Retirement Homes Regulatory Authority

Supplemental Information for Fee Consultation

August 23, 2022

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Introduction – Purpose of this document

RHRA is committed to the principle of transparency, especially when it relates to Fee Schedule changes. In addition to the main consultation materials this document provides stakeholders additional information regarding the proposed fee schedule changes.

Executive Summary

The need and the expectation for Resident Protection has been increasing, and has only accelerated with effects of pandemic

All indications (for example: RHRA observations, and data/research) suggest that in aggregate residents' care needs in retirement homes have been increasing and are more complex.

Demographics and pandemic experience are influencing sector changes.

The indirect effects of the pandemic (lack of staffing, need for more skilled staff) have increased the risk of harm for residents resulting in more observed adverse outcomes for residents**.**

Demand for RHRA services has consistently grown, and has dramatically accelerated in wake of pandemic

Looking at our 4 key operational activities*, RHRA total activity doubled from 2014 through 2020. Since 2020, it has almost doubled again*.

Includes some direct pandemic activity increase but is more reflective of circumstance changes influenced by pandemic.

This measure includes only core processes and not other required functions competing for resources.

Expectations of public, government and stakeholders has increased, expanding rapidly since 2020

Expectations driven by independent reviews: from 2014-2020 RHRA had 6 Risk Officer reviews with 36 recommendations. From 2020-2022 there are an additional 5 reviews from multiple independent reviewers with over 64 recommendations requiring response.

Formal Ministry Requests**:** over the past 2 years RHRA has received approximately 7 formal requests from MSAA for action. For example, to address ALC in retirement homes and other data collection.

Stakeholder Engagement**:** as RHRA's role and relevance has become more known, there is increasing engagement needed that aligns with our core mandate. Examples include: Coroner for system improvements; supporting local community partners such as Home & Community Care Services and Public Health Units; data partnerships for modern regulation practices such as Ontario Health; Ministry of Finance. This is in addition to continued validation of gaps between public expectations and awareness of RHRA.

RHRA model and operations have been validated through external, independent scrutiny

Auditor General (AG): noted RHRA's considerable progress made in developing effective systems of oversight.

KPMG Independent Operational Efficiency Review: concludes RHRA's core operations are efficient and oriented toward consumer protection

Innovative Research Group's Stakeholder Effectiveness Survey: largest ever survey of residents; industry; other stakeholders shows positive results related to value and service interactions with RHRA.

Failing to match changes in its environment will impair RHRA from effectively executing its mandate putting residents at risk

For RHRA to remain responsive and hold operators accountable, it must have the resources to respond effectively.

RHRA is committed to providing a sustained level of oversight while making it easy to do business for licensees. To do this requires continued investment as the sector grows in size, complexity, with an aging population.

Public expectations for oversight of those caring for the elderly are high; regulatory oversight should reflect these expectations.

Mission-driven front line staff are the key to success. Without adequate resources, RHRA will have to adjust staffing that will have a direct impact on delivery of our mandate.

Value of oversight and financial imperative are clear

Seniors and the sector have experienced a generational event (Covid-19) that has amplified the risk and potential issues for all both. Nearly 70% of RHRA inspections reveal some form of non-compliance. RHRA has observed increased risk of harm over the past year, and the conditions for that to continue will persist, and may in fact grow as the risk profile of residents evolves.

Historically low fee rate increases despite activity growth were absorbed earlier in RHRA's history, but the rapid acceleration of activity and resources necessitates action for RHRA to be financially sustainable.

Residents First: The Imperative For A Strong Regulator In A Changed Landscape

Residents in licensed retirement homes have experienced an incredibly difficult period over the past 2 years, one that has affected their overall well-being. Early indications are that the number of residents with complex health profiles was already increasing prior to the pandemic, but this may be amplified by Covid-19. Charged with the protection of these residents, the need for RHRA to fulfill its mandate is clear, and the need for it to adjust to altered circumstances is equally clear if the seniors living in retirement homes are to be given the protection they deserve.

Need for Resident Protection is clear and increasing

Changes In Resident Profile

- Consumer protection for all residents in retirement homes is an important premise in the Act for residents and the public to have confidence in the sector.
- RHRA continues to pursue more information on resident profiles, but other data indicates that the care needs of residents living in retirement homes continues to increase.
    - The 2020 Auditor General report showed that 10,000 residents, approximately 1 in 6 residents, are on the LTC waitlist. This was a 62% increase over 5 years.
    - RHRA partnered with McMaster University to study retirement home residents' health profiles. Some key conclusions are:
        - Major health change frequently coincides with a move to a retirement home
        - Residents have major comorbidities, including cognitive impairments that make them vulnerable. Nearly 40% of retirement home residents have diagnosed dementia.
        - Many residents have limited lifespans (25% deceased after one year in retirement home; 50% deceased within 3 years), and many transition to higher levels of care (18% move to LTC after 1 year in retirement). 28% remain in the retirement home after 3 years.

Shifting Sector

- RHRA has observed that the attractiveness of a growing sector with strong demographics have increased the number of inexperienced operators seeking licensure; changes of strategy and emphasis for some chain operators elevated the number of ownership transactions.

Pandemic Indirect Effects On Risk Of Harm to residents

- Staffing in homes has emerged as a significant issue for the sector. Between difficulty in finding staff in a competitive market for health human resources and corresponding financial issues (e.g., increased pressures on wages) risks related to staffing are elevated.

- RHRA is observing more non-compliance related to neglect, behaviour management, and plans of care. For example, in the past 18 months, RHRA has encountered circumstances where failures to do regular checks on residents as outlined in care plans have resulted in hospitalizations and deaths.

Demands for RHRA services have consistently grown, and has dramatically accelerated in wake of pandemic

