In The Name of Safety…

A Review of the Saskatoon Health Region's Decisions and Actions in Relation to the Former Enriched Housing Residents of St. Mary's Villa, Humboldt, Saskatchewan

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September 2012

The Honourable Dan D'Autremont
Speaker of the Legislative Assembly
Province of Saskatchewan
Legislative Building
2405 Legislative Drive
Regina, Saskatchewan
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Dear Mr. Speaker:

It is my honour and privilege to submit a report, prepared at the request of the Minister of Health and the Board Chair of the Saskatoon Regional Health Authority. The report is titled *In the Name of Safety: A Review of the Saskatoon Health Region's Decisions and Actions in Relation to the Former Enriched Housing Residents of St. Mary's Villa, Humboldt, Saskatchewan*.

Respectfully Submitted,

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SECTION 1

Overview

On Wednesday, February 15, 2012 the 10 residents of the enriched housing wing of St. Mary's Villa in Humboldt, Saskatchewan were informed by staff of the Saskatoon Health Region that they had to move out. This was the first word these residents, a group of seniors whose average age was 89 years, received of their need to move from their home.

Although not clear to them at this point, enriched housing residents would come to understand that they had to move because a second wing of the Villa (the Dust Wing) had been deemed compromised by a structural engineer. To deal with this issue, the Region had decided to vacate residents out of this second wing into the enriched housing wing, after first moving the enriched housing residents out.

While the deadlines and the reason for the move were not initially clear to the residents from the February 15 announcement, staff held one-on-one meetings with them over the next two days and explained further. During these meetings, people came to understand that the residents needed to decide their next address by Tuesday, February 21, and be prepared for a scheduled move by either Thursday or Friday, February 23 or 24. In effect, the Region was giving the enriched housing residents eight days to find new homes and move.

Although the Region took steps to mitigate some of the negative impacts of this short-notice move – for example, by providing new housing options for the residents to consider and providing an 11-month rent subsidy to cover the difference between old and new rents – many of the residents took issue with the suddenness of this announcement and with the demands it placed on them and their families. They raised their concerns with various health officials, and the Minister of Health and the Chair of the Saskatoon Regional Health Authority invited the Ombudsman to review the move. Our office accepted this request.

In general, during interviews with Ombudsman staff, the residents and their families were not contesting the fairness of the Region's basic decision to end their rental agreements. They understood that the decision to vacate another wing of the Villa into their wing was made in the interest of the safety and welfare of the 32 long-term care residents living in that wing and of the staff working with them. While not contesting this decision, they were questioning:

1) the fairness with which the decision was enacted (in particular the quick timelines and short notice, their lack of involvement in trying to find workable solutions, the lack of prior warning, and information flow from the Health Region that was not clear or transparent).

2) the overall care and coordination and the lack of personal respect with which the moves were undertaken (e.g. delays on moving day, questions as to the safety of an asbestos-related renovation project just prior to the moves, and the planning decisions that resulted in contractors working on window replacements in their units on moving day).

3) for some, the duration of the rent subsidy that the Region agreed to provide. As residents faced an average monthly rent increase in excess of $1,300, for some, the possibility of having to move again, in search of appropriate and affordable housing after the subsidy ended, was and continues to be a source of worry and stress.

Based on the initial request to our office and then the concerns raised by residents and their families during interviews with Ombudsman staff, our office initiated a formal review. This review examined the administrative decisions of the Region related to the move of the enriched housing residents, including the reasons for the decisions and the way they were enacted. This review falls within the Ombudsman's mandate, as set forth in *The Ombudsman and Children's Advocate Act* (replaced September 1, 2012 with *The Ombudsman Act, 2012),* and with our stated mission of promoting and protecting administrative fairness and ensuring that government agencies make sound decisions,

based on reasonable processes, and treat citizens with respect.

Supported by extensive document reviews and in-depth interviews with over 50 people, we came to understand the context within which the Region made and enacted its decisions and the way it considered and treated the enriched housing residents within its process.

This report provides a detailed description of Ombudsman Saskatchewan's approach to the review (Section 2), the facts of the case and the Health Region's decisions and actions (Sections 3 to 6), and the Ombudsman's findings and related recommendations (Sections 7 and 8). Table 1, presented at the end of this section, provides a chronological summary of key facts of the case.

Our review found that the Region's decision to close a long-term care wing of the Villa (the Dust Wing) was sound and reasonable, based on information it had received from a structural engineer. The subsequent decisions of the Region, however, in particular those related to the timing of the moves of residents in a second wing (the enriched housing wing) and the way it proceeded to end its relationship with the 10 residents living there, challenged some of the standards of administrative fairness. Our review found insufficient evidence to suggest that the Health Region needed to proceed in such an expedited fashion, asking these elderly people to find new homes and move within eight days.

Months before the final decision was made to move the enriched housing residents out of the Villa, the Health Region was aware that there were structural issues. As early as December 2011, Health Region staff identified in their contingency plans that the enriched housing residents might have to move out of the building should these issues turn out to be as serious as they did. The enriched housing residents could thus have received advanced notice of possible decisions that would have significant consequences for them.

Contractually, because of the provisions of their leases, and certainly as a best practice required by principles of administrative fairness, the residents had the right to expect better treatment.

As affected parties, the residents should have had greater involvement in the decision-making processes that had such a significant impact on them. Such involvement is a requirement of administrative fairness.

Once the decisions were made, the reasons and explanations offered to the affected residents (and the general public, through press conferences and media releases) did not always meet the standards of administrative fairness such as timeliness, accuracy, clarity, and transparency.

In order to compensate the residents for the disruption to their lives as a result of trying to accommodate an expedited timeline, the Health Region provided a financial compensation package, offering the residents supports that extended beyond what was required by the lease agreement.

Unfortunately, the Health Region did not always treat the residents with the respect and courtesy expected of an agency of government. This was not an intentional disrespect on the part of any person, but rather the effect of other factors such as short timelines, few opportunities for involvement, and unclear and changing information. Although not intended, the result is the same – many residents and family members felt overlooked and disrespected.

The actions of the staff of the Saskatoon Health Region were well-intentioned and in full consideration of the long-term care residents and the staff who worked with them in the structurally compromised wing. Leaders of the Health Region believed these long-term care residents and staff were in an unsafe situation and they acted quickly to mitigate this risk. Attention was also due, however, to the residents of the enriched housing wing. The Region had entered into relationships with these individuals, and was obligated to balance the needs and interests of everyone. This balance was not always achieved.

Ombudsman Saskatchewan has issued four recommendations from this review: that the Health Region develop policy to guide future resident moves, that it update its "Incident

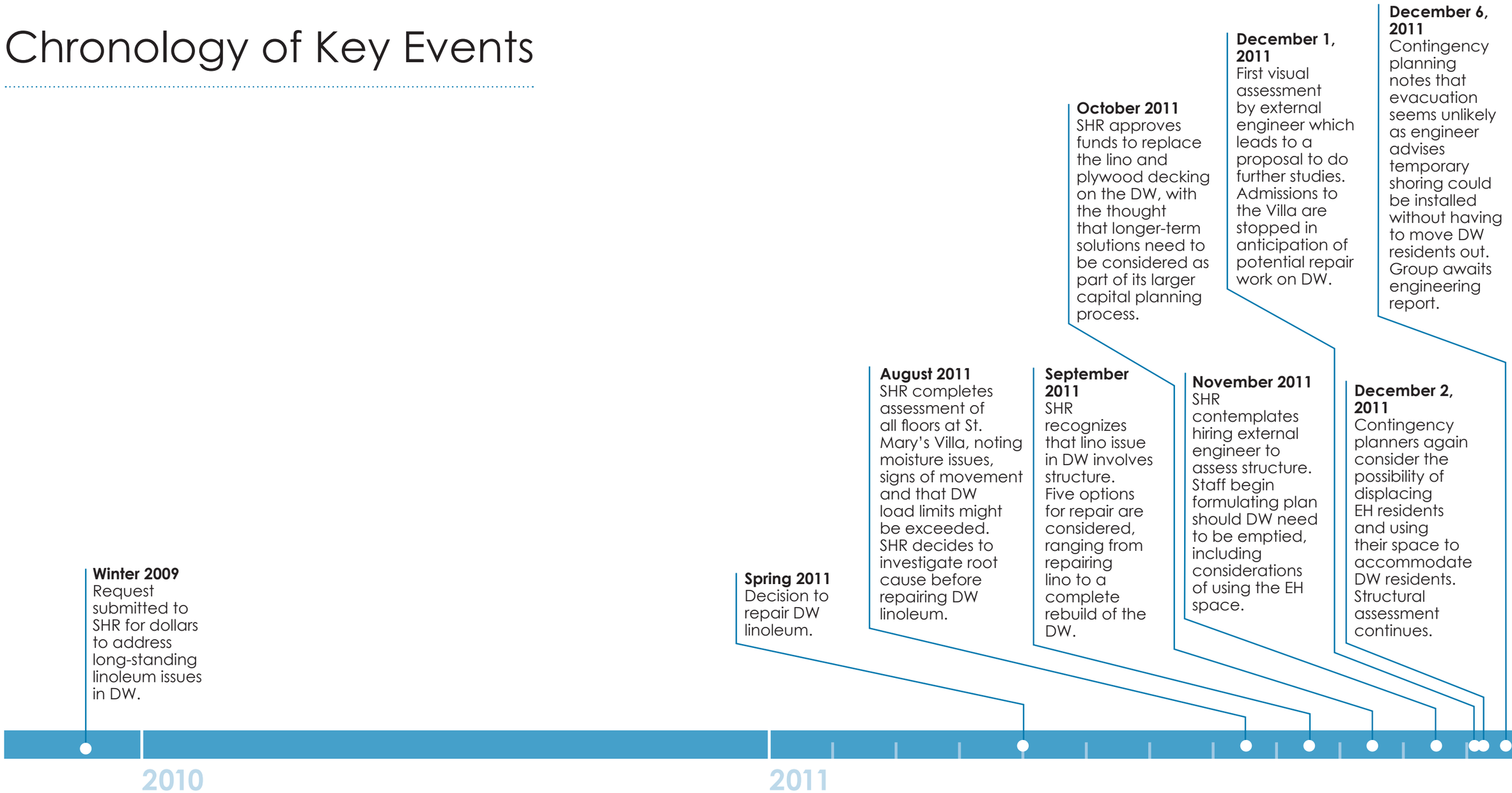
Command" practices to reflect the lessons learned from its application to this situation, that it clarify its obligations when it is acting as a landlord, and that the Ministry of Health review its facility designations and ensure health regions are aware of their obligations when acting as landlord.

It is our hope that with this full accounting of events and our recommendations, the Region pauses to consider its obligations to administrative fairness and better prepares its leadership and staff to proceed with more care and reflection in future decision-making cycles. It is also hoped that this account and the resulting recommendations helps the residents and their family members to better understand the situation they found themselves in. Providing this information cannot undo the past, but perhaps can help provide closure.

Chronology of Key Events

The following fold-out provides an overview of the chronology of key events related to this review. For a more detailed discussion of events, see Section 4.

Chronology of Key Events



EH = Enriched Housing
DW = Dust Wing
IC = Incident Command
PMT = Project Monitoring Team
SHR = Saskatoon Health Region

January 5, 2012
Engineering firm submits report of preliminary review indicating precautions necessary and that further investigation should occur.

February 3, 2012
After comprehensive visual assessment, engineer provides verbal report of preliminary findings and advises SHR to develop plans to address concerns within 30 days.

February 13, 2012
PMT meets. Options outlined were: 1) full remediation of flooring system for $4-6 million, 2) temporary shoring for $225,000, or 3) option two as a short-term resolution with construction of a new facility in the long term. Only options one and three are seen as viable and it is decided that DW residents will be moved as soon as possible and that an IC team will be struck to oversee the necessary moves.

February 14, 2012
IC initiated and planning begins.

February 15, 2012
IC continues. EH residents are notified that they have to move out.

February 16, 2012
Meeting is held with DW and EH residents and families to explain moves. One-on-one meetings with EH residents and families begin after the meeting; timelines are clarified.

February 17, 2012
One-on-one meetings with EH residents and families continue. IC continues.

February 20, 2012
Family Day
(statutory holiday)

February 21, 2012
Deadline for EH residents to choose a new place to live. IC resumes.

February 22, 2012
IC continues. Contractors remove asbestos-containing floor tiles in EH area. CEO on site to apologize.

February 23, 2012
EH residents are moved. They receive letters detailing compensation. IC meets. SHR receives first written draft of engineer report. Work done on EH windows.

February 27, 2012
Engineer submits second draft report. IC meets.

February 28, 2012
IC meets and disbands.

March 1, 2012
Engineer submits final report.

March 2, 2012
IC meets for a formal debriefing.

March 4, 2012
The end of the initial 30-day period issued by the engineer on February 3, 2012

March 8, 2012
Debrief meeting with former EH residents and families.

April 4, 2012
DW resident moves are completed.

2012

February | March | April

See the February 2012 calendar on reverse side for another presentation of the events of this period.

February 2012

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3 Engineer provides verbal report and advises of 30-day deadline	4
5	6	7	8	9	10	11
12	13 PMT meets and decides to shut down DW and move EH residents	14 IC initiated	15 Residents notified of move	16 Group meeting to explain moves and one-on-one meetings held with EH residents	17 One-on-one meetings with EH residents continue	18
19	20 Family Day	21 Deadline for EH residents to choose new place to live	22 Contractors arrive, remove floor tiles which contain asbestos; CEO on site to apologize to EH residents	23 Moving day for EH residents; SHR receives engineer's first draft report; contractors start working on windows	24	25
26	27 SHR receives engineer's second draft report	28 IC disbands	29	1 SHR receives engineer's final report	2 IC debriefs	

SECTION 2
Methodology

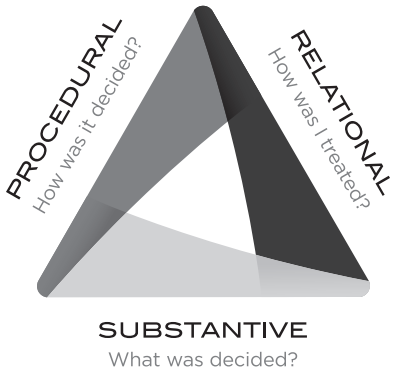
2.1 Administrative Fairness

Ombudsman Saskatchewan has a mandate to ensure that government and its agencies are fair in their decision-making and actions. Members of the public who feel that a decision made by a government agency unfairly affects them, can approach the Ombudsman. Concerns can also be referred to the Ombudsman from government itself, as it did in this case, and the Ombudsman can also initiate his own reviews in matters under his jurisdiction and in the interest of ensuring administratively fair government practices.

People tend to view fairness as an imprecise term and we often hear that what seems fair for one person, may not seem so to another. Administrative fairness, however, is more precise and many of its requirements are actually rooted in case law. Ombudsman Saskatchewan assesses administrative fairness in terms of three broad categories:

1) **Substantive fairness** is focused on what was decided. For example, whether the decision was sound and reasonable; in accordance with the law, regulations or governing policies; within the legal authorities of the decision-making body; and based on relevant information.

2) **Procedural fairness** is focused on how the decision was made and, in general, considers whether the process was sound and reasonable. When considering fair procedures, administrative reviews may look at whether people were aware that decisions were being considered that personally and significantly affected them; whether they were given the opportunity to participate in such decision-making processes; whether information used in making decisions was accurate and relevant; and whether the process was thorough and its decisions reviewable and correctable.



3) **Relational fairness** is focused on how people were treated throughout a decision-making process and considers whether they were treated with respect and courtesy, honesty and forthrightness, and whether apologies were offered when mistakes were made.

Standards and thresholds of administrative fairness are elastic and vary depending on the situation and potential consequences. In general, standards of administrative fairness increase the more serious the decision and the greater its consequences to affected individuals.

There is a clear link between the Ombudsman's guiding principles of administrative fairness and those of the patient and family-centered philosophy guiding the provincial health system and its health regions and agencies. Patient and family-centered organizations strive to deliver accurate and evidence-based services (substantive fairness), engage patients and their families in treatment planning and decision-making (procedural fairness), and treat people with respect and concern (relational fairness).

These considerations and parallels contribute to the backdrop of our review.

2.2 Review Plan

The Ombudsman's review primarily focused on the procedural fairness of the Health Region's decision to move the 10 enriched housing residents out of the St. Mary's Villa. We assessed how this significant decision was made by staff (including consideration of its precipitating factors) and was then shared with the residents and their families (e.g. advance notice and clear and meaningful explanations).

