



## STAFF REPORT ACTION REQUIRED

### Securing the City's Interest in Affordable Homes at 2350 Finch Avenue West

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<b>Date:</b>	June 2, 2008
<b>To:</b>	Affordable Housing Committee
<b>From:</b>	Sue Corke, Deputy City Manager
<b>Wards:</b>	<b>7 York West</b>
<b>Reference Number:</b>	P:\2008\Cluster A\AHO\AFS6986

#### **SUMMARY**

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In May 2007 the Affordable Housing Office reported that the affordable housing project (the "Project") being developed by Ghana Amansie Canadian Non-Profit Homes ("Ghana Amansie") on city owned land at 2350 Finch Avenue West was in substantial difficulty while still under construction. Council subsequently approved an increase in capital funding to complete the Project and provide staff the authority to intervene and manage the completion of the development.

After a very difficult year the Project, consisting of 48 apartments and four commercial spaces has now been substantially completed. A number of families and individuals moved into their new homes in late April 2008.

In spite of this progress there are a number of financial and governance issues that need immediate attention and remedial action. The extraordinary measures recommended in this Report are a first for the City, which has successfully completed some 50 affordable housing projects.

Additional funding is now required to cover necessary construction costs outside of the original contract, change orders to comply with Building Code requirements, increased construction financing costs, delay claims, and residential and commercial rent-up losses. This report recommends that these funds be provided from the City of Toronto Capital Revolving Fund (CRF) and Development Charges Reserve Fund (DCRF).

To address governance of the Project, City staff request authority to allow Ghana Amansie to assign its lease and funding agreements to Toronto Community Housing Corporation (“TCHC”). Alternatively, the report seeks authority for the City to pursue any legal remedies it may have under those agreements, to acquire possession and control of the Project in order to transfer it to TCHC.

Either course of action, will secure the Project under the control of the city’s housing agency, an experienced development/management group.

Approval of these actions will ensure that badly needed affordable housing is provided and the building is appropriately completed and viably managed by an experienced non-profit corporation.

## **RECOMMENDATIONS**

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It is recommended that:

1. authority be granted to fund up to \$852,454 from the Capital Revolving Fund and \$852,454 from the Development Charges Reserve Fund as a grant by way of a forgivable loan to be used to fund construction, finishing and operating expenses (including initial vacancy losses estimated to be \$90,000) for the completion of the Ghana Amansie Project, to be expended as the Director of the Affordable Housing Office (AHO), at his sole discretion, directs from time to time;
2. authority be granted for the City to consent to and enter into an assignment of the land lease and funding agreements entered into by the City with Ghana Amansie Non-Profit Homes, to effect a transfer of the Project to TCHC, subject to approval by the Board of Directors of TCHC;
3. authority be granted for the City to pursue any legal remedies it may have under its various agreements with Ghana Amansie, including the lease and loan and grant agreement, if necessary, to acquire possession and control of the Project and to allow the City to transfer the Project to TCHC;
4. authority be granted to enter into an agreement with TCHC that sets out the terms and conditions of the transfer of the Project, on such terms and conditions, satisfactory to the Director and in a form approved by the City Solicitor;
5. authority be granted to terminate the lease for 2350 Finch Avenue West and to transfer legal title to the property to TCHC, at a later date, in keeping with the Affordable Housing Office’s intention to transfer title to TCHC of the affordable housing projects developed by it on City-owned land;

6. authority be granted to amend any or all of the City Lease, Affordable Housing Agreement and the Loan and Grant Agreement and ancillary documents, to provide for the current CRF loan, in the amount of \$1,584,000 to be converted to a grant, by way of forgivable loan, and that all amended agreements also to be in keeping with the form of these agreements usually entered into between TCHC and the City for affordable housing projects and as may be required to effect to the transfer of these agreements to TCHC;
7. authority be granted to enter into any agreements that the Ministry of Municipal Affairs and Housing, First National Financial Corporation or any other parties, as may be necessary to give effect to the transfer of the Project to TCHC;
8. authority be granted for the City to continue the sole source contract with R. Seligman Associates Inc., effective May 1, 2008, for project management services, and for any other consultants deemed necessary by the Director, for a fee not to exceed \$50,000 and on such terms and conditions satisfactory to the Director and in a form approved by the City Solicitor; and
9. the Director of the Affordable Housing Office be authorized and directed, on behalf of the City, to execute all assignments, agreements and other documents required to complete the construction and transfer of the Project at 2350 Finch Avenue West to TCHC.

### **Implementation Points**

Upon the recommendations being approved by Council, the Affordable Housing Office, (“AHO”) in conjunction with R. Seligman Associates Inc., proposes to continue to operate the Project, as agent for Ghana Amansie, managing financial matters until such time as the completion of the transfer to TCHC. After the transfer has been completed TCHC will assume full management of the Project and, with the funding approved by this report, complete any remaining capital improvements that are required.