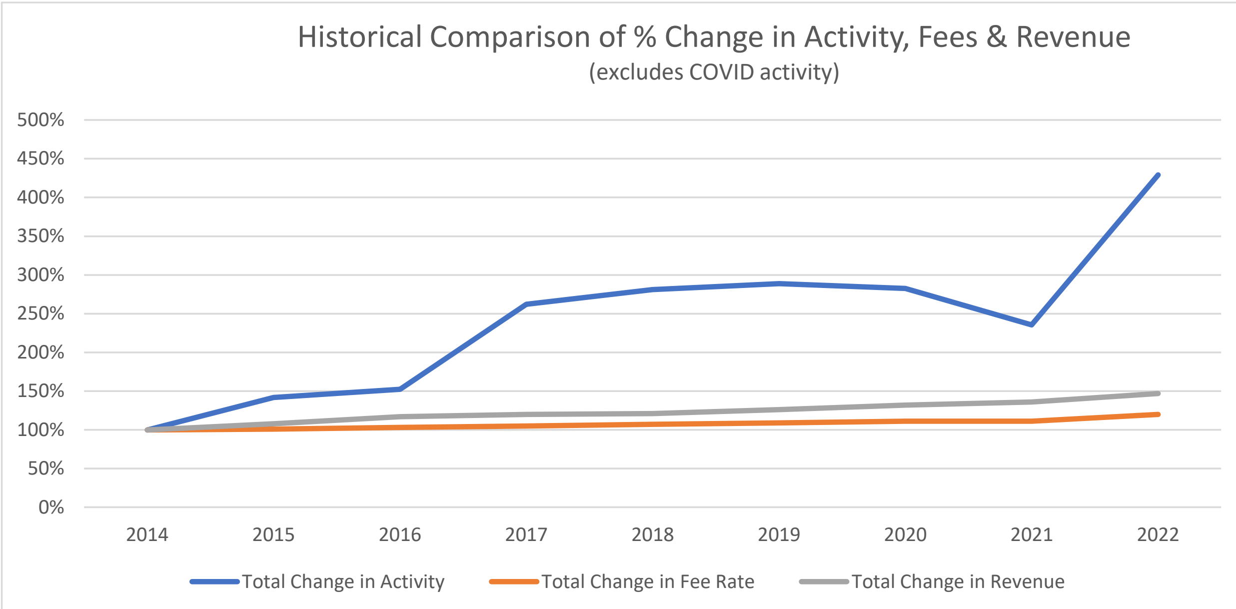
RHRA operational data has continued to shift in parallel to sector changes. Reactive processes such as responding to reports of harm or complaints are growing with acceleration through FY22 even after 'peak' pandemic activity eased from the prior year. RHRA uses a harms-based risk model grounded in international best-practice to drive inspection activities which can lead to enforcement. These activities have also increased reflecting the risk to residents and the need for regulatory intervention. Highlights include:

Table 1: Select Core Activity Changes

	FY 14 - FY 20 increase #	7-year change %	FY 20 – FY 22 increase #	2 years change %	Notes
Report of Harm/Risk of Harm	522	120%	98	10.2%	Greater awareness among 'system' partners of RHRA's role and changed circumstances in homes creating greater risk.
Complaints	61	305%	66	82%	RHRA implemented a new process of early intervention to improve efficiency for those complainants willing to avoid the formal complaints process in FY21.
Inspections	696	222%	395	39%	Driven by risk of harm evaluation. Proactive routine inspections in FY 2021 were suspended for several months to support pandemic response activity.
Enforcement orders	21	4%	27	59%	Reflective of higher-risk circumstances warranting enforcement.

The graph below shows how relative combined activity volumes (from the categories above only) compares with relative changes in both fees rate, and total revenues (which includes suite growth impact on 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 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.



Expectations of public, government and stakeholders has increased, expanding rapidly since 2020

Since 2014 when the Act was fully phased-in, the understanding of retirement homes that meet the definition and the residents who live in them has matured considerably. The wide variety of homes and the residents they serve has been a critical learning, and this is reflected in the way the sector is viewed by others. The public often confuse any distinction between retirement homes and LTC homes. Expectations of RHRA have also shifted over time in several ways:

Expectations Driven By Independent Reviews

- RHRA has been the subject of several reviews, all with corresponding recommended actions that both require resources and management and can have lasting effects on organizational activity. These include:

  2014 - 2020
  - RHRA's Risk Officer: 6 reports with a total of 36 recommendations

  2020 - 2022
  - RHRA's Risk Officer: 2 reports with a total of 20 recommendations
  - Auditor General's Report: 26 recommendations with 55 action items
  - Standing Committee On Public Accounts: 30 recommendations, many overlap with Auditor General's Report
  - Operational Efficiency Review: 18 recommendations with 35 recommended actions
  - Governance Review: currently underway

Formal Ministry Requests

- Several changes have evolved with governance and accountability (i.e., MOU) since RHRA's inception. There are also formal requests over the past two years that include:
  - Involvement in Alternate Levels of Care (ALC)
  - Providing ongoing policy advice
  - Covid related data collection and publishing
  - Requests for distribution of Covid related memos, instructions and direction to sector and responding to subsequent inquiries from families and homes.
  - Implementation of an Emergency Crisis Support program for the sector
  - Request to revise the Interim Fee Setting Policy (Schedule J of the MOU)
  - Data collection as a result of new powers (section 108)
  - License class project progress (now referred to by RHRA as "Alternate Assurance Evaluation Project")

Stakeholder Engagement

- Coroner's Reviews and Recommendations – The Geriatric and Long-Term Care Review Committee (GLTCRC) assists the Office of the Chief Coroner and reviews all homicides involving residents of long-term care or retirement homes and reviews cases of death where systemic issues may be present or where significant concerns have been identified. The GLTCRC can make recommendations directed to the RHRA, or otherwise potentially affecting the RHRA, and requests RHRA's comments. The RHRA has responded to 6 GLTCRC reports since January 1, 2020.

- Partnerships & engagement – system partners looking for RHRA support in addressing retirement home concerns in their local communities has amplified significantly resulting from the pandemic as more system partners are aware of RHRA. There have been over 500 calls with community partners to collaborate on high risk outbreaks this year, new system partners reaching out to get a better understanding of our role and regular meetings with groups requesting our participation to clarify sector questions.

- Awareness demands – Innovative Group's research and third-party reviews indicate a potential for increased risk to residents because, while 64% of residents surveyed believe that more should be done to protect retirement home residents, 71% do not know RHRA exists. Further, 24% of residents indicated they did not know who to contact to raise a concern.

- Use of data in Modern regulatory practices – Since 2019, RHRA has been designated under the Regulatory Modernization Act (RMA) to enable future partnerships. RHRA has engaged in data sharing among regulators to eliminate duplication and amplify regulatory effectiveness. RHRA has MOUs with Ministry of Revenue and Ministry of Health to receive data for regulatory activity. We are currently engaged with Home and Community Care Support Services (HCCSS) to obtain LTC waitlist information.

RHRA model and operations have been validated through external, independent scrutiny

The RHRA has adopted a culture of continuous quality improvement. We have welcomed the various recommendations arising from reviews and through its own surveys with a view to prioritized implementation. Despite always acknowledging room for improvement, RHRA has repeatedly been validated as an efficient regulator by independent external scrutineers and third-party research:

Auditor General (AG) Report

- RHRA's review by the AG in 2020 acknowledges that the organization has made considerable progress in its mandate: "The Retirement Homes Regulatory Authority has made considerable progress in establishing its operations since 2011, most notably in establishing a risk model that drives its inspection strategy and execution." (Auditor General Report 2020)

KPMG Independent Operational Efficiency Report

- The Minister commissioned this independent report to evaluate RHRA's efficiency. Some cost-savings opportunities were identified; however, the conclusion reads: "Our overall view is that the operations of the RHRA, including licensing, inspections and enforcement, are run efficiently with a focus on consumer protection."