This review considered issues in both the immediate context of making and sharing the decision, as well as the period of time following the decision (e.g. overall coordination

during the moves, involvement of residents and families in the planning, information-sharing about an asbestos removal project that would occur in the midst of the moves, and allegations that the Health Region was insensitive to residents when renovations were started in the wing and in units that people still occupied).

While procedural fairness was at the forefront of the review, we also considered questions of substantive fairness (e.g. Were signed lease agreements followed? Was the decision to end the lease and ask people to move with short notice within the scope of a reasonable and sound decision? What options were considered?) and relational fairness (How respectfully were people treated throughout the process of making, conveying, and enacting this decision?).

Ombudsman Saskatchewan began the review by assessing whether the decision to move residents out of the enriched housing wing was sound and reasonable. In particular, we asked what data was obtained by the Health Region and what options were considered prior to making decisions. We also assessed the issue of the timing of the enriched housing move and whether requesting such a quick exit was reasonable.

2.3 Limitations to the Review

Our assessment of substantive fairness did not extend to questions of the substance of the engineer's report. As well, some families mentioned an asbestos renovation that occurred in and around their parents' move and raised questions as to its safety. As with the engineering report, our review did not assess the technical actions of the asbestos removal firm. We considered these to be issues that require a subject-matter expertise outside the purview of the Ombudsman. The Ombudsman's focus is on administrative fairness and does not usually question the soundness or accuracy of expert, profession-based decisions. Having said that, if compelling evidence were to be uncovered in the course of our review that raised questions as to the soundness of these processes, we reserved the right to evaluate these areas and call on outside experts to provide their independent assessments. As will be seen in the following details, nothing arose in the course of the Ombudsman review to warrant such an action.

2.4 Documents Reviewed

As a starting point to this review, the Health Region was asked to provide certain key documents (e.g. the engineering reports, the tenant leases signed by the enriched housing residents, and key communiqués issued by the Health Region in the course of the decision-making and subsequent move). People were also asked to bring personal files and notes to interviews with Ombudsman staff and copies were made of any documents directly referenced in their interviews (e.g. meeting minutes, letters, e-mail correspondence). Individuals were also given the opportunity to submit other documents they wished considered. Copies were also obtained of any other documents that came to our attention and were assessed as potentially relevant. Other relevant documents considered as part of this review will appear in Section 6 of this report.

2.5 Persons Interviewed

The Ombudsman's goal was to assess the administrative fairness of the key decisions and actions of the Health Region and understand those actions and events as they related to the concerns raised by the enriched housing residents. Rather than interviewing all people involved at any level or at any point in this decision-making process, we interviewed until a full understanding of the situation was achieved and data saturation was reached.

Eight of the 10 former enriched housing residents were interviewed. Two, at the request of their families, were not contacted after our letter of invitation was received. One of these families did complete an interview on behalf of their family member, but the resident did not.

We interviewed centrally involved staff from the Health Region, including local and regional staff, across multiple levels of the organizational chart.

Although the Ministry was in contact with the Health Region at various points throughout

the unfolding of this move, our office did not approach anyone from the Ministry to participate in this review. The decisions directly related to the enriched housing residents were the jurisdiction of and were made by staff of the Saskatoon Health Region. The Ombudsman recognizes that broader contextual factors within the purview of the Ministry (for example long-term care funding and capital budgets) influenced the context within which Health Region decisions were made, decisions that came to ultimately affect the enriched housing residents. That said, broader public policy questions of health system priority setting, global health and social welfare budgets, provincial and regional management of infrastructure and capital assets, historic changes to the admission requirements for a funded long-term care bed, long-term care bed ratios, and waits for admission, are not the focus of the current administrative review. Similarly, citizens of Saskatchewan have heard much in recent years of rising rents, low vacancy rates, and issues of affordable and accessible housing. These factors play a role in the broader context within which this situation unfolded and our review was completed. While we recognize that these issues may contribute to the situation, their specifics fall outside the scope of this review.

SECTION 3
Background

Before summarizing the key events leading up to and surrounding the Health Region's decision to end its relationship with the enriched housing residents, a few central terms must be defined. We will also provide a description of St. Mary's Villa and the enriched housing program.

3.1 Levels of Care

Long-term Care:[1] Long-term care refers to specialty services delivered to individuals admitted to a long-term care facility (also referred to as a nursing home or special care home). In Saskatchewan, admissions to a publicly funded long-term care facility come only after trained assessors evaluate the needs of individuals and determine that their needs are greater than those which could be met in an alternate setting.

Long-term care facilities are different from personal care homes, and assisted living homes (see below). Care provided in a long-term care facility is typically more intensive than that which could be provided in a lower level of formal care. Normally, residents in a long-term care facility have been assessed as requiring Level 3 or Level 4 care. As defined by the Ministry of Health,[2] Level 3 care provides intensive personal or nursing care; Level 4 provides specialised supervisory care.

Long-term care residents pay a monthly fee based on income, and the total cost to provide their service is subsidized by public dollars provided to health regions by the Saskatchewan Ministry of Health.

In the case being reviewed by the Ombudsman, the 32 residents of the Dust Wing (the wing that the Region would decide to empty, moving its residents into the enriched housing wing) were long-term care residents.

Enriched Housing:[3] Also referred to as assisted living, this service provides support to individuals who are no longer able to live independently but who do not need the

intensive care of a Level 3 and 4 long-term care facility.

Residents in enriched housing may be receiving care considered Level 1 (supervisory care) or Level 2 (limited personal care). Enriched housing residents pay their own rent. The rent is set by the service providers and in return for their rent, residents receive services such as meals, laundry, housekeeping, and recreational opportunities. Depending on a resident's needs and the services available in the facility, the resident may also access private or publicly funded home care services (the latter would be provided by local health region staff) for additional support (e.g. help with bathing, laundry and therapies).

In the present review, the residents of St. Mary's enriched housing wing were assisted living residents and had signed a month-to-month lease with the Health Region. In return for their monthly rent, they were provided basic living accommodations, meals, and access to some recreational activities.

Other Assisted Living Options: After their moves out of St. Mary's Villa, the enriched housing residents were living in several places, all of which could be classified as assisted living facilities, providing a range of support services to paying residents.

3.2 An Introduction to St. Mary's Villa

St. Mary's Villa (the Villa) is a long-term care facility located in Humboldt, Saskatchewan. It is operated by the Saskatoon Health Region. Prior to the closing of Dust Wing, the Villa provided care for up to 101 long-term care residents.

The Villa building itself is comprised of four separate wings, St. Joseph's Wing (a 33-bed unit that primarily provides long-term care to individuals with dementia), Long Hall and Dust Wing (respectively, a 28 and a 40-bed unit that at the time of these events provided general long-term care services), and St. Mary's Wing (where the enriched housing residents lived). Figure 1 shows the floor plan of the Villa and the location of its different wings.

(See Figure 1: St. Mary's Villa Floor Plan next page)

3.3 An Introduction to Enriched Housing at the Villa

In addition to its long-term care beds, the Health Region (and its predecessor, the Central Plains Health District, and its predecessor, the St. Mary's Villa Board) rented enriched housing units to qualifying seniors.

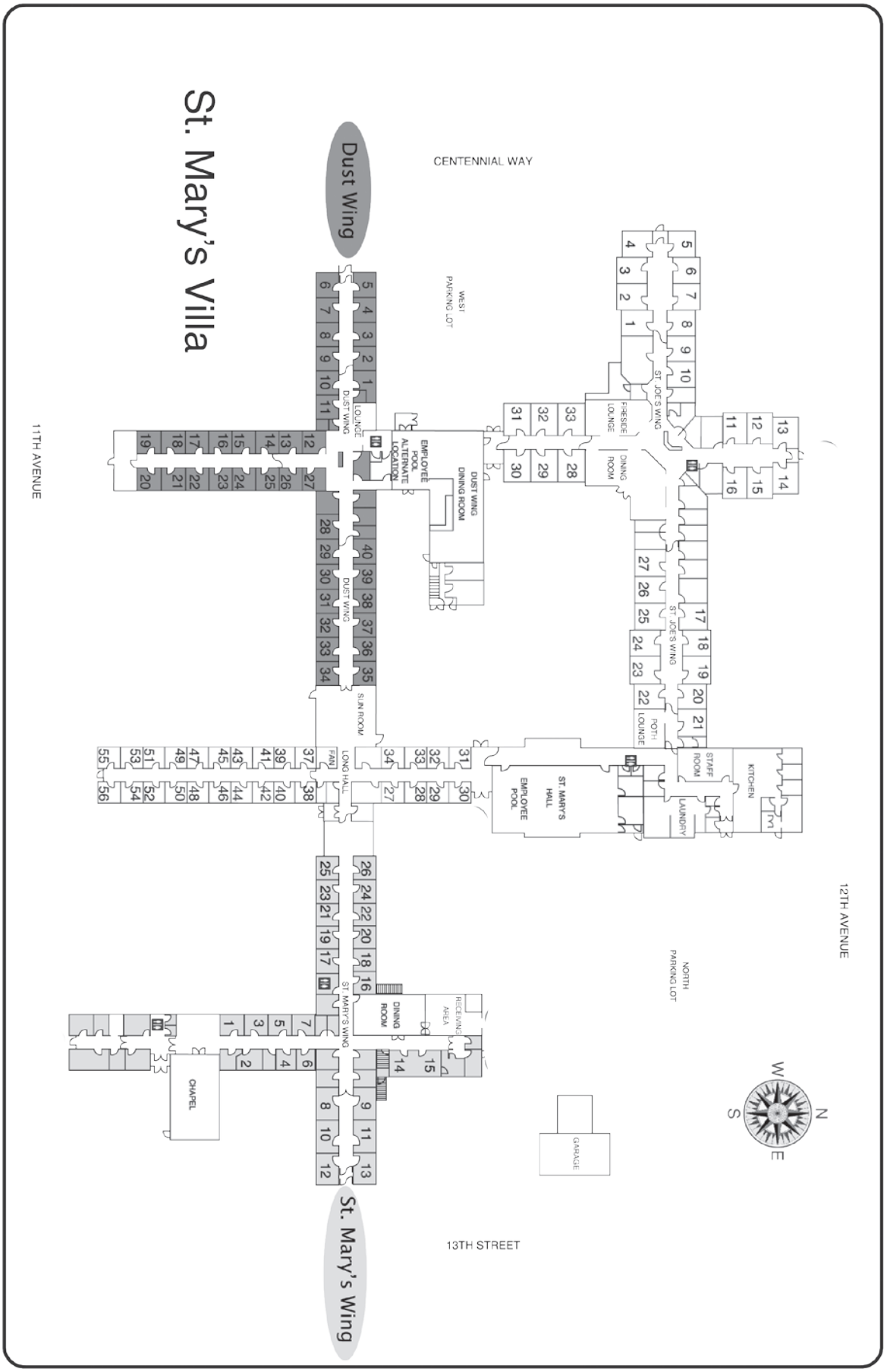
As explained by Health Region staff,[4] after being decommissioned as a long-term care wing, the St. Mary's Wing sat empty for a few years. At that time, the Villa was overseen by a local board and its members decided to turn the empty wing into seniors' apartments. The St. Mary's Wing of the Villa was thus transformed into an enriched housing wing. Renting began around 1995 and at its peak there were 13 apartment units available for rent.

In return for their monthly rent, the seniors living in these units were provided basic, private living accommodations, meals (in a common dining room) and access to some recreational activities organized by staff in the Villa. Residents could also elect to have staff arrange for their prescription drugs and some personal care products to be purchased and delivered through a local pharmacy. Some limited transportation services were also available. Fees for these additional services were added to their monthly rents.[5]

Although residents could also be receiving home care services from the Health Region (assuming they met the qualifications), according to their signed leases, the staff of the Villa were not providing direct care services to these residents. While not an official service, staff did acknowledge assisting enriched housing residents at times of need, such as when someone fell or was not well.[6]

As described to us,[7, 8] admissions into enriched housing were coordinated by local home care staff. To be considered for voluntary entry to the program, an interested individual, his or her family, or a health care provider, would contact the home care office and register the interest. Staff of the Region would then complete a formal assessment. This assessment was similar to that used for long-term care admission and considered an individual's physical and support needs. Although no one was denied entry to the program, those with

Figure 1: St. Mary's Villa Floor Plan



higher needs would be offered entry before those with lower needs. Individuals with a spouse living in one of the Villa's long-term care wings would also be given priority.

If, after assessment, a person's care needs were suitable for the program, the person was interested in moving in, and an appropriate vacancy was available, a unit could be offered. If the person accepted, s/he would sign a lease and move in. Although typically considered assisted living for seniors, residents were not required to be over the age of 65, assuming they had demonstrated need.

SECTION 4
Chronology of the Complaint / Incident

Note: It is important to understand the following significant piece of context relevant to the Health Region's decisions regarding the Dust Wing. In December 2010, residents and staff at the Villa, and in particular the Dust Wing, were seriously affected by a carbon monoxide exposure. Several residents and staff of the Villa became seriously ill and this exposure was believed to have been a contributing factor to three resident deaths. As evidenced in our interviews, the ramifications of this incident are still felt and weigh heavily on those involved in the events leading to the enriched housing moves. Although this earlier incident is not directly relevant to the Ombudsman's review, it does affect the environment within which staff responded to engineering reports and advice regarding the Dust Wing.

4.1 Early Signs of Potential Issues

As early as four years ago,[9] staff of the Villa noted issues with the flooring in the Dust Wing. The linoleum was lifting and its seams repeatedly needed to be re-welded or taped down. In about February 2009, a director began submitting requests for funding to address what appeared to be superficial linoleum issues, thought perhaps to have resulted from, or been exacerbated by, moisture issues in the crawl space under the Wing. After moisture remediation work was completed, the director was now trying to replace the linoleum.[10]

In the spring of 2011, members of the Health Region's senior leadership team attended the facility for a presentation of findings from an investigation into the December 2010 carbon-monoxide poisoning. As part of its response to this incident and in addition to addressing

more directly-related infrastructure issues, the senior leadership team also decided to address some of the ongoing issues facing the Villa, such as the long-standing linoleum issue in Dust Wing.[11, 12]

Although it appeared to be a linoleum replacement issue, there were incidents that led people to wonder if it could be more. For example, a couple of years earlier, a chair leg is said to have gone through the floor when a resident sat on a chair in the Wing's dining room.[13,14,15] Similarly, there were anecdotes about particular areas in the Wing that "if you jump hard enough you might go through."[16]

Prior to simply replacing the linoleum, staff in the Facility and Engineering Services unit of the Health Region were asked to complete a review of the flooring at the Villa to assess why the flooring in Dust Wing was failing and to determine any root cause issues that might be at play.[17, 18]

The resulting Flooring Review Report (**August 21, 2011**) noted that the issue might be deeper than mere linoleum. The writer noted signs of floor movement and a dirt crawl space with continuing moisture issues. He recommended that, because the flooring plywood and wood joists had been exposed to moisture for an extended period of time, the structure and moisture concerns should be investigated before replacing the linoleum. The writer noted that this might be as simple as replacing the subfloor (i.e. the plywood), but that it may also require the addition of structural supports. He further cautioned that load limits might be exceeded in parts of the Wing and that reinforcement might be necessary.[19]

On **August 22, 2011**, data from that report became part of the discussion material considered by the Health Region's Project Monitoring Team (or PMT; a group of Health Region directors and managers who met regularly with senior leadership to oversee capital projects and spending and to vet and prioritize requests for new capital and infrastructure dollars). Minutes from this meeting noted "flooring failure in the Dust Wing requiring repair; initial inspection revealed crawlspace structural issues; root cause needs to be addressed, options for repair are required."[20]

> *"… severe structural issues that go far beyond simply replacing flooring in the Dust Wing have been uncovered."*
>
> *Health Region staff*

On **September 14, 2011**, following a September 1 site visit to the Villa, an outside flooring consultant wrote to the Health Region to share his assessment of the flooring issues and to offer potential solutions.[21] His report stated that he noted signs of failure (e.g. obvious signs of a wooden substrate without any expansion joint to allow for movement; being able to feel unevenness and movement while walking the floor; visible signs of seam separations, cracking and excessive wear). He added that inspection of the Dust Wing crawlspace showed standing water and no appearance of measures to protect the wood from the weakening effects of moisture. He also noted issues with the longer joists (those with 24" centers, not 12") and a flooring structure thickness of only ¾", where industry standard is 1". The consultant concluded:

> It is evident that there are two factors at play causing the failure in the [lino], high humidity and poor structural design of the floor. It is our belief that if more supports were installed under the subfloor to increase rigidity to the structure, a spray foam to provide a vapor barrier to minimize the wood being affected by humidity and finally… increasing the subfloor to over 1" would significantly reduce the chance of [lino] failure in the future.

