

Protecting Residents in Retirement Homes

RHRA 2023 Fee Proposals & Feedback Process

Public Consultation

Tuesday August 23 – Wednesday September 21, 2022

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RHRA's Resident Protection Role

RHRA's Role

RHRA ensures and protects the safety and well-being of Ontario seniors living in retirement homes.

- The RHRA is an independent, self-funded, not-for-profit organization that regulates private, licensed retirement homes and mandated by the Ontario Government to administer the *Retirement Homes Act, 2010 (The Act)*.

RHRA's Objects in legislation:

- Assess Compliance and Intervention for Harm Prevention
- Raise Awareness and Guidance on Rights and Expectations
- Promote Transparency for Enhanced Consumer Protection
- Provide Insightful Policy Advice

The Retirement Homes Act requires RHRA to recover all costs to fulfil its mandate

- RHRA may set and charge a fee for anything it does while administering the Act, if the fees are set in accordance with the Fee Setting Process and Schedule (updated in March 2022) under the Memorandum of Understanding (MOU) with the Ministry.

The Value of Resourcing Resident Protection

- RHRA understands retirement homes have had a difficult time through the pandemic and continue to experience cost pressures.
- RHRA continues to support homes to operate where there are potential implications for resident well-being.
- Having an independent regulator is valuable to the sector to:
 - Address issues like unlicensed homes or chronically non-compliant homes that put residents at risk
 - Support public confidence, particularly in the wake of the pandemic, knowing that there is independent oversight; this is impaired if the regulator is unresponsive to resident/family when concerns are raised
 - Regulate nimbly and keep pace with sector changes and innovations
 - Bring a service and ease-of-doing-business perspective while executing on its oversight mandate
 - Regulate based on risk using a proportionate response

Fees Considerations

Fees Considerations

Details on the approach to fee setting are set out in RHRA's Memorandum of Understanding (MOU) with government, RHRA is required to cover all costs related to its regulatory mandate including those associated with the administration and enforcement of the Act and its regulations. As a non-profit entity, RHRA operates on a cost-recovery basis.

In the fee setting process the Minister requires a submission of the assessment of the following factors:

1. Current state, and historical fee changes evaluation
2. External trends in the retirement home sector
3. Costs for existing programs and estimated costs for new/expanded programs
4. Estimated costs associated with implementing new/amended legislation or external recommendations
5. Stakeholder feedback
 - This process of consulting on proposed fees is about collecting your feedback before final decisions on fees are made