Innovative Research Group's Stakeholder Effectiveness Survey

- RHRA commissioned this work in alignment with its MOU obligations. The results of this show that using its overall 'Accountability Index', RHRA was rated as:
    - Residents: 6.8 out of 10
    - Retirement Homes: 7.8 out of 10
    - Other Industry Stakeholders: 8.0 out of 10

- Among all industry stakeholders (retirement homes and others):
    - 83% Strongly Agree or Agree with the statement "The last time I had direct interactions with the RHRA my experience was positive"
    - 80% Strongly Agree or Agree with the statement "RHRA has contributed to improved safety in retirement homes"

Failing to match changes in its environment will impair RHRA from effectively executing and puts residents at risk

Accountability and Responsiveness to Resident Issues

- Responding to reports of harm, risk of harm, complaints, and taking remedial action are a critical component to addressing concerns of resident welfare when they arise. Responsiveness in these circumstances is an important factor in demonstrating diligent oversight for the protection of residents, and RHRA must be sufficiently staffed to do this effectively. RHRA has always prioritized immediate response to reports of harm and has been able to maintain service its levels (e.g., inspect within 5 days). However, timeframes for complaints remain challenging with volume increases as noted by both AG and KPMG reports.

Service Levels and Ease of Doing Business

- RHRA has positive feedback from industry stakeholders on its risk approach, and general service levels as demonstrated through its independent surveys corroborated by anecdotal interactions. Continued investment in the organization to ensure it can keep pace with the industry maintaining service levels is required for supporting sector growth. Similarly, continued investment in its risk model and regulatory approach will enable the RHRA to evolve in a way that supports innovation in the sector, reduces burden where possible, and remain focused on the most impactful issues and practices related to harms to residents

Public Expectations & Risk to Necessary Changes in Ecosystem

- Scrutiny and public expectations for the protection of seniors living in retirement homes has never been higher. Poised for growth this sector will play an increasingly important role in the Province's overall response to an aging demographic. Without effective regulatory oversight of the sector other changes and growth could be at risk.

Mission-Driven Staff Key to Success

- The vast majority of RHRA's expenses (75%+) goes towards the staff that are involved in the various programs to protect residents. RHRA was able to manage these programs because of government funding over the past year, however the financial reality is that without an appropriate increase to recover costs, cash reserves will be depleted and RHRA will be forced to reduce workforce. This will result in unacceptably low service rates to resident/families, unresponsiveness to government and scrutineers, and no ability to plan for or manage expected changes within the sector.

Value of Oversight and Financial Imperative Are Clear

The retirement homes sector has experienced a generational event that has amplified the risk and potential issues for resident well-being. Nearly 70% of RHRA inspections reveal some form of non-compliance. RHRA has observed increased risk of harm over the past year, and the conditions for that to continue will persist, and may in fact grow as the risk profile of residents evolves.

Historically low fee rate increases despite activity growth was manageable in prior years, however the rapid acceleration of activity and resources necessitates action for RHRA to be financially sustainable. Its reserves will fund FY 2022-23, but without adjusted cost recovery starting in January 2023 reserves will be insufficient to sustain its activity.

Strategic Plan in Action

As part of the Strategic Plan 2017-2022, RHRA would ordinarily be in the process of finalizing its next multi-year strategic plan at this juncture. However, given the uncertainty and degree of disruption created by the COVID-19 pandemic, RHRA's Board of Directors requested the creation of a bridge plan to encompass the 2021-2023 period that includes priorities identified by the Auditor General of Ontario in her 2020 value-for-money audit report, as well as recommendations from RHRA's Risk Officer.

The 2021-2023 bridge plan (see page 4) comprises four pillars each with strategic objectives. It was designed to enable RHRA to 'plan for transition' from the COVID-19 pandemic and enable the organization to meet its mandate, address environment changes, and respond to recommendations arising from a variety of reports including that of the Auditor General. Part of this transition also includes enabling the organization to develop its next strategic plan in the context of the broader stabilization and transition of the retirement homes sector and additional insight on direction through the legislative review process.

Pillar One: Use Evidence-based Research & Analysis to Drive Regulatory Model and Policy Advice

Objective	Outcome
Provide advice on Legislative Reform of the Retirement Homes Act and regulation	RHRA provided advice and recommendations to the Ministry for Seniors and Accessibility as part of its work on amendments to the Retirement Homes Act and Regulation. The Ministry for Seniors and Accessibility made legislative amendments to the Retirement Homes Act and Regulation, which received Royal Assent on December 9, 2021, as part of Bill 37, Providing More Care, Protecting Seniors, And Building More Beds Act, 2021. The remaining legislative amendments that did not come into force on Royal Assent were proclaimed into force on March 16, 2022. At the same time, regulatory changes also came into effect that support the legislative amendments. Examples of the revisions to the Act and Regulations include new powers that RHRA can use in urgent circumstances where residents may be at risk of harm, additional protections for residents from financial abuse by licensees, and the enhanced ability to share information with other regulators.
Update RHRA's risk model	RHRA expanded its risk model to include more data,

	such as inquiries outside of inspections, complaints, and factor in considerations on infection prevention and control. These are part of regular continuous improvement initiatives.
Continue to expand RHRA's data partnerships	In the 2021/22 fiscal year, RHRA signed a Memorandum of Understanding for data sharing with the Ministry of Finance. RHRA also signed a Memorandum of Understanding with the Ministry of Health to receive COVID-19 retirement home data from public health.
Build RHRA's stakeholder data program	RHRA focused on data collection as mandated in the Retirement Homes Act as well as the continued collection of COVID-19 outbreak data as well as new data on vaccination rates in retirement homes to help inform government and RHRA decision-making. RHRA developed a plan for stakeholder consultation on data collection and analysis to support implementation of changes to section 108 of the Retirement Homes Act as well as existing data collection requirements.

Pillar Two: Review & Adapt our Regulatory Approach to 'post' COVID Environment

Objective	**Outcome**
Operational effectiveness improvements including enhancements to inspection reports to improve ease-of-use, incorporating more robust financial assessments into licensing process, continuous improvement initiatives for inspections	RHRA made changes to the wording of its inspections findings to increase transparency into how inspectors came to specific conclusions in their findings. RHRA undertook a review of how it structures its final inspection report template to expand on information specifically relating to closed citations. Additional continuous improvements involved enhancing the information gathered and communication during inspection through more structured interview questions and a more robust debriefing process. RHRA implemented the use of background searches such as credit checks, and bankruptcy and insolvency searches, to assess financial health of applicants.

