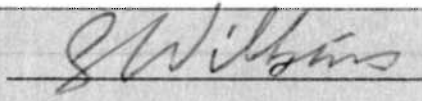


MUNICIPALITY OF CHATHAM-KENT
SOCIAL HOUSING POLICIES & PROCEDURES

Subject:	Operating Reserve Fund Surplus Sharing	POLICY NO.	SH-1101
Scope:	All Subsidized Housing Providers		

Legal/Cross Reference:
HSA, s. 78; O. Reg. 367/11, s. 98; O. Reg. 369/11, s. 9 and 14.
SHRA, s. 103(10) & 103(11); O. Reg. 339/01, s. 24, 33.10, 33.14 and 34.

Issued Date:	September 27, 2011	Approval: 
Effective Date:	HP Fiscal Start - 2010	
Last Revised:		

I. PURPOSE:

- To assist private non-profit social housing providers, funded by the Municipality of Chatham-Kent, in stabilizing their under-funded capital reserves.

II. POLICY:**Background**

The *Social Housing Reform Act (Sections 103 and 106)* and accompanying Ontario Regulation 339/01 prescribes the manner of calculating the amount of subsidy to be paid by the Service Manager to the prescribed housing providers. Section 24 of Ontario Regulation 339/01 stipulates that provincial reformed (i.e., benchmark funded) housing providers shall establish and maintain a capital reserve for its housing projects that includes:

1. Required/subsidized contribution under the benchmark funding formulae;
2. Any income earned from the capital reserve investments, and
3. Any additional amounts that the service manager approves.
4. The amounts established for benchmarks may be pro-rated between the old funding formula and the new benchmark funding formula.
5. But shall not exceed 50% of the fiscal year's operating reserve fund surplus (as this amount is due and payable to the service manager); and
6. Can be deposited up to 5 months after the end of the housing provider's year-end and may be considered to be contributions made during the fiscal year.¹

¹ Former unilateral federal housing providers have 4 months (not 5) to complete and file their audited financial statements and year-end Annual Information Return (AIR). Chatham-Kent grants this provision to Section 95 providers – but at 4 months vs. 5 months.

7. A separate account for the funds and property in its capital reserve and the income and expenses of the capital reserve separately from its other property, income and expenses.
8. Can only be used to fund eligible capital expenditures related to those housing projects and/or to make investments permitted under the Act.
9. Despite subsection 7, a housing provider shall use funds in its capital reserve that were provided by a service manager in accordance with any conditions or requirements imposed by the service manager at the time the funds were provided.

The *Housing Services Act (HSA)* repeals and replaces the *Social Housing Reform Act* effective January 1, 2012. Subsections 78(1 and 2) of the HSA states that the Service Manager shall pay a subsidy to a housing provider in the amount determined in the prescribed manner. Ontario Regulation 367/11, Section 98 addresses capital reserve fund contributions:

1. A housing provider subsidized pursuant to section 78 of the Act shall maintain a capital reserve for each Part VII housing project in the service manager's service area.
2. Income earned on the investment of amounts in a capital reserve shall be retained in the capital reserve.
3. For each fiscal year of the housing provider, a housing provider shall contribute to its capital reserve an amount determined by multiplying the prior year's contribution for the previous fiscal year by the cost index determined by the Minister for the fiscal year.
4. A housing provider can contribute an amount in addition to the amount determined under no. 3, but only with the Service Manager's approval.
5. Contributions for a fiscal year can be made in the fiscal year or within 5 months of the fiscal year-end.
6. A housing provider may use amounts from a capital reserve only for expenditures for the construction or renovation of, or substantial repairs to, the Part VII housing project for which the capital reserve is maintained, including reasonable expenditures for planning and budgeting for such construction, renovation or repairs.
7. The following apply if amounts in a capital reserve were provided by a service manager:
 - a. Subsection (6) does not apply with respect to the amounts.
 - b. The housing provider may use the amounts only in accordance with the conditions or requirements imposed by the service manager at the time the amounts were provided.
8. A housing provider shall keep separate records and accounts for each capital reserve unless the service manager permits otherwise.
9. A capital reserve maintained under section 24 of Ontario Regulation 339/01 (Housing Projects Subject to Part VI of the Act) made under the former Act shall be continued as a capital reserve required under subsection (1).
10. Ontario Regulation 339/01 (Housing Projects Subject to Part VI of the Act) made under the former Act, as that regulation read immediately before the former Act was repealed, continues to apply, instead of subsection (3) to (5), with respect to contributions to a capital reserve for a fiscal year that begins before this subsection comes into force.

