

Sunnybrook Superannuation Plan Surplus Sharing Report

This is a report from the Plan member representatives on the Sunnybrook Superannuation Plan Surplus Sharing Committee (the "Member Representatives") regarding discussions with representatives of the Sunnybrook Health Sciences Centre (the "Hospital") about sharing surplus assets in the Superannuation Plan for Employees of Sunnybrook Hospital (the "Plan"). This Plan covered employees who started working at the Hospital before the establishment of the Plan in 1966 and who did not earn pensions under the Hospitals of Ontario Pension Plan ("HOOPP").

We are pleased to announce that we have concluded negotiations with the Hospital and have reached an agreement that is conditional on a number of things, including obtaining sufficient support from eligible Plan members, spouses and beneficiaries. This conditional agreement forms the proposal which is described in detail in this information package (referred to in this report as the "Proposal"). To see if this Proposal applies to you, please see section 5(a) of this report.

We, along with our legal counsel and actuary, support the Proposal and recommend that you consent to it. Please read this report carefully, as you will be asked to vote on the Proposal by returning the enclosed blue Authorization and Retainer Form to Koskie Minsky LLP by June 30, 2008, along with the blue Data Verification Form. The Authorization and Retainer Form will authorize our lawyers to act on your behalf regarding the implementation of the Proposal, including the execution of the surplus sharing agreement on your behalf.

1. BACKGROUND

In our letter dated May 14, 2007, we informed you that we are the Member Representatives on the Sunnybrook Superannuation Plan Surplus Sharing Committee (the "Committee") and that we have been negotiating a sharing and payout of pension surplus from the Plan to Plan members (or in certain cases, their spouses and beneficiaries) and to the Hospital. Since last May, and with the assistance of our legal and actuarial advisors, we have continued to review and discuss the details of a surplus sharing agreement with the Hospital. All parties have worked diligently and cooperatively to reach an agreement and we are pleased to have developed a Proposal that we believe is fair and equitable for everyone involved.

The purpose of this information package is to explain in detail the Proposal to distribute surplus in the Plan, and to ask for your approval. This document has been prepared by the Committee's legal counsel, Koskie Minsky LLP, and has been approved by the Committee as well as the Hospital.

The Proposal is conditional and may not proceed unless it is supported by a significant majority of eligible members (at least 80%). Another condition of implementation is that the required court and government pension regulatory approvals be obtained.

Once we have received sufficient support from the eligible members, the Committee will proceed with the necessary legal steps to implement the Proposal. While we cannot predict how long this process will take, the Committee will make every effort to obtain the necessary

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approvals in as short a period of time as possible. Due to the complex nature of the process, however, the surplus distribution will not be made before 2009.

2. SUMMARY OF THE PROPOSAL

- According to the most recent actuarial report, as of January 1, 2007 there was a surplus of approximately \$25 million in the Plan, after leaving aside the reserve of surplus that must remain in the Plan pursuant to pension legislation and after taking into account the expenses that will be associated with this distribution. When we refer to “Surplus” in this report, we are referring to this \$25 million that would be available for distribution. This amount will continue to fluctuate in accordance with investment returns and other factors.
- There are 177 individuals who would be eligible under the Proposal to receive a share of Surplus, apart from Sunnybrook.
- Pursuant to the Proposal, the Hospital and the Surplus Sharing Group would share the Surplus in the Plan equally, with 50% being distributed to the eligible Plan members and 50% being distributed to the Hospital. Furthermore, in addition to the 50% share of Surplus, the Surplus Sharing Group will receive an enhancement to their pensions.
- A minimum Surplus allocation of \$10,000 will be guaranteed to each individual in the Surplus Sharing Group. This means that no eligible recipient will receive less than that amount, should this Proposal move forward.
- The Proposal does not involve the wind up of the Plan.
- There are two likely alternative scenarios for implementation of the Proposal:
 - If more than 80% but less than 90% of the Surplus Sharing Group consents to the Proposal (the “Consenters”), or if anyone formally objects, a new pension plan will be created that mirrors the current Plan and all Consenters will be transferred to that new pension plan (the “Consenter Plan”) with their pension benefits and a pro rata share of Plan assets. An application would be made to the court and the pension regulator to distribute the Surplus to the Consenters and to the Hospital. Any non-consenters will remain in the Plan, unaffected.
 - If 90% or more of the Surplus Sharing Group supports the Proposal and no one objects, it will not be necessary to establish a Consenter Plan and an application would be made to distribute Surplus to all members of the Surplus Sharing Group.
- This Proposal relates only to Surplus monies in the Plan. The pensions you have earned under the Plan are completely safe and secured by pension assets held in trust or guaranteed by an insurance company. You will continue to be entitled to those pension benefits, and your right to receive them will not be diminished no matter what decision is ultimately made regarding the Proposal or the future of the Plan.