	RHRA conducted licensing interviews with all applicants that are not current licensees that included vetting for financial health. RHRA intends on initiating additional work on recommendations from the Risk Officer stemming from a review of licensing processes.
Align enforcement strategy with crisis support & re-assess process alignment including initiatives to enable new management order powers, enhance compliance monitoring and compliance support programs	RHRA strengthened its internal capacity to increase the number of homes for which it provides compliance support, meaning that homes at risk can be addressed quickly and support can be provided faster. When homes were experiencing outbreaks during the pandemic and licensees were unable to properly respond, RHRA was able to issue orders which required licensees to retain external managers chosen by RHRA in order to manage the outbreak. These homes were often eligible for crisis support program funding, which enabled them to pay for the services of the retained manager. RHRA introduced a new Compliance Monitor function last fiscal year and has since enhanced this program and its processes to become more formalized over the course of the 2021/22 fiscal year. This function is responsible for ensuring that licensees are appropriately complying with Orders and Conditions issued by RHRA's Registrar or Deputy Registrar. One of the Compliance Monitor's responsibilities is to coordinate and liaise with managers retained by licensees as part of management orders to ensure that licensees are meeting their obligations under the terms of the orders issued. The creation of the Compliance Monitoring function has enabled RHRA to issue compliance orders, management orders and licence conditions that are more robust while simultaneously allowing RHRA to be more rigorous in ensuring compliance.

Formalize regulatory collaboration processes with partners	RHRA met with a number of community partners in the 2021/22 fiscal year to educate them on RHRA's mandate including its role in engaging with partners on issues of mutual concern, specifically as it related to the wellbeing of retirement home residents. This has resulted in an effective and coordinated response to crises caused by the pandemic as well as the identification of potential unlicensed homes.
Operational recovery including addressing inspection backlogs, formalizing unlicensed homes monitoring and enhance reporting of non-compliance on RHRA's public online database	RHRA's routine inspection backlog was eliminated prior to the end of the 2021/22 fiscal year as a result of increasing resources to complete this objective. The unlicensed homes project identified 231 homes in May 2021 requiring follow-up to determine what further action, if any, was required. As of the end of the 2021/22 fiscal year, 206 homes had been addressed. Work is ongoing to complete this objective in the 2022/23 fiscal year. At the end of the 2021/22 fiscal year, RHRA was in the process of beginning to publish more robust and detailed summaries of the orders it issues to licensees on its Retirement Home Database. These transparency enhancements also consider RHRA's obligations related to protecting privacy and personal information.
Continue to enhance complaints handling	RHRA implemented procedures for early intervention and early resolution of complaints, updated its complaints procedures to deal with unresponsive complainants, and updated its website with a list of common referrals and relevant agencies for RHRA complainants to access if something fell outside of its mandate. RHRA also implemented a procedure for external referrals and established and monitored service level standards for complaints. It also enhanced the information on the complaints page of its website by way of an infographic to assist complainants better understand the complaints process.

Pillar Three: Build Trust with Public, Government, and Industry

Objective	**Outcome**
Increase RHRA's profile among government and stakeholders to enable role as key policy advisor	RHRA provided policy advice to government on a number of matters concerning the development of COVID-19 directives and created guidance documents as needed to assist the sector in the implementation of directives or instructions from the Chief Medical Officer of Health. RHRA enhanced its policy and government relations functions by adding capacity to support RHRA's responsibility as a trusted advisor. A structured policy process and framework was developed with mechanisms to identify, prioritize, analyze and optimize RHRA's ability to make policy recommendations to government.
Enhance education and awareness of RHRA among residents, families and prospective residents	RHRA initiated a comprehensive communications campaign aimed at increasing awareness of RHRA and the resources available for residents, prospective residents, and their loved ones. The campaign reached a total of 409,619 people through Facebook ads, garnering over 2.4 million impressions through Facebook and Google Search ads, and resulted in over 38,000 clicks to key resources on RHRA's website, such as the Retirement Home Database. RHRA also conducted a number of outreach presentations to community partners, including the Alzheimer's Society and Scarborough Centre for Healthy Communities, and invited Elder Abuse Prevention Ontario and Home and Community Care Support Services to present to RHRA's Resident Network.
Continue to build out a public report card for Ontario's retirement homes, beginning with enhancements to the Retirement Home Database	The public report card initiative was placed on hold due to budget restraints. RHRA will endeavor to revisit in the 2022/23 fiscal year in the context of a number of initiatives that support RHRA as a transparent regulator with the aim of enabling residents and their families to make informed decisions.

Pillar Four: Infrastructure & Capacity Transition

Objective	Outcome
Replace RHRA's case management system and IT infrastructure	RHRA selected a vendor and negotiated a contract to implement its Regulatory Management Software Solution. The planning phase was completed, and the design phase is underway. The project is slated for completion in the 2022/23 fiscal year.
Address RHRA's people, process and organizational resources to increase capacity, capability while maintaining efficiency	In the 2021/22 fiscal year, RHRA made a deliberate and systematic effort to ensure organizational design is meeting needs and has the flexibility to respond to the continuously evolving environmental landscape, including the sustained changes in core operational activity that it has experienced.

Operational Review: Activity Highlights

Responding to reports of harm and risk of harm

RHRA responded to an increase in both reports of harm as well as an increase in potential risks of harm to residents in the 2021/22 fiscal year. RHRA treats these reports with urgency as they involve potentially serious threats to the wellbeing and dignity of residents. Known as mandatory reports, these are related to abuse or neglect of a resident, improper or incompetent treatment or care of a resident, unlawful conduct, or misuse or misappropriation of a resident's money.

In 2021/22 the most reported areas of concern were improper or incompetent treatment or care, physical abuse and financial abuse. Combined this resulted in 447 mandatory report inspections of homes with the balance addressed by remote inquiry. In circumstances where RHRA receives an incomplete report of harm or risk of harm it is pursued for clarity and action is taken as appropriate to protect residents.

The chart below breaks down the mandatory reports submitted to RHRA in the 2021/22 fiscal year by allegation type. The category marked 'other' relates to missing or incomplete data at the time the report was submitted to RHRA or cases that involve multiple allegations.