Subsections 33(10) and 33(14) of SHRA Ontario Regulation 339/01 establish in detail the process for calculating the operating reserve fund Surplus for housing providers – both regular benchmark funded projects (pursuant to Section 103) and 100% RGI projects (pursuant to Section 106). In both cases, it is stipulated that if a housing provider's accumulated surplus at

the beginning of any fiscal year from the date of the transfer onward is equal to or greater than \$300 per unit, then the requirements for surplus sharing with the Service Manager apply.

Parts II and III of HSA Ontario Regulation 369/11, and more particularly Section 9 of Part II and Section 14 of Part III detail the process for calculating the operating reserve fund Surplus for mixed target projects and 100% RGI targeted projects. In both cases, it is stipulated that if a housing provider's accumulated surplus at the beginning of any fiscal year from the date of the transfer onward is equal to or greater than \$300 per unit, then the requirements for surplus sharing with the Service Manager apply.

For former federal unilateral projects, capital reserve fund contributions are set out in the ongoing Operating Agreement that was transferred from Canada Mortgage Housing Corporation, to the Province of Ontario and then ultimately to the Service Manager pursuant to the SHRA. For these projects the Service Manager is entitled to 100% of any operating surplus, after the Housing Provider has properly funded its Subsidy Surplus Fund and made its capital reserve fund contribution specified in the Operating Agreement. (Note: These providers use their Subsidy Surplus Fund to fund rent-geared-to-income in these projects.)

Capital Reserve Fund Forecasts

In 2004 the Municipality hired IRC Building Sciences Group London Inc. to prepare a Building Condition Assessment (BCA) and Reserve Fund Study (RFS) of the municipal public housing and of the housing portfolios of each of the municipally-funded social housing providers. These results of these reports were reported to municipal council in November 2005.

In 2010, using funding allocated under the Social Housing Renovation and Retrofit Program (SHRRP), the Municipality hired IRC Building Sciences Group London Inc. to update the 2005 BCAs and RFSs and add Energy Audits. The results of the EBCAs and RFFs were reported to council in July 2011.

Policy

At the July 11th, 2011 regular council meeting, municipal council adopted the following policy:

Social Housing private non-profit housing providers funded by the Municipality of Chatham-Kent shall be allowed to retain the Service Manager's share of their Accumulated Operating Reserve Fund Surplus, provided that:

- (1) The surplus amount is deposited into their capital reserve fund managed by the Social Housing Services Corporation;
- (2) The housing provider is compliant, or in the Director's opinion, working towards compliance with all municipal notices and/or orders issued to the housing provider;
- (3) The housing provider's capital reserve fund is below the recommended level of funding contained in its most recent Energized Building Condition Assessment (EBCA) and Reserve Fund Forecast (RFF) Study; and

- (4) The housing provider has not reached either the expiry date of its operating agreement (if applicable) or its mortgage end date, whichever occurs first, within the fiscal period subject to the annual subsidy review.

