



**FUNDING AGREEMENT WORKSHOP 22ND JULY 2005 –
MORNING SESSION WITH HOUSING ASSOCIATIONS
AFTERNOON SESSION WITH HOUSING CO-OPERATIVES**

SUMMARY OF ISSUES RAISED

INTRODUCTION

The Community Housing Council of SA Inc held a workshop on 22 July 2005 for housing associations and housing co-operatives. Representatives from the following CHOs attended:

Associations

- Whalers Housing Association
- Alexandrina Council Housing Association
- Frederick Ozanam Housing Association
- UNISA Students Housing Association
- Red Shield Housing Association
- Valleys Housing Association
- DASH
- Women's Housing Association
- Northern Suburbs Housing Co-Op
- Riversgate Housing Association
- Roofs Housing Association
- Lutheran Community Housing Support Unit

Co-operatives

- Craigmore
- Sunrise
- Northern Suburbs
- Eco
- CHOW
- La Luna
- ISHA
- Acacia
- Lansones
- House One
- SPLIT
- PERCH
- Housing Plus
- Permaculture
- ROOH
- PEACH
- Copper Triangle

Additionally Ms Liz McCarthy who is an elected representative of housing co-operatives to SACHA attended the morning workshop, while Mr Graeme Gow, the other elected co-op representative, attended the afternoon workshop. Ms Evette Johnson, Chairperson of the CHCSA attended both sessions. Mr Andrew Lambert, Senior Policy Officer SACHA, attended the last half of both workshops to answer questions.

This document is not intended to provide a transcript of the workshops. It is a summary of the key issues raised. Issues are not listed in any particular order nor does the listing of an issue indicate the number of comments or weight attached to particular issues.

Commentary on the draft Funding Agreement has also been received from CHOs in addition to the workshop. This is referred to later in the document.

CHCSA does not necessarily endorse any of the comments on the draft Funding Agreement expressed in this document.

MORNING SESSION – HOUSING ASSOCIATIONS

Philosophy of the Draft Funding Agreement

There was considerable questioning of the philosophy of the draft Agreement, as expressed in its language and assumptions. It assumes that all the money is government money, which CHOs are allowed to retain, set proportions of. But CHOs are the property owners who remit a proportion of their income to SACHA. The draft was not expressed in terms of partnership but as though SACHA is the property owner and CHOs secondary to SACHA. The draft should not use expressions like “allowance” but “allocation”. The language needs to be revised to reflect a partnership approach. In compliance terms all the responsibilities are on the CHOs and SACHA faces no penalties for breaches. Too much is in policies, which SACHA can alter with only minimal consultation eg insurance requirements and rent policy.

Flexibility of the Draft Funding Agreement

There were several comments that the draft is less flexible than the current Agreement. There are fewer choices and less discretion in expenditure. The introduction of a property allowance, administrative allowance and maintenance allowance is seen as prescriptive and there was uncertainty over what trade-offs would be allowed. If money can be shifted from the maintenance component to the administration component, this should be specifically set out in the Agreement. It would be very difficult for CHOs to maintain records showing how staff should be split between different functions such as maintenance and administration. It was suggested that by allowing CHOs to move funds from maintenance to administration, SACHA was recognising that the maintenance formula doesn't work. Another view was that a “one size fits all” approach doesn't work. Each CHO should be allowed to work out its own costs and surplus that it can remit to SACHA

Some Overall Comments

Three CHOs stated that while they will be better off in financial terms there were still structural issues of concern with the draft. One participant stated that the Funding Agreement should in principle cover all expenses but in reality it could cause deficits. Even though the draft will improve the financial standing of this CHO, the improvement is not enough to stave off insolvency. There was concern around the privacy implications of Section 3.4. The issue of market rent was raised particularly in regard to the GST and how CHOs can attract GST benefits. There was a view that market rents should be discounted by 25.1% to put them below the threshold for ATO.

Timelines

There was considerable discussion around the timing of the new Agreement. There was concern that introducing it part way through a financial year would cause too many bookkeeping problems. However it was recognised that there would be problems with rent reviews if the new Agreement started at the beginning of a financial year. After considerable discussion it appeared that most participants would prefer the new Agreement to start on 1/7/02006 and that one of Rent Reviews for 2006 should be adjusted to fit in with this. There was concern that SACHA could pressure CHOs into signing.

Response by CHOs

There was considerable support for the idea that CHOs should respond with one voice to the draft Agreement, via the CHCSA, and that individual CHOs should not sign it until outstanding issues have been resolved. There was considerable support for the idea that CHCSA should be able to seek independent legal opinion on the draft and that SACHA should be willing to fund this. There was a suggestion that CHCSA should put together a working party to develop a response to the draft Agreement.