Mandatory Reports - Allegation Type	**Total**
Abuse	576
Improper or Incompetent Treatment or Care	290
Misuse or Misappropriation of a Resident's Money	12
Neglect	81
Unlawful Conduct	11
Other	85
Total	**1,055**

Increased demands for responding to complaints and facilitating resolution

RHRA looks into every complaint it receives, engaging with the complainant and ensuring they are informed throughout the complaint-handling process. RHRA's underlying objective in this area is to help resolve complaints as fairly, thoroughly, and quickly as possible.

The volume of formal written complaints continued to increase into FY 2019/2020. In response to escalating volumes and to improve the satisfaction of complainants, RHRA introduced a process of early resolution for potential complaints.

By using early resolution, RHRA has increased its ability to efficiently help residents or families resolve concerns, and where possible and appropriate, avoid the more time-consuming processes associated with formal complaints.

In 2021/22, RHRA processed 75 formal complaints. The three most common areas of concern related to improper or incompetent treatment or care, abuse and neglect, and the complaints procedures of retirement homes themselves.

Formal Complaints	FY 2021/22	FY 2020/21	FY 2019/20
Received during period	75	40	81
Closed during period	63	29	100
Open at end of period	50	38	27

There were an additional 72 complainants through early resolution processes in FY 2021/22; this process was implemented only in Q4 of the prior year so comparable numbers are not available.

Increased assessments of compliance and supporting homes to come into compliance with statutory requirements

Whenever an RHRA inspection uncovered serious concerns, we used all our available regulatory tools, including our enforcement powers to respond. For other lower risk concerns, RHRA believes the best approach to protect residents is to help the home come into compliance with the Act.

Inspections

RHRA routine inspections increased significantly over the previous year (1,376%) because of a return to normal operations as well as addressing routine inspections backlog, combined with the easing of restrictions and a decline in outbreak frequency, along with mandatory report (47%) and complaint inspections (200%). Of these inspections, 69% resulted in findings of non-compliance with the Retirement Homes Act and regulation.

When considering mandatory reports inspections, it is noteworthy that there were more than 1,000 reports of harm or potential harm to residents as shown above. The legislation provides RHRA an opportunity to conduct a risk assessment of each mandatory report to determine whether it would be appropriate to conduct an inspection or undertake remote inquiries to determine compliance. Remote inquiries enable RHRA to most efficiently use its resources when it is assessed that it can do so without impairing its ability to address risk of harm to residents.

Although RHRA's routine inspection backlog was eliminated this fiscal year, other issues have surfaced in part as an indirect consequence of COVID-19. These include homes with fewer staff resources, which has created an elevated risk level that requires a more proactive approach. Similarly, RHRA has observed a trend of decreased experienced among licence applicants. These kinds of issues have increased the need for RHRA to evaluate its oversight process for assessing risk and compliance with the Act and regulation.

Inspections	FY 2021/2022	FY 2020/2021	FY 2019/2020
Routine	812	55	399
Mandatory report inspection (s. 75)	447	304	531
Complaint inspection (s. 84)	39	13	35
Compliance inspection (s. 77(1))	73	145	17
Report to Registrar (s. 77(2))	31	16	28
Licensing inspection (s. 37)	3	0	0
Total	**1,405**	**533**	**1,010**

Compliance Support
The compliance support program resumed in FY 2021/22 after having been largely paused in the prior two years due to lack of resources and pandemic activity priority. The compliance program is designed to help those homes that are struggling with becoming compliant or maintaining compliance with the Act. In this process a dedicated specialist works with the home to focus on areas identified as requiring improvement. In the 2021/22 fiscal year, 45 homes entered the program.

Sustained heightened need for effective enforcement intervention is evident

RHRA's use of its enforcement tools continued to be in response to matters identified through our various compliance assessment activities, most commonly inspections. RHRA has seen a significant increase in the number of circumstances where enforcement is appropriate from its pre-pandemic levels.

In 2021/22 RHRA issued 21 Compliance Orders and 7 Management Orders related to matters such as plans of care, staff training, behaviour management, abuse and neglect, and infection prevention and control (IPAC). In some of these cases or other matters, Administrative Monetary Penalties were also issued. In this fiscal year, RHRA issued 20 Administrative Monetary Penalties with a total value of $51,000.

Enforcement Orders

Type of Action	FY 2021/2022	FY 2020/2021	FY 2019/2020
*Impose conditions upon licence (s. 39)	12	12	21
*Refuse licence (s. 36)	0	0	1
Order to apply or cease to operate (s. 89)	8	6	8
Compliance order (s. 90)	21	28	8

Management order (s. 91)	7	11	0
Administrative monetary penalty (AMP - s. 93)	20	14	5
Order to revoke (s. 95)	5	8	3
TOTAL ORDERS/DECISIONS	**73**	**79**	**46**

Compliance Monitoring

The Compliance Monitoring program's primary purpose is to assess whether a Licensee is complying with the Registrar's Orders and Decisions and that any failure to comply is addressed. The program sits within the Enforcement function and ensures all outstanding requirements as a result of an order meet the expectations and are implemented in a timely manner and monitored for sustained compliance over time.

In the 2021/22 fiscal year, a total of 39 homes were part of RHRA's compliance monitoring program.

Sector growth and evolving nature combine to increase activity and complexity of regulatory oversight

Licences are required by those facilities that meet the definition of a retirement home under the Retirement Homes Act. The numbers of licensees are shown in the chart below over the past three years.

Although the sector has been significantly impacted by the pandemic it continued to grow over the past year with the number of suites up by 3.6% ending just under 70,000 at year's end. RHRA also saw the number of licensing transactions increase by 70% from two years prior. Issued licences and suites represent the net change among any licences added and surrendered during the year.

Although the number of licences issued with conditions has remained stable over the past 3 years, the nature of those circumstances has shifted considerably. In FY 2019/2020 the majority of conditions were related to sprinkler non-compliance, but these have since been completely addressed. Homes with licence conditions at the end of the current year reflect a greater emphasis on other concerns such as ensuring appropriately experienced staff are involved in the running of the home.

RHRA saw changes in the composition of ownership, requiring a heightened level of scrutiny and the bolstering of licensing criteria to ensure the competency of licensees and to ultimately safeguard the residents who will live in these homes. As the sector is projected to keep growing to serve an increased need for housing for seniors, RHRA will need to be even more rigorous and thorough in its licensing processes as well as look to evolving new robust and effective processes to ensure residents get the care they need. To do this, RHRA has begun an Alternate Assurance Evaluation Project to better understand the changing retirement home sector.