### **Financial Impact**

This report recommends an increase in capital funding of \$1,704,908 through a grant of up to \$852,454 from the Capital Revolving Fund (CRF) and \$852,454 from the Development Charges Reserve Fund (DCRF) to cover additional capital requirements for the completion of the Ghana Amansie Project, and to cover operating losses (as identified in Appendix A). Upon approval of these recommendations, the approved CRF grant will be deducted from the uncommitted balance of \$7.296 million in the CRF, and the approved DCRF grant will be deducted from the uncommitted balance of \$3.069 million in the DCRF.

To facilitate the development of the Ghana Amansie Project, in August 2000, Council approved a \$576,000 grant from the CRF; in July 2005, Council approved \$1,584,000 as

a loan to be paid back over 25 years with interest from the CRF. In June 2007, Council approved an additional grant of \$1,873,750 from the CRF. This report recommends that the loan for \$1,584,000 be converted to a forgivable loan to assist in providing for the long-term financial viability of the Project.

Other City benefits to the project, as outlined below, have included the contribution of surplus land valued at \$960,000, an exemption from planning fees and development charges valued at \$242,350, as well as the waiver of municipal property taxes over the term of the lease (50 years). The net present value of this waiver is estimated to be \$633,586.

Capital Funding and Contributions	2005	2007	2008 with increase
Canada-Ontario AHP Funding Provincial	\$ 192,000		\$ 192,000
Canada-Ontario AHP Funding Federal	\$1,200,000		\$ 1,200,000
City -CRF Loan	\$1,584,000		
City CRF Grant	\$ 576,000		
Contribution of City Land Value	\$ 960,000		\$ 960,000
Waved Development Charges and Fees	\$ 242,350		\$ 242,350
Mortgage Financing	\$6,700,000		\$ 6,927,143
CMHC PDF Funds	\$ 70,000		\$ 70,000
2007 CRF Grant Increase		\$1,873,750	
Total CRF Grants/Loans 2000 - 2007			\$ 4,033,750
Recommended Grant from the CRF			\$ 852,454
Recommended Grant from the DCRF			\$ 852,454
Total	\$11,524,350	\$13,398,100	\$ 15,330,151

Operating Funding	2007	2008 with Increase
NPV of Property Tax Exemption 50 years	\$633,586	\$633,586
Total	\$633,586	\$633,586

The Deputy City Manager and Chief Financial Officer has reviewed this report and agreed with the financial impact information.

## DECISION HISTORY

Ghana Amansie was approved as the proponent to develop the city-owned site at 2350 Finch Avenue West, by Council at its meeting held August 1, 2, 3 and 4, 2000 through the adoption of Clause 10, Report 16 of the Administration Committee. Capital funding of \$576,000 from the CRF was awarded at that time.

<http://www.toronto.ca/legdocs/2000/agendas/council/cc/cc000801/adm16rpt/cl010.pdf>

Council, by the adoption of Clause 44, Report 7 of the Policy and Finance Committee. at its meeting held July 19, 20, 21 and 26, 2005, approved \$1,392,000 in Canada-Ontario

AHP Pilot Program funds, an increase in the CRF loan of \$1,584,000 and the exemption of municipal property taxes.

<http://www.toronto.ca/legdocs/2005/agendas/council/cc050719/pof7rpt/cl044.pdf>

Council by the adoption of its meeting held June 19, 20 and 22, 2007 approved a further grant of \$1,873,750 from the CRF when it became apparent that the Project was in financial difficult arising from a major cost increase for the mechanical and electrical systems. Council also approved the irrevocable appointment of the City as agent for Ghana Amansie and R. Seligman Associates Inc. to act as project manager to oversee the completion of construction. Council also requested that the Auditor General conduct a forensic audit on the project and that the Deputy City Manager report on the status of the commitment of Ghana Amansie to fund raise \$250,000. The Auditor General is expected to report to the Audit Committee at its July 10, 2008 meeting.

<HTTP://WWW.TORONTO.CA/LEGDOCS/MMIS/2007/CC/DECISIONS/2007-06-19-CC10-DD.PDF>

## **ISSUE BACKGROUND**

The development of affordable housing at 2350 Finch Avenue West has been complex and difficult. Extensive delays in the development process as well as the inexperience of the Ghana Amansie group compounded the problems encountered.

When the project ran into serious financial difficulty in 2007, Council approved a number of remedial actions. Those actions included approval of additional capital funds, and the appointment of an independent project manager and the City as agent for Ghana Amansie. As a result of these actions the development was able to be substantially completed by the end of March 2008. However, a number of additional problems have arisen that were not expected or known in May 2007.

Despite the best efforts of the Project Manager and City staff, delays in getting trades back on site to finish the Project and unanticipated additional construction costs put the Project over budget. In addition, delays have resulted in further increases to the overall budget associated with financing, winter conditions and construction costs.

Additional budget issues identified during the last year included omissions in the construction contract such as completion of residential common space, lack of security systems, and a number of design problems and architect's design specifications that omitted items required by the Building Code.