On **September 23, 2011**, a vice president wrote an e-mail to the CEO and copied another vice president.[22] The e-mail noted that concerns

from Facility and Engineering Services staff had led them to more thoroughly examine the Dust Wing crawl space. The results confirmed their suspicions and the writer expressed the opinion that "severe structural issues that go far beyond simply replacing flooring in the Dust Wing have been uncovered." Further assessments were pending "but it looks like there are serious support reinforcement crawl space moisture problems requiring considerable remediation…"

> *"… look at alternatives for vacating the [Wing]" including "look[ing] at enriched housing…"*
>
> *Health Region staff notes*

On about **September 26, 2011**, the staff member who authored the August 21, 2011 report submitted two additional reports to the Region. The first noted that the floor under the Dust Wing tub room was not strong enough to support the weight of loaded tubs (i.e. water and resident) and accompanying staff, so the tubs were closed.

The second report provided an update to the August 21, 2011 report[23] and flagged the change in use of the Dust Wing from what it was designed for (Level 1-2 care) to what it was now used for (Level 3-4 care) – a change that carries with it increasing weight loads as more equipment is typically used in assisting residents with higher care needs. The report also provided a summary of the results of the September 14 external consultant's report and shared the results of readings taken that showed the moisture content of the wood to be outside recommended guidelines. Five options were then suggested for addressing the flooring issues:

1) Do nothing.
2) Replace only the linoleum (cost of $160,000, taking some 3-6 months).
3) Replace the linoleum and plywood (adding $60,000 to the previous option and remaining as some 3-6 months to complete).
4) Complete a full repair package of structural, crawl space moisture, and linoleum and plywood repairs (cost of $4-6.5 million and some 2-5 years).
5) Replace the Wing with a new build (some $16 million over some 5-10 years).

In bold lettering the writer noted that "options 1-3 should not be considered due to the inherent risk to staff, residents and the Saskatoon Health Region."

On **October 11, 2011**, the Project Monitoring Team (PMT) again discussed the issue of the Dust Wing flooring. The meeting minutes note that "damage to the facility is more extensive than the floor covering; additional structural changes are required to prevent future failures." The September 26 report and its recommendations were submitted and discussed. The minutes indicate that the group approved option 3, in effect approving that money be allocated to enable repairs to the flooring (linoleum) and subfloor (plywood). As with its August 22 discussion, the PMT was asking that long-term solutions be considered in the context of functional assessments of the Villa and as part of the Health Region's multi-year capital planning.[24]

As explained by a vice president, in effect, the Health Region was considering the long-term viability of this Wing and the facility and weighing the appropriateness of spending money on longer term solutions.[25]

4.2 Contingency Planning

In November 2011, the same Facilities and Engineering Services staff member arranged to have a professional structural engineer from an outside engineering firm, who was already on site as part of the Villa's tub project, look at potential structural flooring issues with the Dust Wing. This visit was to take place in early December, although some consultation occurred with the firm in the weeks before the visit.[26]

On **November 18, 2011**, a group of Health Region staff met to discuss the Dust Wing flooring. Included in the information shared[27]

was concern with the weight loads on the floors, that the lifts used to assist residents were exacerbating these concerns (because they reduce the area over which weight is distributed), that they would "look at alternatives for vacating the [Wing]" including "look[ing] at enriched housing," and that a structural engineer would assess the load bearing of the Dust Wing and potential solutions.

On **November 28, 2011**, contingency planning was initiated and a group of staff, largely comprised of Villa and Health Region managers and their Vice President, began to consider options in the event that Dust Wing residents would need to be moved out of the Wing. Meeting notes from an attendee included reference to what would be involved in re-commissioning the enriched housing wing so that it could again support long-term care residents. These personal notes also reflected that other housing options should be explored, including the possibility of having to evict the enriched housing residents.[28]

4.3 December Visit From Structural Engineers

On **December 1, 2011**, the professional structural engineering firm was on site at the Villa to begin a preliminary structural load check of the Dust Wing floor. In effect, this assessment would provide information about weight load capacities for the floor given its design, construction, and current state (e.g. after extended moisture exposure and cracking in wood joists). Their official written report was provided on January 5, 2012, but on the day of their on-site visit a verbal report was provided to two staff involved in contingency planning. Notes from the meeting indicate erring "on side of EXTREME caution," (emphasis in original) and looking at immediate safety measures. For example, not using resident-lifts, putting plywood under beds and chairs (to distribute the load over a wider area), and transferring the heaviest residents and those requiring lifts out of the Dust Wing.[29]

4.4 Contingency Planning Continues

Minutes from a December 1, 2011 meeting note that contingency planning included relocation options for Dust Wing residents, and that one of the options was the enriched housing wing. According to the minutes, a staff member shared that the structural engineers had advised the structure needed to be shored up, and the subflooring and linoleum needed to be replaced. This remedy was "not urgent but required at some point."[30]

In preparation for a possible repair project to the Dust Wing, all admissions to the Villa were stopped as of December 1, 2011.[31]

Meeting notes from a **December 2, 2011** conference call of the contingency planning group state that the Health Region was "not at [the] point that we have to condemn [the] building" but that there were concerns.[32] Minutes note that the group was hoping to simply expand the tub repair project to include a broader repair of the entire Wing and that a member of the group was of the opinion that the repairs could occur while residents were still there. The minutes note that a displacement of enriched housing residents could last for six months while this repair work was completed and that there was a need to discuss moving their possessions, financial recompense, and notifying families.[33]

> *"… if moving [Dust Wing] residents into [enriched housing] areas, those [enriched housing residents] currently there will have to be displaced and they should be told that they could possibly be displaced for six months."*
>
> *Health Region contingency planning minutes*

Minutes from a second **December 2, 2011** contingency planning meeting note that a second vice president had been briefed as to the situation. In addition to questioning the pace at which Dust Wing residents would have to move out, options for consideration were

whether to close the Wing permanently and rebuild it, or close the Wing temporarily and fix it.[34] By this time, the contingency planners had been in conversation with local assisted living sites as to the possibility of converting some of their apartments to long-term care. The contingency planners were also considering the feasibility of retrofitting the enriched housing wing to once again provide long-term care. It is noted that "if moving [Dust Wing] residents into [enriched housing] areas, those [enriched housing residents] currently there will have to be displaced and they should be told that they could possibly be displaced for six months." The minutes indicate that staff would begin a prescribed joist-crack monitoring regime under the Dust Wing, the intention of which was to provide notification should the integrity of the structure change while their planning or repair work occurred.

> *"… doesn't look like evacuation is likely …"*
>
> *Health Region contingency planning minutes*

On **December 6, 2011**, the contingency planners met again. Minutes indicate that staff had heard from the structural engineering firm and that it "doesn't look like evacuation is likely," as temporary shoring could be installed to extend the facility one to two years and that temporary shoring could take place while residents were still in the Wing and would take approximately one week. There is a note that they "need [a] decision on finances" and that the decision from [the Project Monitoring Team] was to do a long-term needs assessment of the long-term plan and then decide "whether cost is more than the area is worth." [35]

> *"… [we] will wait until we know more information. No evidence indicates we are in a high level of risk."*
>
> *Health Region staff notes*

4.5 January Letter from Structural Engineers' Preliminary Assessment

On **January 5, 2012**, the official report from the structural engineering firm was provided to the Health Region.[36] The report was based on the December visit and observations, and it summarized the firm's preliminary review of the flooring system and its capacity. The engineers made several recommendations, in particular that:

- Lifts only be used as per established policy (i.e. not as a means by which to transport residents).
- Staff continue monitoring cracks for added signs of stress or change.
- The plywood decking be further analyzed to better understand its true capacity given its condition.
- Shoring be installed under the lobby and dining room of the Wing where the design requirements of 100 pounds per square foot (psf) were not met (because the original construction was built to 84 pounds psf).
- The current state of the existing support system be investigated further to determine its true capacity (i.e. not its drawn or intended capacity, not assuming that is was actually built as drawn, and not assuming undamaged or uncompromised structural elements and conditions).

4.6 Contingency Planning Continues

Notes from a staff member attending a **January 9, 2012** contingency planning meeting indicate that a shoring plan from the engineering firm was expected the next week and that "[we] will wait until we know more information. No evidence indicates we are in a high level of risk."[37]

On **January 17, 2012**, the contingency planning group met again. Notes[38] from the meeting indicate that the structural engineers would be on site February 1-3, 2012 and that a February 3 meeting would occur with these engineers and the contingency planning

group. Shoring was expected to cost in the range of $175,000-$225,000, but one question noted was, "If [they] find major deficiencies, does it pay?" Also noted was that plans for moving people out may need to be reconsidered.[39]

4.7 A Preliminary Presentation by the Structural Engineering Firm

On **February 3, 2012**, after having completed a comprehensive visual assessment of the Dust Wing flooring system, a structural engineer from the outside firm met with members of the contingency planning group and a few additional Health Region staff to share his preliminary findings.

During the conference call, the engineer walked the audience through a series of overheads he had prepared and had distributed to them electronically before the meeting. He shared information and findings from the comprehensive visual inspection he had just completed and identified issues that he felt were compromising the structure. He concluded with his assessment of the potential repair options.

This preliminary report indicated that there were signs of distress in the truss system. He had seen signs of global but less major distress (e.g. cracks in truss bottom chords that vary from 1/32" to 1/16" and slightly bigger). He had seen localized and more significant signs of distress (e.g. cracks in the 1/8" range and cracks in both the truss bottom and top chords), and he had seen some signs of distress that were particular to the plywood decking. The structural engineer noted that some of the areas of significant distress had been repaired with the tub shoring project that had been completed the day prior.

The presentation offered potential courses of action for both the longer term and the more immediate future. Long-term actions included strengthening the decking (i.e. the plywood or subfloor) and repairing the distressed floor joists as well as retrofitting all floor joists to meet the 100 pounds per square foot requirements at the lobby and dining room areas. In the more immediate term, however, the engineer also recommended two options. He suggested limiting loads on particular trusses as per the recommendations of his January 5, 2011 letter (i.e. crack monitoring and following policy on lift use)

> *"If [they] find major deficiencies, does it pay?"*
>
> *Health Region contingency planning notes*

and that they "initiate preparation of repair documents within 30 days." He explained that if this action was not workable, then temporary shoring should be installed.[40]

He then showed which areas would require temporary shoring and concluded with the following statement:

> These are areas [where] we noted distress… if we don't… start moving on them within the next 30 days, we need to start [installing] some safety shoring to prevent… localized failure…[41]

The engineer took questions from the audience and he was explicitly asked "is the building safe or isn't it?" His response was that:

> The building [is] safe as long as we follow the recommendations… in my [January 5] letter. If you limit the loading… it will be safe. But the do-nothing approach… no, it is not a safe structure.[42]

> *"These are areas [where] we noted distress… if we don't… start moving on them within the next 30 days, we need to start [installing] some safety shoring to prevent… localized failure… "*
>
> *structural engineer*

> *"If you limit the loading… it will be safe. But the do-nothing approach… no, it is not a safe structure."*
>
> *structural engineer*

The team discussed whether they could prepare repair documents within 30 days and what exactly "initiation" meant. After some debate, the group appeared to agree that fixing the structure would take some $4-6 million. (Note: This would be a full scale fix – repairing the decking, the cracked joists and retrofitting the joists to code.) At this point the engineer interjected:

> Keep in mind that if for some reason you need more time you still have the option of [temporary] shoring …[43]

The attendees were given cost estimates for this temporary shoring (approximately $175,000-$225,000) and were advised that this shoring could extend the life of the Dust Wing by some 4-6 months (assuming the ongoing crack monitoring indicated no change).

At the end of the conference call, the group disbanded with a few members agreeing to meet again to prepare an options paper for the Region's senior leadership so that they could make an informed decision.

> *"I wanted to convey that they had a problem and it had to be remedied…"*
>
> *structural engineer*

In later reflecting on information provided in the February 3, 2011 meeting, a member of the contingency planning group indicated that this meeting confirmed some of their previous concerns, but also escalated things.[44]

In an interview with Ombudsman Saskatchewan, the structural engineer described the purpose of holding this February 3 meeting with staff as:

> … hoping to convey a level of urgency to consider this as an important issue and something that required attention to remedy and you have to do some reports or put temporary shoring in the structure to buy some time to make decisions. I wanted to convey that they had a problem and it had to be remedied…[45]

He deemed the data from the visual inspection to be significant enough that had he not met with staff in the February 3 conference call, he would have immediately issued a letter advising of the 30-day timeframe. This was not, however, an indication that he felt there was a need to evacuate the Dust Wing.[46]

The engineer also indicated in his Ombudsman interview that although it was important to convey this information, it was a preliminary report and not the final word. At the time of his February 3 presentation, core samples had been extracted from the Dust Wing floor but had not yet been analyzed, nor had data been run through computer models. These final analyses needed to be done prior to issuing a final report under his professional engineer signature and seal.[47]

The preliminary nature of this February 3 assessment was understood by the Facility and Engineering Services staff member who intimately knew the structure of the facility and who had been helping with the contingency planning and who had been closely involved in overseeing the Dust Wing flooring issue since detecting possible structural issues in August 2011.[48, 49] After this meeting, however, this staff member would not be involved in any of the subsequent meetings and decision-making that would lead to the closing of the Dust Wing and the move of the enriched housing residents on February 23.

4.8 Updating Leadership

While other contingency planners continued to plan a potential move of Dust Wing residents,[50] a smaller group met to prepare to brief their senior leadership.

This preparation meeting took place on **February 8, 2012**. Because the Project Monitoring Team was meeting again on February 13, 2012, this sub-group of the contingency planning team decided to take the information to that table for a senior leadership decision.[51] Based on notes from the sub-group's meeting, their focus appeared to be on considering the larger repairs and not on the temporary shoring option. A note states that the costs associated with the repairs would fall outside the Health Region's range and would need to go to the Ministry for approval. The meeting notes also indicate that March 4 would be the end of the 30 days, and that "we take a tremendous amount of liability after the 30-day mark… We have a fundamentally unsafe situation for our residents and staff."[52]

One of the staff members in attendance at both the February 3 and February 8 meetings stated that normal practice would be for directors to brief the vice president to whom they reported, but then added that their Vice President – who had been a part of their previous contingency planning and who was responsible for St. Mary's Villa – was retiring. Although officially retiring March 31, this individual was off on scheduled holidays effective January 31 and would not return to work or continue in the capacity of Vice President. This person was, in effect, retired as of January 31.[53] According to the CEO, the Region was also in the midst of an organizational restructuring that would officially take effect April 1, 2012, but that, effective January 31, the retiring Vice President's portfolio related to the Villa had been transferred to another Vice President.[54]

This replacement Vice President recalled an informal briefing in the days between the February 3 presentation by the engineer and the February 13 Project Monitoring Team meeting and that it was decided to wait until the February 13 meeting to formally update leadership and seek a decision.[55]

4.9 Project Monitoring Team Decision

Note: In the months leading up to this moment, the Health Region had narrowly avoided a critical incident in its Central Laundry building – a heavy load of wet laundry had fallen from its overhead ceiling lift, striking the floor immediately beside staff working below. As described to Ombudsman Saskatchewan, had this heavy bag contacted a person, serious injury or death would have been likely. Because they had been previously warned about this laundry lift and knew it was compromised, the incident spurred Health Region leaders to recommit to safety. They closed Central Laundry and lowered their tolerance for risk.

At the **February 13, 2012** Project Monitoring Team (PMT) meeting, the St. Mary's Villa Update was scheduled into a 15-minute time slot at 3:15 p.m. Attending the meeting were senior leaders (including three vice presidents) and directors from various areas of the Health Region. Although normally an attendee, the CEO was absent due to other commitments.

> *"… we take a tremendous amount of liability after the 30-day mark… We have a fundamentally unsafe situation for our residents and staff."*
>
> *Health Region file notes*

Two of the seven staff who attended the February 3 preliminary report meeting with the structural engineer were in attendance at this February 13 PMT meeting. One of them presented the information including a summary of the situation, background information about events leading to the investigation of the Dust Wing floor and the steps taken after.[56]

In the opening presentation slide, the situation was described as follows:

> … Dust Wing's flooring system was designed to a lesser flooring load rating than what a current Level 3-4 long-term care facility

> *… with clear knowledge about the floor overweighting, mitigating the risk was critical.*
>
> *Health Region vice president*

requires. In addition, some contributing factors like crawl space humidity have significantly distressed the current flooring system. A recently received engineering report indicates that without large-scale rehabilitation of the Dust Wing floor system ($4-6 million), the facility cannot continue to function in its current capacity. Given the substantial cost of rehabilitation (which offers little in the way of modernization), PMT should be made aware of all… options.

