor operates 433 of the 1,425 (30%) beds.

The governance of LTC Homes has, at times, presented challenges among municipal operators as funding pressures and aging demography continue to rise. Consideration of the municipal role extends far beyond

Signed By

Report Prepared By

Brenda Loubert
Director, North East Centre of
Excellence for Seniors' Health
(Pioneer Manor)
Digitally Signed Mar 27, 17

Division Review

Brenda Loubert
Director, North East Centre of
Excellence for Seniors' Health
(Pioneer Manor)
Digitally Signed Mar 27, 17

Recommended by the Department

Catherine Matheson
General Manager of Community
Development
Digitally Signed Mar 27, 17

Recommended by the C.A.O.

Ed Archer
Chief Administrative Officer
Digitally Signed Mar 27, 17

the provision of long-term care, it contemplates other ancillary seniors' services and the tremendous impact the growing needs will have on the Province's communities. As the older adult population continues to grow there is far greater urgency to ensure communities get it right. Often referred to as the 'gray tsunami', government at all levels are increasingly pressed for solutions to ensure sustainability of the system and ensure care provision is robust enough to meet the needs of the aging population.

Municipalities play a unique role in the provision of health services along that continuum. Municipalities are known for "setting the benchmark of quality in communities for long-term care and other services. Municipal governments are more than merely stakeholder in this regard. They are co-funders of long-term care services and set the bar in the provision of service excellence for the entire province". [3] They carry a distinct role within the broader long term care system.[4] Municipalities are community builders, with general expectations about the range of municipal services that should be available to meet local needs. "Citizens look to their local governments to respond to their social, health and human service needs. Services such as those for the elderly, the needy and the disadvantaged have become a cornerstone of the municipal mandate". [5]

Responding to social, health and human service needs has and continue to include subsidizing services for seniors and other age groups. In 2012 for example, a report by the Ontario Association for Not for Profit Homes and Services for Seniors (OANHSS) indicates that contributions from municipalities to LTC Homes exceeded \$270M in operating dollars over and above provincial funding or an average of \$44.88 per resident day. The CGS subsidy in the same year was equated to \$27.22 per resident day and has been reduced to \$22.18 in 2016. With these subsidies, municipalities are far more able to fulfill the needs of the population as profit is not among the priorities of the operations. In this regard, Local Health Integration Networks (LHIN) and ministries often depend on municipal homes to meet local needs with the build of a far greater number of basic accommodation beds than their for profit counterparts. Municipal homes furthermore make a significant contribution to the local economy and in many parts of the Province the home is a major employer. As such, these homes are a very visible symbol of the active role municipalities play as service providers. These are models of integration and collaboration.

The Association of Municipalities of Ontario (AMO) has, for many years, taken on a leadership role and has worked collaboratively with government to further define its evolving role in the continuum of service delivery. The municipal role is addressed in three of their most recent publications:

- *Coming to a Cross Road: The Future of Long-Term Care in Ontario*[6], 2009
- *COMING OF AGE: The Municipal Role in Caring for Ontario's Seniors*[7], 2011
- *Strengthening Age-Friendly Communities and Seniors' Services for 21st Century Ontario: A New Conversation about the Municipal Role*[8], 2016

With the input from broad based consultation, AMO's 2016 report discerns the role of municipalities as making contributions to the gaps in service where shortfalls are experienced in provincial allocations. Stemming from the two previous AMO papers, the 2016 document "furthers the dialogue on the municipal role in facilitating age-friendly communities and provision of services to seniors".[9] It highlights the implications for municipal government's involvement in planning, community services inclusive of transportation, housing and the provision of long-term care. It stresses the importance of ensuring serves are "culturally-appropriate and relevant in northern and rural communities".[10] Opportunities for enhancements are highlighted, and recommendations are made, calling on the Province to:

- Continue to play a supportive role to facilitate age-friendly community development under its Action Plan for Seniors;
- Work with municipal governments to enhance community services and housing including transportation options, the Elderly Person Centres program and seniors' housing;
- Amend the *Long-Term Care Homes Act, 2007* to provide municipal government the choice to operate

a long-term care home which would allow them the flexibility to provide the most appropriate care to suit their local residents' needs;

- Work with municipal governments to address issues in long-term care delivery including simplifying regulatory frameworks, reducing wait times, developing a human resources strategy, addressing challenging behaviours, undertaking systems capacity planning, supporting the redevelopment of long-term care homes, facilitating innovative models, developing community hubs, reviewing the funding model and pursuing additional funding sources;
- Address regionally-specific issues; and
- Support the municipal sector to deliver culturally-appropriate services.

