



OFFICE OF THE  
**City Auditor**

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# **City of Edmonton Non-Profit Housing Corporation Governance Review**

July 5, 2010

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The Office of the City Auditor conducted  
this project in accordance with the  
*International Standards for the  
Professional Practice of Internal Auditing*

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## Executive Summary

The City of Edmonton (the City) incorporated the City of Edmonton Non-Profit Housing Corporation (homeEd) in 1977 with the mandate to develop, provide, operate and maintain housing accommodation of all kinds. The City of Edmonton is the sole Shareholder (Shareholder) of homeEd. homeEd has a Board which is comprised of seven citizens. homeEd's operations are managed by City staff (City Administration/Management).

homeEd currently has 806 non-profit housing units, which includes 55 units that were added in 2009 and 54 units that were added in 2010. The housing units owned by homeEd are bachelor units, one to three bedroom apartments, or two and three bedroom townhomes. In 2009, homeEd rented out 752 units. Of these, approximately 52% were rented out at below market rates while the remaining 48% were rented out at the lower end of market rates. This is to recover costs while still maintaining affordability for low to moderate income households. homeEd receives funding from all three levels of government to subsidize their housing units and strives to optimize the use of its equity and available grants to expand its property base.

From 1977 to 1995 the organizational structure of homeEd consisted of a Board that included citizens, as well as members of Council and City Administration, who were collectively responsible for governing the affairs of homeEd. The execution of homeEd's mandate was delegated to a General Manager (GM), who was independent of City Administration, who provided oversight to the daily operations which were managed by a private property management company. In 1995, poor financial performance and the impending retirement of the GM resulted in a management agreement between the City's Office of the Commissioner of Housing and the Board. According to the agreement, the Office of the Commissioner of Housing would manage the operations of homeEd and the Board would continue to provide strategic direction. While the agreement was for an initial trial period of one year, it has continued to be in effect since 1995. We found that since 1995 homeEd has been financially viable and has been able to achieve their mandate.

In 2009, the Board of homeEd asked the Office of the City Auditor (OCA) to perform a review because the members were seeking assurance that they were fulfilling their role as the Board of homeEd. They also desired clarification of their role within the overall organizational structure of homeEd. We performed a risk assessment of homeEd's governance and operations and concluded that we could provide the most value to homeEd by focusing this review on homeEd's Board's governance practices and homeEd's organizational structure. We also included a review of homeEd's guiding policies and procedures.

Our review revealed that the homeEd Board's governance practices are not in line with the governance best practices for similar organizations. This is due to management and the Board having differing perspectives on what the Board's role is within homeEd. City

Administration views the homeEd Board as a policy Board and not one that should necessarily involve itself with overseeing the management of homeEd. In contrast, the homeEd Board feels that its role should be to provide governance and oversight to the operations of homeEd. Consequently, this disconnect between the Board and management has led to role ambiguity for the Board. We also believe that it has resulted in poor communication between the Board and management. This statement is supported by the Board; however, it is not supported by management, who feel they have had consistent, open communication with the Board.

In an effort to better understand the legal roles and responsibilities of homeEd's Board and Shareholder we asked the Law Branch to review homeEd's Articles of Incorporation (Articles). The Law Branch found that the role and responsibilities of the Board and Shareholder are relatively standard for Articles created in the 1970s, except for Articles 2.3 and 26.1.

- Article 2.3 gives the City, as the sole Shareholder, the right and power to manage homeEd by written statement. The Article also permits the Shareholder to retroactively override previous decisions of the Board. This is unusual because Shareholders typically do not actively manage the day to day operations of their corporations. The implication of this Article is that it effectively overrides the traditional function of a corporate Board and also negates the other Articles.
- Article 26.1 requires the consent of the "City Commissioners" (now the City Manager) for written resolutions adopted by the Shareholder or the Board, or for amendment of the Articles. This provision requires the City Manager to consent to, not only the Board's resolutions, but those of the Shareholder. The City Manager is accountable to Council and homeEd's Board is accountable to the Shareholder (the City). Hence, it would be difficult to imagine when the City Manager would withhold consent to resolutions passed by the Shareholder. Further, this provision implies that the City Manager can also refuse to consent to resolutions passed by the Board which effectively veto's the Board's authority.

Consequently, articles 2.3 and 26.1 limit the authority of homeEd's Board and its capacity to strategically govern homeEd. These articles also leave the Board without a clear role in homeEd's organizational structure. Given that the Articles are dated, and Articles 2.3 and 26.1 may no longer be required, we recommend that the Articles be amended in order to clarify the roles, responsibilities, and powers of the Board, Shareholder, and City Administration. We believe that this will be the first step towards a more effective governance structure, where strong communication between management and the Board, and clear accountability between management, the Board, and the Shareholder exist.

We would like to emphasize that the decision of how the Articles should be amended is up to the Shareholder. The City of Edmonton is the sole Shareholder of homeEd. However, there are no express provisions in the Memorandum or Articles specifying how the Shareholder is to vote, who is to vote, etc. As there are no express provisions dealing with how the Shareholder may exercise its rights and responsibilities, the governing body of the City must exercise those rights and responsibilities for the

Shareholder. Council is the governing body of the City and therefore is the representative for the Shareholder. Accordingly, we have made a recommendation to homeEd’s Board to call a Shareholder meeting so the Shareholder’s representative can be provided with the information it needs to decide how the Articles should be amended. The Shareholder may want to consult with the Housing Branch as it has been involved in managing homeEd since 1995.

Our report outlines two potential options for the Shareholder to choose from when deciding how the Articles should be updated: (1) have City Administration involved to some degree in the governance and operations of homeEd, or (2) allow the Board to govern homeEd without the involvement of City Administration. The Shareholder would then exercise the typical rights of a Shareholder, or reserve to itself particular areas of control as it deems necessary and beneficial. Figure 1 illustrates the decisions required by the Shareholder.