The results and options presented to the Health Region by the structural engineer on February 3, 2012 were provided. These options were summarized as:

1) Full remediation of the flooring system with construction documents initiated by March 4, 2012 at an estimated cost of $5.5 million +/- 30% (including costs for related building code implications).

2) Temporary shoring of the remainder of the Dust Wing (initiated within 30 days) to give 4-6 months' leeway for a longer term decision at a cost of $225,000 +/- 20%.

The Director added a third option to the list (not identified by the engineer):

3) Construct a new facility (which would also require option 2).

Minutes note that two options were discussed: full remediation with documents being initiated within the 30-day window provided by the engineer and at an estimated cost of $5.5 million, or construction of a new facility at an estimated cost of $350,000-400,000 per bed. As recalled later, "We said the only viable options were: full remediation or a whole new building – options 1 and 3."[57]

The decision item indicated that vacating residents out of the Dust Wing would begin as soon as possible and would be handled by the contingency planning team who had been working on the situation. Minutes from this meeting also indicated that vacating Dust Wing would displace enriched housing residents, and that "Community strategy is critical, communication of unsafe flooring and decant of patients ASAP…"[58]

In later reflecting on the decision, one vice president recalled how the near miss of Central Laundry and its subsequent closing were top of mind while at this PMT meeting. This vice president reflected that with clear knowledge about the floor overweighting, mitigating the risk was critical. [59]

Immediately after the meeting, one of the attending vice presidents briefed a staff member and instructed this person to initiate Incident Command for 9:00 the next morning.[60,61]

4.10 Moving to Incident Command

Note: The Health Incident Command System, also referred to as Incident Command (IC), forms part of the Emergency Preparedness section of the Health Region's Policy and Procedures Manual.[62]

IC is an approach used in managing disasters, emergencies, or "unusual circumstances… when normal operations can't cope."[63]

IC is designed to provide a clearly defined structure with clearly defined roles, functions and reporting relationships for each member of an appointed team. As written in the manual, "a job checklist exists for every function within the… IC System. The checklist provides a detailed list of activities required for that job… organized into immediate, intermediate and extended time frames."[64]

To quote an IC member, "With [IC], the impossible becomes possible."[65]

Immediately after being instructed to initiate Incident Command (IC), two staff members began making phone calls. A first official meeting was set for noon the next day (February 14, 2012) after a 9:00 a.m. pre-Incident Command teleconference.[66,67]

Calls were placed to an experienced emergency preparedness staff member who was told to report for the morning's teleconference and advised that she would likely be put in charge as "Commander."[68] Typically, a vice president would serve as commander. In this instance, however, the commander would be an experienced staff member reporting to a vice president. As explained to the Ombudsman's office, this was done to accommodate the retirement of the Vice President with responsibilities for the Villa, the pending absences of vice presidents for holidays, and the reorganization of the senior leadership portfolios that was underway.[69] The vice president post to whom the commander and IC team reported (as well as other IC posts) came to be filled by a number of different vice presidents who came in and out as they worked together to plan and implement the pending moves, while accommodating other work duties and previous commitments, including personal holidays.

Notes from the 9:00 a.m. meeting on **February 14, 2012**[70] show that a group of some 17 staff members gathered to plan for the noon opening of IC. Not everyone from the previous day's Project Monitoring Team meeting and decision-making was invited, and the person who led the discussion at the meeting the day prior was not in attendance.[71] This person would be invited, however, and would join IC when it started later in the day. The original Facility and Engineering Services staff member with the historical involvement and knowledge of the Dust Wing flooring issue and the intimate knowledge of the Villa structure was not in attendance nor a part of the IC team. Of those in attendance at this early meeting, most, but not all, became a part of the IC team itself and met in person in Humboldt at noon.

Notes from this pre-IC meeting suggest that the task for IC was to oversee the move of the enriched housing residents out of the Villa so that their wing could then be renovated and used as a residence for people currently living in the Dust Wing.[72] The goal date for the move of the Dust Wing would be March 4, 2012 in order to meet the 30-day window of the engineer.

> *"With [IC], the impossible becomes possible."*
>
> *IC member*

After a briefing on the history of the Dust Wing flooring issue, the earlier work of December's contingency planning was shared. It was also flagged that a financial supplement would likely be necessary given the rent differences the enriched housing residents might face.[73]

The pre-IC planners then flagged issues to be considered (e.g. that both written and face-to-face communications will be needed) and began to identify staff for the IC team. It was noted by the group that holidays would pose a challenge to staffing the team and several such absences were noted.

By this time, the CEO had been briefed, and she in turn would brief the Board Chair and the Deputy Minister of Health.

4.11 Opening Incident Command

IC officially opened at noon on **February 14, 2012**. It was comprised of a cross section of facility and regional staff, mainly from management and director level posts. IC team members were situated at the Humboldt Hospital. Upon its opening, senior leadership joined by conference call to review the task and set direction. The IC team's task was to have a completed plan in place by the end of week (February 17). This plan was to allow a timely move of the Dust Wing residents out of their Wing. After participating in the opening of the meeting, senior leaders ended their call to the team and the team carried on with its work.

After some preliminary planning, the IC team decided on communicating with multiple parties (unions, staff, residents, families, public)

> *"We were concerned about them… some have lived there for eight to nine years, and any time you move a senior it's hard on them."*
>
> *Health Region staff member*

beginning the week of February 20, 2012.[74,75] Minutes from the meeting also note that the Region would need to provide 30 days of notice to the enriched housing residents and review the contractual requirements from the signed leases.[76, 77]

In addition to the above planning, minutes and handwritten notes[78] indicate that many details were being discussed and considered. Of particular relevance to the Ombudsman review, documentation showed that staff would review the enriched housing residents' support needs. It is also documented that IC was aware that new windows previously approved for the enriched housing wing would be installed the week of February 20-26, that is, the week that would become moving week. Similarly flagged for IC was the fact that the tub room renovation in the enriched housing wing, a renovation necessary for re-commissioning the wing to support long-term care residents, would require work with asbestos floor tiles and the necessary precautions. It was also noted that removal of the tenant laundry facilities would require the Region to provide alternative services.[79]

> *"I really pushed… even though the tenant agreement was for 30 days… for compensation for more…"*
>
> *Health Region staff member*

Interviews with IC members indicate varying interpretations of its goals and scope. Some understood their primary task to be finding alternatives for the enriched housing residents and helping them with their move. Others understood their task to be vacating the Dust Wing, possibly into the enriched housing wing, assuming alternatives could be found for enriched housing.[80, 81, 82, 83]

Regardless of the differing interpretations of the goal, over the course of the opening meeting it was decided that the most viable option for dealing with the situation and the decision to move residents off Dust Wing would be to vacate the enriched housing space, renovate it, and then move Dust Wing residents there.[84] Members of IC recalled discussions as to the most reasonable move – enriched housing or Dust Wing – and their resignation to the fact that, as long-term care (and not assisted living) is the focus of the Villa and the Health Region, the enriched housing residents would need to move.[85] An IC member recalled that this decision was not made lightly and that people were concerned about the impacts for the enriched housing residents.

> We were concerned about them… some have lived there for eight to nine years, and any time you move a senior it's hard on them.
>
> We were constantly [considering] "what's the best thing to do?" "What should we offer them?" And, we want to make the move as smooth as possible and wanted to have families have to do the least amount needed. By doing research on options, talk to them about options, work with wherever they decide to go, to find out what the rent was and the room size and whatever they needed to know; we wanted to have that information before we went and talked to the 10 and the family members.
>
> I really pushed… even though the tenant agreement was for 30 days… for compensation for more… A year was what was decided and that they wouldn't pay any more [in their new

> rental] than what they paid at St. Mary's Villa.
>
> We wanted to make sure there were no out-of-pocket expenses [from] the moving, and throughout the process things came up like cable, and phone hook ups.
>
> I knew it would be hard. I never thought we would have the reaction we had. I thought we had thought of everything that we would need to do to be the least disruptive as possible; we obviously misjudged that.[86]

After identifying housing options for the enriched housing residents, re-assessing what would be required to renovate the enriched housing space to accommodate long-term care residents, developing plans to have home care reassess enriched housing residents for their supportive care needs, and completing other preparatory work such as contacting moving companies for availability on short notice, the decision began to take shape. The enriched housing residents would be moved, with a target date of March 2 and their space would then be renovated and readied for the long-term care residents of Dust Wing to move in by March 31, 2012.[87]

4.12 Update to Leadership

At 4:00 p.m. on February 14 senior leadership re-joined the IC team via teleconference. When the IC team shared its plan, they were told that while the general plan was good, "it wasn't fast enough" and "to move a lot quicker." [88] In part, this timing seemed to be driven by an Occupational Health Committee meeting that previously had been scheduled for the next day. This meeting was viewed by some in leadership as an opportunity to begin the necessary communications[89] and that to not do so, in effect, would be to withhold information. The instruction to move more quickly "was a bit of a surprise"[90] and did not sit well with everyone in IC. One IC member recalled that by 4:00 p.m. the group had worked hard and had agreed to a plan, but that when it was shared with senior leadership, things changed and it felt like a "wasted day." [91] Another IC member indicated that the team had hoped to wait to talk to families and plan moves once they had a more solid plan in place and clear answers could be offered to people. However, this thinking ran counter to senior leadership who were concerned about delaying information sharing, and asked that timelines be expedited, starting with an update to the Occupational Health Committee meeting the following day. [92]

> *"I thought we had thought of everything that we would need to do to be the least disruptive… we obviously misjudged that."*
>
> *Health Region staff member*

> *"When the IC team shared its plan, they were told that while the general plan was good, 'it wasn't fast enough' and 'to move a lot quicker.'"*
>
> *Health Region staff member*

Along with these sentiments about the change of pace, several IC members reported in Ombudsman interviews that, "none of us felt we could say no" to the change in pace.[93]

For their part, senior leadership believed that the IC team was working independently to undertake the task before them. As one senior leader recalled of their instruction to move more quickly, given the pressure of the 30-day timing from the engineer, the planning group appeared to have grown, as had its task. In consideration of the need to act quickly, it was believed that the IC group needed to be

refocused to their core task and timelines.[94] Another senior leader recalled wanting to tighten timelines to ensure the safety of residents, and recalled thinking that if it was her parent, she would want them moved from Dust Wing, and that, "If we waited 30 days, we would have had a heavier conscience because we knew… there is a risk."[95]

> *"… none of us felt we could say no."*
>
> *Health Region staff member*

As the opening day of IC drew to a close, the team's basic plan had been approved, with the above-noted timeline adjustments. Enriched housing residents would be moved out about one week earlier than initially proposed by the IC team to ensure renovations could be completed prior to Dust Wing residents moving in by March 31, 2012. With target dates adjusted, the next day, when they reconvened, IC's attention would have shifted to 'making it happen.'

> *"If we waited 30 days, we would have had a heavier conscience because we knew… there is a risk."*
>
> *Health Region senior leader*

4.13 Incident Command Continues

With approval for their basic plan but with direction to adjust timelines, the IC team reconvened on the morning of **February 15, 2012**. One IC member equated IC with a machine working to a date, and that team members trust that other members are accomplishing their tasks with the main focus being to "get it done."[96]

Over the course of IC's February 15, 2012 work day, the team finalized various planning details, based on the timing set by senior leadership. Minutes noted key decisions as:

- Announcements would begin later that day (Wednesday) with attendance and accompanying memos at a pre-scheduled meeting of the Occupational Health Committee.
- Staff would then immediately be informed in a general meeting, with memos, and with one-on-one announcements as necessary.[97]
- Concurrent to these announcements, staff, using a pre-approved phone script, would begin calling families of all residents with an aim of completing family contact by 6:00 p.m.
- The Villa manager would announce the necessary move to the enriched housing residents at 5:00 p.m., Wednesday, February 15.
- A news release would be issued the following afternoon, February 16.
- A group meeting would be held Thursday evening, February 16 with all residents and family members of enriched housing and the Dust Wing.
- Options for alternative housing would be presented to enriched housing residents during one-on-one meetings set to begin on Friday, February 17.
- Enriched housing residents would be asked to decide their next address by Tuesday, February 21 and plan to be ready to leave as early as Friday, February 24.
- In lieu of notice, leadership approved a budget of up to $225,000 to cover for up to one year the rental difference between enriched housing residents' current rent and their new rents.[98]

IC did not meet again until February 17 at noon, after the announcements and resident-family meetings.

4.14 Notice to Enriched Housing Residents

On Wednesday, February 15, 2012, as they gathered for their evening meal in the common dining room, seven of the enriched housing residents were informed by four Health Region staff that they had to move out. This was the first time any of the enriched housing residents received notice of their impending move. Three of the residents were out at the time and would hear from staff in one-on-one meetings later that evening.

From resident recall, it is not certain how clear or detailed the communication was during this announcement. Varying and conflicting details were remembered about what information had been shared.

> We were at the supper table; they were just about ready to serve us. The manager came in with three other ladies. I don't know who they were. She said "I have bad news for you… you have to move out…"
>
> I saw one of the others [before] and I think she might have been working at the office, but I didn't know who they were…
>
> We were all so shocked. She asked if we had questions and we are all shocked and we didn't ask any…[99]

Some of the enriched housing residents recalled being told that their move was related to a flooring issue in the Dust Wing. One resident who was hard of hearing heard nothing of the announcement,[100] and another resident could not recall any of the details.[101] Some of the residents understood that they had a month[102, 103] but thought the timeline then changed to a week within that very same announcement.[104] Others understood that they needed to be out of their home by that Tuesday but then thought that day changed to Friday within the same announcement.[105] Staff members did not recall sharing any specific dates at this point and rather intended to wait and share those details the next day in the family meetings.[106]

> *"We were all so shocked. She asked if we had questions and we are all shocked and we didn't ask any… "*
>
> *former resident*

> It was a Wednesday evening and we had just finished supper and four girls came in and said they had some unpleasant news… and they told us that we could no longer live there and had to be out by Tuesday of the following week; then some people spoke up and they changed the time frame to Friday.
>
> It was very disturbing because I didn't know where I would go and there was no other place.
>
> And they said there would be some options but they didn't give us options that day.
>
> I never saw those girls again.[107]

Confusion, anxiety, anger, and sadness quickly followed as the enriched housing residents began talking amongst themselves, comforting one another, and contacting their families to share this sudden news and consider its ramifications. One resident started packing.[108]

> *"It was very disturbing because I didn't know where I would go and there was no other place."*
>
> *former resident*

Families reported that they started receiving calls from staff shortly after the dinner announcement. Not all families were home and so there was a range in the precise time of notification. In general, families recalled being given basic details that a move was necessary and an invitation to a meeting the following evening where more information would be provided. These calls appeared to be scripted, with the callers unable to answer any additional questions.[109]

The next day, **February 16, 2012,** home care staff completed re-assessments on those enriched housing residents already receiving home care services. These assessments were to update home care as to their care needs (to help in identifying appropriate alternative housing for each) and to assess whether any met the criteria for long-term care admission. Three were potentially suitable for long-term care admission and would be considered more thoroughly, but would not go on to be admitted.[110]

That evening, enriched housing residents and their family members attended a large group meeting arranged by the Health Region. Residents and family members from the Dust Wing were also in attendance. Presiding over the meeting were two vice presidents.

Varying and sometimes conflicting details were recalled by residents and family members as to the precise details shared, timelines, and the level of support that would be made available to enriched housing residents to assist with their moves. Most remembered hearing that a draft structural engineering assessment had been provided to the Health Region, that although there was "no imminent danger" in the Dust Wing it did face issues that needed to be attended to in a timely manner. As a result, the enriched housing residents were being asked to leave their units so that their space could be renovated to accommodate Dust Wing residents, who in turn needed to vacate their Wing as a result of its structural issues.

Understandings of timelines were less certain. Although it appears that the Health Region intended to convey to all attendees that Dust Wing was to be emptied within 30 days, this communication left some enriched housing residents and families believing that they had 30 days to move.