RHRA's Financial Picture

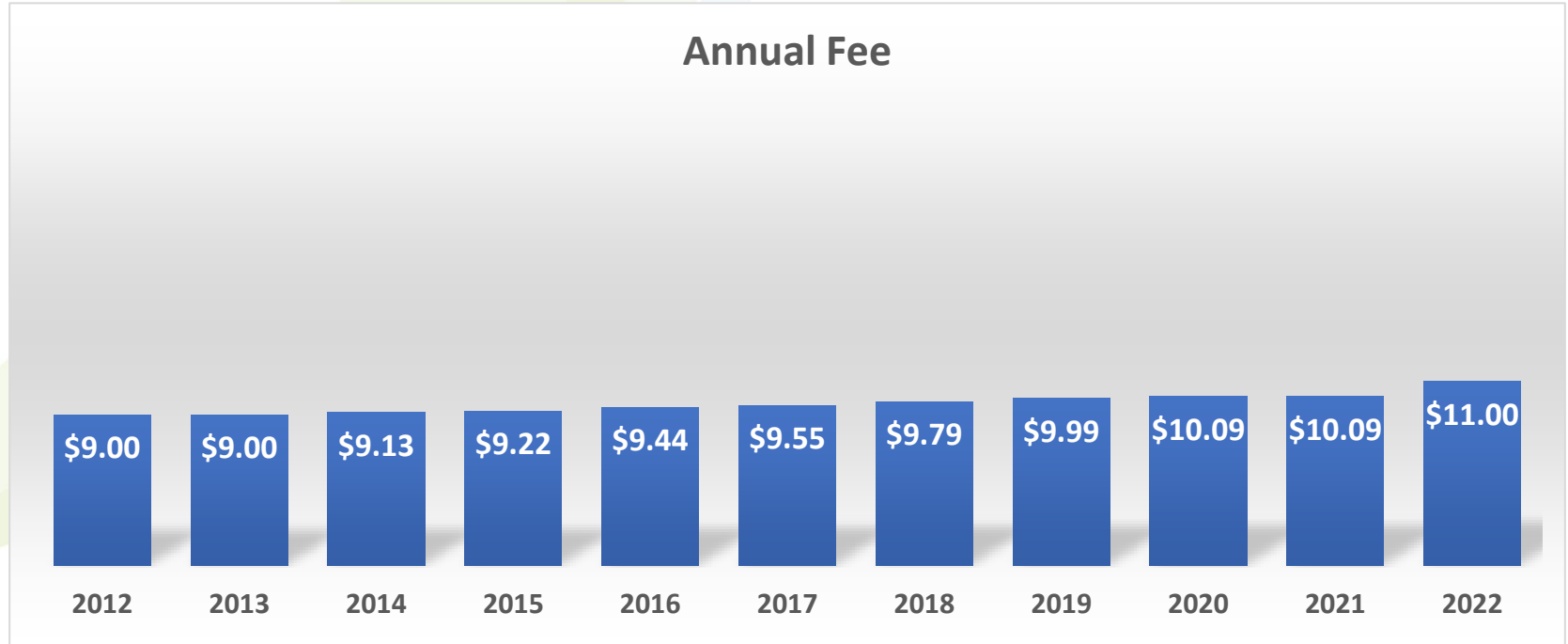
RHRA's Current Financial Picture

	2021/22 Actual	2022/23 Budget
	\$	\$
Operating Revenue		
Annual fees	8,450,012	10,167,794 *
Application fees	646,050	439,000
Administrative Fees	34,500	40,710
Government Funding	5,960,000	658,824
Total Operating Revenue	15,090,562	11,306,328
Operating Expenses		
Salaries, Wages and Benefits	8,894,052	9,545,980
Operating	2,554,673	2,631,541
Crisis Support Payment to Homes	1,083,352	-
Amortization of capital assets	163,275	301,437
Total Operating Expenses	12,695,352	12,478,958
Operating Surplus/(Deficit)	2,395,210	(1,172,630)

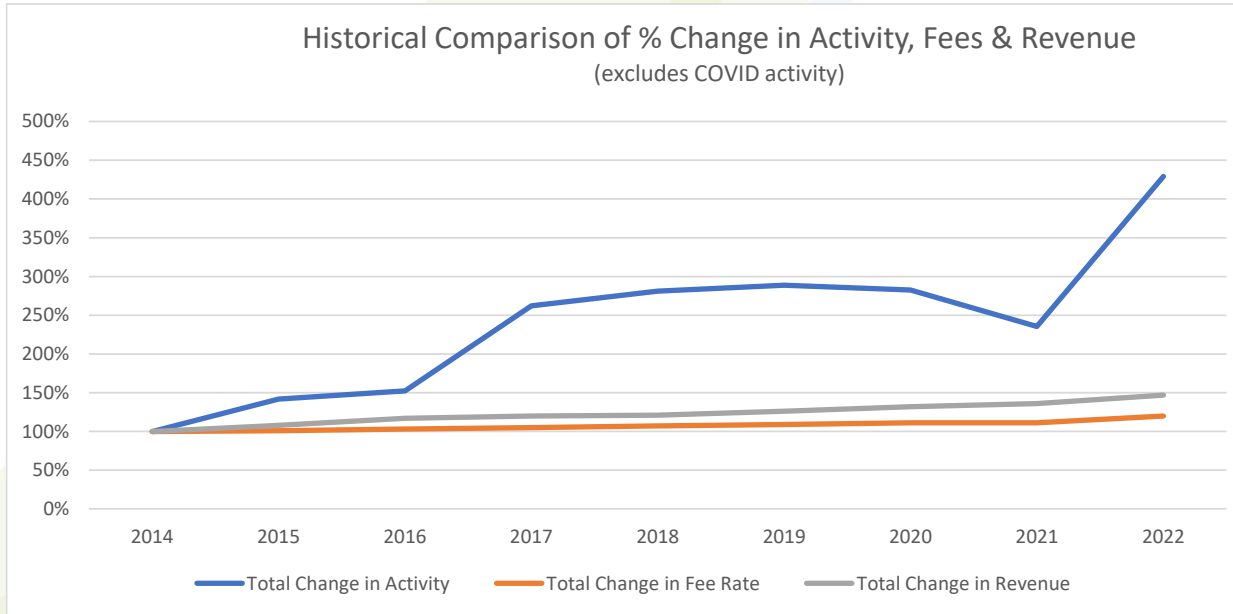
* Assumes implementation of proposed fee change

