# Federal/Ontario Housing Devolution Agreement

*(City Council on December 14, 15 and 16, 1999, amended this Clause by adding thereto the following:*

*"It is further recommended that:*

*(1) Members of Council who are members of the Association of Municipalities of Ontario (AMO) and the Federation of Canadian Municipalities (FCM) be requested to convey the weaknesses and flaws of the Federal Government and Ontario Government Housing Devolution Agreement to the other members of AMO and FCM;*

*(2) Council request the Province of Ontario to adjust its grant of $250,000.00 to $600,000.00, in order that the temporary shelter program at the former Princess Margaret Hospital on Wellesley Place is adequately funded by the Province;*

*(3) any funds earmarked by the federal and provincial governments for housing be used only for that purpose;*

*(4) the City of Toronto be a party to all negotiations with the federal and provincial governments respecting housing;*

*(5) the Mayor be requested to write to the federal government requesting that the funds for social housing be sent directly to the City of Toronto; and*

*(6) Council adopt the following motion:*

*Moved by Councillor Adams:*

***'WHEREAS** the provincial government on November 17, 1999, signed a housing devolution agreement with Canada Mortgage and Housing Corporation, and will devolve to municipalities both the federally-administered and provincially-administered programs; and*

***WHEREAS** municipalities face large long-term costs and risks for social housing, including ongoing subsidies, repairs, mortgage renewals and new supply; and*

***WHEREAS** federal devolution adds to this municipal risk but also provides extra federal funding, estimated at $85 million annually province-wide, which could reduce risks; and*

***WHEREAS** on November 18, 1999, the day after signing the federal devolution agreement, the Province announced savings from "lower mortgage costs and* *other financing efficiencies", achieved mainly by taking from the $85 million extra federal funding about $25 million to replace the same amount of net provincial expenditure; and*

***WHEREAS*** *on November 18, 1999, the Province also announced that the Ontario Housing Corporation will sell off scattered units, including about 500 units in the City of Toronto;*

***NOW THEREFORE BE IT RESOLVED THAT*** *the Mayor express, in the strongest terms, to the Premier of Ontario and the Minister of Municipal Affairs and Housing this Council's alarm and objection to unilateral provincial decisions on the eve of devolving program administration to municipalities, and provincial scooping of federal housing funds at the expense of municipalities;*

***AND BE IT FURTHER RESOLVED THAT*** *the Mayor demand, on behalf of Council, that the Province:*

*(a) reinvest into housing all housing-related savings;*

*(b) use the proceeds of any appropriate sale of public housing for new affordable housing;*

*(c) guarantee in the framework for municipal devolution that all federal housing funds will flow to municipalities for housing uses; and*

*(d) start genuine negotiations immediately with municipalities on that devolution framework.' ")*

**The Community Services Committee recommends the adoption of the report dated November 29, 1999, from the Commissioner of Community and Neighbourhood Services.**

The Community Services Committee reports, for the information of Council, having:

(a) directed the Chair of the Community Services Committee to call a meeting/briefing with Members of Council, Federal Members of Parliament and Members of the Provincial Parliament for the Toronto Area to discuss the impacts of the Federal/Ontario Housing Devolution Agreement prior to the next meeting of City Council to be held on December 14, 1999; and

(b) tabled the following motion for consideration at the January 13, 2000, meeting of the Community Services Committee:

> "That a Political Steering Committee be established to develop political strategies on housing issues."

**The Community Services Committee submits the following report (November 29, 1999) from the Commissioner of Community and Neighbourhood Services:**

Purpose:

This report describes the key provisions, implications for Toronto, and related context of the November 1999 agreement to devolve federal social housing administration to Ontario. It also identifies the housing impact of provincial expenditure reductions announced on November 18, 1999.

Financial Implications and Impact Statement:

The CMHC/Ontario housing devolution agreement has a major long-term impact on City expenditure and risk for social housing, but has no direct impact on the 1999 or 2000 budgets.