**Figure 1 – Shareholder Decision Required**

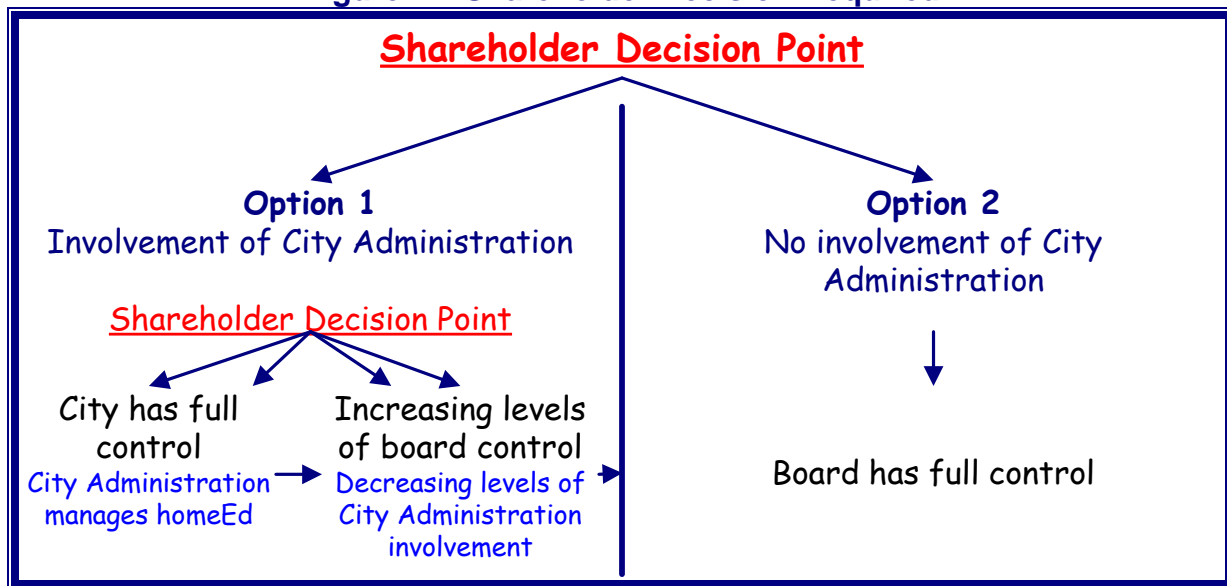


Table 1, on the following page, outlines the key benefits and risks to the City under each option.

**Table 1 – Benefits and Risks to the City**

<b>Option 1 – Involvement of City Administration</b>	
<b>Benefits</b>	<b>Risks</b>
<ol style="list-style-type: none"> <li>1. The Shareholder can have the Articles amended to give the City as many or as few rights and responsibilities as they determine is in the best interest of the City.</li> <li>2. Increased ability to control how homeEd achieves its mandate.</li> <li>3. Control over non-municipal program funding from other levels of government.</li> </ol>	<ol style="list-style-type: none"> <li>1. Responsible for legal liabilities of homeEd.</li> <li>2. Loss of third party accountability.</li> </ol>
<b>Option 2 – Typical Board and Shareholder Roles</b>	
<b>Benefits</b>	<b>Risks</b>
<ol style="list-style-type: none"> <li>1. Less risk of legal liability.</li> <li>2. Third party accountability.</li> <li>3. Adheres to best practices in corporate governance.</li> </ol>	<ol style="list-style-type: none"> <li>1. The Board may have difficulty in independently achieving the mandate of homeEd.</li> <li>2. City will lose management control over homeEd operations.</li> </ol>

This report includes recommendations with respect to each option, in order to ensure homeEd's new organizational and governance structures follow best practices as much as possible. A key recommendation that applies to both options is that homeEd should be holding distinct Shareholder meetings. When Councillors act as Shareholders, their actions are as self interested Shareholders, not Councillors. The Shareholder in this case is the City of Edmonton. The Municipal Government Act requires Councillors to act in the interest of the whole City when they perform their duties in Council. As a Shareholder, it may have defined interests with respect to the company that do not extend to the City as a whole.

Our review also revealed that homeEd does have documented procedures, but does not have documented policies to guide daily operations. Documented policies enable management to monitor and ensure that business practices are consistent and relevant to the organization. We have initiated a separate review focused on the financial operating practices/procedures and controls within homeEd.

# City of Edmonton Non-Profit Housing Corporation Governance Review

## 1. Introduction

The Office of the City Auditor (OCA) included this project in its 2010 Annual Work Plan at the request of the City of Edmonton Non-Profit Housing Corporation Board. The City of Edmonton Non-Profit Housing Corporation is known in the community as **homeEd**. We will refer to it as homeEd in our report.

## 2. Scope, Objectives, and Methodology

### 2.1. Scope

The scope of this audit includes homeEd's governance and organizational structures, as well as its operating policies and procedures that were in place from January to April 2010. It does not include the operations of homeEd.

### 2.2. Objectives

The objectives of this audit were to determine if homeEd has:

1. An effective governance structure;
2. An effective organizational structure; and
3. Sufficient documented policies and procedures to guide operations.

### 2.3. Methodology

To gather information on homeEd's governance and organizational structures and operating policies and procedures, we surveyed current Board members, and had discussions with the Board Chair, homeEd's senior management team, and representatives from the Office of the City Clerk. We also reviewed key documentation such as homeEd's incorporation and continuance documents, minutes, company information, and the City's policies with respect to civic agencies. We also asked the Law Branch to provide a legal opinion on the Articles of Incorporation (Articles) and clarify the role of the Board and the Shareholder.

As part of this review we reviewed current literature on best practices in corporate governance and policies and procedural documentation for non-profit organizations. We found the following key sources helpful in defining best practices:

- *The Effective Non-Profit Board*, Deloitte Canada
- *Policy Governance*, John Carver
- Institute on Governance (Canada)

We also obtained and reviewed information on the governance practices and policies and procedures used by similar housing corporations/ associations including:



- Calgary Housing Company
- Toronto Community Housing Corporation
- Ontario Non-Profit Housing Association
- Capital Region Housing Corporation

### 3. Background

#### 3.1. History

In 1977, City Council passed *Bylaw 5107, A bylaw to provide for the incorporation of a Non-Profit Housing Corporation*. This Bylaw authorized City Administration to arrange for the incorporation of homeEd with the City of Edmonton as the sole Shareholder. It also appointed the Mayor and City Commissioners as provisional directors until such time as the City appointed permanent directors. The current Board consists of seven citizen-at-large members appointed by City Council. *Bylaw 5107* contains homeEd's Memorandum of Association which sets out the objectives of the corporation and the Articles which describe the roles, responsibilities, authority, and accountability of the Board and the Shareholder.

#### 3.2. homeEd Mandate

Per *Bylaw 5107*, homeEd's mandate is "to develop, provide, operate and maintain housing accommodation of all kinds." In its 2009 Activity Report to the City, homeEd refined its mandate as the following: "The function of homeEd is to facilitate the development, provision, operation and maintenance of non-profit municipal housing accommodation."

As a non-profit housing provider, homeEd's operating objective is to maintain a break-even financial position. It does this by obtaining grants from all three levels of government and collecting subsidized or market rents from tenants. Rents and grants generate sufficient revenue to cover annual operating costs. In 2009, homeEd rented approximately 52 percent of its housing units at subsidized rates. The rental rates for these units are based on either the tenant's annual income or the agreements homeEd has with the governments who provided funding for the purchase or development of the units. They rented the remaining 48 percent of the units at the low end of market rates. The low end of market rates are set by the federal and provincial authorities on an annual basis.

homeEd currently owns and operates 19 properties with a total of 806 housing units. Its holdings are divided into two divisions based on the type of funding used to construct and operate the property. Division 1 consists of properties operating under subsidy operating agreements with the Canada Mortgage and Housing Corporation (CMHC) and Alberta Housing and Urban Affairs. It contains 14 properties with a total of 658 units. Division 2 consists of five properties with a total of 148 units. Division 2 properties are funded through a combination of capital grants (from the City's Cornerstones Grant

Program<sup>1</sup> and from the Affordable Housing Partnership Initiative – a Provincial/Federal program), homeEd equity, and debt financing (from loans from the City of Edmonton).

Table 2 provides a visual representation of homeEd's growth and activity from 1977 to 2010. Note that from 1993 to 2008, homeEd's focus was directed to operating and maintaining its existing properties, as no external grant funding was received. Since 2008, acquisition activity has been growing steadily in response to Edmonton's population growth and funding opportunities.