- RHRA is forecasting an operating deficit of \$1.2M (after impact of proposed fees changes)
- RHRA received a total of \$7.66M from government. In FY22 this resulted in a one year surplus that absent government funding would have been a ~\$2M deficit. Government funding for FY23 relates to funding for IT infrastructure project; no operational funding is provided, nor are there any future arrangements.
- Only 84% of operating expenses (excluding one-time government grants) are recovered by revenues
- Operating Reserve will reduce to ~5 months of expenditures by the end of FY2023.
- Without reconciling cost recovery reserves will be fully depleted in less than 2 years. As such, a longer “phased-in” approach to an increase in fees may no longer be viable.

Annual Fee Increases



Comparison of Change in RHRA Activity, Fees & Revenue



With the Act fully phased in by 2014, RHRA's activity growth correlated to the implementation of the relevant programs and began to out-stretch the historical fees structure.

Although this was initially manageable through efficiencies and constraint it was clear reconciliation would be necessary.

Rapid growth directly and indirectly driven by pandemic circumstances along with increased expectations necessitates a near-term resolution to this trend.

Activity trend includes: reports of harm/risk of harm, inspections, complaints, and enforcement activity

Trends in the retirement home sector

Economic & Operational Factors Affecting Licensees

- **Inflation** – general inflation remains high for all types of sectors at ~7%
- **Pandemic recovery:**
 - Homes continue to experience financial and operational pressure resulting from the effects of pandemic. These include staffing shortages and increased costs due to a competitive labour market; sustained expenses for IPAC practices; and challenges with occupancy and the costs associated with attracting new residents (marketing; incentives/discounts etc.)
 - External analysis of the retirement home sector and public statements from operators suggests that recovery through 2023 is expected with occupancy levels at pre-pandemic levels by 2024. The external analysis suggests that rental rates remained strong despite shorter term incentives.
 - Transaction volumes among licensees have increased which was corroborated by RHRA's licence applications experience over the past year.
 - It is unlikely that all homes are in the same circumstances; rather that homes will be at various stages of recovery both operationally and financially.

Sector Trends Affecting Regulation

- Early research suggests that in aggregate the health profiles of residents continues to shift toward greater care needs. However, a more nuanced view suggest that as operators emerge from the pandemic there may be a more clear distinction between those homes targeting a more independent resident profile while others cater to residents with higher care needs.