The provincial expenditure reduction announcement will result in a savings of between $0.1 million and $2.3 million in the 2000 Operating Budget of the Shelter, Housing and Support Division. This is within the margin of uncertainty of potential overall mortgage-related savings.

Recommendations:

It is recommended that:

(1) Council urge the Federal Government to maintain a role in social housing as advocated by the Homelessness Action Task Force and the Federation of Canadian Municipalities, including maintaining cost-sharing at current levels or higher;

(2) Council urge the following principles be adopted by the Province in regard to program administration following the CMHC/Ontario devolution agreement:

   (a) any surplus funds within federal housing transfers to Ontario, beyond what is required for existing projects, should be flowed through to municipalities to be used for housing purposes;

   (b) municipalities should have the power, within reasonable provincial guidelines, to determine for what housing purposes any surplus federal funds will be used;

   (c) the provincial-municipal devolution framework should establish a fair sharing of risk in regard to potential increases over time in geared-to-income subsidy requirements, capital repair needs, and risk related to mortgage rates and default;

   (d) municipalities should be consulted as full partners in provincial decisions on changes in housing program structure;

   (e) mechanisms for GTA pooling of social housing subsidy must take account of Toronto's particular exposure in regard to declining federal funding over time, due to the concentration of older projects more reliant on Federal subsidy; and

(f) the due diligence process for municipal devolution must be thorough in clearly identifying municipal risk in regard to former federally-administered as well as provincially-administered social housing;

(3) the Mayor write to the Prime Minister, the Premier, the Minister Responsible for CMHC and the Minister of Municipal Affairs and Housing conveying these positions, and to the Association of Municipalities of Ontario seeking the endorsement of AMO and other municipalities;

(4) the City Solicitor report back on the CMHC/Ontario agreement, particularly the rights of the Province to effectively substitute CMHC funding for net provincial funding in cost-shared programs; and

(5) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Background:

The Federal Government in the early 1990s set a course to devolve to the provinces six program/policy areas in response to constitutional and fiscal objectives. One of these was social housing. In March 1996, the Federal Government announced more specifically that it would devolve the housing program administration role of Canada Mortgage and Housing Corporation (CMHC) to the provinces, and started negotiations with each province. The first devolution agreement was signed in March 1997; agreements have now been signed with five provinces and all territories, notable exceptions being British Columbia and Quebec. Each agreement is substantially the same.
"Program administration" refers to the overall management of the funding system, allocation of funds to particular housing provider agencies, and related functions such as setting operating policies, co-ordinating mortgage renewals, approving major capital repair spending, and reviewing providers' budgets and operations to determine funding needs and ensure program compliance. Currently, Ontario carries out program administration for the majority of social housing while CMHC does so for a minority.

Comments:

(1) Description of the CMHC/Ontario Agreement:

In brief, the agreement ends the federal role in administering most social housing programs, transferring this to Ontario. Ongoing federal funding obligations under numerous prior program and project agreements will now take the form of consolidated annual or monthly payments to the Province of Ontario, equal to the sum of payments under the prior agreements, with assurances on how the funds are used. Federal funding decreases from $525 million in 2000/2001 to zero after 2033/2034. Ontario achieves flexibility and control in social housing policy in return for taking on (or assigning to municipalities) any risk associated with aging assets and rising subsidy requirements.

Context of the Agreement:

Signing of the CMHC/Ontario housing devolution agreement has been expected this fall. Negotiations had been delayed in 1997-99 due to housing sector and Liberal caucus concerns about federal withdrawal, and by the Ontario election. There was little doubt, however, that an agreement would in due course be signed. It facilitates fundamental federal objectives regarding the revised and reduced mandate of CMHC, and provincial devolution objectives.

The agreement can facilitate devolution of program administration to municipalities, which will help achieve say for pay in a context where municipalities are already paying the costs. In particular, it would not be possible without this agreement to transfer the operation of Ontario Housing (older public housing) to municipalities. The agreement also makes possible or greatly simplifies potential "program reform", involving consolidating and streamlining the five different main social housing programs and restructuring the mortgage debt. Reform would make program administration more efficient for municipalities.