> You couldn't get a word in; everybody was talking at the same time; so we just sat there and listened.[111]

An IC team member in the audience noted that the dates for the Dust Wing move were not being clearly distinguished from the dates for the enriched housing residents move. This member opted not to speak up in the meeting in the interest of not adding to an already confused meeting and believing that the correct information would be shared shortly after.[112]

Several families of enriched housing residents experienced confusion about the information they were receiving at this meeting. More than one left thinking they had until March 31 to find a new home and move their parent.[113, 114] It was not until later that evening and the next day during one-on-one meetings with home care staff that the actual timelines were clarified.

Adding to the confusion about the final dates was a February 16 Health Region media scrum, wherein a vice president eventually agreed with a persistent reporter that March 31 would be the ultimate moving deadline for enriched housing residents.[115]

Several accounts of this February 16 meeting demonstrated that beyond the confusion, enriched housing residents and families were also experiencing anger and stress.[116] As well, while some residents and family members thought they could recall being informed that very evening of the moving and rental assistance the Region would provide, not all could recall such offers.

4.15 Decisions and Schedules

One-on-one meetings began as soon as the large group meeting ended on the evening of February 16 and continued throughout the day on Friday, **February 17, 2012**. During these meetings, an IC member met with enriched housing residents, who were often accompanied by family members. According to one IC member, the focus of each one of these meetings was to ensure that residents

understood that they needed to choose a new residence by the following Tuesday, February 21; that they would have to move out no later than the following Friday, February 24; that movers would be hired; and that the IC staff meeting with them would make every effort to be their sounding board and bring any issues or concerns forward to the Health Region on their behalf.[117]

The IC member, when later reflecting on the one-on-one meetings and the details shared, was confident that, in addition to clarifying dates, she would have asked about their preferences for a new residence (e.g. stay in Humboldt, need for meals to be provided, no stairs, and preferred amenities), and would have presented a few options for them to begin considering.

She recalled a range of reactions to the meetings. Some meetings went well and people were appreciative of the support the Region was offering. Some meetings went reasonably well and people were sad but accepting. Some meetings, however, were very difficult, and residents were sad and confused and their families were angry and confrontational and were seeking compensation for damages and the emotional suffering of the parent.

The February 17, 2012 noon IC meeting minutes indicate that updates were provided describing the announcements and how they had been received and that in general, staff took it well, while enriched housing residents "are angry and very emotional." The minutes also note that there was: discussion of the lack of a month's notice and steps that could be taken to mitigate this impact for residents, approval of a global budget ($225,000) and what this could include (e.g. rent subsidies and moving expenses) and should not include (e.g. equipment), updates on the renovation work necessary in the enriched housing wing (including that the tub room work would start Tuesday, February 21 and would involve asbestos work and related safety measures, and that 17 windows would arrive Wednesday, February 22 with installs to begin as soon as possible), and discussion about the impending long weekend and that while IC would not be in operation, a manager from IC would be on call to attend to any enriched housing resident issues.[118]

Over the next few days, including the Family Day long weekend, residents and family members were busy completing various stages of sorting possessions and packing, visiting potential new homes, and considering their options as they readied themselves for a decision and then for their moving day.

Some of the enriched housing residents recalled receiving a notice letter around this time informing them that the laundry room would be closed as of Monday, **February 20, 2012**. While arrangements could have been made through home care, residents did mention that this loss of laundry facilities resulted in their moving with dirty clothes.[119, 120]

By Tuesday, **February 21, 2012**, residents and families were notifying the appointed IC staff person of their decision and indicating their preferred moving time (either morning or afternoon on February 23 or 24). All but one resident elected to move on February 23.

Although initially considered a two-day move, according to IC staff, after the details of the move were described to the moving company, it was determined that all 10 residents could be moved in one day, February 23.[121]

Minutes for the day's IC meeting note that negative media coverage had begun and that some families were raising concerns with how the situation was being handled. The minutes also indicate that further supports for some families had been agreed to and that there was still confusion among the families as to exactly what date they needed to move by. While the Region believed it was clear the residents needed to be out by February 23 or 24, some enriched housing residents still thought they had until March 31.

The minutes also note that the issue of compensation for emotional damage had been raised and that the Region had indicated that, historically, they did not compensate for such damages.

4.16 Incident Command Continues and Renovations Begin

IC minutes for **February 22, 2012** indicate that letters were being drafted for enriched housing residents. Other relevant updates in the minutes indicate that eight of nine residents would move on February 23, and the last one on February 24. The tenth resident move had not yet been determined, but an offer had been made for a move into long-term care in the Villa. This offer would later be declined and the resident would choose to move to an assisted living unit.

The CEO of the Region recalls being on site on this date and offering personal apologies to each resident. Not all residents recall this meeting and some only remember meeting the CEO after the move.

Also on the same day, contractors arrived at the Villa to begin the work of removing vinyl floor tiles, which contained asbestos, from the laundry room in the enriched housing wing. This work was part of the renovation to convert the laundry room into a tub room for the long-term care residents. During Ombudsman interviews, residents and families were unclear as to which day this work was done but noted that they had not been informed of the work, which led to frustration and concerns for their safety.

> *"There was no safer way to do it. The air coming out of the room is cleaner than the air you breathe in your home."*
>
> *Health Region staff member*

Records from the air monitoring firm indicate that this work was completed on February 22. The firm monitored the air quality in three areas in and around the work site from 12:26 p.m. to 3:45 p.m. Conclusions for the three monitoring tests were: "fiber level acceptable."[122]

In describing the method used to complete this work, the Health Region noted that it hired both an asbestos removal company and an independent monitoring firm, and noted that "There was no safer way to do it. The air coming out of the room is cleaner than the air you breathe in your home." [123] The IC staff member further indicated that the removal of asbestos-containing vinyl floor is a very low risk job and that, although the protocols used by the staff were not required given the low level of risk, in light of the surrounding circumstances, they opted to be extra diligent and use the protocols for a higher risk job.

4.17 Moving Day

For many, moving day, **February 23, 2012** did not go smoothly. As one IC member later reflected:

> It started off bad and it went downhill. If anything could have gone wrong, it did.[124]

The day began with the moving company arriving one to two hours later than expected and with less crew than expected.

> We contacted [the moving company] to let [them] know what we needed… that it was either one or two bedroom apartments without large appliances. For example, we described that there were five two-bedroom apartments and five one-bedroom apartments. Initially that's what we said and we thought we'd arranged for… arriving at 8:30, two trucks, one with three movers and one with two movers with it, and a packing crew.[125]

IC called the moving company and extra staff were eventually dispatched. The added staff arrived late in the afternoon and the day's schedule would not recover. Packing and loading took much longer than expected and it was late into the evening before the last residents were physically relocated to their new residences. IC minutes note that it was after 10:30 p.m. before the last local move was completed, although this does not appear to have included unpacking everyone, which many of the residents and families understood to be part of the agreement.[126] One resident would not receive possessions until the

following day.[127] Families suggested that things would have gone better if the Region had involved the residents and families directly in the planning.[128]

According to the moving company, there was some confusion as to what the job entailed, and further issues arose, including the presence of media.

> We sent our crew out… and once they got there ... TV crews were in their faces. Guys weren't used to it and they were frustrated. Then there [were] phone calls from crews when they realized that it was going to be a late night. We sent extra guys out to help because we didn't know what we were getting ourselves into.
>
> [We] should have [gone out in person] to do the [inspection and planning] as soon as [the Region] phoned, but didn't have time. We didn't know exactly what was being moved, just roughly.[129]

Construction work was happening alongside the packing and moving. Renovation work was continuing in the former laundry room and contractors arrived at the Villa to begin their work of removing parts of the exterior windows. In one case, an enriched housing resident, while changing in her room, turned to see contractors in her window, working on its upgrade. As her family recalled,

> She was pretty offended and pretty hurt. She was scared and embarrassed… They came in and apologized, but surely they could have at least given them time to get out of there before doing this work.[130]

As described by residents and family members, this renovation work added noise and disruption to the chaotic scene of packers, movers, residents, and family members trying to move 10 elderly residents out of the space.

> It was miserable. They were already tearing the place apart… You couldn't even talk for all the noise.[131]

The confusion served as added insult for one family who noted:

> Movers and contractors and staff were trying to move all at once. They didn't think it through. Plus there were residents sitting in the hallway because everything was packed up. They had no compassion in it at all.[132]

"It started off bad and it went downhill. If anything could have gone wrong, it did."

Health Region staff member

In contrast to the noise of moving day, a family who returned the next day to the Villa noted how quiet it was and the absence of any contractors or renovation workers. It presented in sharp contrast to the previous day.[133]

As they were moving out, IC staff were delivering letters to residents, most by hand, two via post to their families because the letters were not ready for delivery before these two residents left the building.[134] The letters[135] detailed the specifics of the compensation, noting, that the Region would pay:

- the first month's rent in their new residence.
- an 11-month subsidy to cover the cost of the rent difference between their rent at the Villa and their new rent, by depositing the amount into the resident's bank account prior to the monthly rent payment, which the resident would then be responsible to pay to the new landlord.
- any damage deposits or initial fees required of their new residences.
- one-time moving costs to move belongings from the Villa to the new residence.

- a $200 payment to cover the cost of incidentals (e.g. utility hook ups).
- the costs for disposal of any items left in vacated rooms at the Villa.
- (in two cases) additional coverage for added equipment costs (wheelchairs, bathing and other mobility aids).

In a later recollection, one staff member reflected that the letter deliveries and discussions went well with a couple of exceptions. Two staff members delivered the letters and then stayed and were open to questions. One of the two staff typically met with the residents in the room and used it as an opportunity to see how the resident was doing, while the second met with family, usually in the hall outside the room, and reviewed the contents of the letter and the support the Region had committed to. In rare cases, the staff reported that families were "very, very upset" and "rude and inappropriate," wishing ill to her when she was old, etcetera. This staff member reported that she thought they did their best in those deliveries to simply listen and try to understand the situations of the families and former residents.[136]

> *"It was like throwing a rock in a pond and the ripple effects..."*
>
> *family member of a former resident*

IC minutes from the next day's meeting, February 24, note that the moves did not go smoothly and that while four of six residents were moved and settled in by 7:00 p.m., for others it was not until after 10:30 p.m. As well, there was a report of a damaged item of sentimental significance and some temporarily missing items.[137]

4.18 After the Move

At the time of their Ombudsman interviews, all of the former enriched housing residents had been moved to their new addresses. They were in various stages of unpacking and re-settling.

Three former residents had experienced falls in their new homes; two were minor but nevertheless distressing, and one more significant, resulting in an extended hospitalization.

Other than the very real and present concern for a large group of the residents and their families as to the amount of their new rents and whether they would be able to afford to live in their new homes at the end of the subsidy, there were a few outstanding items resulting from the moves.

As residents had yet to pay their first month's rent in their new homes, many were uncertain as to the actual mechanics of how the rent top-up would work. A few were worried about the timing and whether they would have enough money in their accounts to clear the new rental amount prior to a subsidy being paid to them. As well, there were questions about various other disbursements they were owed (e.g. for utility hook ups and amounts that exceeded the money allotted to them) and how all of this would be arranged. A few families still had questions about broken and missing items, and others were trying to understand whether the subsidy was taxable and would have implications for their financially limited parents. We learned during our review that the Health Region obtained an opinion from an independent chartered accountant that the subsidy was not taxable.[138]

For those who left the immediate area of Humboldt, there were also new doctors to find, as well as new dentists, new optometrists, new physiotherapists, new pharmacists, and so forth. New communities would need to be established. All had new addresses to learn, many had new phone numbers to try and recall, and new routines to establish. As captured by one family member's comments:

> She's had her phone number for 38 years; and she got a new phone number [as she had to move out of the community]. How do you remember that when you're 89 years old? She had cable; now she has satellite. She can't handle it at all. Her mailing address changed. These

> are not things you think of as being a big deal, but they are.
>
> It was like throwing a rock in a pond and the ripple effects...[139]

When asked in Ombudsman interviews as to their expectations for a fair and reasonable handling of the situation, the most common and immediate answer was the need for more time and notice. Other comments included having family members with their parents when the announcement was made, and involving residents and families in the process and problem solving. An implied expectation was that the move should have been handled with due care and attention so that unnecessary stress would be avoided.

> *"… don't tell the public it's $25,000 for each person when it's not the truth."*
> *family member of a former resident*

In the perceived absence of such steps, families and residents are now seeking meaningful apologies, compensation and damages, assurances that the system will learn from this situation and not repeat it with others or let other buildings deteriorate to the point that such decisions are forced upon patients and residents, and that people who made mistakes are held accountable. An issue of public clarity was also raised:

> In the media they said that people got $25,000 each… I told them… "you're misleading the public by suggesting that you're paying $25,000 for each resident." They said "everyone is different." I said "that's not the issue, but don't tell the public it's $25,000 for each person when it's not the truth."… The public is saying "the families are being greedy" and that's not the case.[140]

4.19 Closing Incident Command, Renovating, and Moving Dust Wing

IC was formally disbanded after a **February 28, 2012** meeting. Some members of the team would report to an internal debrief on March 2 and a debriefing with former enriched housing residents and families on March 8.

A staff member from IC later reflected on the move and situation and noted:

> When I look at all that had to be done with the timeline… I think lots of people put in long days and worked very hard. I gained a great respect with how hard those people were prepared to work [in] a non-win situation …[141]

Preliminary consideration for the job of converting the enriched housing wing back into a long-term care wing had begun as early as November 2011. The major tasks of the renovation included: installing the nurse call system, installing a tub room, preparing a service room, refurbishing a nurse's station, painting, flooring, and moving supplies and equipment around.[142] The major work would begin on February 21 with work on the new window installation. A summary of the renovation project indicates that some work began on restoring the nurse call system on January 15, 2012.[143]

> *"I think lots of people put in long days and worked very hard."*
> *Health Region staff member*

As of February 14, 2012 there were 18 vacancies in the Villa (one in enriched housing, eight in Dust Wing, and nine in the other two wings of the Villa).[144] The 30-day window from the structural engineer's February 3 presentation that would drive the Health Region's decision to move quickly ended March 4, 2012. Despite the nine vacancies in other wings, only two Dust Wing residents were moved prior to this date: one into one of the nine vacant rooms and another into a different facility. Other moves occurred March

21 and later.[145] One room from the Dust Wing had been flagged as a particular concern due to the cracking in its joists. This room was vacated 25 days after the 30-day window, on March 29, 2012.[146]

The major move of Dust Wing residents was on **April 4, 2012** when its remaining 22 residents were moved into the renovated, former enriched housing wing, officially known as St. Mary's Wing.

4.20 Reports from the Structural Engineers

In addition to organizing the moves of the enriched housing residents and completing renovations to the enriched housing wing, the Health Region and members of its IC team were also attending to the draft engineering reports submitted by the structural engineers. After the verbal presentation of February 3, 2012, the first of three written reports (two drafts and one final) was submitted by the structural engineers on February 23.

This first draft engineering report provides the results of the structural engineer's visual assessment as well as the post-February 3 analysis of floor core samples and computer modeling analysis for the Dust Wing floor trusses.

This first draft included comment on the trusses, comparing the drawing specifications for the truss system of 100 pounds per square foot (psf) in common areas and 40 psf in resident room areas, and noting that the trusses actually installed under the dining room and hall were below the 100 psf requirement.[147]

In addition to truss issues dating to the original construction of the Wing, the report's author noted additional issues of chord splitting and that "areas of damage should be repaired to restore the structural integrity of the truss members."[148] He also noted moisture issues in the crawl space, as well as issues with the plywood decking.

In this draft written report, he issued six recommendations, consistent with his verbal recommendations of February 3, as follows:

1) Shore trusses where the damage to bottom chord members has resulted in a reduction in load carrying capacity.
2) Repair longitudinal splits in truss bottom chord members by installing metal plates or fasteners designed to restore the capacity of the distressed wood member.
3) Repair through-thickness fractures and isolated damage in truss chord members by installing metal places or sistered lumber to restore the capacity of the distressed wood member.
4) Retrofit the floor trusses in the central corridor and dining room to satisfy the deflection limit criteria of L/600.
5) Strengthen and stiffen the plywood floor decking to decrease perceivable movement and potential damage to flooring by installing fasteners into the plywood decking layers designed to create composite action.
6) Maintain dry service conditions of the wood floor joists and floor decking in the crawl spaces by dehumidification.[149]

There is no mention in his draft written report of the 30-day window.

A second draft written report was submitted on February 27, 2012. It was largely the same report as the February 23 draft, with a few minor changes that primarily appear aimed at enhancing clarity and readability, including the insertion of a conclusions section. The six recommendations remained, and were now labeled as high priority (recommendations 1-3 that "should be addressed within 30 days…") and medium priority (recommendations 4-6 that "should be addressed within the next six to 12 months…").