**Table 2 – homeEd Property Growth**

Year	# of New Properties	# of New Units
1981	6	249 units
1982	4	168 units
1983	3	221 units
1993	1	20 units
2008	1	39 units
2009	2	55 units
2010	2	54 units
<b>Total</b>	<b>19</b>	<b>806 units</b>

### 3.3. Organizational Structure

From 1977 to 1995 the organizational structure of homeEd consisted of a Board that included citizens, as well as members of Council and City Administration, who were collectively responsible for governing the affairs of homeEd. The execution of homeEd's mandate was delegated to its General Manager (GM), who was independent from the City Administration, who provided oversight to the daily operations which were managed by a private property management company. In 1995, poor financial performance and the impending retirement of the GM resulted in a management agreement between the City's Office of the Commissioner of Housing and the Board. According to the agreement, the City's Office of the Commissioner of Housing would manage the operations of homeEd and the Board would continue to provide strategic direction. While the agreement was for an initial trial period of one year, it has continued to be in effect since 1995. The same City employee acted as the GM of homeEd from 1995 until his retirement from the role of the City's Housing Branch Manager in January 2010.

At the time of this audit, as an interim solution until a new GM is appointed, homeEd was co-managed by the City's Director of Housing Services in the Planning and Development Department and the City's Director of Leasing and Property Management in the Asset Management and Public Works Department. These City staff members perform these duties in addition to their regular duties. As homeEd's co-GM, the

<sup>1</sup> The **Cornerstones Grant Program** is part of Edmonton's plan for affordable housing. It provides grant funding to incorporated non-profit and for-profit organizations who are building long term affordable housing projects in Edmonton.

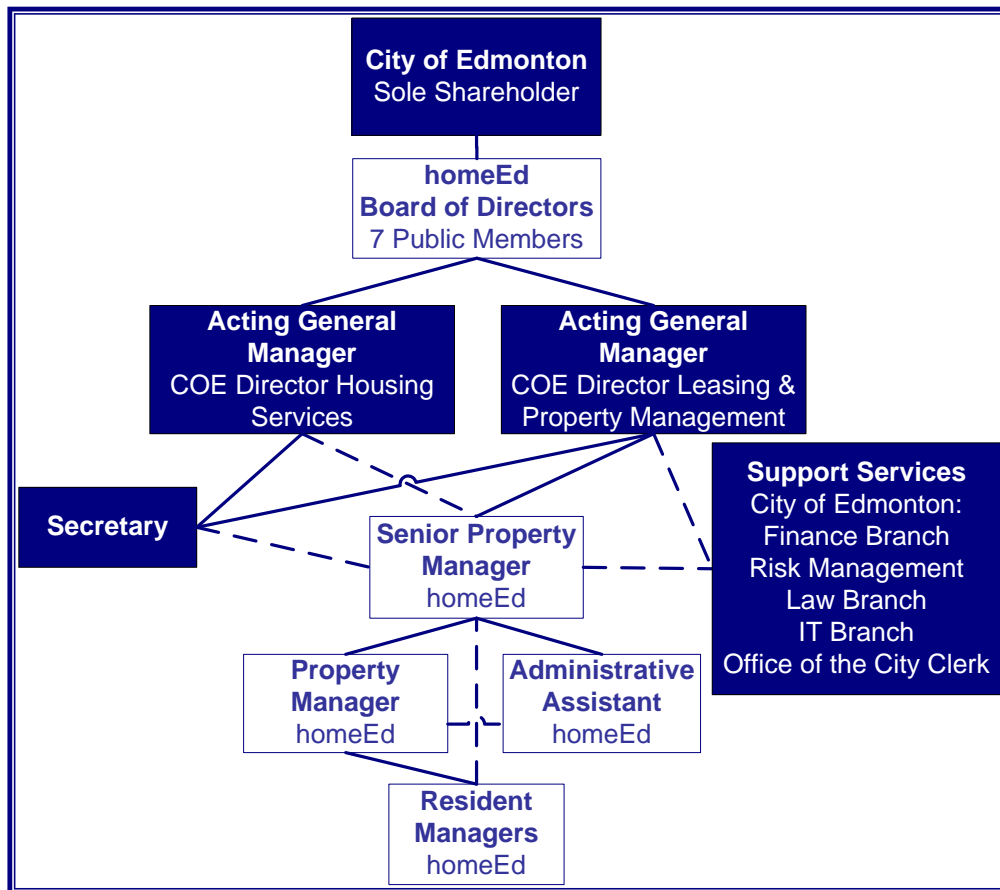
Director of Housing Services is responsible for managing major procurements such as real estate acquisitions, and providing strategic direction to the Board. The Director of Leasing is responsible for homeEd’s daily operations.<sup>2</sup>

Figure 2 illustrates homeEd’s organizational structure, at the time of this audit, and the involvement of City staff and services. City services and staff used by homeEd are highlighted by the shaded boxes. Solid lines represent direct reporting lines and dotted lines represent informal reporting lines.

**Figure 2 –homeEd Organizational Structure**

City services and staff used by homeEd are highlighted.

Solid lines represent direct reporting lines and dotted lines represent informal reporting lines.



#### 4. Financial Information

Table 3 highlights key figures from homeEd’s audited financial statements for the year ended December 31, 2008 and 2009. Note 7 of the 2009 audited financial statements indicated that homeEd’s mortgages will begin to mature in 2016.

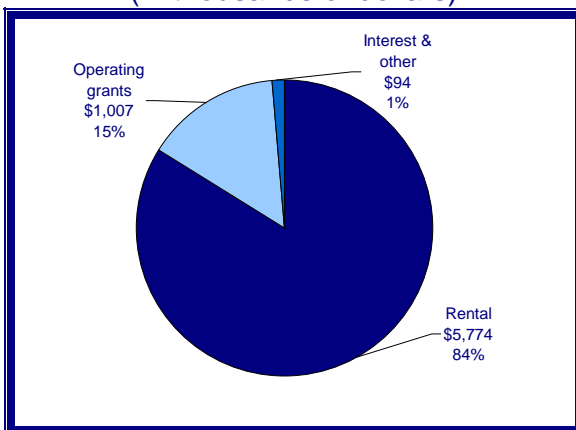
<sup>2</sup> In June 2010, after the completion of the fieldwork for this review, homeEd’s former GM (who retired in January 2010) informed us that he was temporarily back as the GM of homeEd.

**Table 3 – homeEd’s Key Financial Figures (Audited)**  
(in thousands of dollars)

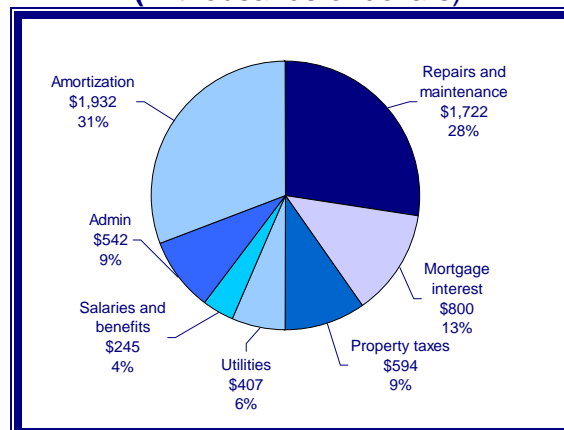
	2009	2008
Housing Projects	\$27,903	\$22,713
Cash	4,816	4,496
Long Term Debt	18,493	17,229
Revenues and Grants	6,875	6,110
Expenses	6,242	5,370

In 2009, homeEd’s total revenues were \$6.875 million and its total expenses were \$6.242 million. The excess of revenue over expenses was used to increase homeEd’s replacement reserves. Charts 1 and 2 show the breakdown of revenue and expenses by category. They highlight that rental revenues and repairs and maintenance form the majority of cash inflows and outflows for the organization respectively.