Positions in favour of program administration devolution, with due safeguards, have been taken by the City of Toronto, much of the municipal sector, and much of the community housing sector.

The City has taken a strong position in favour of federal reinvolvement in housing. The desired federal role need not involve maintaining direct program administration which duplicates that of the Province or municipalities. The desired federal role involves provision of capital for new housing, maintenance of federal cost-sharing, enhanced federal mortgage lending and insurance, and tax and other incentives to private and non-profit affordable housing development.

Main Provisions of the Devolution Agreement:

Main elements of the agreement are these (numbering does not correspond to the agreement):

(a) This agreement replaces all prior CMHC/Ontario social housing agreements. It is effective retroactive to October 1, 1999, but CMHC will continue its program administration role (now on behalf of Ontario) until municipal administration takes effect.

(b) A schedule sets out a specific amount that the federal government will flow to Ontario for housing, each fiscal year from 1999/2000 until 2033/2034. Federal funding is $525 million in 2000/2001, but will decline year by year, corresponding to the expiry of these various agreements, until it reaches zero in 2033/2034.

(c) The Province assumes the federal role in program administration of approximately 52,700 housing units across Ontario. All CMHC rights and responsibilities vis-a-vis each housing provider agency under each project operating agreement are now assumed by the Province of Ontario.

(d) Federal funds transferred each year to Ontario must be used for housing purposes, and funds targeted more specifically to low-income households (under income ceilings set by

CMHC) must be used to benefit such households. Within these limits, any savings in the existing programs may be redirected by Ontario to housing purposes as it sees fit.

(e) The Province must account to CMHC each year, through performance reporting and an independent audit, that federal funds have been used in compliance with the agreement; CMHC may withhold up to 15 percent of funds in the event of non-compliance.

(f) CMHC transfers to Ontario a $58 million reserve fund (approximately $1,100.00/unit) against interest rate and mortgage default risk.

(g) The Province indemnifies CMHC in regard to its role as lender or mortgage insurer for the projects concerned; any federal equity in existing social housing and in various social housing loans is transferred to the Province over time.

Nature of the Devolved Federal Stock in the City of Toronto:

About 80 percent of the stock devolved was developed in 1974-85 under the first two mixed-income non-profit housing programs. These are generally projects with older, smaller mortgages (average about $36,000.00/unit), which can break even at or below market rents. Subsidies are correspondingly small. The other side of this coin, however, is that they are typically older projects with higher capital repair needs in the foreseeable future, and with reserve funds believed to be inadequate in many cases.

Federally-administered co-operatives, about 20,000 units Province-wide, are not devolved to Ontario. “Co-operative” refers to projects owned and administered by their tenants/members, not to non-profit housing in general. Provincial rent supplement programs providing extra geared-to-income units in these projects are “uploaded” to CMHC to simplify the funding relationships.

The “social housing” devolved includes “Entrepreneurial Limited Dividend” (LD) buildings: 5,700 units of which 4,200 are in Toronto. These are privately-owned buildings, mainly over 30 years old, with no subsidy flow, but with below-market CMHC mortgages and a requirement that new tenants have incomes under certain limits. Rents average about $100.00-$300.00 below market.

The Province has announced that it will not devolve to municipalities “dedicated supportive housing projects” from the federal portfolio, but will transfer them to the Ministry of Health and Long Term Care or the Ministry of Community and Social Services. This refers to projects whose residents are entirely people receiving support services funded by those ministries, related to mental illness or other issues. At most this is expected to involve about 8,000 units Province-wide, of which at least 2,000 are in the City of Toronto. This transfer is parallel to the 1998 transfer of similar provincial social housing to those other ministries.

Toronto has a significant share of the federal units involved (about 23,000 or 44 percent). These are part of the 95,600 units for which the City is expecting to take on program administration. (This includes 6,400 LD and/or private rent supplement.)