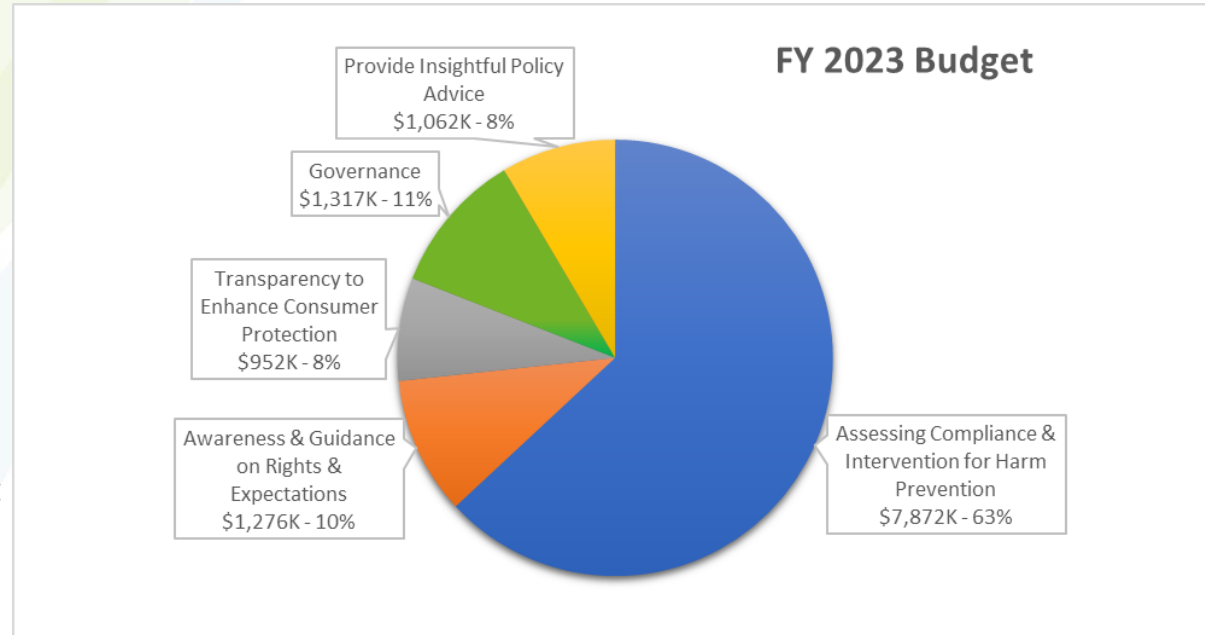
12 RHRA has observed an increase in the number of inexperienced applicants seeking licensure.



Costs for Mandated Programs and Estimated Costs for New/Expanded Programs

RHRA's Costs by the objects in s.16 of the Act

- 63% of RHRA's expenses are for Assessing Compliance & Intervention for Harm Prevention
- 18% of expenses are for Consumer Protection and Awareness & Guidance on rights and expectations
- Governance includes costs related to Board, Risk Officer, Complaints Review Officer, and responding to government requests, external reports, and other stakeholder activity



Assessing Compliance & Intervention for Harm Prevention

Expanded Programs:

RHRA has seen increased activity in the following areas:


- **Inspections:** driven by increases in responsive inspections (e.g. complaints) and changes in risk profiles resulting in more proactive inspection.
- **Complaints:** double-digit growth annually since 2014. Diversion to early resolution was implemented to improve efficiency but the volume of complaints continues to grow.
- **Reports of harm/Risk of Harm:** incoming reports grew from ~400 in FY14 to ~600 in FY19 and to ~1,000 in FY22. Remote inquiries were implemented and expanded during this period to limit on-site inspections for lower-risk reports; nearly 40% are handled remotely.
- **Enforcement:** Orders issued for all types were 73 in FY22; this compares to ~45 in the year pre-pandemic and ~25 in 2014.
- **Compliance Support:** 45 homes went through this program in FY22. This program was suspended from activity since FY20-21. This program is an important diversion to improve compliance in an efficient manner.
- **Inquiries requiring documentation & follow-up:** There was a decrease of 16% in FY22 from the prior year due to a reduction in the number of direct Covid-19 issues. This was offset by increases in other types of inquiries and represents a 58% increase from pre-pandemic levels.

Assessing Compliance & Intervention for Harm Prevention

New Programs:

RHRA established functions to better and more efficiently absorb certain activity:

- **Compliance Monitoring:** established to assess whether a licensee is complying with an order or decision. A total of 39 homes were part of this program in FY22; similar levels are expected going forward.
- **Partnerships & Engagement:** A by-product of the pandemic has been greater system-level awareness of RHRA and its role. Community engagement has proven highly effective in helping some homes. Other activity includes ongoing Covid-19 response; working with partners on homes in crisis, unlicensed homes identification and responding to evolving changes in the sector.



