



## Administrative Report

### Sun Parlor Home and County Solicitor

**To:** Warden McNamara and Members of Essex County Council

**From:** Jayne Brooks-Keller, Administrator, Sun Parlor Home  
David Sundin, County Solicitor

**Date:** Wednesday, June 01, 2022

**Subject:** Committee of Management Composition and Legislative Updates

**Report #:** 2022-0601-SPH-R003-JBK-DMS

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#### Purpose

The purpose of this report is to provide County Council with an update regarding the coming into force of the *Fixing Long-Term Care Act, 2021*, and the obligations the new legislation places on the members of the Committee of Management of the Sun Parlor Home. Additionally, Administration is recommending that Council determine whether or not all members of County Council should continue to be members of the Committee of Management of the Sun Parlor Home.

#### Background

On April 11, 2022, the *Fixing Long-Term Care Act, 2021* (the "**New Act**") was proclaimed into force to regulate Ontario's long-term care home sector. On the same day, the *Long-Term Care Homes Act, 2007* (the "**Old Act**") was revoked. As all members of County Council are members of the Committee of Management (further details of how this has come to be is detailed below) for the Sun Parlor Home, it is important that County Council be made aware of certain provisions included in the *New Act*.

Both Section 132 of the *Old Act* and Section 135 of the *New Act* require that a Committee of Management be appointed for the Sun Parlor Home from among the members of County Council. Likewise, the Regulation to both the *Old Act* and the *New Act* required that there be at least 3 members of the Committee of Management. Specifically it is subsection 330(3) of

O.Reg 246/22 (the "**Regulation**") that sets the minimum number of 3 members.

The following is the historical practice at the County regarding the Committee of Management for the Sun Parlor Home:

- (1) Prior to 1996 a Committee of Management was appointed annually from among the members of County Council with a By-law being adopted to formally recognize which members of Council also served as members of the Committee of Management;
- (2) In 2006 it was determined that all members of County Council should serve on the Committee of Management for the Sun Parlor Home, and this has been the practice ever since; and
- (3) Since 2006 the Warden has signed all agreements and submissions as Chair of the Committee of Management

Although much of the *Old Act* and the *New Act* are identical, or at least extremely similar, as are the requirements for composition of the Committee of Management, there are important changes to the requirements of the Committee of Management that need to the attention of County Council, including the following:

- (1) Under paragraph 29 of the Residents' Bill of Rights provided for in Section 3 of the *New Act*, every resident of a long-term care home has the right to raise concerns related to, among other things, a member of the Committee of Management;
- (2) Section 28 of the *New Act* provides that a member of the Committee of Management is guilty of an offence if they become aware of the suspicion of improper or incompetent care or abuse of a resident and fail to report it;
- (3) Section 30 of the *New Act* prohibits a member of the Committee of Management from discouraging a "whistleblower";
- (4) Section 65 of the *New Act* requires that every long-term care home have a Family Council, but prohibits a member of the Committee of Management from serving on same;
- (5) Under Section 75 of the *New Act* there is a specific requirement that the Committee of Management ensure that where the long-term care home in question is a corporation that it complies with all requirements under the *New Act*. This requirement has always been at least implied, but is now explicit; and

- (6) Section 81 of the *New Act* prohibits persons convicted of certain criminal charges or professional misconduct from serving on a committee of management.

To attempt to ensure compliance with Section 81 of the *New Act*, Section 256 of the Regulation has certain screening requirements that must be complied with by the Sun Parlor Home. These screening measures include each member of the Committee of Management, among others, (1) obtaining a police record check and (2) providing disclosure related to certain criminal charges and professional misconduct.

The above screening measures are the reason why the Sun Parlor Home recently asked each member of County Council (who are also each members of the Committee of Management) to obtain a criminal record check and to sign and return the Declaration of Member of Committee of Management attached as **Schedule "A"** hereto.

Finally, the Ministry of Long-Term Care has provided a Compliance and Enforcement Fact Sheet, which provides details on each of the new and updated compliance measures available under the provisions of the *New Act*. For the information of Council that Fact Sheet has been attached as **Schedule "B"** hereto.

## **Discussion**

The current practice of informally having all members of County Council serve as members of the Committee of Management is likely in compliance with the legislative requirements of the *New Act* and related Regulation. However, given the mandatory language of subsection (1) of Section 135 of the *New Act*, a formal By-law acknowledging the historical practice of the County/Sun Parlor Home with respect to the Committee of Management and formally appointing at least 3 members of County Council to the Committee of Management should be adopted.

As the County does not have a Board of Control referenced in both the *Old Act* and the *New Act*, it will be up to County Council to determine whether the Committee of Management should ultimately be comprised of 3, or more, or all members of County Council.

If a Committee of less than all members of County Council were established, it would be setup like a Standing Committee of Council, whereby SPH would develop a reporting relationship with the Committee and hold Committee meetings on a regular basis. Minutes of the Committee would then be presented to County Council on the County Council Agenda for adoption.

Alternatively, if all members of County Council continue to make up the Committee of Management, Council can anticipate receiving more frequent reports regarding the operations of the SPH, to ensure Council members are confident the mandatory compliance measures are being met.

## **Financial Implications**

There are no financial implications with the only impact of the recommendation cleaning up and formalizing the composition of the Committee of Management for the Sun Parlor Home.

## **Consultations**

The following persons have been consulted in the preparation of this Report:

- Mary Birch, Director of Legislative and Community Services/Clerk

## **Recommendation**

That Essex County Council receive report 2022-0601-SPH-R003-JBK-DMS, and direct Administration to prepare a by-law formalizing the appointment of all members of Essex County Council to serve as the Committee of Management for the Sun Parlor Home.

## **Approvals**

Respectfully Submitted,

*Jayne Brooks-Keller*

Jayne Brooks-Keller, Administrator, Sun Parlor Home

Respectfully Submitted,

*David M. Sundin*

David Sundin, BA (Hons), LL.B., County Solicitor

Concurred With,

*Mike Galloway*

Mike Galloway, MBA, CMO, Chief Administrative Officer