Demographic Shift

In 2011, there were 1.8M Ontarians aged 65+, by 2036 the number will more than double causing profound effects on our communities[11]. The impact on northern and rural communities will be substantially greater due primarily to the outmigration of youth and lower rates of immigrants. The lower than provincial levels of income and poorer health outcomes in Sudbury further accentuates the need. The 2012 Seniors Strategy for Ontario (Sinha Report) as commissioned by the Ministry of Health and Long-Term Care (MOHLTC), demarcates the criticality of the demographic change and how that will impact the current landscape with respect to growing service demands and demonstrated need. [12] Older adults in the province's LTC Homes are among the most vulnerable in our society. The Sinha Report recommends an "evidence informed capacity planning process" to determine and meet the needs of older adults along the continuum. In their 2016 publication *Ensuring the Care is There*, the OANHSS indicates that "we simply do not have the capacity in our system to meet current and future demand" [13].

Added Costs of Delivering Care in the Municipal Sector

The December 8, 2011, Manager's Report to City Council articulated the differences in the operations of municipally-operated homes in comparison to private sector and not for profit LTCHs. The most significant variance noted is the higher cost of salary and benefits, directly or indirectly resulting from arbitrated processes and a perceived ability to pay. Although many municipal LTCHs receive a subsidy for high wage costs, the payment is significantly less than the comparative variance. Some reports estimate wages to be upward of 37% higher than the private sector. [14] In addition to wages, municipal LTCHs have on-going pay equity obligations and typically generate less revenue from private accommodations.

The MOHLTC design manual[15] as issued for renewal strategies require that all LTCH build a minimum of 40% of the homes beds at the basic level of accommodation or double occupancy with a shared washroom. Preferred accommodations (private and semi-private) allows the LTCH operators to charge a higher rate above the basic level of accommodation grant funding. In such, private sector operators typically maximize preferred accommodations or overall percentage of preferred beds, thus allowing a much greater margin of revenue.

Municipal LTCHs, conversely, serve a greater number of disadvantaged or lower income residents than their private sector counterparts. Residents with lower income requiring financial subsidies do not qualify for preferred accommodations and hence require a room at the basic level. This factor enables municipalities to address the varying needs of their communities and help to balance the sector where the greater proportion of admission requests are for basic level accommodations. Within Pioneer Manor currently has 55.4% (240 beds) of the beds at a basic accommodation level. Of those in basic beds, 35% (84 people) have applied and are receiving provincial subsidy as they do not have the financial means to individually pay for accommodation. By reducing the overall basic level beds to 40%, Pioneer Manor would otherwise generate an additional \$617,427 per year in preferred rates.

System Planning

From the many documents cited, service advocates are urging the MOHLTC to look carefully and systematically at capacity planning in the seniors' health care continuum. Capacity planning will allow us to ensure "we have the right number and right type of long-term Care beds now and in the future"[16]. But capacity planning is not all about long-term care, it speaks to supportive housing, assisted living, transportation and other such services. "Communities need to embark on local plans and ensure the type, quality, and quantities of each service are balance in accordance with local needs"[17].

In its 2016, position paper on Capacity Planning and Development, OANHSS discusses seniors' services strategies and the need for provincial and local capacity planning.[18] The position paper reinforces the need for capacity planning as an "essential step in developing an informed, realistic and integrated system-wide strategy to meet the needs of Ontario's seniors". Consistent with the 2016, AMO report, OANHSS further validates the focus on planning and expanding seniors care around existing service hubs. [19] With small amounts of investment, innovation through adaptation can result in more powerful services for seniors. The AMO report furthermore indicates that capacity planning is an essential step in developing an informed, realistic and integrated system-wide strategy to meet the needs of Ontario's seniors'.

The AMO report (2016) and the OANHSS report (2016) further supports the exploration of LTC homes serving as community-care hubs as a potential solution. The World Health Organization Age-Friendly Communities further emphasises the need for municipalities to have physical infrastructure, social, civic, and health services, and planning approaches which are appropriate for older adults.

A Brief History of Pioneer Manor

The origins of Pioneer Manor date back to 1953 when it opened as a 123 bed district home for the aged established under the *Homes for the Aged and Rest Homes Act* with the support of some 16 participating area municipalities. With the enactment of the *Regional Municipality of Sudbury Act* in 1973, the responsibility for operation of Pioneer Manor transferred to the Region while area municipalities continued to provide financial support.