Estimated Costs Associated with Implementing New/Amended Legislation or External Recommendations

Estimating Costs Associated with Implementing New/Amended Legislation or External Recommendations

Implementation of Amended Legislation and MOU:

- The Act was amended in December 2021, and RHRA estimated the cost implications to be approximately \$235,000.
- RHRA has been engaged with the Ministry on updating its MOU. Ongoing costs of fulfilling all aspects of the MOU with government is estimated at an annual cost of \$2M across all programs and governance activity.
- Some longer-term implications to resource requirements are not fully known. Notably, improved ability to communicate with residents is a significant improvement to consumer protection considering existing low awareness of RHRA among residents. However, greater awareness may drive demand for more services if more residents seek out RHRA's support.

Estimating Costs Associated with Implementing New/Amended Legislation or External Recommendations

Activity Related to External Recommendations:

- Between 2014 and 2022 RHRA has accumulated over 100 recommendations from various reviews that are expected to be addressed. Similar to legislative changes, most relate to process and have been incorporated into resource requirements for each program area. Though several implementation timelines have been extended they may increase our activities when completed.
- There are several activities related to recommendations that are being deferred for financial reasons. Among these are:
 - Compliance Assistance Module resumption
 - Public Awareness campaign (limited budget)
 - Publishing complaints by home
 - Certain community engagement activity related to unlicensed homes
 - Service level satisfaction surveys
 - Extra expense insurance review
 - Public reporting on individual home performance
 - Greater disclosure related to price lists

Addressing RHRA's Value

How do we know that RHRA is efficient and focused with its resources?

RHRA'S operations have been validated through independent reviews

- The value-for-money review by the Auditor General (AG) in 2020 acknowledged that RHRA has made considerable progress in implementing effective systems of regulation.

KPMG Independent Operational Efficiency Report (2022)

- The overall conclusion of this review was that RHRA is efficient and its operations are focused on consumer protection.
- Savings opportunities identified reflect less than 5% of RHRA's current year budget. RHRA has already included over 40% of these cost savings in its plan for the current year, and has a plan to address the remaining recommendations after the major IT system implementation.
- This review was directed by the Minister and called for by stakeholders in response to questions related to efficiency arising from last year's consultation on fees. RHRA participated fully deferring any decision to consult on fee changes pending the outcome of the review.

What Actions has RHRA Taken to Improve Efficiency?

In balancing its financial responsibilities with the imperative to responsibly fulfill its mandate to protect Ontario's retirement homes residents, RHRA has implemented systems and improvements. Actions include:

- Adopted a risk-based inspection model that focuses resources where there is harm or risk of harm
- Implemented remote inquiries to address lower-risk reports of harm avoiding more time consuming, costly, and disruptive in-person inspections where not necessary
- Implemented an early intervention and resolution process to address resident and family concerns before needing to go through the more onerous and time consuming formal written complaints procedure
- Addressed operational efficiency opportunities through the introduction of technology solutions such as automated workflows, and improved licensee self-service opportunities
- Delayed and deferred certain initiatives including those arising from AG and Risk Officer recommendations. Examples include deferring online education on standards; addressing changes to insurance requirements; addressing gaps in public awareness of RHRA's mandate

What Actions is RHRA taking to Address Cost Savings Identified by the Independent Efficiency Review?

As noted in KPMG's efficiency review, RHRA took proactive steps to identify and implement cost savings by performing an internal review in FY22 to improve its financial position which in total exceeded \$100,000.

RHRA has reviewed the cost savings and revenue recommendations made by KPMG and has developed a plan of action, including:

- I. Executive salaries were frozen for FY23. Compensation changes for FY23 were held well below inflation at 1.5% for all staff.
- II. The Board has committed to reviewing RHRA's compensation programs including the existing short-term incentive policy with the support of an independent external compensation firm. This review will include among other items, the pay band structure, comparators, and compensation targets and will be completed in FY23.
- III. RHRA's staffing levels were assessed to be appropriate to deliver on its mandate efficiently and effectively. As RHRA continues to take steps to stabilize its operations, the board will continue to monitor the implementation of organizational changes which includes receiving reports on staffing changes and allocation. For example, across the organization KPMG's analysis suggested a review of 3 roles, one of which has already been eliminated.
- IV. RHRA will evaluate additional cost cutting options regarding its current multi-year lease for office space and options for alternatives before its natural expiry. This will be concurrent with a review of its hybrid work model.
- V. The board intends to adjust its reserves policy to enable the necessary draw-down of funds needed over the coming year.