Maintenance Issues

Concern was raised that the draft Funding Agreement does not provide for a sinking fund any more. There was a comment that the maintenance allowance is insufficient to meet real costs. One CHO stated that it cannot budget for trashings by tenants but there is no support for this in the draft Funding Agreement. There was a query over how CHOs would pay for maintenance overheads via this Agreement. Comhouse charges these overheads to CHOs. One participant wondered if SACHA would pay for maintenance deficits. One CHO stated that there could be an unfunded liability facing CHOs from property transfers, which are in poor condition.

Administrative Allowance

There appeared to be some uncertainty around the structuring of this allowance. Does the structure reflect the removal of staffing subsidy? Participants agreed that the draft is correct to recognise that economies of scale in staffing are not easily achieved. The transition from \$17 to \$20 a week per property at 90 properties was seen as too abrupt. Perhaps a sliding scale would be better.

Property Allowance

There was a comment that property values can go down and this could leave CHOs short of the required amount, as property costs may not go down proportionally. There was uncertainty over how the 1% allowance was chosen – why not ½% or 2%? There was a view expressed that the allowance should equal the actual costs facing a CHO – one size would not fit all. How would the 1% annual allowance translate to a weekly figure? Changes in CPI will not cover changes in property cost increases. It was unclear if CHOs can make provisions in their accounts for property costs accruing from month to month.

Coordination with Other Legal Requirements

There was concern that the draft Funding Agreement had not been coordinated with other legal requirements faced by CHOs such as the Associations Incorporation Act, Australian Tax Office rules and the Residential Tenancies Act. There was a view expressed that CHOs could become insolvent under the Associations Incorporation Act if they don't have a maintenance fund. SACHA does not seem willing to discuss these issues.

Response by SACHA Representative

Mr Andrew Lambert representing SACHA responded to a number of points raised in the question and answer session:

- In some areas it will be up to government to determine policies, notably rent policy
- Only 15% of tenants pay ceiling rent. Market rents will address the problem of some ceiling rents being too high.
- The proposal to change the way children's incomes are taken into account for determining assessable income has been dropped
- The timeframe is negotiable, however CHOs should realise there could be financial implications for them if the introduction is delayed
- SACHA has done individual modelling showing the financial impact of the new Agreement on individual CHOs. This can be made available but it used 2004 data
- There is a SACHA Board paper this month regarding crossover of funds from maintenance to administration allowance
- To solve cash flows problems CHOs can bank rental income each month so they have the funds to pay bills which are not payable monthly
- The issues around vacancy costs in clause 2.2.4 will be examined further
- A number of other issues raised by CHOs will be taken on board and considered further

AFTERNOON SESSION – HOUSING CO-OPERATIVES

Administration Allowance

Housing co-operatives were aggrieved that there is a difference of \$10 per week per property in the allowance between housing co-operatives and housing associations for CHOs under 90 properties. There was a mood that co-operatives would be better off seeking registration as associations.

There was concern that unlike the outgoing Funding Agreement, rents could not be reduced if the co-op can make savings on its expenses, to the benefit of members. This reduces the incentive for participation.

It was pointed out that a desire to save work and time is not the only reason co-ops engage Service providers – there is also the issue of the complexity of co-op management, which has increased in recent years. There are a growing number of members with disabilities who may have reduced capacity to participate.

RECOMMENDATIONS ARISING FROM THE WORKSHOP

The following recommendations were not specifically voted on in the workshops but arise from the range of issues raised:

- That introduction of the new Funding Agreement be deferred until 1/7/06, with an appropriate adjustment to the timing of one of the Rent Reviews due in 2006
- That individual CHOs not sign the draft Agreement until all negotiation has been concluded on a sector-wide basis
- That CHCSA endeavour to represent the views of the whole community housing sector to SACHA
- That the draft Funding Agreement be re-cast in language which more closely reflects a partnership approach between SACHA and CHOs and which specifically acknowledges the ownership of properties and rental income by CHOs
- That compliance penalties against SACHA be introduced as appropriate to balance similar provisions for CHOs
- That the draft Agreement specifically mention that maintenance funds can be used to offset the costs of maintenance administration
- That SACHA will not change any of the policies referred to in Agreement and its appendices without the agreement of at least 75% percent of housing co-operatives and 75% of housing associations and that such changes will be approved by the SACHA Board
- That the Agreement make it clear that funds under the property allowance and administration allowance can be combined into one expense pool
- That SACHA consider setting expense allowances according to the individual needs of CHOs
- That market rent policy be reconsidered in the light of GST constraints
- That the questions raised above regarding maintenance issues be pursued with SACHA by CHCSA
- That SACHA consider a sliding scale for the proposed administrative allowance to better reflect changes in costs

- That SACHA guarantee that property allowance will never be less than the amount required to meet real property costs facing CHOs
- That SACHA ensure that the new Agreement is assessed in regard to its impact of other legal obligations on CHOs notably the Associations Incorporation Act, Australian Tax Office rules and the Residential Tenancies Act