Licensed Homes	As of March 31, 2022		As of March 31, 2021		As of March 31, 2020	
	Homes	Suites	Homes	Suites	Homes	Suites
Issued	755	68,348	750	65,895	748	63,625
Issued with conditions	23	906	24	947	22	1,075
Total	**778**	**69,253**	**774**	**66,842**	**770**	**64,700**

Note: Suites are a measure of capacity, not actual residents

Licence Applications	FY 2021/2022	FY 2020/2021	FY 2019/2020
New (Build/Operations)	16	16	19
Transfer of ownership	36	24	21
Operating without a licence	0	0	0
Total	**52**	**40**	**40**

Sustained increase in requests for RHRA from pre-pandemic levels

RHRA continued to experience increased volume in requests because of higher levels of awareness the RHRA's mandate having arisen during the pandemic. The increase from pre-pandemic levels is 58%. Overall, there was a decline from the prior year of 16% which primarily reflects a reduction in the number of direct COVID-19 related intake cases; all other case types showed an increase of 13% over pre-pandemic levels. A downward trend in direct pandemic cases is expected to be offset by continued increases in other types going forward.

Intake	FY 2021/2022	FY 2020/2021	FY 2019/2020
Intake contacts	6,527	7,783	4,127

Emergency Fund

The Emergency Fund was established to allow Registrar Payments and Resident Claims for support under certain circumstances.

Emergency Fund*	FY 2021/2022	FY 2020/2021	FY 2019/2020
Number of Registrar Payments	2	43	14
Total value	$1,825	$63,000	$5,776

Fund balance at end of period (March 31st)	$619,284	$582,000	$614,574

*All Administrative Monetary Penalties received are required by legislation to be allocated to the Emergency Fund.

Given the unforeseen financial impact of the pandemic on operators, RHRA administered short-term crisis funding as part of its Crisis Support Fund Program totaling $1,083,000 to 31 retirement homes to enable them to maintain operations and to avoid major disruption to the residents in those facilities if they had to relocate at a time of heightened risk and limited options.

Guiding Principles for Fee Setting

Principles reflect the recently updated MOU.

- RHRA will recover all costs related to its regulatory mandate
- The fee-setting process and criteria and the fee schedule will be simple, clear, and accessible to operators and residents of retirement homes
- Stakeholders have an interest in and will inform fee setting during consultations
    - The impact of the fee burden on the licensee should be considered when setting fees
- RHRA may consider incentives to encourage compliance with the Act and disincentives to discourage non-compliance
- Fees may be set to provide for a moderate surplus of revenues over expenses
- RHRA may set different types of fees (e.g., fixed, variable, direct cost recovery) and combine different types of fees
- There will be a reasonable relationship between fees on the one hand and the RHRA's regulatory activities and associated costs

RHRA Board and management have historically considered the following financial parameters:

- The ratio of Annual Fees relative to total expenses should be within the 90 – 95% range
- Surplus / Deficit balance should be evaluated against +/- one month of operating expenses
- Ontario CPI increase should be used as a guide
- Six months of operating and unrestricted cash reserves should be held
- Emergency Fund target should be ~$500K

RHRA's Current Financial Status

RHRA entered the current Fiscal Year with the following key highlights as of March 31, 2022:

- Net assets are $8.3M of which $7.7M is restricted.
- 7.3 months in operating reserves as a direct result of government funding.
- $6 million in government grants was recorded as revenue in the current year. Of that $1.5M was received in FY 2022. There is another $670K that will be recognized as revenue in FY 2023.

The business plan for FY 2022/23:

- RHRA has assessed it resource needs and priorities which are included in the business plan
- RHRA expects to incur an operating deficit of over $1.2M in FY 2023
- To fund the deficit, reserves will be drawn down from 7.3 months to 5.6 months (to $5.8M). In assembling its budget RHRA used an assumption of a change in the annual fee rate to $14.50 for estimation purposes but did not include any other fees adjustments. Any anticipated fees adjustments have a relatively minor effect on deficit projections as it applies only to Q4 of the fiscal year.
- Without increasing fees to cover costs, RHRA would fully deplete its reserves by 2024 at current expense levels.

Financial Report

The following financial review is based upon the audited financial statements of the RHRA for the fiscal year ended March 31, 2022, with comparisons to the previous fiscal year.

Overview

The financial position reflects the second year of RHRA's crisis response to the COVID-19 pandemic. Resumption of priority strategic projects occurred in the year, factoring in capacity needed to coordinate activities with community partners as part of pandemic response. Addressing significant changes in core activities while concurrently clearing operational backlogs in inspections, complaints, and enforcement activities accumulated in the previous year due to the pandemic also took priority over longer term improvement initiatives.

At the start of the year, the Board approved a budget that focused on enhancing resident safety and implementing the recommendations of the value-for-money audit by Ontario's Auditor General. By the end of the year, retirement home inspections and complaint timelines reached acceptable standards. In addition, of the 21 recommendations from the value-for-money audit, 5 have been fully implemented. Another 22 action items are currently in the process of being implemented.

Overall, in 2021/2022 RHRA had a surplus of $2.59 million compared to a deficit of $1.01 million the previous year. This is the direct result of Government funding to stabilize the organization.

In total, the RHRA has received $6.63 million in funding from the Province through two separate Transfer Payment Agreements (TPAs). These are allocated as:

1. Crisis Support payments to Retirement Homes ($1 million)
    - Thirty-one retirement homes were provided crisis support payments during the year.
2. Crisis Management activities supporting RHRA operations ($4 million)
    - This funding supported operations for increased volumes in inspections; building capacity for sustained coordination with community partners; monitoring IPAC protocols and compliance support, as well as dealing with other capacity development for example in collection and reporting of data.
3. Regulatory Management Software system ($2.66 million total; $960,000 in FY 2021-22).
    - This is a critical infrastructure project as the RHRA's current system is at the end of its life, as well as for establishing future improvements in efficiency and effective oversight.

Increases in activity levels at the RHRA are a direct result of changes in its operating environment. These include awareness among community partners of RHRA's mandate and role; growth in the retirement sector; and greater understanding of, and increases in, the care levels at retirement homes among others. These factors in the context of an aging population, increased expectations of the regulator to effectively monitor the homes will drive higher activity levels at the RHRA in the years to come.

These broad increases in core regulatory activity have resulted in increased expenses with respect to salaries and benefits due to higher staffing levels to meet the mandate. A significant adjustment to balance cost recovery for activities will be required in the coming years otherwise the organization's cash reserves will be drastically depleted.

The value-for-money audit identified the risk posed by unlicensed (unregulated) homes. RHRA spends a significant amount of time each year monitoring these homes to determine if they fall within the Retirement Homes Act (RHA). This activity is largely unfunded and may grow as different types of seniors' homes and facilities enter the marketplace.