In addition, both the residential and the commercial units are renting slower than anticipated thus leading to higher than expected vacancy losses. As a result, the first mortgagee and CMHC have requested the assurance of the additional funding to ensure that the project is viable and sustainable.

Ghana Amansie does not have the resources to cover the financial shortfall, nor was it able to fund raise the \$250,000 it had committed to other than by increasing their mortgage indebtedness.

All of these factors have lead to a capital and first year operating shortfall of an estimated \$1,704,908 (see Appendix A for a detailed breakdown of the funding required).

## **COMMENTS**

Substantial Performance was achieved on March 28, 2008 and occupancy permitted shortly thereafter with a number of families and individuals having now moved into the complex. The contractor is completing the budgeted final work on deficiencies and the holdback payment has been advanced to pay the contractor and trades.

The property management of the building was contracted to Upper Canada Property Management in early 2008 which has been responsible for marketing the project and co-ordinating rent-up. As of May 1<sup>st</sup>, five residents have moved in, a further six will move in June 1<sup>st</sup>. Additional steps will be taken over the coming months to rent the remaining vacant units.

A commercial realtor, Colliers International, has been hired as leasing agent and is marketing the commercial space. Although there has been interest from local businesses and one fast food operator, no leases have yet been signed. As a result of the slow rental of the residential and commercial units, the Project is not expected to generate enough operating revenue to pay its expenses in the next 12 months.

The AHO has considered a number of solutions to the current difficulties facing the Project and the Board of Ghana Amansie. Staff have held meetings with members of the Board to apprise them of the situation.

Staff from the Shelter Support and Housing Administration, who have administrative oversight responsibilities for operating non-profit, co-operative and affordable housing projects recently conducted a corporate review of the Ghana Amansie Board of Directors. The report concluded that despite its best intentions, the Board lacks the level of skill and depth of experience required to operate a residential building of this type.

For these reasons and to ensure the long-term viability of the needed affordable housing, the report is recommending that the City take steps to replace the Ghana Amansie group with TCHC.

This will specifically ensure that the:

- development is completed
- existing and future tenants get the services they are paying for
- outstanding claims are settled

- operating and financing expenses are being paid
- the City's and the public interests and investments are best protected.

Every effort has been made by TCHC and the City of Toronto to estimate the costs associated with capital and operating losses at this time. However, the true operating costs and any additional unplanned for capital improvements are not known at this time as the building is just now being occupied. As a result, it is anticipated staff will report back in approximately one year from the time of Council approval on any final adjustments required resulting from the completion and ongoing operation of the project.

## **CONCLUSION**

As a result of implementing the actions approved by City Council in 2007, the affordable housing building at 2350 Finch Avenue West has now been substantially completed.

Approval of the actions recommended in this report will result in resolving outstanding financial issues and place the Project under the governance of an experienced housing developer/manager.

These actions will protect the public interest and ensure the current and future residents receive the services they require and deserve.

It is anticipated that in approximately one year from the approval of this report that staff will provide an update report on the project to keep Council informed and to make any final adjustments to ensure that TCHC has the necessary resources to operate and manage the property on an ongoing and sustainable basis.

## **CONTACT**

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## **SIGNATURE**

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Sue Corke  
Deputy City Manager

## **ATTACHMENTS**

Appendix A                      Breakdown of Capital and Operating Shortfall  
2350 Finch Avenue West

**APPENDIX A**

**Breakdown of Capital and Operating Shortfall  
2350 Finch Avenue West**

**Capital Budget Shortfall**

**Funding Required**

<b>1. Construction</b>	\$119,400
<b>a) Work to Complete</b> - work to be completed outside construction contract above amount in hard cost contingency at substantial completion	
<b>b) Delay Claim</b> - amount claimed by contractor in April 2008	\$376,868
<b>c) Common Area Completion</b> - estimated funds needed to complete common areas, laundry room, property management office, landscaping and security equipment	\$250,000
<b>2. Financing and GST</b>	\$433,000
- Extra interest and carrying costs from delay of Interest Adjustment Date (IAD) from April 1 to October 1, 2008	
- GST on a self-assessment basis for the capital development due after the project is complete	\$175,000
<b>3. Project Management Consulting Fees</b> - fees to extent the contract for R. Seligman Associates and other consultants deemed necessary by the Director of AHO	\$ 50,000
<b>Sub Total</b>	<b>\$1,404,268</b>
<b>4. Contingency</b> - 15% contingency for unexpected expenditures	<b>\$ 210,640</b>
<b>Total Capital Shortfall</b>	<b>\$1,614,908</b>

**Operating Budget Short Fall**

<b>1. Vacancy Loss for residential and commercial units</b> - to cover vacancy loss in the first year of operation	<b>\$ 90,000</b>
<b>Total Operating Shortfall</b>	<b>\$ 90,000</b>
<b>TOTAL FUNDS REQUIRED – CAPITAL AND OPERATING</b>	<b>\$1,704,908</b>