



STAFF REPORT ACTION REQUIRED

The Retirement Homes Act, 2010 and its Impact on the City of Toronto's By-Laws

Date:	August 1, 2014
To:	Licensing and Standards Committee
From:	Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	P:\2014\Cluster B\MLS\LS14014

SUMMARY

As directed by City Council at its meeting of July 8, 9, 10, and 11, 2014, this report provides information related to the Government of Ontario's adoption of the *Retirement Homes Act, 2010*, ("the Act") a law to regulate retirement homes in Ontario. The Act created mandatory care and safety standards, residents' rights, and the Retirement Home Regulatory Authority (RHRA), a not-for-profit organization accountable to the provincial government. The RHRA is responsible for licensing retirement homes, conducting inspections, investigating complaints and enforcing standards outlined under the Act.

As retirement homes are regulated by the provincial government, the City of Toronto does not regulate the standards of care delivered at these facilities. However, several City divisions, including Toronto Public Health, Toronto Fire Services, Municipal Licensing and Standards and Toronto Building, play a role in the maintenance of public health and safety and property standards at retirement homes. To provide greater clarity to Members of Council and the public, this report outlines the roles played by various City divisions, in the oversight and maintenance of standards at retirement homes in Toronto.

Toronto Public Health, Toronto Building, Toronto Fire Services, Long-Term Care Homes & Services and Social Development, Finance and Administration were consulted in the preparation of this report.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. Licensing and Standards Committee receive this report for information.

Financial Impact

There is no financial impact expected from this report beyond what has already been approved in the current year's budget.

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

DECISION HISTORY

At its meeting of July 8, 9, 10 and 11, 2014, City Council requested the Executive Director, Municipal Licensing and Standards report on what changes are required to bring the City of Toronto's by-laws in compliance with the updated *Retirement Homes Act, 2010* ("the Act").

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.MM54.6>

ISSUE BACKGROUND

In 2010, the Government of Ontario passed the *Retirement Homes Act, 2010* ("the Act") to better protect residents living in these facilities. Some portions of this legislation took effect on April 15, 2012 and others on January 1, 2014.

The Act outlines mandatory care and safety standards, requires the homes to implement emergency plans, infection control and prevention programs, and requires the homes to implement assessments of care needs and care planning, and police background checks and training for staff. It establishes residents' rights, including the right to live in an environment that promotes zero tolerance of abuse or neglect.

The Act is administered and enforced by the Retirement Home Regulatory Authority (RHRA), a not-for-profit organization run by a nine-member board of directors and accountable to the provincial government through a written agreement. The RHRA is responsible for licensing retirement homes, conducting inspections, and investigating complaints and enforcing standards outlined under the Act. If necessary, the RHRA may issue financial penalties or revoke licences.

As of July 1, 2012, all persons in Ontario operating a retirement home, as defined in the Act, are required to be licensed by the RHRA. Licensees must meet the standards in the Act that apply to the care services the home offers and must also meet safety standards to protect residents generally. A licence relates to a specific home and does not transfer to another owner through a purchase or sale. The Act requires the RHRA to keep a public register of information about both applicants and licensees.

Under the Act, a retirement home is defined, in part, as:

A residential complex or a part of a residential complex:

1. Occupied primarily by persons who are 65 years of age or older;
2. Occupied or intended to be occupied by at least six persons who are not related to the operator of the home; and

3. Where the operator of the home makes at least two care services available (directly or indirectly) to residents.

A retirement home does not include buildings or parts of buildings that are governed by other laws, for example the *Homes for Special Care Act* and the *Long-Term Care Homes Act, 2007*.

COMMENTS

The Act is under the purview of the Minister Responsible for Seniors Affairs, Ontario Seniors' Secretariat. Though the provincial government, through its oversight of the RHRA, is ultimately responsible for the regulation of care standards at retirement homes in Ontario, several City divisions are involved with the provision of services and maintenance of standards at retirement homes in Toronto.

Provincial/Municipal Roles in the Regulation of Retirement Homes

Licensing of Retirement Homes

Any person wishing to operate a retirement home, as defined in the Act, must first obtain a licence from the Registrar of the RHRA. The Registrar of the RHRA will decide whether to issue a licence based on several criteria, including:

1. The past conduct of the people who own or control the operations of the home;
2. The ability of the home to provide care services; and
3. Competency to operate the home in a responsible manner in accordance with the Act.

The City of Toronto does not license retirement homes. However, in the process of applying for a licence through the RHRA, a prospective licensee must first obtain the necessary zoning clearance and building permits through Toronto Building. With his or her application for a licence, the owner must also submit a Fire Safety Plan endorsed by Toronto Fire Services.

