



SENIORS FOR SOCIAL ACTION (ONTARIO)

ADVOCACY BULLETIN

SECRECY AND LACK OF ACCOUNTABILITY – WHAT IS THE GOVERNMENT HIDING IN LONG-TERM CARE?

June 3, 2024

The Case of Orchard Villa, Pickering

Orchard Villa in Pickering, owned by Southbridge Care Homes Inc., has one of the worst track records in Ontario. During the COVID pandemic 206 of 233 residents contracted the disease in that facility and more than 70 residents died (Brown, 2024).

On April 21, 2020, the Durham Region Medical Officer of Health was concerned enough that he issued an order to Southbridge under the Health Protection and Promotion Act to address the immediate risk of COVID-19 to residents and staff of the facility. The order included the local public hospital, Lakeridge Health, taking the lead in monitoring, investigating, and responding to the outbreak. The Order required Southbridge Care Homes to “enhance measures for the protection of residents and staff” (Durham Region, 2020).

On April 22, 2020, the day after the Durham Region Medical Officer of Health issued his order, the Ontario government asked the Federal government to call in the Canadian Armed Forces (Callis, 2020). Orchard Villa was one of the facilities that the military entered, and in which it later documented horrific conditions. These included neglect, poor infection prevention and control, filthy conditions including a cockroach and fly infestation, and allegations of a resident having choked to death after being fed lying down (Brewster & Kapelos, 2020).

Yet on June 9, 2023 Housing Minister Steve Clark issued a Minister’s Zoning Order (MZO) to facilitate Southbridge Care Homes Inc. being able to expand this facility to 15 storeys with 832 long-term care beds and a retirement home with 670 units (Cross, 2023).

By anyone’s standards that amounts to a human warehouse, and presumably current residents would be forced to live in a construction site for some time. No one in the government appears to have considered that.

On May 1st, 2023 Pickering Council had voted unanimously to reject the government’s MZO, but Clark went ahead anyway.

Seniors for Social Action Ontario wants to know why, and on November 8, 2023 filed a Freedom of Information request asking for documents, e-mails and other communications between Mr. Calandra's office (the previous Minister of Long-Term Care), including his political staff and Southbridge principals and/or Yorkville Asset Management principals between October 15, 2022 and April 30, 2023 regarding Southbridge's plans for an expanded and redeveloped facility at the Orchard Villa site.

SSAO also requested documents related to the criteria and process used to determine whether or not the license and bed expansion should be approved by the long-term care Ministry and who approved it.

Additionally SSAO requested documents, e-mails, and other communications related to the role the long-term care Ministry played in issuing that MZO.

Six months later, on May 13, 2024, after yet another query, SSAO received this response from the Information and Privacy Commission Tribunal Information Coordinator:

*"Your file, IPC Appeal PA24-00107, is on track to be assigned to an acting adjudicator, who will contact you with further information regarding the process. **We anticipate that an acting adjudicator will take carriage of your file in the next few weeks.***

I acknowledge that this may be longer than expected, and apologize for the delay. This time period is longer than our historical practice for the assignment of an appeal to an acting adjudicator. The IPC experienced operational constraints during the COVID-19 pandemic, resulting in a temporary backlog of appeal files. While we have worked at an unprecedented pace over the past 12 months to clear this backlog through the initial stages of the appeal process, the result is that the mediation stage now faces an exceptional number of appeals to consider. We continue to work diligently and carefully through these appeals, and will assign your appeal to an acting adjudicator as soon as possible."

Over six months - and now weeks more, for an adjudicator to even be assigned to this file, so that SSAO can learn why the Ontario government issued an MZO to a private corporation with one of the worst track records in the province, allowing it to significantly expand in Pickering.

One would think if the backlog is this severe, that the Ontario government would have assigned additional staff to the Freedom of Information Commission. Instead, in researching the problem, this is what SSAO found.

Government Institutions Are Ignoring Public Accountability Requirements

In Ontario and elsewhere in Canada government institutions regularly violated legislated time limits, they overuse redactions, and fail to conduct comprehensive

searches for records. Of most concern – they are regularly refusing to release information that adjudicators and judges have determined are unquestionably public records. The most recent breach of this nature was when the Ontario government refused to release information on the health care worker shortage in the province (Ha, 2024).

In a historic court decision in 2005, the judge found “Parties seeking government approvals, just as parties seeking government funds or contracts, cannot expect the same degree of confidentiality as a party who is assisting government. This is particularly the case where the approvals relate to people's health and physical well-being” (Astrazeneca Canada Inc. v. Canada (Minister of Health), 2005).

It should, therefore, be a no brainer that the contract for Southbridge and an explanation of why it was issued, and the rationale for use of an MZO to facilitate it should be a matter of public record. Instead, six months later, “the public” in this case Seniors for Social Action Ontario, has not even had an adjudicator assigned to this file, much less a decision rendered.

Enter Private Freedom of Information Request Processing Companies

PrivacyWorks bills itself as a full-service team of experienced FOI professionals available to help governments process public requests for information on an as-needed basis. They soothingly tell their potential government clients “with budgets tightening and FOI talent tougher than ever to find, the ebbs and flows of incoming requests can feel impossible to manage at times, especially when large or complex requests land on your doorstep” (PrivacyWorks, 2024).

Has Ontario’s FOI Commission begun contracting out information requests from the public? We have no way of knowing because we would have to file a Freedom of Information request for that. And as we have seen, that can take months to process because of the backlog.

So, short answer – we have no idea.

Conclusion

Apparently the Ministry of Long-Term Care needs months to turn over that contract it signed with Southbridge for Orchard Villa. And it cannot apparently readily provide information about what criteria it used to justify issuing a license for expansion to Southbridge. Nor can it provide information quickly about who made this decision.

The RCMP is currently investigating the issuing of MZO’s by this government to facilitate carving out chunks of the Greenbelt to assist developers (Jabakhanji, 2023). The government has also issued what appear to be questionable MZO’s to assist long-term care companies like Southbridge with bad track records to build huge human

warehouses like the ones proposed for Pickering, Port Hope, and Ottawa (University of Waterloo, 2023; Casey, 2023).

For SSAO this is raising some very serious concerns. What exactly is the Ford government trying to hide about this particular license approval and other Southbridge license approvals that SSAO is also questioning, that this is taking so long?

Why is it so difficult for the government to simply produce this license, the criteria used to grant it, and the name(s) of who granted it?

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Free download of the Orchard Villa story found here:

<https://www.spindelconsulting.net/books-and-policy-papers?lightbox=dataItem-ki3ctegp>

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