Has RHRA looked at alternatives to raising fees?

- KPMG noted RHRA proactively sought out efficiencies to deal with rising activity levels. Examples include remote inquiries for lower-risk reports of harm, and early resolution attempts to mitigate more onerous formal written complaints processes.
- RHRA has deferred several activities, including extending response times to external recommendations and/or narrowing their scope.
- RHRA and KPMG assessed opportunities for alternative revenue generation, concluding that there are limited options that do not require a significant up-front investment of time and/or resources. KPMG did identify one alternative to support funding of activity related to unlicensed homes that would require legislative change.
- RHRA will continue to review options for possible future funding as part of its strategic planning process later this year.

Fees Proposals 2023

What considerations did RHRA make in looking at these fee changes?

RHRA sought feedback from its Stakeholder Advisory Council before determining what fees it would consult on publicly.

In addition to the criteria outlined in the MOU schedule, RHRA also considered:

- Cost recovery from annual fees to stabilize RHRA at current level of operation
- Consideration for homes under financial distress
- Aligning fees with effort
- Motivating compliance for certain tasks that drive lower-value-added tasks to RHRA staff

Six Fee Proposals for 2023

Proposal #1: Adjust Annual Fee to stabilize cost recovery for core operations, addressing increases in activity, staging any subsequent changes over time

Proposal #2: Fee reduction for homes in financial need for resident protection (for transition during 2023 only)

Proposal #3: Align license application fee to reflect process effort

Proposal #4: Increase in fee for change of person with controlling interest

Proposal #5: Increase in fee for failure to notify RHRA of changes to the information on the public register.

Proposal #6: Eliminate fee for re-printing licence

Overview of Proposed Fee Schedule Changes

Description of Fee	Current Fee	Proposed Fee Change	RHRA Revenue Impact (Jan – Dec 2023)
Annual Fee	\$11.00 per month per suite	\$14.50 per month per suite	\$2,900,000
Fee reduction for homes in financial need (for 2023 only)		Up to 20% reduction in fees for homes in financial need	(\$487,000)
Licence Fee Applications	\$5,000 + \$25 per suite	\$10,000 + \$25 per suite	\$275,000
Change in Controlling interest	\$2,500	\$5,000	\$5,000
Failure to notify RHRA of changes	\$250 per instance	\$1,000 per instance	\$nil
Replacement of license	\$75	\$nil	\$nil
		Total Expected Impact	\$2,693,000

- To continue supporting RHRA’s mandate and activities, RHRA is proposing to amend its fee schedule to continue to meet its regulatory responsibilities.
- Over the last two years, RHRA has been the subject of several third-party audits, including the Auditor General, Standard Committee on Public Affairs (SCOPA) and an operational review requested by MSA. These third-party audits have consistently concluded that the RHRA is an efficient operation but that the changing environment in seniors’ care will increase the level of oversight required in retirement homes to ensure residents’ safety.
- In accordance with the requirements of the Act and MOU, RHRA plans to consult with stakeholders on changes to the RHRA's Fee Schedule would take effect on January 1, 2023 as summarized here.

Fee Proposal #1 – Adjust Annual Fee to stabilize cost recovery for core operations, addressing increases in activity

To achieve this objective, RHRA proposes \$14.50/suite/month effective January 2023. The 2022 annual fee is \$11 per suite per month.