**Chart 1 – 2009 Revenue**  
(in thousands of dollars)



**Chart 2 – 2009 Expenses**  
(in thousands of dollars)



As mentioned in Section 3.3 City employees manage and provide services to homeEd. homeEd does compensate the City for some of these services, but not all. The following lists the services provided by the City that homeEd paid for:

- Housing Branch Manager – \$20,000 (arbitrarily agreed upon amount)
- homeEd secretary – entire salary
- City’s Finance Branch – \$61,000 (cost for some accounting services)
- Risk Management Branch – \$55,000 (insurance premiums)

homeEd does not pay for other support and services it receives from the City’s Law and IT Branches, the Office of the City Clerk, or the Housing and Leasing Directors.

## 5. Observations and Analysis

### 5.1. Governance Observations

Our review of homeEd's governance structure revealed that the effectiveness of homeEd's Board has been limited due to differing perspectives on the Board's role. City Administration views the homeEd Board as a policy Board and not one that should necessarily involve itself with overseeing the management of homeEd. In contrast, the homeEd Board feels that its role should be one that goes beyond "rubber stamping" to one that provides more governance and oversight. Consequently, this disconnect between the Board and management has led to role ambiguity for the Board. We also believe that it has resulted in poor communication between the Board and management. This statement is supported by the Board and our review of Board meeting minutes between April 2008 and February 2010; however, it is not supported by management, who feel they have had consistent, open communication with the Board.

We also found that homeEd's current organizational structure is atypical because there is no clear distinction between the corporation and its Shareholder. The Shareholder actually manages the corporation via its employees. At the time of this audit, as discussed in Section 3.3, the GM of homeEd since 1995, the City's Housing Branch Manager, had retired. As an interim solution two City Directors from the Planning and Development Department and the Asset Management and Public Works Department were acting as homeEd's co-GMs.

We have concluded that revising/updating homeEd's Articles is required to clearly define the roles and responsibilities of the Board and the Shareholder. This will also ensure it is clear who is responsible for appointing the next GM of homeEd.

#### 5.1.1. Review of Articles of Incorporation

##### General observations

The Articles for a company define and describe the roles, responsibilities, and authority of the Board and Shareholders. Articles are legal and binding documents that must be adhered to by both the Shareholder and the Board. The homeEd Articles were established in 1977 and have not been changed since that time.

We asked the Law Branch to review homeEd's Articles and provide us with an opinion of the roles and responsibilities of homeEd's Board and Shareholder.

1. **Role of the Shareholder** – The City is the sole Shareholder of homeEd and the Memorandum under which it was created prohibits the addition of any other Shareholders. There are no express provisions in the Memorandum or the Articles specifying how the Shareholder is to vote, who is to vote, etc. As there are no express provisions dealing with how the Shareholder may exercise its rights and responsibilities, the governing body of the City must exercise those rights and responsibilities for the Shareholder. Council is the governing body of the City and

therefore, is the representative for the Shareholder. As the representative for the Shareholder, Council appoints Board Members in accordance with its civic agency appointment policy.

- 2. Role of the Board** – The Board is responsible for appointing a managing director and other senior officers who would be responsible for the daily management of the corporation. The Board is responsible for maintaining accounts and records, and in all other respects, to manage the company pursuant to the other standard provisions in the Articles.

The Law Branch advised that the Articles are standard Articles for the time they were established, except for sections 2.3 and 26.1.

### **Article 2.3 - Meaning and implication**

Article 2.3 states that the Shareholder may manage homeEd via “written statement”. It also gives the Shareholder the power to change Board decisions retroactively. It removes the requirement for meetings of any kind, although meetings are still permitted. In essence, Article 2.3 gives the Shareholder the legal power to manage all aspects of homeEd. This article effectively overrides the function of a corporate Board and also negates the effect of the other Articles.

### **Article 26.1 - Meaning and implication**

Article 26.1 requires the “City Commissioners” (now the City Manager) to give written consent to amendments to the Articles, and to written resolutions of the Board or the Shareholder. The City Manager is answerable to the same Council that would be passing written Shareholder resolutions, so this aspect of the Article is of no use. It is difficult to imagine when the City Manager would withhold consent. However, by withholding consent, the City Manager can deny the Board the ability to pass written resolutions in lieu of having a Board meeting.

### **Conclusion**

Articles 2.3 and 26.1 effectively give the Shareholder and the City Manager the power to operate and manage homeEd. The Board may meet and pass resolutions, but its legal ability to manage the company is subject to Shareholder control. The Shareholder may govern the company by “written statements” that take precedence over the Board’s decision. The Board is uncertain of its role because the Shareholder is empowered to manage the company, and the Shareholder’s employees are actually managing it.

Best governance practices (see Appendix 1) indicate an amendment to the Articles and practice is required to afford the Board appropriate roles and responsibilities in managing homeEd. Later in this report, our second recommendation is to amend the Articles to clearly define the roles and responsibilities of the Board, Shareholder, and their management.

#### **5.1.2. Shareholder decision point**

Due to the confusion caused by the existing Articles and management arrangements, the Articles should be updated to clearly define and discuss:

- The Shareholder’s role and responsibilities;
- The role of the Board and the authority granted to it with respect to homeEd’s operations;
- The level of involvement City Administration should have in managing homeEd.

The decision on what to include in the updated Articles is a decision that requires the consideration and direction of the Shareholder. To facilitate the Shareholder’s decision, we are recommending that the homeEd Board call a Shareholder meeting where the Shareholder can be provided with the information it needs to make an informed decision regarding how the Articles should be updated. The Shareholder may also want to consult the Housing Branch since it has been involved in the managing of homeEd since 1995.

We also recommend that changes to the Articles reflect best governance practices, as much as possible. Appendix 1 includes best practices for Shareholder and Board roles and responsibilities and a comparison to the current practices of homeEd.

## Recommendations

### Recommendation 1

The Office of the City Auditor recommends that the City of Edmonton Non-Profit Housing Corporation Board call a Shareholder meeting so the Shareholder can be provided with the information it needs to make a decision on the level of involvement it would like to have over the City of Edmonton Non-Profit Housing Corporation.

### Board Response and Action Plan

The homeEd Board is in agreement with the recommendations brought forward by the Office of the City Auditor.

The homeEd Board will communicate with the stakeholders and set up a meeting at a time of mutual convenience, to provide the relevant information to the Shareholder.