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3. BACKGROUND TO THE PROPOSAL

As you may be aware, the Plan was established in 1966 for all employees who continued in the employment of the Hospital after it ceased to be operated by the Government of Canada, and who did not want to join HOOPP. Benefits under the Plan in 1966 were identical to those provided by the Public Service Superannuation Act as it existed at that time. Effective January 1, 1990, the benefits of active members were amended to provide benefits that are in most cases similar to those benefits provided under HOOPP.

The Plan is currently operating with a surplus. That is, there is an excess of funds over and above the amount that would be required to satisfy all pension obligations owed to affected employees and pensioners if the Plan were to be wound up.

The Hospital formed the Committee in 2006 to explore the possibility of sharing the distributable Surplus in the Plan between the Hospital and the Plan members or their beneficiaries. We have been acting as Plan member representatives throughout these discussions with the Hospital, with the assistance of our legal counsel, Ari Kaplan and Alisa Kinkaid of Koskie Minsky LLP, and our actuary, Jill Wagman, a principal at Eckler Ltd.

In May 2007, you were invited to sign an “Authorization and Membership Form” which allowed you to join the Sunnybrook Member Pension Group, to indicate your support for the continued negotiations to reach a preliminary agreement to share the Surplus in the Plan with the Hospital. We are pleased to report that approximately 80% of eligible recipients have returned their signed forms, which shows that there is a high level of support among eligible members to reach an agreement. As noted, we will still need at least 80% of eligible recipients to vote YES to the Proposal before we can proceed.

4. LEGAL ENTITLEMENT TO PLAN SURPLUS

Surplus entitlement generally becomes an issue when a pension plan is discontinued or terminated. As a general rule, while a plan is ongoing, an employer (or former employer) cannot be required to use or distribute surplus to members. This is the case even when the plan language clearly indicates that on termination, the members would be entitled to the surplus assets in the pension fund. In this case, our legal counsel has concluded that if the Plan were to be wound up, the Plan members would likely have a strong claim to the surplus in the Plan. However, the Hospital has no intention of winding up the Plan nor is it required to do so at this time. The Proposal was voluntarily initiated by the Hospital, and does not provide for the Plan to be wound up.

Even if there were to be wind up of the Plan, the Hospital does not agree that the members own the surplus. Koskie Minsky LLP has advised us that if the Plan were wound up, any dispute over surplus ownership between the Hospital and the members would result in lengthy, complex and expensive litigation. Moreover, any litigation to force the Hospital to wind up the Plan would likely be met with great resistance and be defended.

The Hospital has proposed that the surplus be withdrawn from the Plan while it is ongoing. An employer cannot distribute any surplus from a Plan while it is ongoing without applying to the pension regulator for permission. The regulator will not consent to a surplus distribution

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application until specific requirements and conditions have been satisfied. These requirements include a high level of Surplus Sharing Group support. In order to ensure member support for this application, it has proposed that surplus be shared equally between the Hospital and the Plan members.

After reviewing the Plan's historical documents in detail and considering the legal position of both the Plan members and the Hospital, our legal counsel has concluded, and we agree, the surest and quickest route for Plan members to receive a payout of Surplus from the Plan is to negotiate a deal with the Hospital wherein the Hospital and the members each receive payments of Surplus from the Plan while it is ongoing.