A final, signed and sealed report was presented to the Health Region on March 1, 2012.[150] It included an executive summary and the removal of cost estimates.

Both the structural engineer who presented to the Region on February 3 and who signed and sealed the final report, and a second senior engineer from the firm who assisted with parts of the assessment, were interviewed as part of our review.

Comments of note included that the lead engineer had never advised the Region to close the Dust Wing, that the advice offered was aimed at keeping the Wing open with repairs and retrofits, and that the engineering elements themselves did not support a close. In fact, he "was surprised that they took the position of closing the facility. I know it was a safe approach to take, but I thought it was premature given that I had not rendered an opinion that justified that drastic measure."[151]

> *"I know it was a safe approach to take, but I thought it was premature given that I had not rendered an opinion that justified that drastic measure."*
>
> *structural engineer*

The structural engineer remains of the opinion that temporary shoring could have been done in a matter of days (assuming available material and labour) and while residents remained in the Wing. This temporary shoring would not have been as extensive a job as that put in place under the tub rooms. Assuming there were no crack changes, temporary shoring could have bought them time, perhaps months to years.

He reported that he received no calls from the Region to clarify what he meant by the 30 days, to inquire as to how much time they had if they chose to vacate the Dust Wing, or to ensure that a mass emptying of the Wing could be done in a safe fashion.[152] Rather, the calls he did receive reflected a different approach to the information he had been presenting and that "Since the [February 3 presentation] I noted there was an urgency that was taking a life of its own… they were taking a different path than my findings, even though I said wait for my results..."[153]

SECTION 5

Agency Actions

Issues and concerns began to arise early in the process of announcing, planning, and implementing the enriched housing moves. Residents and family members voiced their concerns and questions to the Health Region via direct questions and comments to IC staff; e-mails and phone calls to Client Representatives and members of the senior leadership team; and via media interviews and contacts with political representatives.

In general, their concerns and questions indicated that residents and family members were unclear as to what had been decided and why, what was required of them and by when, and precisely what support was being offered.

After the original February 15 dinner announcement, Health Region staff made several efforts to explain, clarify, and address concerns raised by the affected residents and family members. In particular:

1) They organized a February 16, 2012 meeting, inviting all residents from the two affected areas (Dust Wing and enriched housing) and their family members. This meeting was intended to clarify and explain the decisions that had been made and what would happen next. During this meeting the Health Region made senior leaders available to provide more specific details about the verbal report from the engineer, safety concerns raised, and how they had decided to respond. They attempted to explain that, given knowledge of the risks, they believed vacating the Dust Wing was necessary. Because of the timing noted in this preliminary report, they believed it necessary to act promptly, and that they were terminating lease agreements with enriched housing residents in order to start renovating that wing for the Dust Wing residents.

2) Throughout the process, concerns regarding compensation and supports were raised and responded to by various Health Region officials (e.g. managers in IC, Vice Presidents, CEO), including specific offers of and commitments to various financial and other forms of support. The following items note the specifics of this compensation:

- Although initial decisions of the Health Region indicated that it was only prepared to pay a rent subsidy to residents (with projected costs of up to $139,432 over the 11 months of subsidy), in the end, this compensation was added to and included:
    - damage deposits and other processing fees charged during moves into their new residences ($6,300).
    - the first full month's rent in their new residences and any charges for the partial month of February ($22,244).
    - for some residents, a return of the balance owed them for February rent at the Villa ($1,259 - this balance was not returned to all residents; only those who moved to a new site that did not charge for the part month of February, which the Health Region covered).
    - utility reconnection fees ($2,095).
    - moving costs charged to the Health Region by the moving company for costs associated with the resident moves ($7,715 - this was to have included packing up, moving, and unpacking).
    - other incidental costs that arose from the moves ($6,369 - covering the costs of goods damaged in the move, some equipment needed for functioning in the new residences, some incidental expenses claimed by some family members in finding a new residence and assisting in the move of a parent, etc.). Note that charges to the Health Region for grab bars and other safety bars installed in the new homes are still pending.

- In the end, the Health Region is projected to pay an average of $18,000 per resident moved (with actual payments projected to range from a low of $5,646 to a high of $29,275 - assuming an entire 11-month rental subsidy).[154]

3) Before the residents were moved out, the CEO attended the Villa and recalls meeting one-on-one with each of the residents, offering a personal apology for the stress and disruption caused to them by such a short notice move, and to offer added support if there were remaining unsettled issues.[155] Apologies were also made through the media and in the letter delivered to residents on the day of their move.

4) The Health Region issued press releases and held scrums on three days.

5) The Health Region organized a March 2, 2012 debriefing of the IC team, during which members were encouraged to share what they thought had worked well and had not worked well in the Region's handling of the incident.

6) The Health Region organized a March 8, 2012 debriefing meeting with former residents and family members wherein comments and questions could be shared directly with senior leaders and staff.

7) In addition to general concerns arising from the short notice of the move, the lack of clarity as to why they needed to move, and the way they were treated during the move, a few residents also raised very specific concerns. These ranged from needing to purchase special equipment to support mobility in a new residence, to having material possessions damaged during the move, to having to purchase new furniture and other amenities in order to reasonably equip the new residence. It appears that that the Region has reimbursed any raised and documented costs. The above costing figures (see item 2) include these numbers.

8) Some families and residents approached the Health Region for compensation for emotional harm and damage suffered by them as a result of the move and surrounding treatment. At the time of this Ombudsman report there has been communication between the Health Region and these parties but no associated financial compensation has been offered.

SECTION 6

Relevant Acts, Regulations & Other Information

6.1 Relevant Acts and Regulations

This review examined legislation and regulations relevant to the administrative decisions of this case. In particular, we considered:

- *The Regional Health Services Act* with particular attention to Sections 4, 7, 10, 50 and 52.
- *The Facility Designation Regulations* with particular attention to Section 2(e).
- *The Saskatchewan Gazette*, Part I, vol. 102, January 6, 2006, Order No. 2005/18 wherein the Minister designated the Villa a special-care home.
- *The Occupational Health and Safety Regulations, 1996* with particular attention to Part XX111, Section 337 and 339.
- *The Residential Tenancies Act, 2006* with particular attention to clause 5(f), and *The Residential Tenancies Regulations, 2007*, with particular attention to clause 3(b).

Related to this last Act, we also examined the Health Region's Enriched Housing Lease. It sets out the terms and conditions for rental and cites *The Residential Tenancies Act, R.S.S. 1978* (an older Act) as the prevailing authority should conflicts arise between the lease agreement and the Act.

As well, we considered Health Region policy and other related reports as described below.

6.2 Health Incident Command System

According to the Health Region's Emergency Preparedness Manual, Incident Command (IC) is a standardized approach to managing disaster or other emergency responses.[156] It was developed by the military and was then adapted to health care settings. In effect, IC provides a standardized approach to staffing and working as a group to manage a response to an incident or "unusual circumstance."[157]

The system offers a pre-determined structure with hierarchy and definitions of various positions that can be employed, and can be tailored depending on the circumstances. The system may be used for a site specific or regional situation.[158]

As written in the manual, "a job checklist exists for every function within the Health Incident Command System. The checklist provides a detailed list of activities required for that job… organized into immediate, intermediate and extended time frames… The person assuming the job checks each action off as it is completed. This documentation is handed in to the job's supervisor at the end of the operational period."[159]

IC intends to provide a team with a clearly defined team structure and with clearly defined roles, functions and reporting relationships for each member of the team within this structure. Key responsibilities include:

- The Commander (i.e. the person tasked with giving overall direction to IC) and a Planning Chief (i.e. tasked with operationalizing the response given the overall direction of the Commander) are to ensure projections are set out for key time periods and are then monitored and adjusted as the event continues to unfold.
- All members of IC carry some responsibility for communicating up and down the chain of command, and communications and briefings are an expected part of the routine.

- All members of IC carry some responsibility for ensuring documentation of all actions and decisions.
- Certain posts carry explicit responsibility for monitoring and managing safety issues that may arise during the course of IC, including signs of stress in staff and patients.
- Certain posts specifically require the staff assigned are ensuring
    - adequate nutrition to those affected
    - secure buildings and environments
    - housekeeping and laundry
    - transport of all affected clients and patients
- In theory, being called to IC permits staff, if not requires staff, to clear their desk and focus solely on the incident at hand.

6.3 Other Relevant Reports

Two reports of interest and relevance were considered. The first, a report from the British Columbia (BC) Ombudsman written in response to a complaint arising from the closure of a residential care facility in that province;[160] the second, a pamphlet entitled "Relocation Stress Syndrome," [161] published by an Ombudsman Program within the State of Wisconsin's Board of Aging and Long-Term Care. This pamphlet was provided to us by a family member of one of the former enriched housing residents.

BC Ombudsman: An Investigation of Vancouver Island Health Authority's Process for Closing Cowichan Lodge: In 2008, the BC Ombudsman investigated concerns related to a health authority's short-notice closure of a 94 bed, seniors' residential care facility, providing less than the legislatively required 12-month notice. The Ombudsman concluded that the health authority did not provide timely notice to residents and staff, did not provide clear and consistent explanations for the decision, how this decision would affect people living and working there, nor what steps they were taking to mitigate adverse effects. Among others, the Ombudsman recommended that the health authority develop a policy to guide its actions in future closures, as well as a process to guide exemption requests to the 12-month requirement.

The BC Ministry of Health, as part of its "Home and Community Care Policy Manual," includes provincial policy that outlines a health authority's responsibilities in managing change in a person's residence that may result from a decision to close or renovate a facility. The policy requires that the staff plan and manage the change process with an eye to resident safety and quality of care, ensure that a resident need not move more than once, is provided details as to appropriate options, has a facilitated move, and that moving costs (including transportation, address changes, medication transfers, and reconnection costs for phone and cable) are covered.[162]

Relocation Stress Syndrome is a nursing term to capture the mental and physical disturbances that may result in any person, but especially in a vulnerable person, when moving from one environment to another.[163, 164] There are a cluster of characteristics that define the syndrome (dependency, confusion, anxiety, depression and withdrawal).

The "Relocation Stress Syndrome" pamphlet provided to the Ombudsman defines the syndrome, notes times when people may be at risk for it, and provides best practices designed to minimize relocation stress (e.g. inform residents, assess needs and preferences, offer written information and tours of options, provide opportunities to ask questions and state concerns, listen, be flexible, encourage family participation, thoroughly plan and pay attention to details, be prepared and organized, maintain the daily routine, keep personal possessions safe, help new residents acclimate to their new home, have adequate staff on duty, educate everyone, monitor for signs of stress, discuss concerns, visit often).

SECTION 7
Findings

7.1 Was the decision to close the Dust Wing a reasonable decision, and if so, did it need to be done within 30 days?

Our review centered on the Region's decision to end its relationship with the enriched housing residents. As this decision was the result of a prior substantive decision – to close the Dust Wing – we begin by assessing that decision.

Was the decision to close the Dust Wing in accordance with governing acts, regulations, policies, and procedures?

The decision to close one of its wings or a series of rooms in a facility is an operational matter that falls within the authority and mandate of a health region. There is no evidence to suggest that the act of closing the Dust Wing violated any legislation or regulations.

There are no regulations or policies to specifically guide the Health Region when making decisions to close beds or renovate facilities, or when deciding to move residents as a result of such decisions.

Was the decision to close the Dust Wing, and the goal of doing so within 30 days, in accordance with the facts and evidence?

Generally, when evidence is logically connected to a government agency's administrative decision, the Ombudsman does not attempt to substitute his own opinion for that of the agency. The question for the Ombudsman is usually whether relevant and reliable evidence was used in contemplating the decision and whether the decision was rationally connected to that evidence.

In terms of the substantive decision to close the Dust Wing, the Health Region need only demonstrate a sound and reasonable connection between the relevant and reliable evidence and the decision. Given this expectation, and accepting that the information provided by the engineering firm was relevant and reliable, it is a reasonable interpretation that if repairs were not going to be made then the Wing would not be operational and would have to be abandoned.

As evidenced by the Health Region's deliberations, the decision made was also influenced by financial constraints. In the absence of such constraints, the Region may not have made the same decision. Consideration of such restraints, however, is entirely reasonable and necessary. Given that it hired the expertise of an independent engineering firm to advise on what the structural issues were and how to take the necessary repair steps in order to continue operating the Wing, it is plausible that the Region, in the absence of financial restraint, would have moved forward with the advice of the engineering firm and kept the Wing operational.

Although suggested by some people interviewed in our review, there is no evidence to support that the Region had any prior intent to close the enriched housing unit, or that it made the decision to close Dust Wing to justify ending its provision of enriched housing services in the facility.

Given the engineering data, the Health Region cannot be faulted for its decision to discontinue the use of the Wing while it considered long-term options. Although the Region conveyed its decision to close the Dust Wing as having been made in the name of safety, they had also considered other factors.

Once the decision was made to vacate the Wing and not undertake the renovations, a path not contemplated by the engineering firm, the Region interpreted the evidence to mean that residents of the Wing would have to be vacated in 30 days. With respect to this conclusion, the Region has not demonstrated a logical link between the evidence presented and the decision made to vacate in 30 days.

There is no doubt that the engineering information available to the Region assisted in its deliberations, but the information the decision-makers used was not as comprehensive as it could have been. The engineer only advised the Region on the basis

of continuing the operations of the Wing. He did not provide advice as to timing and evacuation procedures should they decide not to maintain the Wing. The structural engineer stated that had his advice been sought, a safe exit plan could have been developed, including interim steps for the Region so that a timeframe more generous than 30 days could have been offered.

It is unfortunate that the Health Region, after taking the time and spending the resources to assess and diagnose the issue with the flooring and structure, did not subsequently take all reasonable steps to ensure a full understanding of the data. Examples of such steps would have included follow-up consultation calls to the structural engineer to receive advice once the decision to discontinue operations was made, or ensuring the continued involvement of the Facility and Engineering Services staff member who knew the facility, the situation and the outside engineers; and who had been the point person from the early days of the process.

Acting in the name of safety could have motivated the Region and its IC team to take other intermediate steps to mitigate risk. For example, the Villa had nine empty beds in other wings at the time of the February 13, 2012 decision to proceed with an expedited move off the Dust Wing. It is not clear why intra-facility transfers of Dust Wing residents did not begin sooner than they did, but the delay can be interpreted as inconsistent with the Region's safety concerns.

The decision to close the Dust Wing was not made solely in consideration of safety or only in response to the engineer's findings. As previously noted, the carbon monoxide and laundry incidents clearly influenced the Region's decision-making and its focus on safety. Other factors were also considered, however, namely an economic weighing of the options and deliberation as to whether the costs of permanently or temporarily fixing the Wing outweighed the benefits. This weighing of competing factors is clearly within the duty of the Health Region. Explaining this complex decision, that was at least in part influenced by economic and other factors, solely in terms of safety, however, runs counter to clear and transparent decision-making and explanations. These are standard requirements of administrative fairness.

7.2 Was the Region's decision to end its relationship with the enriched housing residents a reasonable decision, and if so, did it need to be done in eight days?

Once the decisions were made to not fix the Dust Wing but to empty it, and to do so as soon as possible in light of the 30-day window, the next decision that the Region considered was: where would the Dust Wing residents go? This led to a second substantive decision and the one of primary interest to the Ombudsman: the decision to move the enriched housing residents out and to do so in eight days.

Were these decisions sound and reasonable?

There is certainly evidence, for example, from the December 2011 contingency planning and the early IC deliberations, to indicate that staff considered options. Could they move the Dust Wing residents to other facilities? Other beds? Other regions?

From early contingency planning, the enriched housing wing was considered a possible option should an evacuation of Dust Wing be necessary. In part, this was because the space was within the facility; historically, it had been used to provide some long-term care and thus could be re-conditioned; and it afforded the space needed to provide rooms for a significant number of the Dust Wing residents.

The contingency planning team then considered whether reasonable accommodations could be found for the existing residents who were occupying the enriched housing wing. The answer was a qualified yes, alternative housing could be identified that met their physical needs and provided the level of support they were currently receiving in the Villa, such as meals, but these alternatives were not ideal. As the contingency planners noted, they were significantly more expensive or required moves out of the community.

As homes could be identified for the enriched housing residents, and as the Health Region had a greater sense of duty to provide care and services to the long-term care residents of Dust Wing, when the Region faced its difficult choice in February 2012, it decided to relocate Dust Wing residents into the former enriched housing wing.