In late 2009, the Board of the City of Edmonton Non Profit Housing Corporation (homeEd) requested that the Office of the City Auditor perform a governance audit of the organization. This request arose from concerns that the Board may not be properly exercising its fiduciary duties as it was unable to effectively direct corporate resources.

We recognize that some of the problems faced by homeEd are symptomatic of the current hybrid governance structure of the organization as it has evolved to date. That homeEd has been able to function as well as it has is a credit to all the individuals involved in the organizations.

The homeEd Board’s consensus is strongly in favour of “Option 2”. The Board recognizes that a transitional period will be required to enable homeEd to migrate from

its present hybrid structure to the structure outlined in Option 2. The Board stands ready to coordinate the necessary resources to initiate this metamorphosis and support it in the interim through to its conclusion. The Board recognizes that the speed and success of the transition process will be dependant on homeEd receiving support from external funding sources, inclusive of Federal, Provincial, and Municipal levels of government, and various other support services.

A policy governance model will clearly define the roles and responsibilities of the Shareholder, the Board and the Administration and is in line with best practices of not-for-profit organizations.

## Recommendation 2

The Office of the City Auditor recommends that the City of Edmonton Non-Profit Housing Corporation Board facilitate the review and updating of their Articles of Incorporation to:

- Clearly define the roles and responsibilities of the Shareholder, the Board, and City Administration.
- Incorporate best practices in Shareholder and Board roles and responsibilities, based on their relevance and applicability to homeEd's organizational structure.
- Incorporate any changes to the Articles decided at the Shareholder meeting.

## Board Response and Action Plan

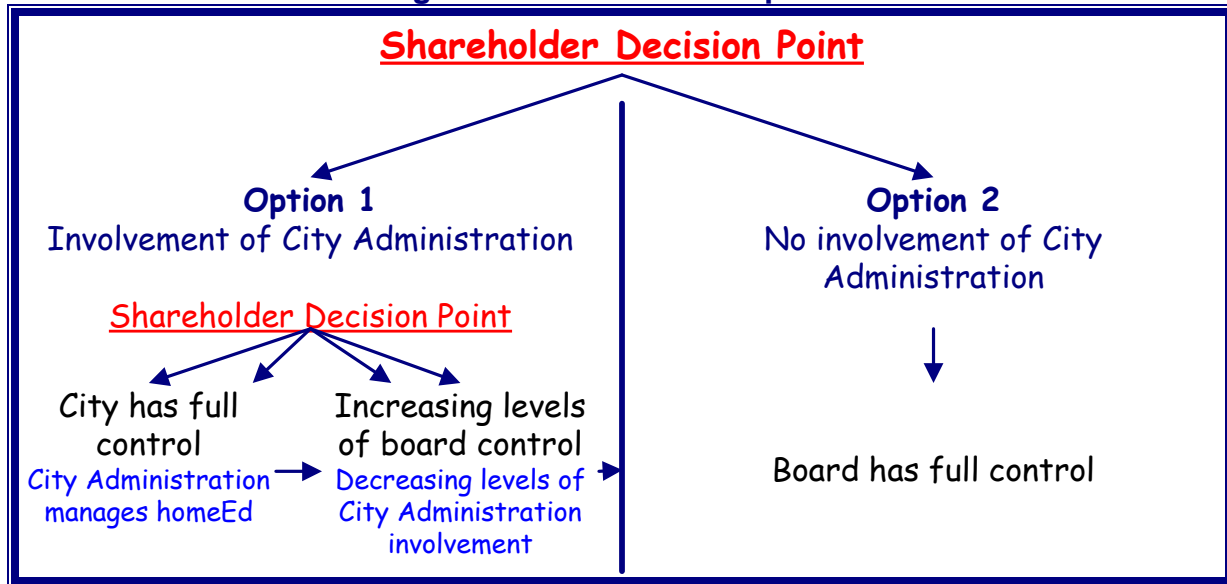
Under either Option 1 or Option 2, as selected by the Shareholder, the homeEd Board will support and facilitate the items outlined in the recommendation.

### 5.1.3. Shareholder's options

We believe the Shareholder has two practical options when deciding on what should be included in amendments to the Articles. It can choose to: (1) have City Administration involved at some level in the governance and operations of homeEd or (2) allow the Board to govern homeEd without the involvement of City Administration. Figure 3, on the following page, depicts these options.



Figure 3 – Shareholder Options



**5.1.4. Option 1 – Involvement of City Administration**

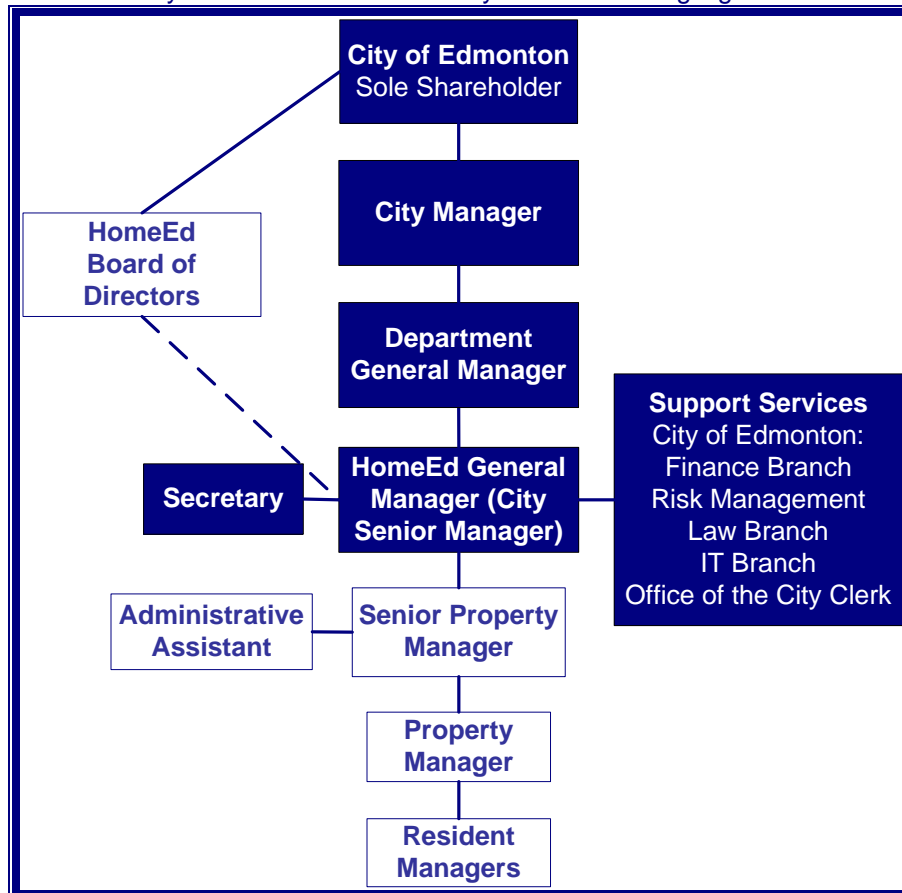
As shown in Figure 3, under Option 1 the Shareholder will need to choose the level of involvement City Administration will have in the governance and operations of homeEd. This could range from the City having complete control (homeEd is run by a delegate of the City Manager) to any combination of City and Board control, without giving the Board full control.