5. HIGHLIGHTS OF THE PROPOSAL:

(a) Surplus Sharing Group

The "Surplus Sharing Group" means the persons, other than the Hospital, who are entitled to share Surplus pursuant to the Proposal. August 16, 2004 is an important date for determining who is included in the Surplus Sharing Group. This date was chosen because it is the date the Hospital first decided to initiate surplus sharing discussions.

The Surplus Sharing Group includes the following people:

- (a) Plan members, including those who were disabled and qualified for benefits under the Hospital's disability plan, who were accruing benefits under the Plan on August 16, 2004;
- (b) Plan members who were entitled to deferred vested pension payments from the Plan as of August 16, 2004;
- (c) Plan members who were entitled to receive or were receiving periodic pension payments from the Plan as of August 16, 2004 (including those who were entitled to receive or were receiving an annuity from Sun Life or Manulife in connection with a pension benefit under the Plan);
- (d) spouses of Plan members who were entitled to receive or were receiving periodic pension payments under the Plan as of August 16, 2004, by reason of the death of a Plan member before August 16, 2004; and
- (e) all other persons entitled to receive benefits under the Plan as at August 16, 2004,

except that, if a Consenter Plan is established, the Surplus Sharing Group shall not include the individuals who do not consent to the Proposal.

Should any member of the Surplus Sharing Group die or have died after August 16, 2004 and before payment is received, his or her surviving spouse will become eligible, if the surviving spouse is entitled to a survivor pension as a result of the death. If there is no such surviving spouse, the member's beneficiary under the Plan or, if there is no such beneficiary, the member's estate, will become eligible.

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(b) Surplus Distribution and Benefit Enhancements

Based on our thorough consideration of the legal factors described above, we have agreed that an acceptable compromise is for the Hospital to share the Surplus with the Surplus Sharing Group on a 50/50 basis. We are very pleased, however, to have successfully negotiated additional incentives for Plan members in the form of benefit enhancements.

Under the Proposal, the Hospital will use the Surplus first to increase members' pension benefits by providing permanent pension indexing equal to 100% of the Consumer Price Index to members in respect of past and future service. The remaining Surplus will then be withdrawn. As noted above, the Surplus that can be withdrawn does not include a minimum reserve of approximately 10% that must be retained in the Plan pursuant to pension legislation and regulations, nor does it include the costs associated with this distribution. The Surplus withdrawn will be equally divided between the Hospital and the Surplus Sharing Group.

The Hospital and the Surplus Sharing Group portions will be credited with interest, calculated in accordance with the fund rate of return, from the valuation date of August 16, 2004 until the end of the month in which approval for the distribution is granted by the Ontario Superintendent of Financial Services. Thereafter, the portions will be credited 6.0% interest per annum, compounded monthly, until payment, subject to regulatory approval.

We believe very strongly that the set of terms contained in the Proposal is the best settlement available and a "win-win" situation for those involved.

(c) Individual allocations for members of the Surplus Sharing Group

Each member of the Surplus Sharing Group will receive a pro rata share of the Surplus Sharing Group's portion of the Surplus, based on the actuarial value of each member's pension entitlement under the Plan or, for deceased members, the value of the entitlement previously paid to each member. These calculations will be made by the Plan actuary and reviewed by our actuary. We have decided to build into these calculations a minimum distribution for Plan members. As such, under this Proposal, all members are guaranteed to receive at least \$10,000.

(d) Payment Options

Surplus Sharing Group members may, depending on their individual situation and available information, be able to choose how to receive their Surplus share from the following options:

- i) a cash payment, less applicable withholding tax;
- ii) a transfer to a non-locked-in RRSP, provided the Member has sufficient contribution room to allow it;
- iii) where possible, on a tax-deferred basis through a combination of a refund of contributions with interest and provision for loss of past indexing; or
- iv) a combination of any of the above.

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If you support the Proposal, we recommend that you begin compiling documentation that the lawyers and actuaries will require in order to explore your personal tax sheltering options for you. This would include copies of annual pension statements (close to your retirement date), your retirement options form, or any other documents that show your annual contributions or accumulation of contributions to the Plan.