Government funding for operations has assisted in stabilizing RHRA over the past year, however that was strictly one-time funding. The RHA and Memorandum of Understanding (MOU) with the Ministry requires the RHRA to be financially self-sustaining. The current annual fee is insufficient to support the increased activities required to achieve the mandate for the RHRA going forward. The annual fee has increased only 12% over the last 11 years which has not kept pace with inflation, operational volume changes, and changes in both the sector itself and RHRA's improved understanding of it and the risks related to resident protection. The type of care provided in the retirement home sector has both become clearer as well as evolved over the last decade and in particularly in the wake of the pandemic. This poses additional responsibility on the RHRA as a regulator and potentially increases the risk of harm to residents. For these reasons, future fee increases are anticipated and will be undertaken in a manner that is predictable and transparent for the sector.

Operating Revenue and Expenses

Total operating revenue increased by 8% compared to the previous year to finish the year at $9.1 million, which was lower than projected due to a lower fee rate increase.

The RHRA's operating revenue is made up of annual fees ($8.5 million) and application fees ($646K). Annual fees are the single largest source of revenue, accounting for 93% of the total. Annual fees are billed on a calendar year basis and recognized in the year to which the fees relate. Annual fees for the fiscal year reflect those realized from April 1, 2021, to March 31, 2022.

Revenue from application fees was based on activity during the year primarily resulting from ownership transactions and new homes.

Operating expenses increased 12% ($1,241,000) over 2020/2021 reflecting the need to add resources to respond to the COVID-19 pandemic and an overall increase in regulatory and enforcement activity. This increase in expenses was partially offset by savings in other areas including consulting, legal, communication, governance, training and travel. Salaries, wages and benefits were the RHRA's largest expenditure. Amortization of capital assets and the deferred liability are recorded in accordance with the stated accounting policies.

Investments

The investment portfolio is managed in accordance with the investment policy approved by the RHRA's Board of Directors which includes a target mix of ETF investments designed to achieve the optimum return while maintaining an overall low level of risk exposure. Total investment income for the year was $204,000, however the portfolio incurred an unrealized investment loss of $328,000 due to an underperforming stock market.

Surplus/Deficit & Reserve

Transfers made to the internally restricted operating reserve reflect steps in continuing to financially stabilize the RHRA while meeting its obligations for the Emergency Fund. In the previous year, a $1 million deficit was incurred leading to a substantial decrease in the reserves. In 2021/2022, the RHRA was able to restore its operating reserve and ended the fiscal year with seven months of operating expenses in its internally restricted/operating reserve. The RHRA's Board-approved reserve policy is to have a target range of six to 12 months of normal operating expenses to be allocated in its internally restricted/operating reserve. The RHRA's reserve at fiscal year-end is at the lower end of the range.

The RHRA’s enterprise risk management practices include monitoring to identify potential risks and seizing opportunities related to the achievement of its strategic objectives and any issues that could affect its financial position.

Emergency Fund

The RHRA is committed to meeting its requirements for the Emergency Fund with the provisions for claims and payments that came into force in January 2014. The RHRA paid out $1,825 to two residents from the Emergency Fund, collected $34,500 in Administrative Monetary Penalties (AMPs) and $4,500 interest was earned on the balance. The Emergency Fund balance increased by 6% ($37,100) and remained fully funded at year end in accordance with the approved policy.

KPMG Operational Efficiency Review

MSAA engaged KPMG to perform an Operational Efficiency Review of the RHRA. KPMG's mandate was to identify potential efficiencies and areas of cost savings.

KPMG's overall summary of findings in its Executive Summary are:

> "Our overall view is that the operations of the RHRA, including licensing, inspections and enforcement, are run efficiently with a focus on consumer protection. We identified a number of cost saving and revenue generating opportunities throughout our review. Our findings were broadly spread across three key themes of i) fiscal prudence and ensuring greater consideration for the financial position of the RHRA in decision making; ii) unfunded or underfunded operations with potential additional revenue opportunities; and iii) observations relating to governance (which require further review)."

KPMG's overall evaluation is consistent with the Value for Money Audit that was performed by the Auditor General in December 2020.

KPMG identified opportunities for $220K in additional revenue and $605K (4.8% of total expenses) in potential savings. The total impact to the annual fee is $0.98. Alternative revenue sources were considered (see section later in document).

Revenue/Cost Saving Opportunity	Impact on Deficit ($)	Impact on Annual Fee ($)	RHRA Response
50% increase to application fees	220,000	(0.26)	Incorporated in FY 2023 budget as Proposal #3 for stakeholder consultation
Partially remote board meetings	22,000	(0.03)	The board is evaluating the right mix of in-person/virtual meetings. Travel and related expenses will be adjusted accordingly
Partially remote training	15,000	(0.02)	Incorporated in FY 2023 budget
Public awareness research	17,500	(0.02)	Incorporated in FY 2023 budget
PMO downsize	265,500	(0.31)	Reduction of 1 staff member has occurred in FY 2023. Staffing levels will be re-evaluated after the implementation of the new Regulatory Management System.

[redacted]	200,000	(0.24)	[redacted]
STIP financial factor	58,800	(0.07)	The Board is reviewing the STIP policy in FY 2023
Recruitment	26,400	(0.03)	Incorporated in the FY 2023 budget
Total Impact	**$825,200**	**($0.98)**	

KPMG also noted the following items related to the 2022 Annual Fee:

> "RHRA could have eliminated their projected FY2023 operational deficit if annual fees were increased to $13.70 on January 1 2022, a 25% increase above the current (2022) fee of $11.00. "

> "While the increases to the annual fee seem significant as a percentage, they are unlikely to significantly impact affordability if a retirement home passes them on entirely to residents. According to the Canada Mortgage and Housing Corporation (CMHC), the average rent in a seniors residence in Ontario in 2021 was $3,999 per month. A $3.61 fee increase, from the previous (2021) fee of $10.09 to $13.70, represents an increase of approximately 0.1% in relation to suite rents."

RHRA's annual fee proposal for 2023 (assuming a 100 suite Home) is an increase of $4,200 annually.

Fee Review Process

RHRA's Fee Process

As per the Act and the MOU, RHRA is required to recover all costs related to its regulatory mandate including, without limitation, those associated with the administration and enforcement of the Act and its regulations, program development and delivery, and oversight of the safety and protection of residents. RHRA is a not-for-profit corporation and seeks to operate on a cost recovery basis.

The following factors are examined in considering the appropriate level of fees:

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. Summary of stakeholder feedback on the proposed fee changes

Current State & Historical Fee Changes Evaluation

Historical Rate Changes

- The current annual fee is $11.00 per suite per month. As KPMG noted, the RHRA annual fee has increased by only 12% over ten years. By contrast, during that same period, rent and care costs have increased by 44% (based on CMHC data). KPMG further noted that if RHRA's annual fee had increased by 4% annually, the resulting 2022 fee would have been $13.86 instead of $11 for 2022.