Considerations:

- This change will enable recovery from acceleration of core activity
 - RHRA will plan for two years at current staffing levels
 - Allows RHRA to assess future needs following an updated strategic plan for FY24-27
 - Enables to RHRA to assess possible efficiency gains from technology improvements
 - Pending several strategy, cost-recovery, and operational decisions or other new information, an anticipated increase in annual fees ranging from \$15.50 - \$16.50 for 2024 may be necessary. Depending on these variables and the rate of inflation, an inflationary increase may be sufficient.
 - Future increases are expected to be staged in over time
-
- RHRA recognizes this is a significant change but is necessary if it is going to balance recovering its costs to meet its mandated accountabilities to all of its stakeholders, while considering the burden to licensees.

Annual Fee Impact on Retirement Home Operators

Using average occupancy and rental rates from 2021, the impact of the increase in annual fees:

- On a 100-suite home is \$4,200 annually or 0.11% of revenue
- On a 15-suite home is \$630 annually or 0.11% of revenue.
- The relative change holds generally true for homes of all sizes. Below is a sample calculation:

Details for 100-suite home:

- Current Annual Fee is \$13,200 ($\$11 * 100 \text{ suites} * 12 \text{ months}$)
- New Annual Fee would be \$17,400 ($\$14.50 * 100 \text{ suites} * 12 \text{ months}$)
- *Increase in the annual fee is \$4,200* ($\$17,400 - \$13,200$)

Assume 80% occupancy and \$4,000 average per month suite charge:

- Revenue from residents (excluding additional care charges) is \$3,840K ($100 \text{ suites} * 0.80 * \$4,000/\text{month} * 12 \text{ months}$)
- Increase in fees as a % of total revenue is 0.11% ($\$4,200 / \$3,840\text{K}$)
- Total fee as a % of total revenue is 0.45% ($\$17,400 / \$3,840\text{K}$)

Fee Proposal #1 – Adjust Annual Fee to stabilize cost recovery for core operations, addressing increases in activity

To achieve this objective, RHRA proposes \$14.50/suite/month effective January 2023. The 2022 annual fee is \$11 per suite per month.

Questions for Feedback:

- What feedback do you have related to the proposed fee?
- If RHRA could stage the required increase so that it resulted in a lower fee for 2023, but a greater likelihood of a higher fee in 2024 would that be preferred? Are there any reasons why deferring and accepting a larger increase in 2024 is preferable?
- In line with our next 3 year strategic plan would it be helpful to see a predictable or defined fee schedule so you know what the fees will be for the next 3 years related to execution of the plan?

Fee Proposal #2 – Fee reduction for homes in financial need for resident protection (2023 only)

Retirement Homes that demonstrate a financial need for resident protection can apply for up to a 20% reduction in the annual fee. The fee reduction would only apply to the 2023 calendar year.

Considerations:

- Even though the overall industry is expected to recover in 2023 from the effects of the pandemic, there may be homes that are having financial difficulties and may take longer to achieve pre-pandemic stability and occupancy levels.
- RHRA wishes to assist homes financially to ensure resident protection.
- Criteria for fee reduction will include:
 - Pre-pandemic occupancy vs. current occupancy
 - Submission of an improvement plan and financial statements for the home
 - Description of how fees reduction will benefit residents

Fee Proposal #2 – Fee reduction for homes in financial need for resident protection (2023 only)

Retirement Homes that demonstrate a financial need for resident protection can apply for up to a 20% reduction in the annual fee. The fee reduction would only apply to the 2023 calendar year.

Questions for Feedback:

- What feedback do you have related to the opportunity for some homes to apply for a discounted fee?
- Are there other eligibility criteria that RHRA should consider?

Fee Proposal #3 – Align licence application fee to reflect process effort

The licensing review process has evolved, however the license application fee has not been updated since 2014. The application fee is a one-time fee paid only when applying for a license which is issued for an indefinite period.

Current Application Fee	Proposed Application Fee
\$5,000 + \$25 per suite Maximum \$10,000	\$10,000 + \$25 per suite Maximum \$15,000

Considerations:

- The license application fee should reflect the costs of the activity and not ‘subsidized’ by other fees
- Changing the base application fee while leaving the variable portion constant changes the relative weighting so that smaller homes which require as much scrutiny as larger homes are treated equitably.
- Smaller homes and larger homes have differing abilities to pay, and different relative costs to total investments being made when applying for a licence.
- RHRA has also observed a change in applicants that necessitates additional evaluation such as those with less experience in home operations or new investment groups to the sector.

