

Yarmouth

ON THE EDGE OF EVERYWHERE

TOWN OF YARMOUTH
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Stephen Maclsaac, CEO
Housing Nova Scotia
14th Floor N. Maritime Centre
1505 Barrington St., PO Box 702
Halifax, NS B3J 2T3

July 27th, 2022

Mr. Maclsaac,

We write you this morning to follow up on your letter dated May 10, 2022 in which you provided responses to several questions we had concerning the Town of Yarmouth's bill for public housing.

Our fourth question, specifically dealt with the fact that the original mortgages on several Public Housing projects in the Town of Yarmouth had reached full maturity, and yet the properties were still being included in the calculation of the Net Operating Loss, sharable by the Town of Yarmouth. It was and is our position that the obligations to fund Net Operating Losses (NOL) expired when the mortgages reached maturity.

Your response disputed this position, as the province has a continuing cost. You did offer "If you can offer the specific clause within the agreement or another document related to the agreement that indicates the expiration of the agreement, we can review and discuss further with you." My purpose in writing you today is to draw your attention to the specific clauses in related documents that validate our position.

As you know, the Public Housing Program was a federal program under Part X of the National Housing Act, delivered through Central Mortgage and Housing Corporation (CMHC). The Handover Agreements were enabled through this legislation and program. Any restrictions imposed through either the legislation or the program would be inherited by any agreements entered into under the program. Where the handover agreements are vague on the matter of expiry, the program rules can be helpful.

In 1997 CMHC and the Province signed the "Social Housing Agreement" which transferred the administration of 12 housing programs, including the Public Housing Program, from CMHC to the Province. Schedule "C" of the agreement provided a

one-page summary of key elements of each of the 12 housing programs for which administrative responsibility was being transferred to the Province. Page C-3 provides the "Key Elements" of the Public Housing Program, which was clarified in Letter of Agreement #2. The Key Elements of Project Financing are identified as

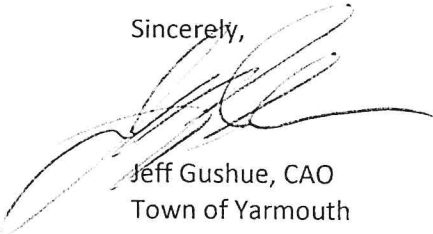
"Capital financing may be provided by loans secured by debentures or mortgages. Assistance may be paid over the actual amortization period of the project's original capital financing to a maximum of 50 years." (emphasis added)

The "Assistance" in this case was the contribution to the Net Operating Loss, and the "Key Element" is that the program only provided assistance for the amortization period of the original mortgages, up to 50 years. As the Handover agreements are enabled under this program and are the agreement through which the sharing of Assistance is defined between the parties, the handover agreements do, in fact, have an expiration date. We have brought this question to our Town Solicitor and he agrees with our conclusion. We are happy to have him engage with you on this, but we do not yet see the need to escalate this to a legal action.

Stephen, again we recognize that the over-billing and misunderstanding of the term of the Handover Agreements under the Public Housing Program pre-date your arrival at Housing Nova Scotia. This is not your error, and now that you are aware of the error, you are in a position to correct it. We believe it is necessary to have the billing calculations reviewed back to the expiration of the first handover agreement, a calculation of the overpayments confirmed, and our account reconciled appropriately. We are available to discuss a process for reconciling Housing/Municipal accounts, as well as a way forward to the conclusion of the last Handover Agreements. Until this is resolved, we will continue to withhold further payments.

We are asking that you acknowledge receipt of this letter upon receipt. We are asking you to review the referenced documents and agreements, and other documents you may have. We ask for a response by September 16, 2022. Correspondence from your office has been neither timely nor clear in response to my earlier inquiries. If we do not hear from you as requested, we will consider our options to bring the matter elsewhere for resolution.

Sincerely,



Jeff Gushue, CAO
Town of Yarmouth

Cc: Mayor Amanda McDougall, President, Nova Scotia Federation of Municipalities
John MacKinnon, President, Association of Municipal Administrators Nova Scotia
Paul T. LaFleche, Deputy Minister, Municipal Affairs & Housing
John Campbell, Director, Western Regional Housing Authority

Stephen MacIsaac, CEO
Housing Nova Scotia
14th Floor N. Maritime Centre
1505 Barrington St., PO Box 702
Halifax, NS B3J 2T3

Mr. MacIsaac,

I am writing in response to your May 2022 letter.

Thank you for taking on the responsibility of being my point of contact on my billing inquiries.

I acknowledge that you are relatively new to Housing Nova Scotia and the matter of the legacy housing agreements all predate your tenure, and I am appreciative of your openness to discuss the important matters relating to the handover agreements.

I am compiling the information you requested and will respond fully in the weeks ahead. In the meantime, I would appreciate your response to the following questions and concerns.

I have reviewed your financial statements posted on your website and I would like to ask for some clarification on a note that appears in the March 2021 statements, if I may. Note 5 refers to the "Social Housing Agreement signed in 1997". I am aware of this agreement through CMHC, and that it encompasses the handover agreements signed between the Province, CMHC and the Town of Yarmouth between 1965 and 1992. As indicated in your financial statements, under the 1997 agreement "Annual payments began in 1998 at \$56.9Million and decline to zero by the end of the agreement in 2035". If the three-party Handover Agreements are perpetual, then they would be perpetual for all parties, not just the Municipal partner.

How does Housing Nova Scotia reconcile the facts that the handover agreements are clearly not perpetual to the largest partner, CMHC, with the practice of treating the agreements as though they are perpetual when billing Municipalities?

I appreciate the clarity you provided on Housing NS reliance on current TCA policies to differentiate between maintenance and capital improvements. The Town believes this approach ignores at least two important factors; these agreements predate current TCA policy and so its applicability is debatable, and the provinces practice of

acting unilaterally in such decisions is contrary to the intent and wording of the handover agreements.

I refer you to Clause 18(1) of the December 23, 1965, Handover Agreement between Canada, Nova Scotia, and the Town of Yarmouth which states "Any right or discretion given to or exercisable by the Provincial Minister under this agreement shall be exercised by him only with the concurrence of the Town".

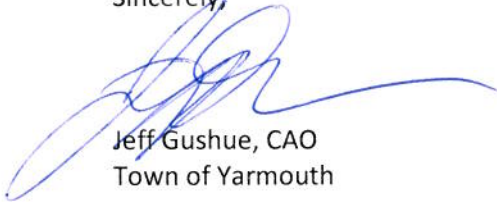
Can you provide any document indicating the Town of Yarmouth's "concurrence" to mortgage thirteen of the Housing Nova Scotia properties in the Town of Yarmouth in 1998? The debt servicing costs have been included in the NOL billings every year since.

We acknowledge that Housing NS has an ongoing mandate for the provision of affordable housing, however that mandate does not create a burden to municipal government, except for the provisions of legislation and the limits of the existing agreements.

The Town of Yarmouth will continue to hold back payment under the handover agreements for now, until these matters are clarified, and any adjustments are made with the Town of Yarmouth's concurrence.

Again, thank you for your May 2022 reply to my June 2021 letter to Mr. Lewellyn. I am hoping follow-up replies will be more timely and lead us to resolution of the concerns and discrepancies that exist with the billing practices of Housing Nova Scotia.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jeff Gushue', with a long horizontal flourish extending to the right.

Jeff Gushue, CAO
Town of Yarmouth

Cc: Mayor Amanda McDougall, President, Nova Scotia Federation of Municipalities
John MacKinnon, President, Association of Municipal Administrators Nova Scotia
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