With the coming into force of the *City of Greater Sudbury Act, 1999*, the City of Greater Sudbury assumed the operation and maintenance of Pioneer Manor and continues to do so now under the authority of the *Long-Term Care Homes Act, 2007* which came into force on July 1, 2010. The Act specifies that a northern municipality with a population of more than 15,000 may establish and maintain a LTCH.

Thus, the City of Greater Sudbury continues to operate Pioneer Manor under the approval of the MOHLTC and as part of past Council's decision to continue.

Pioneer Manor Today

Pioneer Manor is approved by the MOHLTC to provide long-term care services for 433 residents (406 long stay and 27 temporary licenced), making it the third largest home in the Province of Ontario. On September 1, 2011, the number of beds rose from 342 to 406 permanent long-stay beds as a direct result of Council's efforts to assist with alternative level of care (ALC) pressures experienced at the local hospital.

In 2016, the operating budget was approximately \$34.9M for Pioneer Manor. The budget includes funding from the Province of Ontario, resident co-payments and a municipal contribution in the amount of \$3.62M. Of the total levy amount \$1.3M is associated with internal charges for ICorporate Services of Human Resources, Finance, IT, and Legal, leaving \$2.32M for the internal operations at Pioneer Manor.

In addition to annual contributions toward the operating budget, the City of Greater Sudbury has also invested capital dollars, along with the Province of Ontario, totaling approximately \$50 million over the past two decades toward upgrades and the redevelopment of Pioneer Manor.

Municipal Funding of Long-Term Care Homes

According to the most recent OANHSS Benchmarking Report, in 2014, the City of Greater Sudbury was contributing \$24.37 (including internal charges) per resident day of operating dollars in comparison with the average of \$48.13 per diem for other reporting municipal LTCHs (55 survey respondents) in the study. As it pertains to capital funding, the CGS contributed \$5.25 per resident day as compared to the average of \$13.39.

Since 2010 the levy portion of Pioneer Manors actual expenses has fluctuated from a high of 14.37%, in 2011, (\$4.26M) of expenses to a low of 11.27% (2015) with 2016 forecast to be at 10.36% (\$3.62). The levy contribution of northeastern homes ranges from 9.5% to 25%. The average of these homes 15.17%.

Implications of Sale of the Assets - Property and Owner/Operator of the LTCH

Ministerial Requirements

To divest the asset and no longer own and operate the long-term care home, the CGS would require an application to MOHLTC seeking approval to divest of its asset and cease its obligation to own and operate the LTCH. The Province would require the following:

- Provide the MOHLTC with five years notice of its intent to divest the property and no longer operate as the owner/operator of the LTC services.
- Provide the MOHLTC with a plan that includes timelines and transition for such divestment as well as identifies the prospective successor/purchaser
- Demonstrate the prospective purchaser's ability to meet the eligibility requirements in order to quality to operate a home.
- Conduct a public consultation (s.106 (1))
- Obtain final approval to proceed
- The disposition of the asset would require further due diligence to determine the amount and nature of reimbursement owing back to the Province, related to capital funding previously provided, may be up to a 50% share of the asset

It should be noted that other than Pioneer Manor's 27 Temporary licenced beds (Interim), the Home has approved beds. In such, the home is unable to transfer or sell to any operator as the beds are under approval of the Minister (LTCHA, s. 130). Any prospective purchaser would need to apply for and/or acquire a licence to operate the home. Such approval would need to be negotiated between the potential operator and the Ministry. The LTCHA prohibits a person from operating a residential premises providing nursing care for persons without obtaining a licence (LTHCA, s. 95).

Systemic Implications

The potential systemic implications of the decision:

- Beds relinquished to the Ministry have the potential to be moved anywhere in the Province
- Potential to reduce the overall bed capacity in the system from 1,425 beds to 992 invoking a rise in the wait time for admission and number of people on the wait list
- Increased pressure on the local hospital and health care system
- The beds would be moved as they are vacated
- Reduce the number of basic accommodation beds in the system and reduce the ability to meet the needs of the vulnerable and impoverished citizens of the community
- Impact on CGS plans for further Hub development on the Pioneer Manor campus and the Senior's Strategy

Tenants, Binding Agreements and Human Resources

The potential sale of the asset may also have future impact on the budgets and viability of the current tenants of the property. The Senior's Master Plan of the early 2000s saw the City led recruitment of the North's first Geriatrician and development of the North East Specialized Geriatric Services. The plan furthermore facilitated the development/creation of the City of Lakes Family Health Team and co-located the Alzheimer's Society to bring together tremendous expertise in senior's health to the campus. The plan further speaks to the establishment of Senior's Housing/Assisted Living and favours ancillary health service co-location in the decanted wing of the existing building. Potential growth and further revenue remains a future viable option.