Provincial Announcements Related to the Agreement:

The Province announced that of the $58 million reserve fund, it will allocate $30 million to create a fund to assist municipalities to finance the capital repair needs of the federal projects being devolved. This equates to about $570.00 per unit.

The initial level of federal funding under the devolution agreement is based on the 1995/96 funding levels of $525 million, providing extra funds over and above the $440 million required for subsidies to existing housing. The difference is mainly due to savings on mortgage costs from renewals at lower rates in the latter 1990s. The Province, in its March 1999 response to the Mayor's Homelessness Action Task Force, committed to use $50 million of those surplus federal housing funds for a new rent supplement program (further analysis in Section (3)).

Provincial staff have communicated to municipal staff the intended due diligence process related to the federal devolution. It will take place in January-April 2000 and will involve a combined provincial/municipal team reviewing a sample of records pertaining to particular projects at each CMHC local office. The main objectives will be to verify at the project level the global subsidy levels in the CMHC/Ontario agreement, and to identify any specific projects that have problems so large as to warrant refusing them as part of the devolved portfolio.

Other provincial expenditure reductions were announced on November 18, 1999. The housing aspects of these, related partly to the CMHC/Ontario agreement, are discussed in Section (3).

(2) Positive and Negative Impacts of the CMHC/Ontario Agreement on the City:

General Comments:

The Province has presented the agreement as a way to move forward on devolution to municipalities and reform of the social housing programs. The agreement becomes the trigger for accelerating activity leading to devolution of program administration to municipalities, on which staff will report to the next Community Services Committee meeting.

The implications of the CMHC/Ontario agreement in terms of municipal risk, obligations, and responsibilities will depend entirely on the framework to be set by the Province for devolution to municipalities, which is not yet established. Program administration for the federally-administered units will be devolved by the Province to municipalities along with all the provincially-administered ones. The responsibilities and risks assumed by the Province under the agreement will be, in turn, devolved to the municipalities, along with such powers as the Province determines.

Standards of project maintenance and (subject to federal income targeting) of access to and priority for geared-to-income subsidy will be entirely up to the Province to determine.

The adequacy of the $30 million reserve fund is unclear until the Province determines its framework for devolution to municipalities, particularly the matter of municipal vis-a-vis any provincial risk relating to capital repair needs and mortgage default.

Positive Aspects of the Agreement:

(a) Facilitating Devolution and Reform:

Federal devolution can facilitate devolution of program administration to municipalities as well as housing program reform, supporting City objectives around say for pay and streamlined administration (discussed above).

(b) Surplus Funds:

The agreement, in the short term, provides federal funding at a level over and above what is required in subsidies for existing projects. In the first year the surplus is $85 million within a total $525 million CMHC payment to Ontario. This surplus results from the fact that the first-year level of federal funds was set at the fiscal 1995/96 subsidy level; since then mortgage rollovers at reduced interest rates (and some other factors) have resulted in large subsidy savings.

(c) Facilitating Regeneration:

The agreement should make it easier to redevelop obsolescent Ontario Housing (MTHA) or other projects. Firstly, the subsidy flow to such projects will no longer be automatically lost. Secondly, the CMHC transfer of equity stake to the Province may simplify the stakes of the parties involved, depending on future Provincial decisions about transferring such equity to municipalities.

(d) Operation Agreement Protected:

Funding flow to individual projects remains subject to project "operating agreements". Ontario will not be able to unilaterally reduce funding or change programs in a way that contravenes the operating agreements. Any change in operating agreements would require mutual consent of the provider agency and the Province.

(e) Consolidation of Responsibility:

There may be advantages in efficiency and integrated system management, from having housing program administration largely in one place, instead of split between two levels of government. After municipal devolution, the City will have the scope to manage the overall social housing system.

(f) Provincial Liability:

The provincial indemnification of CMHC under the agreement sets up a strong incentive for the Province to ensure that funding levels are sufficient to keep the providers solvent.