The current structure of homeEd fits into this option. The Shareholder could choose to keep the current structure and not amend the articles. If it does this, it would have to issue a written statement delegating the power to manage homeEd to Council or the City Manager or a delegate. There should also be an amendment to the City Administration Bylaw with respect to this delegation.

Figure 4, on the following page, shows one example of an organizational structure for homeEd if the Shareholder chooses to maintain operating and governance control over homeEd.

**Figure 4 – Option 1: Involvement of City Administration  
Sample homeEd Structure**

City services and staff used by homeEd are highlighted.



The example shown in Figure 4 assumes that City staff will continue to manage homeEd. For this to occur the amended Articles need to give the Shareholder the power to manage homeEd and appoint its GM. The Shareholder would then need to delegate these powers to Council. The GM of homeEd would be accountable to his/her Departmental General Manager for his/her work relating to homeEd. The Shareholder would need to determine the level of accountability that the homeEd GM would have to the homeEd Board, and subsequently define that accountability in the amended Articles or updated management agreement.

Having City Administration involved in the operations and governance of homeEd allows the Shareholder to have more control over the corporation than a typical Shareholder. This is beneficial to the City for the following reasons:

1. **Control over management** – Articles can be amended to give the City as many or as few rights and responsibilities as the Shareholder determines is in the best interest of the City. By delegating power to manage homeEd to the City Manager, the Shareholder can hold the City Manager accountable for the performance of homeEd. A typical Shareholder would only have the power to appoint and dismiss Board members if it was dissatisfied with the performance of the company.

2. **Achievement of homeEd mandate** – The City can use the expertise and experience of City staff to help meet the mandate of homeEd. This includes using the connections of the City staff to ensure homeEd is aware of and applies for the funding that becomes available from other levels of government to operate, maintain, and develop non-profit housing.
3. **Control over non-municipal program funding** – homeEd, as a separate non-profit company from the City, can apply for and receive non-profit housing grant funding from the federal and provincial governments. This type of funding may not be available to municipalities. Through its management of homeEd, the City would control how homeEd spends this type of grant funding.

There are also risks to the City if the Shareholder chooses to use City Administration to manage homeEd. The Shareholder needs to consider these risks when choosing the level of involvement the City will have with homeEd. The risks are:

1. **Responsible for legal liabilities** – Per the legal opinion provided by the Law Branch, with the City's staff currently managing homeEd and all aspects of homeEd's financial, legal, and information management, there is a significant risk to the City that it would be held responsible for homeEd's legal liabilities, obligations, and judgments. Shareholders lose the benefit of limited liability to the extent that they take over management oversight functions from the Board's directors.

This risk has been present since 1995 when the City took over the management of homeEd, and will continue if the Shareholder chooses to maintain City Administration involvement in homeEd.

2. **Loss of third party accountability** – Just as being able to hold the City Manager accountable for the operations of homeEd is considered a benefit of controlling homeEd, it can also be considered a risk. By not allowing homeEd to act as a separate company from the City, the Shareholder loses the right to have another entity perform work and be accountable for the results – this is one of the main reasons for incorporating a company.

### Option 1 recommendations

If the Shareholder decides to amend the articles and maintain control over the operations by appointing City Staff to manage homeEd there are five things we would recommend:

1. That the Shareholder delegate the power to appoint the GM of homeEd to Council, through a Shareholder resolution.
2. That the City amend the *City Administration Bylaw* to permit the City Manager to dedicate resources and staff to homeEd.

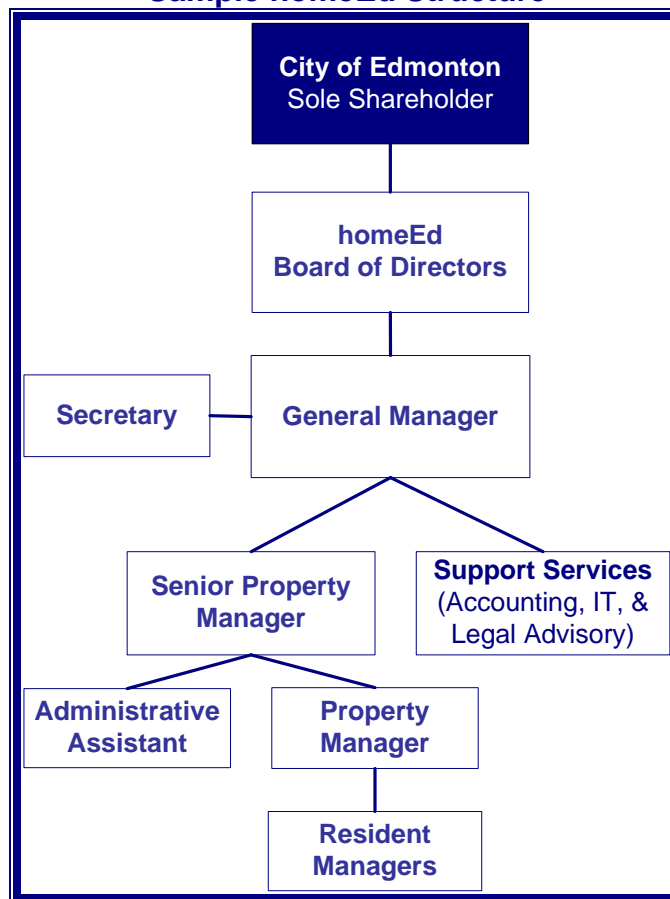
3. That the City Manager or his delegate responsible for homeEd ensure homeEd’s Shareholder attend homeEd Shareholder meetings to deal with homeEd’s corporate matters.
4. That the City Manager sets clear objectives for the GM of homeEd and ensure that the GM is evaluated on the basis of objective criteria.
5. That the City Manager ensures the organizational structure of homeEd is designed to have clear lines of accountability and communication.

**5.1.5. Option 2 – No involvement of City Administration**

Under Option 2 City Administration will not be involved in homeEd. The Shareholder will choose to allow the Board to govern homeEd and be accountable to the Shareholder for homeEd’s performance.

Figure 5 shows an example of an organizational structure for homeEd if the Shareholder chooses to empower the Board and not involve City Administration in managing homeEd.

**Figure 5 – Option 2: No Involvement of City Administration  
Sample homeEd Structure**



As discussed in Appendix 1, best practice for corporate Boards is to hire and evaluate the GM. The Board should create objectives for the GM and subsequently monitor his/her performance against objective criteria. Having objectives for the GM will make him/her solely accountable to the Board and will also provide a direct line of communication between the Board and the GM.

Based on the results from our survey of homeEd's Board, one of the objectives should be that the Board must be provided with relevant and timely information sufficient to support the Board's role in overseeing the management of the company. This would contribute to efficiency because managers would be operating on one set of clearly defined objectives created by the Board. The manager would then be responsible for recruiting and monitoring homeEd staff, who would, in turn, be responsible for the day-to-day operations. Under this model, the manager would handle daily issues and update the Board periodically on pertinent matters.

We should also note that Figure 5 highlights the fact that the GM would have to obtain essential support services like accounting, IT, and legal advisory services from specialized firms or through the recruitment of qualified candidates. As noted earlier, these services are currently provided by the City at less than market rates.