In effect, the structural flooring issues on Dust Wing forced the hand of the Region, requiring it to weigh the needs of one group against those of another. This led to an unenviable situation, one that forced a difficult decision with unfortunate consequences. The question is whether the Region approached this decision with the care and attention required of administrative fairness. In the broad sense, the evidence suggests it did.

> *"It's not what happened but the way it happened."*
>
> *family member of former resident*

It needs to be stated that even the enriched housing residents themselves did not question the need of the Health Region to ensure the safety of the Dust Wing residents. And while not happy with their need to move, most enriched housing residents indicated to the Ombudsman that they understood why they were being asked to go. What they took issue with was the manner in which the decision was shared with them and then implemented. They do not feel that they were given adequate notice, kept adequately informed, or were treated with respect in the days in and around the decisions and the moves. To quote one family member, "It's not what happened but the way it happened."[165]

Did it need to be within eight days?

Note: The eight days covers the period of time between their February 15, 2012 dinner hour notice and their February 23 move. If, however, one was to count days of notice from the time that clear information was provided (i.e. during the February 16-17, 2012 one-on-one meetings with home care) their eight-day notice period is reduced by an additional one to two days.

As noted, there is evidence to suggest that the structural engineer could have offered the Health Region an extension to the 30 days, had he been consulted about the decision to abandon the Wing. Pursuing this option would have bought the Region time in which to proceed with issuing notice to the enriched housing residents in a slower, more measured timeframe, thereby reducing many of the issues that arose.

More importantly, there were clear signs as early as December that an eviction of the enriched housing residents was being considered by contingency planners. This would have been an opportune time to serve advance notice, a cornerstone of administrative fairness, to the enriched housing residents. This notice could have informed residents of the fact that their housing arrangements were at risk and that the Region was considering decisions that could have serious consequences for them, especially in the event of a permanent closure of their enriched housing units.

When asked during Ombudsman interviews about their expectations for a fair and reasonable handling of the situation, all but one family immediately noted more time or more notice. Most suggested that a month would have made a significant difference, one spoke of the need for more than a month, and one even suggested that as little as an additional week would have been helpful. Our review did not uncover expectations of a lengthy (e.g. half year or so) period of notice. Residents and their families were simply wishing for a bit more time in which to prepare and organize and perhaps say their goodbyes.

Staff involved in the contingency planning explained to us that they were not comfortable sharing tentative news with

enriched housing residents as they feared it would create unnecessary stress and panic. They preferred to wait until they were certain. Unfortunately, this hesitancy cost the enriched housing residents their opportunity for advance notice.

Even operating within this need for certainty, the Health Region was notified on February 3, 2012 of the 30-day window when it met with the engineering firm. This meeting and timeline spurred the Region to action. Unfortunately, from February 3-13 little was done toward deciding its course of action. The Health Region waited 10 days to convene and decide how to proceed, despite the 30-day timeframe driving them to quick action. This 10-day waiting period extended longer than the entire period in which the enriched housing residents then had, in which to hear the news, find a new home, pack, and move.

The inconsistency between the need expressed by the Region to move forward with extreme haste and the fact that 10 days elapsed between receiving the information and acting upon it is troubling.

7.3 Were the enriched housing residents also tenants under *The Residential Tenancies Act, 2006*?

Upon accepting a unit in the Villa, each enriched housing resident signed a lease governing their tenancy. At the time of our interviews, few residents could recall its details, signing it, or what, if any, advice they were given about it. The leases were all in a standard form prepared by the Health Region. They listed the rights and responsibilities of each party and incorporated the statutory conditions of *The Residential Tenancies Act*, R.S.S 1978, c. R-22, which has been replaced by *The Residential Tenancies Act, 2006*. Each lease also stated that if any conflict arose between it and *The Residential Tenancies Act*, the Act prevailed.

At least one family and some staff believed that *The Residential Tenancies Act, 2006* did not apply to the enriched housing wing, because the residents were seniors living in a special care home. Clause 5(d) of *The Residential Tenancies Act, 2006* states that it does not apply to living accommodations in special care homes designated pursuant to *The Regional Health Services Act*. While it is possible for a health region to have only part of a facility designated as a special-care home, the entire Villa was designated. The Health Region, however, has shown that it was not operating the enriched housing wing as a special care home pursuant to *The Regional Health Services Act*.

Clause 5(f) of *The Residential Tenancies Act, 2006* states that it does not apply to prescribed tenancy agreements, rental units or residential property. In turn, clause 3(b) of *The Residential Tenancies Regulations, 2007* states that for the purposes of clause 5(f) of the Act, the Act does not apply to "living accommodation that includes the provision of meals in the consideration paid by the tenant for the rental unit, but only if the rental unit is offered exclusively to tenants who are over 55 years of age."

All the residents of the enriched housing wing were over 55 years of age and their meals were being provided. None of their leases, however, make any mention that meals are to be provided as part of the consideration for the rent – only for accommodations. Our investigation did not reveal definitively that accommodations in the enriched housing wing were offered exclusively to tenants over the age of 55. We were told by the Region that, as a matter of standard process, residents were to be over the age of 65, but the Region had the discretion to allow younger people to become residents based on other factors such as mental health.

Assuming, then, that the Region offered living accommodations in the enriched housing wing exclusively to people over 55 years of age for consideration that included the provision of meals, *The Residential Tenancies Act, 2006* did not apply. Nevertheless, the Region's standard lease contractually committed it, among other provisions, to operate in accordance with the Act's statutory conditions. This raises two questions about the obligations of the Health Region to the enriched housing residents:

1) Did the Region satisfy its contractual obligations?

2) If not, how did this impact the enriched housing residents?

Did the Health Region live up to the provisions of its contracts?

During IC meetings, discussions were held about the Region's minimum obligations to the residents in light of the lease provisions requiring it to give 30 days' notice. Since IC decided that this notice would not be provided, the Health Region approved provision of a compensation package including, among other things, one month's free rent and 11 months of rental subsidy. The 30-day notice period is consistent with the provisions of *The Residential Tenancies Act, 2006*.

In order to carry out its plan, the Health Region, operating under IC, did not believe that it could give 30-days' notice and instead turned its mind to compensation. Even though *The Residential Tenancies Act, 2006* did not likely apply, and therefore the enriched housing residents had no recourse to the Office of Residential Tenancies, the provisions of the lease offered by the Region, created a reasonable expectation that the Region would follow a fair process and the residents would have certain rights.

Instead of following through with the procedural commitments in its leases, the Region put a compensation package in place to help minimize the impact of the short notice (e.g. help with the cost of the move and providing options for new homes). Further, in examining the compensation package outlined to the Ombudsman and detailed here in Section 5, we find that the Region provided compensation beyond its contractual obligations.

What was the impact for the enriched housing residents?

Although compensation was paid to the enriched housing residents in lieu of giving its required notice, this action neither absolved the Region of its obligations under its leases, nor justified the loss of rights experienced by its former tenants. For residents, giving proper notice is also about providing time – time necessary to find a new home, to pack and become ready for relocation, and perhaps most importantly, to come to terms with the move and necessary change.

> If they had given a month ... they would have been ready to move. They didn't even have a party where everybody says goodbye, where friends and staff could say goodbye.[166]

7.4 Did the Region abide by its own Incident Command policy?

Based on its own requirements for Incident Command (IC), clear communication should occur up and down the chain of IC. Similarly expected is clear communication with the parties affected by the incident being managed.

During our interviews, as well as during media scrums, vice presidents were not always clear on the timelines and expectations placed on enriched housing residents. It is not clear how they could not know such central decisions in the presence of the daily briefings from and communications with their IC team. This suggests challenges to their internal communication process.

Communication with enriched housing residents was also compromised and it is here that the greatest impact is seen. It resulted in unnecessary confusion for residents and families, whether in relation to why they had to move and when, or what supports and assistance were being offered.

This is not to say that staff members on the front lines of IC were not attempting to convey this information. Undoubtedly the stress and confusion of the situation presented challenges to effective communication. Providing details in writing as well as verbally should have been an expected step. Written documents that remind people of the critical information, key dates, and expectations of them, would have helped settle some confusion, and therefore mitigated some of the stress associated with this very sudden announcement. Although IC policy expects communication, such requirements were not fully met.

IC members are specifically tasked with monitoring for signs of stress and mitigating

these as necessary. We witnessed clear signs of stress in residents and family members during our interviews. In none of our interviews did we hear of concrete actions taken by the Health Region to manage the psychosocial stressors associated with this move. There were no indications, for example, that psychological or counseling staff were consulted by the IC team, and no indication that offers were contemplated for non-physical support (i.e. outside of wheelchairs and grab bars) or non-monetary compensation. This oversight is surprising from a health region and is not consistent with its policies of IC or the principles of patient and family-centered care.

Moving day did see elderly people miss meals, miss naps and rest periods, and even miss medications. The structure and intent of IC is supposed to assure the system that such errors do not occur.

The day before the move, an asbestos contractor was on site to complete the floor tile project and a monitoring company was on site to ensure it was done safely. Unfortunately, no staff walked the hallway to let the already stressed and frustrated residents know what was occurring and why or how their safety was being assured. Similarly, residents could have been given notice that the windows in their rooms were to be worked on during their moving day. These minimal steps may have better prepared people and minimized unnecessary stress.

IC was also challenged by the number of baton passes that occurred throughout its operation. Staff holidays and staff attention diverted to other tasks impacted IC's ability to perform. It is unfortunate that this expectation of priority, as required by IC, was not evident for many of the team, including the vice presidents to whom IC was reporting. Briefings and communications are meant to mitigate such hand-offs. While families and residents were expected to abandon everything and respond, it is not apparent that similar expectations were placed on the Region.

One could also suggest that batons were dropped when key people, involved from early days of the situation, were not then invited to the IC table or otherwise consulted during decision-making and planning. A communications staff member involved in the December contingency planning was not present for the early stages of the February implementation. The key Facility and Engineering Services staff member who had been involved throughout the task of assessing and facilitating a diagnosis of the structural system was not a part of the process after the February 3 preliminary findings meeting. His involvement ceased as a result of a holiday, and did not re-start after, nor was he consulted during his time off as had been the practice on previous projects. He was involved for the purposes of providing feedback on the drafts for the final structural engineering report that was issued March 1, 2012.

7.5 Did the asbestos job violate provincial OH&S Regulations?

Two issues are relevant with respect to the February 22, 2012 asbestos abatement work:

1) Was this work done safely?

2) Do any fairness issues arise from the timing of this work?

Was this work done safely?

As a preliminary matter, although a few family members recall the asbestos removal in the laundry room as being performed on moving day, the documented evidence shows it to have been completed the day prior to the move, that is, February 22, 2012.

Some family members questioned whether the work done to remove asbestos-containing floor tiles from the laundry room was done safely. Some noted a white fuzz collecting outside of the building in which the work was done. And other family members observed a slit and gap in the plastic sheeting meant to contain the work area.

On about February 27, 2012, an anonymous call was made to the provincial Occupational Health and Safety (OH&S) phone line. The caller stated a concern about asbestos work being done while moving his parent from the Villa. The Hygiene Unit of OH&S addressed the complaint. The staff member assigned to this call contacted a manager in the Health Region who provided details of the process used and what asbestos-

containing material was being removed. The OH&S staff member determined that the floor tile being worked on was a low risk material because, as is understood in the industry, it is difficult to disturb the low levels of asbestos in vinyl floor tile. Thus, the project required limited precautions. Containment was not necessary, nor was air testing. The removal process did not require a procedure beyond that contemplated and approved in the "Vinyl Asbestos Tile" procedures which were developed in consultation between the Health Region and OH&S. In responding to the anonymous complaint, the OH&S staff member found that the Health Region actually went beyond safety requirements by contracting the services of an abatement company to isolate the area of work and invoke ventilation procedures.

In addition to the above procedures, the Region engaged with an independent company to do air monitoring in and around the asbestos removal site. This report[167] satisfied OH&S that safety was not compromised. According to this Hygiene Unit staff member, there is no better assessment of this hazard than an air clearance report. By using higher risk containment protocols and air testing, both of which were not requirements given the low risk nature of the job, the Region exercised extra measures to assuage the safety concerns raised.

Although we cannot comment specifically on the observations about a slit in the plastic opening to the laundry room or the fuzz collecting outside, the evidence is sufficient to assure the Ombudsman that the safety of residents and families was not at issue because of the extra precautions taken.

Based on this information and on observations from enriched housing residents' families, we are satisfied that the OH&S review demonstrates that the work was managed safely.

Do any fairness issues arise from the timing of this work?

The February 22, 2012 asbestos abatement work was done as part of the work of converting the laundry room into a tub room – work undertaken as a result of the decision to move Dust Wing residents into the enriched housing wing. We have concluded that the substantive decision to move Dust Wing into this space was not unfair, and so it follows that the decision to convert the laundry room into a tub room also was reasonable. After this decision was made, however, the Region then concluded that several renovations had to happen as quickly as possible and, as a result, decided that some of those renovations would start prior to the residents moving out. This had an impact which needs to be considered.

The impact of the timing of the asbestos abatement includes:

- Enriched housing residents were not given prior notice.
- In addition to general stress, they felt discarded and disrespected.
- Access to their laundry facilities ended before they moved out, resulting in some residents having to move dirty laundry to their new homes.
- It caused people to worry whether their health and safety had been compromised.

Although safety issues have not been found, the other issues mentioned above raise procedural and relational concerns.

Descriptions from staff about the renovation period range from busy to hectic. However, there is little evidence to suggest that this laundry room renovation had to be done before the enriched housing residents moved out. A manager advised that Health Region senior leaders were prepared to do whatever it took to have the renovations completed by their March deadline, and if further resources were needed, staff needed only to ask. As busy as the renovation period was, however, there was no significant use of overtime.

Proceeding with the asbestos abatement on February 22 was a function of the convenience of having a company available and feeling the pressure from Incident Command. The climate of Incident Command was to "make it happen," and, as cited, to "make the impossible, possible." With that philosophy, the date and task assume priority over people, a prioritization incompatible with

the principles of patient and family-centered care.

The result is that the enriched housing residents were not given advance notice that the work would be done, and the Health Region failed to consider how this timing would impact them and whether waiting until after the move would be more respectful given the short notice of the move. Waiting a few days until the residents had moved out was an option. Alternatively, the IC team should have given residents notice that the renovations were about to begin. Either approach would have shown consideration for the impact on residents of beginning renovations in the midst of their short-notice move.

7.6 Was critical information conveyed to affected parties in a timely, accurate, open, and transparent fashion?

The Health Region had been informed that a wing of the Villa was unsafe unless fixed. That fix came with a price tag. The Health Region decided not to fix the wing but to take a different route. The Health Region, however, did not provide a thorough explanation to the affected parties when it cited only safety concerns.

The documented chronology shows that time existed in which affected parties could have been given more notice of the impending decision, from as early as December 2011. The chronology also shows a 10-day delay (February 3-13) from the date of the engineer's verbal report until Region officials met to act on it.

The chronology also notes much confusion and misunderstanding for residents and their families about the decision of the Region and its consequences for them, particularly in terms of the timelines within which they needed to make decisions and act.

For these reasons, we are unable to conclude that the Health Region conveyed open and accurate information in a timely fashion. As a result, it missed opportunities to ensure greater procedural fairness.

Before making the decision, did the Health Region provide notice that the decision was being considered and provide affected parties an opportunity to engage in the decision-making process?

The opportunity and ability to be involved in and contribute to decisions that may affect us are fundamental principles of administrative fairness (and patient and family-centered care). When faced with tight timelines, the Region failed to afford these opportunities to the affected parties. In interviews with Ombudsman staff, families spoke of the desire to have been more involved in the decision-making and planning of the move and saw that as a way to ensure things could have moved more smoothly for their parents. The CEO of the Region when later reflecting on the event offered that a better process would have included opportunities for residents and families to be engaged in the planning.

It is unfortunate, in the context of a provincial health system committed to patient and family-centered care and a health region that dedicates resources to addressing client concerns and ensuring patient and family engagement, that meaningful involvement of those affected did not occur. The pre-IC conference call noted the need to involve Client Representatives but, as with the team's early recognition of the need for verbal and written communication, these intentions appeared to wane once faced with compressed timelines.

Did the Health Region adequately consider the potentially negative impacts its decisions and actions would have for the enriched housing residents and take reasonable steps to mitigate these impacts?