Negative Impacts and Concerns:

(a) Federal Funds as Provincial Lever:

The federal funds now flow to the Ontario treasury and can be used by the Province as if they were provincial funds. These funds will be the main provincial lever to ensure that municipalities comply with the framework it is developing for municipal administration of social housing. The risk to municipalities is of an overly prescriptive provincial framework in a system involving no net provincial contributions.

(b) No Inflation Protection:

The declining $525 million federal subsidy flow does not, according to available information, include an allowance for rising subsidy requirements that are likely due to inflation of non-mortgage costs and flat geared-to-income rent revenues. The risk of rising geared-to-income subsidies for existing housing will rest entirely on the municipalities, as will the burden of providing funds for additional housing to meet rising needs.

(c) Phase-out of Federal Funding:

The decline in funding from $525 million to zero over 33 years is a salient feature of the agreement. Each year's funding is the sum of what flows to Ontario, Ontario Housing Corporation, and specific housing providers, under various specific existing agreements usually tied to the term of project mortgages. The phasing-out of the $525 million reflects the expiring funding under these prior agreements. It creates a potential pressure on municipalities to make up for these funds, starting for Toronto in a small way as early as 2007.

(d) Scope to Change the Programs:

The Province will have wide scope to change the structure of social housing programs. The Province will be more readily able to sell stock, shift social housing funding to shelter allowances, and shift funds from one region to another.

(e) Substitution of Federal for Provincial Funds:

The agreement does not prevent the Province from simply substituting federal funds for provincial/municipal expenditure where possible in cost-shared programs, resulting in a net reduction in combined total expenditure. The agreement does not require Ontario to flow the federal funds to municipalities. The November 18, 1999, expenditure reduction announcement included the first move in this direction (details in Section (3)).

(f) Particular Risk to Toronto from Declining Funding:

The Province has not yet determined how it will allocate the provincial funds among the various Regions (CMSMs). Within the Greater Toronto Area, a large majority of federal funds flow to projects in the City of Toronto, because the "905" has few older projects. It will, therefore, be important that pooling of GTA social housing subsidies be set up in such a way that the City is not more exposed than the other pooling partners, in making up for the lost federal subsidy dollars as they phase out.

(g) Capital Repair Liability:

Existing indications are that some reserve funds may be inadequate. Some of the non-profit projects involved are now 25 years old, while the private Limited Dividend ones are older. This devolution potentially adds to the capital repair liability of the City, unless a clear and fair sharing of risk is established by the Province as part of its framework for municipal devolution. The $30 million repair fund noted above is not large unless such assurances are provided.

(h) Use of Surplus Without Municipal Input:

Ministry staff have advised that the framework for the new $50 million rent supplement program is now being developed; there has been no municipal input so far. Provincial deployment of the surplus without regard to municipal concerns reinforces to the risk municipalities bear in regard to potentially increasing mortgage costs in future, rising geared-to-income subsidy requirements, and capital repair needs.

(i) Cursory Due Diligence:

The due diligence process described in Section (1) is not adequate to identify the risks and costs associated with federal devolution.

These concerns should be addressed by the Province adopting certain principles regarding the use of federal funds and the municipal role as partner in managing the housing subsidy system. The City Solicitor’s advice should be sought on the Province’s right, under the agreement, to effectively substitute federal for net provincial funding (point (e) above).

(3) Financial Impacts of the Agreement and November Provincial Expenditure Reductions:

Four main financial aspects of the agreement and related cuts are discussed here.