Inspections for Care Standards

The RHRA is responsible for inspecting retirement homes to ensure they are administered and maintained according to the mandatory care standards outlined in the Act. The RHRA conducts three types of inspections of retirement homes:

1. Mandatory Reporting Inspections (complaint-based) are reports the RHRA receives of alleged abuse/neglect/harm/risk of harm to retirement home residents.
2. Complaints Inspections (complaint-based) consist of alleged contraventions of the Act and its regulations.
3. Routine Inspections are prescribed in the Act and are required at least once every 3 years. However, at the RHRA's discretion, inspections may occur more frequently.

Inspections for Health Hazards

Toronto Public Health has regulatory responsibility under the Health Protection and Promotion Act and Food Premises Regulation, 562, to inspect retirement homes for food

safety and health hazards. Toronto Public Health Food Inspectors conduct inspections of retirement homes up to 3 times per year.

Communicable Disease Control

Regulation 166/11 under Section 27 of the Act provides Toronto Public Health Communicable Disease Control with regulatory responsibility, including infection prevention and control roles, for the Medical Officer of Health (MOH). While Toronto Public Health does not inspect retirement homes, retirement home licensees are required under the Act to collaborate with the MOH on infection prevention and control in retirement homes. Section 27 requires that:

1. The retirement home licensee must consult with the MOH at least annually to identify and address health care issues in the retirement home in order to reduce the incidence of infectious disease outbreaks in the home. The consultation and outcomes must be documented.
2. The retirement home licensee must ensure that there is a surveillance protocol, written in consultation with the local MOH or designate, in order to identify, document and monitor residents who report symptoms of respiratory or gastrointestinal illness.
3. Retirement home licensees must report outbreaks of respiratory and enteric illness to the MOH and receive guidance from the MOH or designate on any response that is necessary to control the outbreak.
4. The retirement home licensee must report any increase in the number of symptomatic residents in the home to the MOH and consult with the MOH when this occurs.

In addition to these requirements of the licensee, the MOH may also assist with influenza vaccination of staff, volunteers and residents; ensuring that staff are properly trained regarding infection prevention and control; and guiding the retirement home on proper tuberculosis screening of new residents.

Inspections for Property Standards

Beyond the mandatory care standards outlined in the Act, the retirement home is required to ensure that the building is maintained in accordance with Toronto Municipal Code Chapter 629, Property Standards. Municipal Licensing and Standards may conduct inspections and enforcement, where necessary, including issuing notices of violations for non-compliance under the by-law.

Inspections for Adherence to Building and Fire Codes

Retirement homes are required to adhere to the Ontario Building Code and the Ontario Fire Code. The Ontario Fire Code requires retirement homes to prepare and implement a fire safety plan that has been approved by the Chief Fire Official. Retirement home staff must properly implement the fire safety plan, and in particular, plans to carry out an emergency evacuation. A retirement home must appoint, reorganize and instruct designated supervisory staff available to perform these duties. Toronto Fire Services conducts annual reviews of fire drill scenarios in retirement homes and annually

witnesses an on-site fire drill to ensure that appointed staff can successfully carry out the approved fire procedures.

Inspections of Long-Term Care Homes

The Ministry of Health and Long-Term Care is mandated under *the Long-Term Care Homes Act* to inspect all long-term care homes across the province. Long-term care homes, unlike retirement homes, provide residents with 24 hour nursing care or supervision.

The City of Toronto's Long-Term Care Homes & Services Division (LTCHS) conducts internal reviews to ensure high quality care and service is provided and that homes are operating in accordance with legislation.

Toronto Public Health does not conduct inspections of long-term care homes for licensing purposes. Toronto Public Health's Healthy Environments team is responsible for conducting routine inspections in these facilities to determine compliance with Food Premises Regulation, 562. In addition to the mandated inspections, inspections are conducted in response to complaints or during the investigation of a foodborne illness/outbreak. Furthermore, non-food safety related complaints regarding alleged health hazards are also investigated.

Toronto Public Health does not conduct nursing inspections of long-term care homes. The Ministry of Health and Long-Term Care is responsible for ensuring that long-term care homes comply with the *Long-Term Care Homes Act, 2007*.

The Control of Infectious Diseases/Infection Control Program, which is a program within the Communicable Diseases Control Directorate of Toronto Public Health, is responsible for providing infection prevention and control support, following up on all reports of communicable diseases and investigating enteric and respiratory outbreaks in long-term care homes.

CONTACT

Carleton Grant
Director, Policy and Strategic Support
Municipal Licensing and Standards
Tel: 416-338-5576
Email: cgrant@toronto.ca

SIGNATURE

Tracey Cook, Executive Director
Municipal Licensing and Standards