The Health Region did offer financial compensation and support for some physical needs (e.g. purchase of mobility and safety equipment) brought to its attention. It appears that the mental stress associated with this move, however, should have been given more consideration. This is disappointing coming from a health agency.

The Region provided the residents more financial compensation than the required 30-day notice would have provided them. The Region is, in effect, giving the residents

a full year in which to consider their living arrangements and find a home that is suitable to their needs and resources. This may require another move if the most suitable option is not where they landed in the rush of their February decision-making and move. The Region also covered additional costs that it would not have incurred had it given its 30 days' notice, such as utility reconnections, moving costs, and mobility aids. While these measures helped to mitigate the negative impacts of a short-notice move, many residents and families still reported significant stress from the eight-day move.

At the end of the day, the Region maintains that it made the decision to vacate the Dust Wing in consideration of safety, as this Wing was posing a risk to its residents and staff. Leaders felt they had no choice but to make the difficult decision and end the rental relationship with the seniors residing in the enriched housing wing.

Many staff believe that the Region went considerably above and beyond their duties and obligations to the enriched housing residents by addressing and alleviating as many issues as possible and adding financial compensations to its original commitments. These efforts are acknowledged by the Ombudsman.

A final point that needs to be addressed concerns the culture of the IC team in relation to the senior leadership team. There is evidence that necessary questions were not always asked and, as a result, procedural and relational fairness were further compromised.

IC team members reported feeling uneasy with the shortened timelines. They spoke of concerns that arose from the history in the Villa and in the larger community; history that they worried could come to compromise the implementation of this decision. They also spoke of witnessing incidents of unclear communication, moments that they let pass in the interest of not adding to the confusion. The team members on IC were not junior staff. They were middle and senior managers with leadership duties and responsibilities, including the obligation to ensure that their senior leaders had the right information with which to consider the consequences of their decisions such as the decision to go faster. This obligation is matched by the responsibility of senior leaders to ensure that their directions can be respectfully questioned and challenged if the people managing the front line are concerned or have questions. Managers who follow orders without question and leaders who do not encourage questions inadvertently contribute to a culture where errors and costly mistakes happen.

7.7 Were the former residents and their family members treated with respect and courtesy?

As is often the case when fairness concerns are raised with the Ombudsman, relational missteps can fuel complaints. This situation is an example.

Health Region staff on the front lines of this decision and responsible to implement this near impossible task acted with respect. With occasional exception, the IC team members responsible for "making it happen" did a commendable job. They wore the decision and were the face of the Health Region during a very difficult period, facing sad, upset, angry, and even hostile family members.

If they had been given two months to carry out this task, we would have less tolerance for the chaos, but IC had eight days and in that context, they did a reasonable job. That is not to say that there are not individuals on IC who could have performed better and who could have turned more of an eye to the task at hand, but in general, as a group, they did reasonably well, a rating certainly buoyed by the efforts of a few.

Similarly, many residents and families did whatever was necessary to get through this difficult move and transition, including cancelling holidays, taking time off work on very short notice, some without pay, and forgoing their own health needs. As we acknowledged IC staff who worked in very trying circumstances, we also acknowledge families who, generally, stepped in and did what needed to be done.

We previously commented on the effect of staff holiday schedules and the sense of some IC team members that holidays compromised

their effectiveness. Families also commented on holidays, however, and for some, staff absences were interpreted as a further slight as it appeared that they were the ones expected to make the sacrifices, not people of the Health Region.

Our office respects that senior health officials are busy and many high priority issues are on their desk at any one time. On occasion, it appears that leaders struggled to get to the table and to provide clear and consistent leadership to their IC, as is required by policy. Their absences were noticed by the enriched housing residents, family members, and IC staff, and inadvertently irritated a difficult situation.

As another example, although this was technically a leasing situation and legally the residents were tenants, they did not identify themselves as such. They thought of themselves as residents of the Villa. Many had been a part of the Villa life for years. Some former residents had worked there as staff, some had become involved in the Villa when their own parents were admitted, some were spouses of long-term care residents in the Villa, some had been fundraisers for the Villa Foundation, and some had served as long-time volunteers for the Villa. This involvement pre-dated their own tenancy and often carried through after their tenancy began, health permitting.

These ties to the Villa do not prohibit the Region from being able to ask them to move out, but they do increase the opportunity for there to be relational damage and fairness concerns.

During our interviews, many residents and families spoke of the assumption that their move to the enriched housing wing of the Villa would be their final move, unless they later needed to be admitted to long-term care which ideally would be there at the Villa.

Further blurring the boundaries of the relationship and clouding the issue of whether they were tenants or residents is the fact that staff from the Villa, while not paid to or expected to provide health services to enriched housing, did assist when needed. Regardless of their signed leases stating that no personal or nursing care service would be provided, the actions of the kind and caring Villa staff contributed to these blurred relationship lines.

These factors all contributed to the expectations of the enriched housing residents. To say that the eviction caught them unawares is an understatement and, regardless of their legal rights and the limits to their tenancy, they expected and deserved respectful treatment.

SECTION 8

Conclusions and Recommendations

The first and most substantive decision made by the Region, the decision to abandon Dust Wing, was administratively fair. The Region should be commended for its focus on the safety of these residents and staff.

This stated focus on safety, alongside considerations of other contextually significant issues, influenced a subsequent decision: the expedited moves of the Dust Wing and enriched housing residents. In our review, we have concluded that this decision was not reasonably supported by the evidence. The speed with which the Region acted resulted in timelines that compromised procedural and relational fairness – compromises that resulted in hard feelings in a community with a strong ethic of caring for seniors.

In addition to the above, we conclude that the Health Region:

- did not have any prior intent to close the enriched housing unit, and did not make the decision to close Dust Wing as a way to justify ending the enriched housing services.
- may not have acted in accordance with the terms of its signed leases.
- provided a compensation package beyond its contractual obligations to recognize the reduced period of notice.
- attempted to identify and suggest suitable housing options for residents and families to consider.
- completed the February 22 asbestos work in the enriched housing wing safely, but failed to consider waiting until the residents moved out, or at the very least, provide advance notice.
- did not provide full, understandable, and meaningful reasons for its decision to vacate the Dust Wing (i.e. that past events and finances also played an influential role in this decision).
- did not take reasonable steps to fully understand the engineering data before making its decisions.
- could have taken intermediate steps to mitigate the risks in the Dust Wing such as moving these residents earlier to other empty beds in the facility.
- missed opportunities to provide the enriched housing residents more notice, first of a potential move (in December 2011) and then of a definite move (in the days between February 3 and 15, 2012).
- missed opportunities to more fully engage enriched housing residents and their family members in the decision-making and planning steps.
- could have more fully considered the stress this move could create for people and made offers to assist with any psycho-social impacts.
- started renovation work in the enriched housing wing early without recognizing its impact on the enriched housing residents; waiting a few days would have been possible as would keeping people more informed of the renovation work and any disruptions they may experience.
- made public comments that inadvertently led some people, including members of the public, to believe that each resident would be paid $25,000 to move.
- used an IC structure that was aimed at getting a timely result, but that led to compromises in procedural and relational fairness.

In light of these conclusions, the Ombudsman offers the following recommendations.

1) That the Saskatoon Health Region develop policy to guide moves of elderly people who are receiving residential services from the Region. We encourage the Region to consider such documents as Section 6.J of the BC Ministry of Health's "Home and Community Care Policy Manual." Resulting

policies should also consider issues related to the psychological effects of relocation and any mitigating practices it could include.

2) That the Saskatoon Health Region thoroughly review its Health Incident Command manual and revise it to reflect the lessons learned from its application to this move of enriched housing residents. At a minimum, this review should include consideration of the following:

    a. when IC is an appropriate management tool and what situations may be more appropriately managed in other ways.

    b. the role of a Client Representative on IC and when such involvement is a critical component to success.

    c. concrete measures that can be put in place to ensure adequate briefings of leaders in particular but all involved staff in general as they move in and out of IC over time.

3) That the Saskatoon Health Region clarify, including consultation with the Office of Residential Tenancies, the applicability of *The Residential Tenancies Act, 2006* to its former enriched housing residents at St. Mary's Villa and, as a preventative measure, any other facilities where the Health Region rents living quarters.

    If it is determined that there are situations where the Act applies, it is recommended that the Health Region develop contingency plans to ensure the Act is followed should a similar situation arise in the future.

4) In the event that similar renting situations are occurring in other health regions, that the Ministry of Health review its facility designations and clarify, along with the health regions and including consultation with the Office of Residential Tenancies, the application of *The Residential Tenancies Act, 2006* to people who are renting living quarters from a health region.

Although efforts were made to apologize, the Region has advised the Ombudsman that it recognizes its previous efforts were not entirely successful. In recognition of this, the Region has made a commitment to take further steps to acknowledge that opportunities were missed, that they did not fully consider the impacts on the enriched housing residents, and that they would clarify the terms of the compensation offered to residents.

Closing Remarks

In closing, we would like to formally acknowledge the former enriched housing residents who took the time to sit with us and share their stories and experiences. We would also like to acknowledge the many family members who, in the midst of very busy days, took time to meet with Ombudsman staff and provide facts and data so necessary to this review. We recognize that reliving these experiences was very difficult.

We also acknowledge those Health Region staff members who sat and candidly shared their information, often through tears, and with a deep belief they were doing the best they could with a nearly impossible situation.

Many staff opened their files to share facts freely and with great honesty, complete with missteps and foibles. Not all staff were so candid and open, but most were and we are confident that we have seen and understood the situation.

We also acknowledge the business owners over whom the Ombudsman has no jurisdiction but who nevertheless supported their staff in meeting with us and talking candidly about their part in the file.

This was a most unfortunate set of events. The challenge now is to take the time to truly learn from it and use these lessons to raise the bar of fairness and the quality of patient and family-centered services.

Endnotes

1 Ross, Laura (2010) Focus on the Future: Long-Term Care Initiative http://www.health.gov.sk.ca/adx/aspx/adxGetMedia.aspx?DocID=f26c9ea4-f96a-4c25-a7bc-4b13d447cea9&MediaID=5370&Filename=focus-on-future-ltc-initiative-2010.pdf&l=English (website accessed June 11, 2012)

2 Saskatchewan Ministry of Health, Institutional Supportive Care Admission form http://www.health.gov.sk.ca/form-he611 (website accessed Mar 11, 2012)

3 Ross, Laura (2010) Focus on the Future: Long-Term Care Initiative http://www.health.gov.sk.ca/adx/aspx/adxGetMedia.aspx?DocID=f26c9ea4-f96a-4c25-a7bc-4b13d447cea9&MediaID=5370&Filename=focus-on-future-ltc-initiative-2010.pdf&l=English (website accessed June 11, 2012)

4 Staff Interview

5 Staff Interview

6 Staff Interview

7 Staff Interview

8 Staff Interview

9 Staff Interview

10 E-mail correspondence submitted to the Ombudsman

11 Staff Interview

12 Staff Interview

13 Former resident / family member Interview

14 Staff Interview

15 Former resident / family member Interview

16 Staff Interview

17 Staff Interview

18 Staff Interview

19 Report submitted to Ombudsman

20 PMT meeting minutes submitted to Ombudsman

21 Letter submitted to Ombudsman

22 E-mail submitted to Ombudsman

23 Report submitted to Ombudsman

24 PMT meeting minutes submitted to Ombudsman

25 Staff Interview

26 Staff Interview

27 File notes submitted to Ombudsman

28 File notes submitted to Ombudsman

29 File notes submitted to the Ombudsman

30 Minutes submitted to the Ombudsman

31 E-mail correspondence with Ombudsman

32 File notes submitted to the Ombudsman

33 Minutes submitted to the Ombudsman

34 Minutes submitted to the Ombudsman

35 Minutes submitted to Ombudsman

36 Report submitted to Ombudsman

37 File notes submitted to Ombudsman

38 File notes submitted to Ombudsman

39 File notes submitted to Ombudsman

40 Record of call submitted to Ombudsman

41 Record of call submitted to Ombudsman

42 Record of call submitted to Ombudsman

43 Record of call submitted to Ombudsman

44 Staff Interview

45 Interview with Structural Engineer

46 Interview with Structural Engineer

47 Interview with Structural Engineer

48 Staff Interview

49 Staff Interview

50 Staff Interview

51 Staff Interview

52 File notes submitted to Ombudsman

53 Staff Interview

54 Staff Interview

55 Staff Interview

56 Presentation submitted to Ombudsman

57 Staff Interview

58 Minutes submitted to Ombudsman

59 Staff Interview

60 Staff Interview

61 Staff Interview

62 Health Incident Command System protocols submitted to Ombudsman

63 Staff Interview

64 Health Incident Command System protocols submitted to Ombudsman

65 Staff Interview

66 Staff Interview

67 Staff Interview

68 Staff Interview

69 Staff Interview

70 Record of conference call submitted to Ombudsman

71 E-mail submitted to Ombudsman

72 File notes submitted to Ombudsman and Record of call submitted to Ombudsman
73 File notes submitted to Ombudsman
74 File notes submitted to Ombudsman
75 File notes submitted to Ombudsman
76 Staff file notes submitted to Ombudsman
77 Minutes submitted to Ombudsman
78 Staff file notes submitted to Ombudsman
79 Staff file notes submitted to Ombudsman
80 Staff Interview
81 Staff Interview
82 Staff Interview
83 Staff Interview
84 Staff Interview
85 Staff Interview
86 Staff Interview
87 Minutes submitted to Ombudsman
88 Staff Interview
89 Staff Interview
90 Staff Interview
91 Staff Interview
92 Staff Interview
93 Staff Interview
94 Staff Interview
95 Staff Interview
96 Staff Interview
97 Staff Interview
98 Minutes as submitted to Ombudsman
99 Former resident / family member Interview
100 Former resident / family member Interview
101 Former resident / family member Interview
102 Former resident / family member Interview
103 Former resident / family member Interview
104 Former resident / family member Interview
105 Former resident / family member Interview
106 Staff Interview
107 Former resident / family member Interview
108 Former resident / family member Interview
109 Former resident / family member Interview
110 Staff Interview
111 Former resident / family member Interview
112 Staff Interview
113 Former resident / family member Interview
114 Former resident / family member Interview
115 February 16, 2012 media scrum posted on http://www.youtube.com/watch?v=1VvBz1PVDcQ&list=UUDzyZ8t2crcW2pSxJVvHHBg&index=17&feature=plcp
116 Former resident / family member Interview
117 Staff Interview
118 Minutes as submitted to Ombudsman
119 Former resident / family member Interview
120 Former resident / family member Interview
121 Staff Interview
122 Report submitted to Ombudsman
123 Staff Interview
124 Staff Interview
125 Staff Interview
126 Former resident / family member Interview
127 Former resident / family member Interview
128 Former resident / family member Interview
129 Interview
130 Former resident / family member Interview
131 Former resident / family member Interview
132 Former resident / family member Interview
133 Former resident / family member Interview
134 Staff Interview
135 Letters submitted to Ombudsman
136 Staff Interview
137 Minutes submitted to Ombudsman
138 Document submitted to Ombudsman
139 Former resident / family member Interview
140 Former resident / family member Interview
141 Staff Interview
142 Staff Interview
143 Report submitted to Ombudsman
144 E-mail correspondence with Ombudsman
145 E-mail correspondence with Ombudsman
146 E-mail correspondence with Ombudsman
147 Draft Engineer Report Submitted to the Ombudsman
148 Draft Engineer Report Submitted to the Ombudsman
149 Draft Engineer Report Submitted to the Ombudsman
150 Engineer Report
151 Engineer Interview
152 Engineer Interview
153 Engineer Interview
154 Report submitted to Ombudsman
155 Staff Interview
156 Policy manual extract submitted to Ombudsman
157 Staff Interview
158 Policy manual extract submitted to Ombudsman

159 Policy manual extract submitted to Ombudsman

160 Report of the BC Ombudsman "An Investigation of VIHA's Process for Closing Cowichan Lodge" http://www.ombudsman.bc.ca/images/pdf/seniors/Cowichan_Lodge_Report.pdf

161 Wisconsin Board on Aging and Long Term Care, Ombudsman Program, "Awareness: Relocation Stress Syndrome" (pamphlet)

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163 Melrose, S. (2004). Reducing relocation stress syndrome in long term care facilities. *Journal of Practice Nursing, 54(4)*: 15-17.

164 Mallick, M., Whipple, T.W. (2000). Validity of the nursing diagnosis of relocation stress syndrome. *Nursing Research, 49(2)*: 97-100.

165 Former resident / family Interview

166 Former resident / family Interview

167 Report submitted to Ombudsman

promoting fairness