(a) Use of Federal $525 Million:

Table 1

Distribution of Federal Subsidies from November 17, 1999
Federal-Provincial Deal

| Federal Subsidy Cost Item | Federal Subsidy for Ontario (in 2000 - $Million) |
|---|---|
| Total Federal Subsidy Announced November 17, 1999 (effective October 1, 1999) | $525 |
| Estimate of Federal Funds that will be spent on existing housing programs in 2000 | ($440) |
| Federal surplus Funds from the Federal-Provincial agreement | $85 |

| | |
|---|---|
| Provincial Commitment to spend Federal surplus on new Rent Supplement Program (announced March 1999) | ($50) |
| Uncommitted as of November 17, 1999 | $35 |
| November 18, 1999 Province appropriates part of Federal surplus | ($25) |
| Uncommitted as of November 18, 1999 | $10 |

The $440 million is the amount that is currently estimated, based on provincial information, to be spent on devolved social housing programs by CMHC across Ontario. There has been no announcement that future inflationary costs will be addressed by this Federal surplus of $85 million dollars, so the pessimistic scenario is that the $440 million amount is a maximum amount, and will not increase with higher costs. This assumption is strongly supported by the announced decision to commit $50 million of this $85 million Federal surplus to pay for a new rent supplement program. This leaves $35 million annually which could be used to shield the municipalities from higher mortgage rates, other inflationary cost increases, pay for possible additional non-profit replacement reserve needs or launch initiatives to help the homeless – all in consultation with the affected municipal organizations.

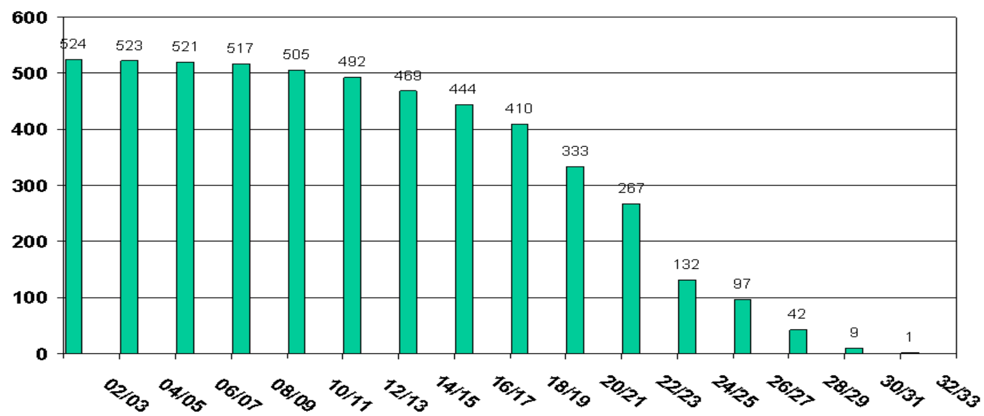
However, one day after the signing of the Federal-Provincial devolution agreement, it appears that the Province has appropriated $25.8 million (Item No. 63) from the Federal surplus. This appropriation was described in the Provincial news release as “lower mortgage costs and financing efficiencies” - the same factors that created the Federal surplus. Since mortgage savings must be accounted as either lower municipal billings (announced as $9.9 million) or increased Federal surplus which has accumulated since 1995/96, there is little doubt as to the basic source of the $25 million “savings” taken by the Province. Over the approximate 30-year lifetime of the federal subsidy, that $25 million appropriation amounts to a total loss to housing funding of about $500 million in constant 1999 dollars.

The appropriation of the $25 million leaves approximately $10 million uncommitted.

(b) Long-Term Phase-Out of Federal Dollars:

The chart below show the phase-out of the $525 million Federal funding envelope for Ontario.

**Figure 1 - Expiry of Federal Housing Funds in Ontario (M$)**




The decline in Federal funds is entirely due to the end of Federal funding commitments to each project in cost-shared or Federal unilateral programs.

(c) The Reserve Fund "Signing Bonus":

Table 2 shows the current status of the Federal "signing bonus" of $58 million. This was money that CMHC was holding for future mortgage interest rate increases and mortgage default risk. This was particularly important because the subsidies to about 10,000 units of Federal unilateral social housing in the GTA is extremely mortgage rate sensitive. Almost 8,000 of these units are in the City of Toronto. For example, an interest increase from 6 percent to 8 percent in mortgage rates would increase the total subsidy by 50 percent. Without Provincial assurances to the contrary, it must be assumed that Provincial billings to the municipal level will soon be adjusted to reflect any such increase in subsidy cost.