OTHER INPUT RECEIVED FROM CHOs

The Community Housing Council of SA is aware of extensive commentary made by Northern Suburbs Housing Co-op which is repeated here in summary form (except for items which are already commented upon above):

- A2 The organisation is established principally for the purpose of providing housing for its members, which can include those in financial or other forms of need.
- 1.4.3 The organisation shall only house eligible applicants..... SACHA needs to take into account that Housing Co-ops do house NMT (non-member tenants).
- The move to market rents may increase GST compliance costs as more properties will be over the ATO 75% requirement.
 - There should be a safety net for insurance excess. How will CHOs manage an excessive number of small claims? \$500 per claim may be excessive for small CHOs.
 - Incorrect references to Schedules are in Clauses 3.2.1 and 3.4.1.
 - SACHA should develop a basic Service Provider contract and accredit Service Providers. Service Providers should have public liability and professional indemnity insurance.
- 5.3.1 Change 7 days to 21 days. Make the process simpler.
- 5.6.11 Schedule incorrectly refers to 5.5.11.
- 8 years is too long for the maintenance plan.
 - Large amount of work in maintaining and updating proposed maintenance database.
- 5.7.3 Make provision for exemption or variation according to circumstances.
- 6.1 Co-ordinate data collection with rent review to reduce double handling.
- 7 Add a clause to describe the grounds for review.
- 7.3.1 Make the review every five years not ten years.
- 7.4.2 There should be an arbitrator in the event SACHA and the sector cannot agree on changes.
- Additional Services Levies – if they are included with rent they will attract CRA.
 - How will SACHA determine if an additional services levy is appropriate?

- Can CHOs still claim a Tenant Services Levy?

Schedule B – The co-op believes that any Non-Member Tenant “levy” should be retained by the CHO to cover additional administration for NMT’s.

The Community Housing Council of SA has also received other input from CHO’s.

- Two CHOs stated that the question to be asked at present “Where are we being asked to go?” not “how do we get there?”.
- What is the net financial benefit to the community housing sector of these changes allowing for loss of insurance subsidies etc?

Clause 2.2.4

Clause 2.2.4 effectively removes vacant properties from the rental income operating costs formula set out in 2.2.2, notwithstanding that organisations still incur property rates, taxes and other costs on vacant properties. This implies that organisations are required to remit an increased amount to SACHA by virtue of a property being vacant.

Given that SACHA is purporting to make organisations more viable, which presumably is why the Authority is returning \$1.9 M to the sector, what is the reason or logic for including clause 2.2.4 in the new agreement?

Definition of a Category 1 Applicant

A suggested change in wording (refer page 23 of Schedule A) would better describe a Category 1 applicant viz:

“Applicants who are:

Homeless;
Under immediate threat of homelessness; or
Inappropriately housed.”

Present wording in the SACHA draft to describe a Category 1 applicant is vague.

Community Housing Rents (page 24 of draft)

Schedule B ‘Community Housing Rents’ makes reference to “..... SACHA may also agree to differ rent from the above in limited cases, such as joint ventures or equity share arrangements”.

Could we have an explanation please of what a “limited case” might constitute, so that we can understand why one joint venture/equity share arrangement should be treated any differently from another?

Income of Children (page 25 of draft)

This section of Schedule B of the draft refers to “Independent children (i.e. the child receives income in their own right)

Child aged under 21 – Actual income received by the child is not assessed.”

Does this mean that the wages income of a child under 21 years of age living with a single parent is not assessed for rent purposes?

If this is not the case, could the present draft wording be clarified please?

Reference to market rents and ceiling rents in page 24

Page 24 under “Charging less than prescribed rent” and “Charging more than prescribed rent” refers to income based or ceiling rent in the case of the former, and income based or market rent in the latter-mentioned category. Our understanding was that market rent would replace ceiling rent in every case.

Is this a typographical error?

Terminology to describe what the draft document is

Use of the term “Funding Agreement”; in terms of a supposed equal partnership arrangement with SACHA should be questioned. The present draft, in our view, is a top down edict full of compliance clauses and sanctions. It is as though organisations are not really corporate entities in their own right at all but mere agents of SACHA (a bit like what a district office is to the Housing Trust). As public officer of an incorporated body for example, I have legal responsibilities under corporate law and other legislation that have nothing to do with this Association’s agreement with SACHA.

The following questions are therefore posed:

Is the SACHA draft document in any legal sense a funding agreement or a partnership agreement?

Who is funding whom?

If groups are really in partnership with SACHA, why isn’t the document called a “Partnership Agreement” under which the contracting parties would both be subject to normal partnership law?

SACHA people often make reference in their vernacular to “organisations running their businesses”. Our impression is that the SACHA mindset is that SACHA runs everything.

Whose business are we really talking about?

Further Feedback

Further feedback was received from the Women’s Housing Association. However this is too extensive to include here. The feedback was separately forwarded to SACHA by TWHA.