Fee Proposal #3 – Align licence application fee to reflect process effort

The licensing review process has evolved, however the license application fee has not been updated since 2014. The application fee is a one-time fee paid only when applying for a license which is issued for an indefinite period.

Current Application Fee	Proposed Application Fee
\$5,000 + \$25 per suite Maximum \$10,000	\$10,000 + \$25 per suite Maximum \$15,000

Questions for Feedback:

- Does the combination of base and variable fees reflect an appropriate balance when considering different kinds of applicants?
- Would another method of charging for licence application review be preferable? If so what?
- For smaller potential applicants, would the base application fee create a disincentive to apply?

Fee Proposal #4 – Increase in fee for Change in Person with Controlling Interest

Similar to a licence application, the review process has evolved but the fee has not been updated since 2014. The fee is a one-time fee paid only when certain circumstances change for a licensee.

Current Fee	Proposed Fee
\$2,500	\$5,000

Considerations:

- The change in controlling interest fee should reflect the costs of the activity and not ‘subsidized’ by other fees
- The RHRA process for evaluating a change in controlling interest has evolved over the last decade. The work required has increased due to additional tasks such as background check for new owners etc.
- RHRA typically receives fewer than 10 requests in this category each year. As such, the fee is a minor component of revenues for RHRA and of very limited burden to the sector broadly.

Fee Proposal #4 – Increase in fee for Change in Person with Controlling Interest

Similar to a licence application, the review process has evolved as RHRA has gained experience but the fee has not been updated since 2014. The fee is a one-time fee paid only when certain circumstances change for a licensee.

Current Fee	Proposed Fee
\$2,500	\$5,000

Questions for feedback:

- Do you have any feedback on this proposed fee change?

Fee Proposal #5 – Increase in fee for failure to notify RHRA of changes to the information on the public register

Homes are required by the Act to notify RHRA of certain changes, and RHRA is to maintain these records for the public.

Current Fee	Proposed Fee
\$250	\$1,000

Considerations:

- RHRA wants to emphasize the importance of informing the regulator of changes to the Public Register
- Current fee is extremely low and not a motivation to maintain the correct information on the public register
- The new fee signals the importance of keeping the information on the Public Register current
- Keeps RHRA staff focused on more priority work and away from less value-added activity, such as following-up to receive this information
- RHRA plans to make updating information easier with implementing a web portal to increase efficiency for licensees

Fee Proposal #5 – Increase in fee for failure to notify RHRA of changes to the information on the public register

Homes are required by the Act to notify RHRA of certain changes, and RHRA is to maintain these records for the public.

Current Fee	Proposed Fee
\$250	\$1,000

Questions for Feedback:

- Do you have any feedback on this fee change?
- Can you suggest other ways to motivate compliance with this requirement?

Fee Proposal #6 – Eliminate Fee for re-printing licence

Homes are required by the Act to post their licence from RHRA.

Current Fee	Proposed Fee
\$75 per replacement	\$0

Considerations:

- Very little staff time required to process the request to replace a licence
- Frequency is not high, with no material impact to operations or cost recovery

Questions for Feedback:

- Do you have any feedback on this fee change?

How to Participate in RHRA Consultation and Provide Feedback

How to Participate in the Fee Consultation

Feedback received during the consultation will be considered by RHRA's Board in making a final decision regarding these fee proposals. RHRA expects to communicate its fees decision by the end of September.

Key Dates:

Consultation opened for comment:	Tuesday, August 23, 2022
Consultation closed:	Wednesday, September 21, 2022
Proposed effective date of fee adjustments:	Tuesday, January 3, 2023

Please review the information in this PowerPoint presentation and visit RHRA's online consultation site to submit formal feedback about the 2023 fee proposals. Questions? Please contact consultations@rhra.ca

I want to know more

- A more detailed document is available to supplement this overview, and is available [here](#).
- Other public documents including [RHRA's business plans](#), [annual reports](#) and [MOU](#) are available on its website.