

Retirement Homes Regulatory Authority (RHRA)

Operational Outlook & Fee Changes 2021-2023

August 31 – Sept 30, 2021

RHRA Consultation

Introduction:

RHRA is inviting comment on its licensing fee

Feedback received during the consultation will be considered by RHRA in making a final decision regarding this fee.

Background and information on how to participate in this consultation are included in this document.

Key Dates:

Consultation opened for comment: August 31, 2021

Consultation closed: September 30, 2021

Proposed effective date of fee adjustments: Jan 4, 2022

About Fees

- Annual fees are calculated for each calendar year to cover the cost of RHRA administering the *Retirement Homes Act, 2010* (the Act).
- All licensees (not residents) must pay an annual fee to cover the cost of core RHRA operations and functions related to administering the Act.
- The fee is based on the number of suites. Suites that are subsidized are excluded. Suites include all available units, regardless of whether they are occupied or not.
- RHRA regularly reviews these fees, proposes clarifications and updates and provides stakeholders with an opportunity to submit feedback.

Participating in this Consultation

To participate:

1. Review the proposed updates detailed in this document
2. Respond to these questions on our website at:
 - 1. What impact would you expect these changes to have on you or your organization?*
 - 2. What actions would you or your organization need to take when this fee change is implemented?*
 - 3. Do you have any other comments?*
3. The consultation closes Wednesday, September 29, 2021. RHRA will provide official notification of any final fee changes to licensees shortly after RHRA's careful consideration of feedback after the close of the consultation.

Executive Summary

- During the COVID-19 pandemic, seniors' care in Ontario was thrust into the spotlight. While Long-Term Care (LTC) homes and residents were hardest hit by the pandemic, retirement home residents were among the groups highlighted as vulnerable to pandemic outbreaks. The RHRA has responded to these circumstances, and continues to sustain increased operational demands.
- The 2020 Auditor General's Report highlighted several safety concerns, including for RHRA to address its underfunding for fully meeting its mandate.
- The RHRA has worked to revise its Strategic and Business Plans to incorporate this work going forward and has developed a plan to address basic operational needs and make progress against the Auditor General's recommendations.
- A renewed financial strategy that factors in regulatory oversight updates (including legislative review) and incorporates alternative revenue sources will be a central aspect of an updated strategic plan in 2023.
- This work will require a fee increase.
- RHRA's funding comes from the homes it regulates. This helps maintain independence from government and holds the sector accountable for protecting the seniors under their care.

The Role RHRA plays in Seniors' Safety

Retirement home residents are entitled by law to feel and be safe in their home. In response to the needs of residents and increasing requests and expectations of residents, RHRA must have the ability to provide them with:

- Comprehensive inquiries into reports of abuse and neglect (mandatory reports)
- Inspections of the homes in which they live
- Timely and thorough reviews of complaints and assessment of licence applications
- Assistance through support and monitoring for the homes that want to provide the best for their residents
- Continued vigilance for pandemic-related issues, including risk assessments that tell RHRA how prepared a home is to handle outbreaks
- Robust data collection and analysis, to target our resources where residents need them most (risk-based oversight)
- A place for residents and families to turn to for information, facts about retirement homes and their rights under the Retirement Homes Act (awareness)
- A regulator that holds retirement homes accountable to meet the standards residents are entitled to under the law (enforcement)
- A partner for residents, government, healthcare, and others that can provide a holistic and thoughtful approach to regulating seniors' housing

Distinctions between Retirement and Long-term Care Homes

Eligibility (Who is eligible?): In retirement homes anyone is eligible (65+ normally); in Long-term Care Homes (LTCH), it's anyone 18+ with health needs

Safety (Who makes sure residents are safe?): For retirement home residents it's the RHRA; for LTCH residents it's the Ministry of Long-Term Care.

Choice (Who decides where the resident will live?): For retirement home residents it's the resident and their family; for LTCH residents it's the resident and their family offered one of top 5 choices through the Home and Community Care Support Services (formerly LHIN) based on availability.

Cost (Who Pays?): For retirement homes the resident pays for both the accommodation and care they receive from the home; for LTCH the resident pays a set rate for accommodation but the care is paid for by the government (note some LTCH subsidies may be available as well).

Care Services (What care services are available?): For retirement homes there is a variety of care services depending upon the needs of the resident; for LTCH there is 24/7 care available to each resident.

The Future of RHRA

Residents deserve to rest easy knowing RHRA is evolving along with the changing needs of Ontario's seniors. For this to continue, RHRA must:

- Address the recommendations found in the Ontario Auditor General's Report over the next three years, including a follow-up audit process in two years (2022):
 - Address gaps in the appropriate oversight of suites subsidized by hospitals or other publicly funded programs to ensure the same rights and protections apply to these residents similar to other residents whose suite is not subsidized
 - Collect data to measure the impact of the changing level of resident care needs
 - Better explain to residents and families how well a home has met regulatory compliance standards
 - Enhance our complaints processes
 - Continually improve the rigor of our risk model to inform its priorities and identify activities that reduces or pre-empts harm to residents
 - Review our financial position to ensure sufficient resources to fulfill our mandate.
- Engage in an ongoing legislative review that considers lessons learned from residents during the pandemic and beyond.