As it pertains to the existing tenants and obligations, the CGS holds leases with expiration dates of 2018, 2018 and 2026 respectively for the North East Specialized Geriatric Services, the City of Lakes Family Health Team and the Alzheimer's Society. The sale would furthermore have impact on the terms and conditions as well as cost recoveries as set out in the Feed-In Tariff (FIT) program between the CGS and IESO (formerly Ontario Power Authority) for the solar panels recently installed on the roof of Pioneer Manor.

As it pertains to human resources, there are currently 506 staff employed by Pioneer Manor. The sale of property and business would invoke successor obligations on the successor employer as it pertains to collective bargaining agreements as well as administrative issues surrounding transfers of individual employee OMERS pension memberships to a non-municipal employer. There are additional considerations in relation to non-union employees and internal charges. Non-union employees are not subject to rights within the successor employer. Thus with the sale of Pioneer Manor, non-union employees who would not continue to be employed by the organization assuming ownership would either need to be redeployed elsewhere in the corporation or the City of Greater Sudbury would have termination and severance obligations at the time of the employee termination. Should there be a disposition of the asset full operating subsidy savings would not be realized as internal charges otherwise allocated for human resources, finance and I.T. would otherwise still need to be absorbed from a cost and/or staff severance perspective if the CGS is unable to reallocate.

This is a simplified overview of the implications. The process for what, in essence, is a sale of business is very complex given the requirements of the *Long-Term Care Homes Act, 2007*. Further consideration will be required should Council wish to pursue further.

Next Steps

In November of 2016, the LTCH has been actively engaged in an internal Operational Review. The report was completed December 31st, 2017, for the General Manager's office. The working Committee has met to finalize recommendations and a report to Council will occur in June of 2017.

In early summer, staff will bring a report requesting a decision of Council regarding the full scope of the redevelopment project, as well as the estimated cost.

References

[1] Rubin, Donna, Chief Executive Office, communication at the Ontario Association of Not-for-Profit Homes and Services for Senior's Annual Convention, (2015).

[2] Provincial Long Term Care Snapshot, OANHSS, January 2015.

[3] AMO – Strengthening Age-Friendly Communities and Seniors' Services for 21st Century Ontario: A New Conversation about the Municipal Role, September 2016, found at

<http://www.amo.on.ca/AMO-PDFs/Reports>

[4] Municipal Delivery of Long Term Care Services: Understanding the Context and the Challenges. OANHSS, August 2014.

[5] *ibid*

[6] AMO, *Coming to a Cross Road: The Future of Long-Term Care in Ontario*, 2009, found at [https://www.amo.on.ca/AMO-PDFs/Reports/2009-2009 Coming to CrossroadAMOLTCpaper.aspx](https://www.amo.on.ca/AMO-PDFs/Reports/2009-2009%20Coming%20to%20CrossroadAMOLTCpaper.aspx).

[7] AMO COMING OF AGE: The Municipal Role in Caring for Ontario's Seniors

[8] AMO – Strengthening Age-Friendly Communities and Seniors' Services for 21st Century Ontario: A New Conversation about the Municipal Role, September 2016, found at <http://www.amo.on.ca/AMO-PDFs/Reports>

[9] *ibid*

[10] *ibid*

[11] *ibid*

[12] Sinha, Samir, K., 2012, *Living Longer, Living Well: Report Submitted to the Ministry of Health and Long-Term Care and the Minister Responsible for Seniors on recommendations to Inform a Seniors Strategy for Ontario*, December.

[13] *Ensuring The Care is There*, OANHSS, 2016

[14] Municipal Delivery of Long Term Care Services: Understanding the Context and the Challenges. OANHSS, August 2014.

[15] Long-Term Care Home Design Manual, Ministry of Health and Long-Term Care. February 2015

[16] Municipal Delivery of Long Term Care Services: Understanding the Context and the Challenges. OANHSS, August 2014.

[17] *ibid*

[18] *Improving Seniors' Services in Ontario: OANHSS Position Paper on Capacity Planning and Development*. February 2016.

[19] AMO – Strengthening Age-Friendly Communities and Seniors' Services for 21st Century Ontario: A New Conversation about the Municipal Role, September 2016, found at <http://www.amo.on.ca/AMO-PDFs/Reports>

City of Greater Sudbury Commitment to the Operation of Pioneer Manor, City Council, December 14, 2011 (<http://agendasonline.greatersudbury.ca/?pg=agenda&action=navigator&lang=en&id=368&itemid=440>)