Table 2

Distribution of the Federal Signing "One-Time" Bonus

| Item | **Federal Bonus Funds ($Million)** |
|---|---|
| Federal signing bonus for Ontario | $ 58 |
| Provincial commitment to set aside $30 million to cover the future capital needs of previous Federal projects | $ 30 |
| Uncommitted funds as of November 18 | $ 28 |

(d) Impact of Provincial Expenditure Reductions:

The long-term financial impacts and provincial decisions are most important, but it is necessary to examine the smaller, short-term impacts.

Table 3

Municipal Billings Impacts from the November 17-18, 1999
Provincial Announcements

| Item | Ontario-wide Impact on Municipal Billings (Mature impacts $M) | Estimate of Impact on Cost to Toronto in 2000 ($M) |
|---|---|---|
| #18 - Reduced OHC operating costs | - $0.4 | - $0.1 |
| #19 – Province to bill municipalities for non-profit administration | + $6.0 | + $1.5 to + $2.5 |
| #20 – Cuts to management and operating costs of higher cost non-profits and Housing Authorities (phased-in starting in April 2000) | - $3.1 | - $0.2 to - $.3* |
| #21 – Province curtails non-profit tendency to under estimate revenues and over estimate budget costs | - $1.6 | - $0.3 to - $0.4 |
| #63 – Saving on mortgage renewals for Non-Profit Housing | - $9.9 | - $2.0 to - $3.0 |
| Total Net Municipal Cost Reduction | - $9.0 | - $0.1 to - $2.3 |

*** Mature savings for the City of Toronto will be $.8 to $1.2 million.**

Table 3 shows the changes which affect Municipal billings in total and an estimate of the impacts for the City of Toronto in the next calendar year. These collective changes are only marginally positive in 2000 for the City of Toronto, once the devolution of non-profit administration costs is included.

The largest housing billings reduction announced November 18, 1999 (Item No. 63), relates to mortgage roll-over savings due to lower mortgage rates.
The City anticipates a future Provincial announcement regarding the uploading of municipal subsidies to co-ops situated in co-op projects which will remain under Federal administration. We expect that this will result in a reduction in municipal billings of about $10 million and a City of Toronto reduction of about $2.5 million.

It should be stressed that there has been no Provincial assurance that this is the end of housing costs which could be devolved to the municipalities. It should be stressed that these short-term savings are considerably outweighed by long-term risks. Overall, the most disturbing aspect of the Provincial announcements on November 17 and 18, 1999, was the almost complete lack of consultation with municipal social housing funders, particularly about the disposition of federal surplus funds derived from the agreement. The City must also be concerned about being billed for provincial program administration costs when the City has no role yet in that function.

<u>Conclusions</u>:

The CMHC/Ontario housing devolution agreement, now in effect, implements a major shift in federal housing responsibilities. The federal program administration function is devolved to Ontario, and will, in turn, be devolved to municipalities along with the provincial programs. Ontario will receive a pre-set annual global payment from CMHC, declining from $525 million initially to zero by 2034/2035.

The flexibility the agreement gives Ontario will facilitate municipal devolution, achieving municipal say for pay, and can potentially support housing program reform. Ongoing federal involvement in housing, as previously advocated by Council, can take constructive forms that need not duplicate the provincial/municipal role in program administration.

Many of the municipal impacts of the federal agreement will depend on the framework now being developed for provincial-municipal devolution.