By choosing to amend homeEd's Articles to reflect the roles and responsibilities typically performed by corporate Boards and their Shareholders, the Shareholder will be choosing to follow common best practices in corporate governance. This is beneficial to the City for the following reasons:

1. **Decrease risk of legal liability** – One of the primary reasons for incorporating a company is for the Shareholders to secure the benefit of limited liability. Meaning, if the company is sued, the Shareholders will not be liable for anything more than the value of their share capital. Shareholders lose this benefit to the extent that they actively engage in the management of the company. By allowing the Board to control homeEd, the City will not be seen as managing homeEd, thereby reducing the risk that it would be held responsible for homeEd's legal liabilities, obligations, and judgments.
2. **Third party accountability** – Another one of the primary reasons for incorporating a company is to create an entity to perform certain functions for the Shareholder. The Shareholder holds that entity accountable for the results. Currently, homeEd is managed by City staff. The Board is not managing the company and cannot be held accountable for performance it does not control.
3. **Follows best practice in corporate governance** – Appendix 1 outlines the best practices in roles and responsibilities of Shareholders and Boards and compares them to the current situation at homeEd. The organizational and governance structures created by Option 2 would allow the City and the Board to follow these best practices and reflect the typical relationship of Shareholders and Boards. Following best practices will lead to a good governance system. A good governance system helps an organization focus on the activities that contribute most to their

overall objectives and ensure that resources are managed in the best interests of its Shareholders.

There are also risks to the City if control of homeEd is provided to its Board. The Shareholder should consider these risks when deciding on the level of control they want the City to maintain over homeEd. The risks to the City in choosing Option 2 are:

1. **Difficulty achieving homeEd’s mandate** – There is a risk that homeEd may find it harder to meet its mandate without City involvement due to the loss of expertise and services currently provided by the City. Under the management of City staff, homeEd is meeting its mandate to develop, operate, and maintain non-profit housing in Edmonton. The City staff who have been managing homeEd have been able to secure grant funding from all levels of government to help homeEd achieve its mandate. As discussed earlier, homeEd is partly able to meet its objectives because it does not pay market rates for services it receives from the City. If the Board was entirely responsible for obtaining these services at market rates, homeEd might have financial difficulties in reaching its mandate. The City could however, provide grants or loans to homeEd to increase the transparency of the funding homeEd actually receives.
2. **Limited control over homeEd’s operations** – Currently, under the management of City staff, the City has direct control over the operations of homeEd. If the Shareholder gives full control to the Board and follows best practices for the roles and responsibilities of a Shareholder, it will be limiting its control over homeEd to the appointment and dismissal of Board members.

### Option 2 recommendations

If the Shareholder decides to empower the Board there are four things we would recommend:

1. That the City provides notice to the Board that their agreement with the Board is ending. The City’s Office of the Commissioner of Housing and the homeEd Board entered into an agreement entitled “Undertaking Agreement” in July 1995, wherein the Office of the Commissioner of Housing offered to manage homeEd for the Board. The Office of the Commissioner of Housing no longer exists; however, City staff have continued to operate homeEd. Therefore, if the City intends to cease providing the services specified in the agreement, the City must give appropriate notice.
2. That Shareholder meetings be held for homeEd. Calling the meeting would be the Board’s responsibility.
3. That the Board appoint homeEd’s GM, who would be solely accountable to the Board and fully compensated by homeEd.
4. That the Board establish and evaluate the GM on the basis of clear and objective criteria that include:

- Providing the Board with relevant and timely information which supports their governance role.
- Establishing and monitoring staff performance.
- Establishing and maintaining clear and open communication with staff.

### Conclusion

homeEd's Articles are outdated and include atypical Articles. A decision is required from the Shareholder on the level of control it wants over homeEd before the Articles can be updated. As this is a policy decision, we have not made a recommendation on how the Articles should be updated. We have made recommendations to the homeEd Board to facilitate the updating of the Articles and to call a Shareholder meeting so the Shareholder can be provided with the information they need to make an informed decision on how the Articles should be updated. We have also provided recommendations, depending on the decision the Shareholder makes, that will ensure homeEd's new organizational structure is effective.

## 5.2. Operational Policies and Procedures

Our review found that homeEd does have documented procedures but does not have documented operating policies. Operating policies provide the framework to guide organizational behaviour. Without documented policies, it would be difficult for homeEd management to effectively monitor the achievement of the organization's objectives. In other words, documented operational policies help management assure that its control processes are working, that employees make appropriate decisions regarding day to day activities, and employees and situations are treated consistently. We therefore recommend that homeEd management document their operating policies.

### Operational procedures at homeEd

homeEd management has documented the procedures for some of the regular office staff activities including the hiring of new resident managers and processes for expenditure claims as they relate to maintenance. Documented procedures for residential managers that encompass tenant applications, rent-collections, and new move-ins and move-outs also exist. In addition, because homeEd is using the financial services of the City, it is subject to the City's financial reporting procedures which are also documented.

### Operational policies at homeEd

Since homeEd does not have documented operating policies, management needs to determine their key policies and document them. Once management has documented the policies they should be regularly evaluated to ensure they are up-to-date and relevant. As well, management should ensure that homeEd staff are aware of the policies and are following them.

A key consideration in deciding which policies to document should be those policies that directly relate to the critical success factors and/or key business objectives of homeEd. During our review, homeEd management discussed policies that they are currently following but are not documented. These policies included:

- Human resources policies related to recruitment, termination, employee evaluation, vacation, and benefits.
- Adherence to housing and other applicable legislation.
- Safety and operations of maintenance equipment.
- Administration of daily activities including maintenance and duties of Resident Managers.

In addition to the policies listed above, Table 4 lists additional operating policies that we found through our review of best practices in non-profit corporations.

**Table 4 – Other Non-Profit Corporation Operating Policies**

<b>Operating Policies</b>	
Purchasing and awarding of contracts	Accessibility
Human resources	Tenant complaint procedures
Health and safety	Employee benefits
Compliance with legislation and regulations	Employee leaves (vacation, statutory holidays, sick days, leave of absence, etc.)
Administration	Staff business expenses
Public relations	Service standards
Privacy, confidentiality, and ethics (code of conduct)	Staff development and educational assistance
Performance evaluations	Use of equipment and email
Office hours	Records management
Conflict of interest, employment of relatives	Tenant transfers

**Conclusion and recommendation**

homeEd management needs to decide which operating policies they should document. These policies should provide a framework for decision making and lead to desired actions by staff. Policies should also align with homeEd’s critical success factors and/or key business objectives. As a starting point, homeEd should consider documenting its unwritten policies, as well as best practices in documented policies by other non-profit organizations. Once homeEd management has documented its policies, they should be communicating them to homeEd staff and periodically reviewed to ensure they remain relevant and up-to-date.

**Recommendation 3**

The Office of the City Auditor recommends that the General Manager of the City of Edmonton Non-Profit Housing Corporation:

- Document its operational policies to provide a framework for decision making and desired actions by staff of homeEd.
- Regularly evaluate its operational policies and procedures and ensure that policies are relevant and up-to-date.
- Ensure that all staff are aware of and following the operational policies and procedures.



