Thornhill Green:

SETTING THE RECORD STRAIGHT

Some facts and background on York Region's plan to take over Thornhill Green Co-operative Homes

Here are some of the main reasons why York Region's plan to take over the Thornhill Green Co-operative Homes is unnecessary and unjust, and must be stopped.

1. Thornhill Green's financial position is sound

York Region says that the co-op is in serious financial difficulty. This is not true. The co-op's underlying financial position is very sound. Even with its existing mortgage, its loan from York Region and an accumulated deficit of some $200,000, the co-op still has an estimated $5.6 million in net equity. Its debt to equity ratio is positive and it is able to meet its financial obligations as they come due.

The Receiver's own court submission comments on Thornhill Green's overall strong financial position stating:

"Unlike other housing providers, the Co-operative has considerable equity with a 2005 appraised value as a market rent property of approximately $14.5 million and an outstanding first mortgage of only $6.8 million."

The co-op has operated with very little financial support from government and it has even provided most of the RGI assistance it has needed from its own resources. From 2001 to 2006 the co-op received no operating or RGI subsidy from the Region. Few other municipally administered co-ops, if any, have received so little financial support from their municipality.

York Region has misrepresented the co-op's deficit. In court documents it says the deficit grew by almost $350,000 in the 2006-07 fiscal year. This isn't true. In the 2006-07 financial statements, funding provided by the Region for capital repairs was wrongly accounted for as a loss. This was corrected in the 2007-08 draft statements. Far from having a huge deficit in 2006-07, the co-op had a $67,000 operating surplus.

The Region gives the co-op receiver credit for "paying down the accumulated deficit." In fact what happened is that the deficit was reduced by reversing an accounting entry. York Region knows this but is attempting to mislead the courts.

2. If the "sale" of Thornhill Green is in the public interest, why is the Region operating in secret?

York Region planned secretly and acted suddenly to try to win court approval for the sale of the co-op before Thornhill Green could get organized to defend itself. The in-camera decision by York Regional Council was made a full three months before court documents were served on board members on the Friday before a long weekend. The Region even asked the court to shorten the required notice from 30 days to just two weeks.

As program administrator, the Region has a duty to tell the co-op that it has a right to defend itself, advise it to get independent legal counsel and, generally, make sure that the process it follows is judicially fair. York Region did none of this, attempting instead to catch the co-op off guard.

3. Premise for sale is false – capital repair work can continue

The court documents say that there are "additional urgent and pressing capital work and maintenance repairs … [that] must be completed during the current construction season, failing which the condition of the Property will deteriorate further …" They say that they are pushing for a quick sale so that York Housing can manage the repairs. There is no need to do this. York Region could follow the example of other municipalities and set up arrangements for construction management and supervised advancement of funds. The federal housing agency, Canada Mortgage and Housing Corporation (CMHC), has successfully used a similar model for controlling repairs that it is financing.

4. Receivership unjustified and extremely costly

The decision to put the co-op into receivership in 2006 was not justified and was not done fairly.

At an April 27, 2006 meeting, York Regional Council voted that "the Region appoint a Receiver" and that it "retain the services of Mintz & Partners Ltd." They took this decision after the Region's service manager sent the co-op a "Triggering Event" letter setting out alleged breaches of the Social Housing Reform Act (SHRA) by the co-op and giving it 60 days to respond. But the Council decided to appoint a receiver before the 60-day deadline had passed and before they had even heard back from the co-op.

In doing this, the Region acted illegally. They had clearly already made up their mind about what they would do and were just going through the motions when they sent the triggering event letter. The process of communication and response required by the SHRA is meant to encourage a problem-solving approach. The Region's action seriously calls into question the integrity and legality of all subsequent actions.

York Region had many alternatives to receivership that have been used by other service managers such as appointing outside directors to serve on the board. When York Region went to court to have the receivership extended, only one board member got notice of the plan. The full board had no opportunity to respond and no money to hire a lawyer and so were not even represented at the receivership hearing. This is fundamentally unfair by any legal standards.

The cost of receivership and related legal costs are in excess of $350,000 and continuing to mount. The co-op's accumulated deficit at the end of 2006-07 was $227,000. The money spent on receivership and the costs going forward of court action to enforce a sale could have been used much more productively to deal with the co-op's capital repair problems.

5. Action of Region reflects self-interest and a hidden agenda

York Region's action is self-interested, with no arms-length dealing between the parties. They paid for the cost of the receiver, provided them with direction and asked the court to extend the receivership. Now, through the Receiver, the Region is recommending that the co-op be sold to its own housing company at little more than half the market value. What's more, the Receiver did not explore any other possible buyers before making this recommendation.

York Region's assurance of protection for residents can't be relied on. As long as the co-op remains a co-op, members can be assured that their housing will remain affordable and under their control. As soon as York Housing takes over, all bets are off. They could sell the housing in the private market so long as they got York Region's approval and York Region replaces the units on another site. The real estate is very valuable and a tidy profit would be made on the sale since the plan is to acquire it well below its market value. Many in the community have heard and believe that this is the Region's plan. If it's not, it could be. There are no guarantees unless the housing remains under co-op control.

6. Success of co-operative model will be lost with government-run housing

The court documents suggest that co-op members should not be concerned about the takeover. They say that residents will be fully protected and that the sale is in their interest. In fact, co-op members will lose a lot. Thornhill Green members know this and they are fighting hard to protect the benefits that come with operating as a housing co-op including democratic control of their housing and the community support that comes with the co-op model.

The court documents say that co-op members don't care enough about their co-op to try to make it work. Nothing could be further from the truth. Co-op members reacted passionately and quickly when they learned of York Region's plans to take over their housing. They reached out to members in the community, contacted politicians and the media, set up a website and asked for CHF Canada's help. About 60 people including co-op members and neighbouring residents attended the May 29 court hearing in downtown Toronto to send a strong signal to the judge that this matters fundamentally to them.

7. The co-op's financial problems are not the result of mismanagement

The Thornhill Green townhouses are 40 years old. It is the only acquisition-rehabilitation project in York Region's portfolio. When the property was converted to a co-op in 1992, some capital repairs were done but it was understood that the program of repair would have to continue in the years ahead. This means that Thornhill Green's capital repair costs are much higher than those of other, newer projects. The co-op has also faced some recent, unexpected and costly capital work to deal with mould, termites and asbestos. The high costs for capital repair and replacement result not from poor management but from the condition of the property and the decision not to do a full retrofit when the buildings were acquired.

Under the housing program used to fund Thornhill Green, newly built co-ops were able to retain any operating surplus they could achieve. These retained earnings could be used to build a financial cushion for the future. Program rules did not allow acquisition-rehab co-ops to keep any surplus for the first several years of operation. This put Thornhill Green at a financial disadvantage compared to other co-ops.

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