At this stage, several concerns are evident. Federal funds may be used as a provincial lever to ensure municipal compliance with a provincial framework in a system having no net provincial dollars. The Phase-out of federal funding over 34 years increases the risk to municipalities in regard to potentially rising geared-to-income subsidies, mortgage costs, and capital repair needs. The Province has more scope to sell stock, shift social housing funding to shelter allowances, and shift funds from one region to another. The agreement does not prevent the Province from using federal funds to substitute for provincial housing funding, for a combined net decrease. Toronto has particular exposure in regard to declining federal funding, due to the number of older projects here, and the GTA pooling system must accommodate this concern. The projects devolved add to potential municipal repair liability and only a cursory due diligence process is being carried out; the $30 million repair reserve announced by the Province appears modest for the portfolio involved. The Province has initiated a course of using surplus federal dollars without municipal input or apparent regard to municipal concerns.

This report recommends that positions be taken on these concerns.

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The General Manager, Shelter, Housing and Support Division, provided the Community Services Committee with an overhead presentation in connection with the foregoing matter.

*(City Council on December 14, 15 and 16, 1999, had before it, during consideration of the foregoing Clause, the following report (December 13, 1999) from the City Solicitor:*

*Purpose:*

*This report provides comments on the lawful application of funds received by the Province under the above-captioned Devolution Agreement and the ability of the Province to modify existing project-operating agreements to which CMHC is a party and which establish the obligations now devolved to the Province.*

*Recommendation:*

*It is recommended that this report be received for information.*

*Background:*

*At its meeting held on December 1, 1999, the Community Services Committee adopted the report dated November 29, 1999, from the Commissioner of Community and Neighbourhood Services describing the content, implications and related context of the Devolution Agreement dated November 15, 1999, between Canada Mortgage and Housing Corporation (CMHC) and the Province of Ontario (represented by the Ministry of Municipal Affairs and Housing), under which CMHC transferred to the Province CMHC's financial and administrative responsibilities under and flowing from its portfolio of agreements with Ontario housing providers pursuant to various programmes under the National Housing Act (excepting those relating to housing co-operatives), and bound itself to make payments to the Province at 1995-96 levels for the balance of the term under each such agreement, the last of which will expire in 2032.*

*Recommendation (4) in the Commissioner's report calls for the City Solicitor to report back on the Devolution Agreement, "particularly the rights of the Province to effectively substitute CMHC Funding for net provincial funding in cost-shared programs".*

*Comments:*

*The Devolution Agreement requires the Province to apply the CMHC funding only to portfolio housing, generally for the benefit of households meeting CMHC's housing income limits, and to fulfil all obligations of CMHC under its operating agreements with housing providers. The Province is allowed to amend any such operating agreement subject to required concurrence of third parties. The Province is also responsible for making up any loss experienced by CMHC as a result of default under any portfolio loans made or guaranteed by CMHC.*

*If as a result of budgetary savings brought about by lower interest rates under mortgages, or other cost reductions, the CMHC funding in any year is more than what is needed for the Province to satisfy CMHC's obligations under its operating agreements, there is nothing in the Devolution Agreement*

*(i) preventing the Province from applying the excess to the Province's own obligations with respect to portfolio housing as long as it abides by CMHC's income limits for households; or*

*(ii) requiring the Province to make use of the "savings" thereby generated only in the field of public housing.*

*The absence of such restrictions seems consistent with the objective of the Agreement to lower the federal presence in the field.*

*The stipulations that the Province must fulfil all obligations of CMHC under its operating agreements and that any amendments to any agreements must be with the required concurrence of third parties mean that the Province could not unilaterally modify any such agreement without the consent of the provider. This is true not only for the two-party operating agreements entered into between CMHC and a housing provider, but to the three-party agreements including the Province as an additional signatory.*

*The Devolution Agreement does not affect operating agreements which the Province has made directly with housing providers without the participation of CMHC, and whatever powers the Province previously had to make modifications to such agreements remain unchanged.*

*Conclusions:*

*While the Province is obliged to apply the CMHC funding to housing portfolio purposes, if that funding is more than what is required to satisfy CMHC's obligations under the operating agreements it has entered into, it may be applied to the Province's own portfolio obligations. Monies that the Province would have had to apply from its own funds to the housing portfolio would then be available to apply to non-housing purposes.*

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