III. PROCEDURE:

A Service Manager:

1. At the time of reconciling annual subsidy payments, municipal staff will review the audited financial statements and Annual Information Return (AIR) to determine and/or confirm whether an Operating Reserve Fund Surplus exists and, if so, whether it is properly reported.
2. Municipal administration will review and track all housing projects that had an operating surplus at the Point of Transfer (POT), or subsequently achieved an operating surplus.
 - a. In the case of provincial reformed projects, any project that had an Operating Surplus **since the 2006 benchmark funding year, or subsequently**, which exceeded or exceeds \$300 per unit, shall be required to share 50% of its surplus with the Service Manager.
 - b. In the case of former unilateral federal projects, any project that had an Operating Surplus since the POT shall be required to share 100% of its surplus with the Service Manager.
3. The Social Housing Financial Analyst shall advise the Director of Social Housing on each housing provider's subsidy reconciliation, on the following:
 - a. Name of Housing Provider
 - b. Name of Housing Project/s
 - c. Type of Housing Provider: Provincial Reformed? Former Federal?
 - d. Fiscal Year
 - e. Amount of Operating Reserve Fund Surplus
 - f. Year Amount first exceeded \$300/unit (if provincial reformed)
 - g. Number of Units and Amount of Surplus/Unit
 - h. Service Manager Share of Surplus (50% or 100%)
 - i. IRC Report – Recommended Balance/Unit for fiscal year being reviewed
(note amount includes \$500/unit in reserve contingency)
 - j. Advise of Housing Provider Compliance with
 - i. Prior Years' Financial Review directions
 - ii. Compliance with Auditor's Management Letter
 - iii. Last Operational Review directions
 - iv. Risk Management Status – Project identified as a PID? (Y/N)
Compliant with PID reporting requirements?
 - v. Deficit Reduction Plan Required? In Place? Status?

- vi. Any other outstanding municipal notice on file/record with CK social housing.
 - vii. Capital Reserve Fund – Health Status: per IRC Service Manager Report: Financial Concern? (Y/N)
Compliant with Financial Concern reporting requirements?
 - k. Operating Agreement Expiry Date (if applicable):
 - l. Mortgage End Date:
 - m. Recommendation re Service Manager's Surplus Share
(allow housing provider to retain; collect SM's share; or other)
4. The Director of Social Housing shall make a determination of whether to grant the Service Manager's share of any subsidy surplus to the respective housing provider groups funded by the Municipality of Chatham-Kent. The decision of the Director is final.
5. The Director of Social Housing will provide the General Manager of Health and Family Services with information on the number and amounts of subsidy surplus applied for, granted, or denied upon request, or at intervals specified by the General Manager.

B Housing Provider:

1. Report all Operating Reserve Fund Surpluses in audited financial statements and accompanying Annual Information Returns.
2. Review most recent BCA(s) and RFF(s) for determination of capital needs (i.e., estimated expenditures) and available capital revenues.
3. Advise Service Manager if Board is requesting Service Manager's share of any Operating Reserve Fund Surplus.
4. If Service Manager approves the request and allows the Board to retain all or a portion of its share of the Operating Reserve Fund Surplus, ensure all such monies are invested through the Social Housing Services Corporation. Provide proof of investment within 30 days of the notice from the Service Manager.

This policy comes into force and effect at the 2010 fiscal start for each respective, municipally-funded private non-profit social housing provider.

Chatham-Kent Social Housing

Form SH-18: Operating Reserve Fund Surplus Sharing

Pg 1 of 2

Reference: CK SH-1101

DATES:

Completed Year-End documentation received: _____ Initial: _____

Date of Director's Decision: _____ Initial: _____

Date of Notification to Housing Provider: _____ Initial: _____

Method of Notification: Regular Mail Courier Email Phone
 Hand-delivered Picked-Up