RHRA needs resources to meet its mandate

With adequate funding, RHRA will be better able to keep Ontario's seniors safe.

RHRA can achieve its mandate of protecting residents' safety and well-being, enabling innovation by retirement homes to meet changing resident needs and making the retirement homes sector stronger for Ontarians by:

- ✓ Listening to residents' issues, resolving complaints and working with the sector to continuously improve regulatory oversight
- ✓ Providing the public with credible information and assurance there is a safe and reliable option for seniors' housing and care
- ✓ Restoring public trust in a sector hard-hit by the pandemic

Current Revenue and Expense Challenges

- RHRA had been showing operating deficits before the pandemic, starting in Fiscal Year (FY) 2018.
- At the end of FY 2020-21, RHRA's unrestricted reserves were fully depleted. Total reserves have been depleted by approximately 25% over this three-year period.
- RHRA received Transfer Payment support from the Ministry for Seniors and Accessibility which stabilized RHRA in the current fiscal year, enabling a delay in fee increase to January 2022.
- RHRA cannot sufficiently reduce expenses without compromising oversight of residents' safety and well-being.

2022 Fee Schedule Increases

2022 Annual Fee to Licensees

Increase from \$10 to \$17 per suite per month (January 1 to December 2022)

- Will provide the funds RHRA needs to cover the cost of core operations including inspections, compliance support, enforcement and communications among other functions
- Ensures that RHRA can continue to protect retirement home residents
- Note that these fees are charged to the facilities and not directly to residents

How have RHRA's fees compared to rent and service increases?

RHRA was initially established in 2011, and the initial per-suite regulatory fee was established at \$9.00 after consultation among the government, the sector, and the RHRA. According to CMHC, the average cost of a standard space in Ontario in 2011 was \$2,677 per month, and in 2021 was \$3,999.

Shown below is the relative change in rates over 10 years:

	2011	2021	\$ Increase (total)	% Increase (total)	% Increase Annual (straight-line)	\$ Average Annual Increase per month (straight-line)
Avg. Suite Cost	\$2,677	\$3,999	\$1,322	49.4%	4.9%	\$132
RHRA Regulatory Fees	\$9	\$10.09	\$1.09	12%	1.3%	\$0.12

The relative per-suite regulatory fee has steadily decreased since it was first introduced. RHRA has financed its increased expenses almost entirely from sector growth, however with an environment where needs, expectations and other circumstances (e.g. post-pandemic operating expenses) are changing rapidly, this is simply no longer feasible.

The increases in rent and care services rates is the material influence on monthly cost to residents, not the regulatory fee. This would be true even if the RHRA fee had risen proportionately with the rates the sector charges its residents as shown below:

RHRA Fee if it had increased at same pace as sector rates.	\$9	\$13.45	\$4.45	49.4%	4.9%	\$0.44
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How Protection is Compromised without fee increase

Activity	With Funding	Without Funding	Result
Proactive Inspections	Sustained using evidence on risk modelling	De-emphasized to give priority to MR (reactive)	Increased risk of harm to residents
Mandatory Reports of harm	Response time: 3-5 days	Response time: 6-11 days	Increased risk of harm to residents
Compliance Support	Support Retirement Homes in need	Unavailable	More struggling homes/increased risk of harm Increased likelihood of crisis scenarios (e.g. RH compliance failures, closures, etc.)
Compliance Monitoring	Assigned resources for consistent monitoring	By less frequent routine inspection only	RHRA unable to keep tabs on homes that are not in compliance
Enforcement Actions (e.g. order to comply with law)	Timely assessment of critical incidents	Action delayed on lower-risk incidents	Less effective enforcement response due to separation of response in time from event
Education & Awareness Campaign	Achieve gains in resident awareness of rights	Low to zero awareness	Residents/families unaware of rights and protections; how to complain; available information prior to choosing a home
Auditor General Recommendations	Address all 21 recommendations	Address only 6 recommendations - Unable to address 15.	Unable to fully address items like backlog of inspections
Formal relationships with community partners	RHRA can sustain and leverage local partners	Partnerships limited to critical incident coordination only	Impairs readiness for future events like COVID-19. Limits RHRA's ability to improve community response and monitoring

Conclusion

- The experience of residents and families during the COVID-19 pandemic has shown us that RHRA must adapt its operations to be able to continue to protect residents' safety and well-being.
- The activities needed to do this have increased significantly across all functions during the pandemic and are not expected to return to pre-pandemic levels.
- For this reason, RHRA requires a fee increase.
- Fulfilling RHRA's mandate and protecting residents with its current expenses and no revenue adjustment is not sustainable.
- Conversely, reducing activity to contain expenses will result in the inability to appropriately protect the safety and well-being of residents and/or meet public and government expectations.