- In part this widening gap historically is driven by both lower percentage increases to the RHRA fee compared with rent and care costs, but also by limited compounding over time due to the difference in absolute dollar value. Whether at $11 or $14.50, the RHRA annual fee is less than 0.5% of total revenues for virtually all retirement home operators.

- RHRA was able to manage early activity and realized surpluses. It improved cost recovery in application fees through changes implemented in 2014, but otherwise managed increased activity through continued emphasis on efficiency and cost containment through sector growth, income from investments, and ultimately when encountering larger operating deficits through reductions in unrestricted and restricted reserves.

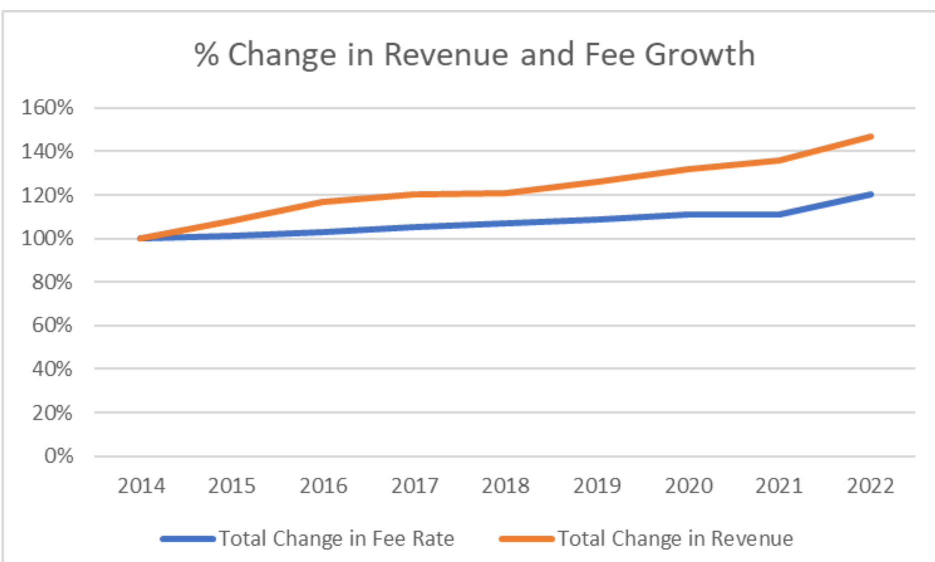
Alternative Revenue Sources

- RHRA identified the potential need for exploring alternative revenue sources. As KPMG noted in its report, there are limited options for RHRA that don't require very significant effort and investment of resources and management time. Although RHRA had this as part of its plans during the strategic plan period, those efforts were suspended heading into the pandemic. This is something that RHRA will continue to explore, however it is important to note that its expectations are that revenue from other forms of services/activity are not likely to exceed 5% of total revenue into the future.

Inflation

- Like all organizations, RHRA is subject to expense increases. Relevant to both the RHRA and the sector is that Inflation in Ontario for April 2022, as measured by Statistics Canada CPI indicator, was 6.9%

- Historical Annual Fee rate increases are shown below in both absolute values and relative growth.



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**

Impact of Fee Increase to RHRA, Operators and Residents

Impact to RHRA Financial Position

The fee schedule adjustments will assist RHRA in attaining a break-even budget for FY 2024 based on current expense levels.

- Annual fees would cover only 80% of total expenses. This is below the 90-95% threshold in RHRA's internal financial guidelines on fee setting.

- Operating and Unrestricted reserves would decrease to 5 months which is one month less than the internal guidelines and require update to its reserve policy. Management will be recommending to the Board an update to this policy concurrent with final fees decisions to reflect a change in reserve target from 6-12 months to 3-6 months.

- The operating deficit for FY 2023 would be $1.1M, which is approximately one month of expenses
    - Although this fee rate will stabilize operations at their current level, realistically RHRA will have to assess its direction through the strategic plan process (FY 22/23 Q4) and address future financial stability with a second stage of increase(s) in January 2024 and beyond. Only then will RHRA be adequately resourced to maintain future activity levels in alignment with its renewed strategic plan.

- Emergency Fund is stable and not affected by this proposal.

- Ontario CPI is currently 6.9%. The increase to $14.50 represents a $3.50 increase per month. Note that the average annual increase has been less than $0.25/month since 2014 so a larger increase is necessary to keep RHRA financially stable.

- Annualized increase in revenue would be $2.9M ($3.50 increase * 12 months * ~70,000 suites). This would be applicable to FY 2024. For FY 2023, the increase would affect Q4 only and so the approximate amount of additional revenue would be $725K.

Impact to RHRA Operations

With these changes it means that we:

- ✓ Avoid long delays or inability to respond to residents' concerns, complaints, and situations with risk of harm in a timely manner.
- ✓ Maintain its current levels of staffing to absorb the increased operational demands.
- ✓ Complete priority projects, respond to external recommendations already underway, and engage thoughtfully in future focused discussions on policy and/or legislation issues for the sector.

Without these changes:

- ✗ There is little to no ability to absorb continued growth over the balance of FY 23 and FY24 in overall activity whether through increases in operational demands or other projects.
- ✗ Responsiveness to external recommendations will be slowed for an extended period.
- ✗ Discussions related to financial circumstances will persist and could undermine discussions about resident protection outcomes.
- ✗ Extending reconciliation of financial needs may increase possibility of negative resident outcomes and/or issues related to perception of RHRA's conduct as a leading regulator.

Impact on Retirement Home Operators

Below is a sample calculation for one home. The relative change holds generally true for homes of all sizes.

The impact of the increase in annual fees on a 100 suite Home is $4,200 annually or 0.088%.

The analysis below analyzes two scenarios: (1) Impact on a 100 suite home with occupancy slightly above the average; and (2) Impact on a 100 suite home with occupancy slightly below the average.

Details:

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

Assume 85% occupancy:

Revenue from residents (excluding additional charges) is $4,080K (100 suites * 0.85 * $4,000/month * 12 months)

Increase in fees as a % of total revenue is 0.10% ($4,200 / $4,080K)

Total fee as a % of total revenue is 0.43% ($17,400 / $4,080K)

At 75% occupancy:

Revenue from residents (excluding additional charges) is $3,600K (100 suites * 0.75 * $4,000/month * 12 months)

Increase in fees as a % of total revenue is 0.12% ($4,200 / $3,600K)
Total fee as a % of total revenue is 0.48% ($17,400 / $3,600K)