1. Name of Housing Provider			
2. Name of Housing Project/s	2a	2b	2c
3. Housing Provider Type	3a Provincial Reformed <input type="checkbox"/>	3b Section 95 <input type="checkbox"/>	3c Section 27 <input type="checkbox"/>
4. Fiscal Year	Start (MM/DD)	End (MM/DD)	Year End (YY)
5. Amount of Operating Reserve Fund Surplus	\$		@ Year-End under this review
6. Year Amount first exceeded \$300/unit (Prov'l Reformed groups, 2006 or later)			
7. Number of Units		8. Operating Surplus/Unit	\$ /unit
8. Service Manager Surplus Share (max.): (circle applicable percentage)	9a 50% (prov'l reformed)	9b 100% (all other groups)	
9. IRC Report			\$ /unit
a. recommended bal/unit for fiscal year being reviewed			Yes No
b. CRF Health Status – per IRC SM Report: Financial Concern?			Yes No N/A
c. Compliant with Financial Concern Reporting requirements?			Yes No N/A
10. Compliance Review			
a. Prior Years' Financial Review directions			Yes No N/A
b. Auditor's Management Letter instructions			Yes No N/A
c. Last Operational Review date: (YY/MM/DD)			Yes No N/A
11. Risk Management Status – Project identified as a PID?			Yes No N/A
a. Compliant with PID reporting requirements?			Yes No N/A

<p>12. Deficit Reduction Plan Required? (Date of Notice/Ltr): _____ a. Date Plan Received: _____ b. Date Plan Reviewed: _____ c. Date Plan Comments to HP: _____ d. Status of Plan?</p>	<table border="0"> <tr> <td>Yes</td> <td>No</td> <td>N/A</td> </tr> <tr> <td>Yes</td> <td>No</td> <td>N/A</td> </tr> <tr> <td>Yes</td> <td>No</td> <td>N/A</td> </tr> <tr> <td>Yes</td> <td>No</td> <td>N/A</td> </tr> </table>	Yes	No	N/A	Yes	No	N/A	Yes	No	N/A	Yes	No	N/A
Yes	No	N/A											
Yes	No	N/A											
Yes	No	N/A											
Yes	No	N/A											
<p>13. Any other outstanding municipal notice on file/record with CK social housing (e.g., Fire, Building, Property Standards, CKPS, etc.)? a. If yes, details: _____</p>	<table border="0"> <tr> <td>Yes</td> <td>No</td> </tr> <tr> <td colspan="2">Email s/b sent to Fire Chief, CBO and Police Chief requesting Notice if any Orders issued.</td> </tr> </table>	Yes	No	Email s/b sent to Fire Chief, CBO and Police Chief requesting Notice if any Orders issued.									
Yes	No												
Email s/b sent to Fire Chief, CBO and Police Chief requesting Notice if any Orders issued.													
<p>14. Operating Agreement Expiry Date (if applicable)? (YY/MM/DD)</p>													
<p>15. Mortgage End Date (full amortization date)? (YY/MM/DD)</p>													
<p>16. Financial Analyst Recommendation re SM's Surplus Share: a. Allow HP to retain 100% of SM's share (50%) of surplus b. Claw-back 100% of SM's share (50%) of surplus c. Other – detail:</p>	<p>SM's Share Total \$ \$</p>												
<p>17. Date of Financial Analyst Recommendation? (YY/MM/DD) Signature of Financial Analyst</p>													
<p>18. Recommendation of Engineering Technologist a. Concur with Financial Analyst Recommendation b. If no, provide recommendation and reason: _____ _____</p>	<table border="0"> <tr> <td>Yes</td> <td>No</td> </tr> </table>	Yes	No										
Yes	No												
<p>19. Date of Engineering Technologist Recommendation? (YY/MM/DD) Signature of Engineering Technologist</p>													
<p>20. Decision of Director of Social Housing (or designate) a. Approve FA recommendation b. Approve ET recommendation c. If no, provide decision and reason: _____ _____</p>	<table border="0"> <tr> <td>Yes</td> <td>No</td> </tr> <tr> <td>Yes</td> <td>No</td> </tr> </table>	Yes	No	Yes	No								
Yes	No												
Yes	No												
<p>21. Date of Director of Social Housing Decision? (YY?MM?DD) Signature of Director (or designate)</p>													