**Management Response and Action Plan**

Management supports this recommendation. The documentation of its operational policies will be undertaken in a consultative, comprehensive manner. Implementation of this recommendation will be undertaken under the leadership of the homeEd General Manager and will be completed by year end, 2010. All staff will subsequently be apprised of the operational policies and procedures.

A subsequent annual review of these operational policies and procedures will be undertaken.

## 6. Conclusion

Our governance review of homeEd revealed that the disconnect between management and the Board with respect to the Board's role in homeEd has resulted in role ambiguity for the Board and has limited their ability to provide effective governance. This disconnect has also contributed to poor communication between management and the Board which, consequently, has negatively impacted the effectiveness of the governance structure.

We asked the Law Branch to review homeEd's Articles in order to determine the legislative roles and responsibilities of the Board and the Shareholder. The Law Branch's review determined that homeEd's current Articles were created in 1977 and the roles and responsibilities of the Shareholder and the Board defined in the homeEd Articles are relatively standard for Articles created at that time, except for Articles 2.3 and 26.1.

- Article 2.3 – gives the City, as the sole Shareholder, the right to manage homeEd through written statements and override any decision made by the Board.
- Article 26.1 – states that the City Manager must provide his written consent to amend homeEd's Articles and for written directors' and Shareholder resolutions.

Both Articles, as currently stated, essentially override the ordinary function of the Board which is to provide oversight over the company.

Consequently, we conclude that the Articles should be updated given their age and the inclusion of Articles 2.3 and 26.1. However, how they are updated is a decision for the Shareholder to consider. The Shareholder must determine how much control it would like to have in relation to homeEd. Once that is determined, the Articles can be updated to reflect that decision. In deciding what to include in the updated Articles, we have provided the Shareholder with two potential options: (1) have City Administration involved at some level in the governance and operations of homeEd, or (2) to allow the Board to govern homeEd without the involvement of City Administration, making it fully accountable to its Shareholder.

We have made two recommendations to the homeEd Board to help implement the changes in the Articles, including ensuring the Articles are updated and calling a Shareholder meeting where the Shareholder can obtain the information it needs to help

make its decision. We also made additional recommendations under each of the Shareholder's options.

As part of this review we also looked at homeEd's documented operating policies and procedures. We found that homeEd does have documented procedures for the resident managers and some office staff activities. However, homeEd does not have documented policies to guide daily operations which can lead to inconsistent business practices by employees that are, moreover, not aligned with the strategic direction of homeEd. We recommend that homeEd's management document its operating policies, evaluate them on a regular basis, and ensure that staff are aware of and are following the policies and procedures.

In closing, we would like to thank homeEd's Board and staff, and the City staff who participated in this review for their cooperation and assistance.

## Appendix 1 – Governance Best Practices

The following discussion is included in this report to show the best practices for the roles and responsibilities of the Shareholder and the Board and how the current structure of homeEd compares to the best practices.

### Role of the Shareholder

Our research revealed that generally, the role of the Shareholder is to provide a financial investment to an organization and subsequently monitor the return on their investment through the appointment of an effective Board. Besides the appointment of Board members, we also found other typical roles performed by the Shareholders. Table 5 summarizes these roles and compares them to the Shareholders current practices in relation to homeEd.

**Table 5 – Typical Shareholder Roles**

Typical Shareholder Roles	Current Practice at HomeEd
1. Appoint and remove Board members.	✓ - Yes
2. Communicate and monitor achievement of the strategic direction.	✓ - Yes
3. Develop a memorandum of understanding (i.e. Shareholder Agreement) with the Board	✓ - Yes
4. Provide Board with the decision-making capacity necessary to independently execute the organization's mandate.	✗ - No. The Board is currently treated as an advisory Board which has limited decision making capabilities.
5. Approve/disapprove major re-organizational and financial undertakings (e.g. mergers, share issues, debt financing).	✓ - Yes
6. Appoint and remove the auditors.	✗ - No. This is done by the Board.

### Role of the Board

Our review of best practices on the roles and responsibilities of Boards found 10 roles and responsibilities that are integral to effective Board governance. Our comparison of homeEd's Board practices to these roles and responsibilities is shown in Table 6.

**Table 6 – Best Practices on Board Governance  
Roles & Responsibilities**

Best Practices	Current Practice at HomeEd
1. Understands organization's purpose and role in society.	✓ - Yes
2. Develops charter/mandate that includes guidance on the Board's decision making practices.	✗ – No. Currently performed by City Clerk.
3. Engages in strategic planning that includes risk assessments and succession planning.	✗ – No. homeEd does not have a strategic plan.
4. Establishes and monitors performance metrics.	✗ – No. homeEd does not have performance metrics.
5. Engages in broad, high-level, policy development.	✗ – No. homeEd does not have documented broad, high-level policies.
6. Monitors compliance to laws and regulations.	✗ – No. Currently performed by City Administration.
7. Evaluates and appoints the General Manager.	✗ – No. Currently performed by City Administration.
8. Exercises financial stewardship (through audits/budget reviews).	✓ - Yes. However, information is not consistently received in a timely manner to allow for informed decision making.
9. Communicates with key stakeholders (i.e. homeEd tenants and funders).	✗ – No. The homeEd Board believes that it can add more value by communicating with key stakeholders.
10. Represents and advocates the organization to external contacts.	✗ – No. The homeEd Board feels they can do more to represent homeEd.

Of the above best practices there are two that homeEd should perform regardless of the level of control maintained by the City. They are strategic planning and broad, high-level, policy development. Having a strategic plan and broad, high-level, policies will help guide the organization and provide the Shareholder with objective standards for accountability.

**Strategic planning**

Currently, homeEd does not have a formal strategic plan. A strategic plan would enable the Board and the City to monitor the achievement of homeEd’s mandate. Our research on best practice in terms of strategic planning revealed that strategic planning should include:

- setting a vision, mission, purpose, short and long-term goals and objectives;
- identifying risks;
- assessing management effectiveness;
- succession planning.

**Board policies**

homeEd does not have broad, high-level, policies. Our research on best practices in terms of policy development revealed that at a minimum the Board policies shown in Table 4 should exist. Table 7 also compares the best practice policies to the homeEd’s Board current practices.

**Table 7 – Best Practices in Board Governance Policies**

Best Practices on Board Governance Policies	Current Practice at HomeEd
1. Board Processes (Decision Making, Recruitment, Training, Reimbursements, etc.)	X - In place as defined by the Articles, but not practiced
2. Conflict of Interest Policy	√ - In place as defined by the Articles
3. Code of Conduct Policy	X - No
4. Financial Management and Procurement Policies	X - No
5. Risk Management	X - No
6. Recruitment and Assessment of CEO Policy	X - In place as stated by the current Articles, but not practiced
7. Stakeholder Policies (e.g. Tenant Policies)	X - No
8. Personnel Policies (e.g. Equal Opportunity Policy, Whistle Blower Policy, etc.)	X - No

**Conclusion**

Regardless of the level of control the Shareholder chooses to have over homeEd, it is important that the amended Articles should reflect best practices in Board governance and Shareholders responsibilities. At a minimum homeEd should have in place a strategic plan and documented policies that guide business behavior and key business practices.