(e) Capital Project

The Hospital has agreed that 15% of its share of the Surplus will be allocated towards a Hospital capital project, endowment or legacy fund for initiatives such as patient safety or other issues important to the Plan members, the Hospital and the community. The Plan shall be prominently recognized as a source of funding for such project or initiative.

(f) No direct costs to be borne by Plan members

Please note that there will be no obligation on you to directly pay any of the legal or other expenses that we incur during this process. These expenses will be covered by the Plan's surplus. The Proposal provides that all expenses of negotiating and implementing the Proposal, including the Hospital's, the Committee's and those of the professionals involved, will be paid from the surplus in the Plan prior to distribution.

This Surplus distribution will not adversely affect either the security or amount of your regular pension under the Plan. Your support for our initiative, if successful, will result in a cash distribution and benefit enhancement which is distinct from the pension you have earned. The Hospital maintains the obligation to fund the Plan.

(g) Consenter Plan

If we are able to obtain YES votes from more than 80% but less than 90% of the Surplus Sharing Group, or if anyone objects to the Proposal, the Hospital will establish the Consenter Plan for the Consenters. Any non-consenters will remain in the current Plan and their benefits will continue to be paid from the Plan. The Consenter Plan will mirror the Plan in terms of benefits and, after obtaining all necessary regulatory approvals, the Hospital would transfer the Consenters' liabilities and a pro rata share of assets to the Consenter Plan. Benefits for the Consenters would then be paid out of the Consenter Plan. The Surplus distributions would then be made from the Consenter Plan and paid only to members of the Consenter Plan.

Although we hope to obtain more than 90% approval of the Proposal, it may be difficult to do so. There will be some members of the Surplus Sharing Group who are unable to consent to the Proposal, others who cannot be located, and there may be individuals who simply do not wish to consent to the Proposal.

6. THE COMMITTEE UNANIMOUSLY RECOMMENDS THE PROPOSAL

We recommend the Proposal to the Surplus Sharing Group. As indicated above, absent the Proposal there is no reason to believe the Hospital will wind up the Plan in the near future. While the Plan is ongoing the Surplus could not be accessed unilaterally either by the members or by the Hospital. Furthermore, the question of who owns the Surplus is a complicated issue,

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and the only way to avoid lengthy and expensive litigation over this issue and to guarantee that all eligible members will receive a share of the Surplus is to reach an agreement with the Hospital.

The Member Representatives have had the benefit of legal counsel and independent actuarial advice throughout the discussions with the Hospital. Our lawyers and our actuary recommend this Proposal. We believe that, under the circumstances, the Proposal is reasonable, fair and is the best possible deal for all eligible members and former members of the Plan. We do not believe that further negotiations would have led to a better deal.

We unanimously recommend that you consent to the Proposal by checking the "YES" box on the blue Authorization and Retainer Form that is included with this package, signing the form and returning it to Koskie Minsky LLP in the enclosed blue envelope. You must return the Authorization and Retainer Form even if you previously returned a membership form to Koskie Minsky LLP. The 2007 Authorization Form made you a member of the Sunnybrook Member Sharing Group and does not constitute your consent to this Proposal. You must also complete and return the blue Data Verification Form in the same blue envelope before your Surplus share can be formally calculated.

Every vote counts. We must obtain the consent of at least 80% of the eligible members (not just the members who respond) in order to proceed. If you do not respond, you may not be eligible for a Surplus share.

If this Proposal proceeds, due to all the required steps involved (including attending court and regulatory proceedings), no Surplus will be distributed before 2009.

7. FURTHER INFORMATION

If you have any questions, you can contact any Member Representative, or our representatives at Koskie Minsky LLP at their toll-free number which is **1-800-286-2266**. You may also email Koskie Minsky LLP at **sunnybrookpension@kmlaw.ca** or you may visit their website to obtain updates and information from time to time. Go to **www.kmlaw.ca**, click on the "pension surplus" link, and then the Sunnybrook Pension link.

You are also invited to attend information sessions (times and locations of which are set out on the yellow page in this package). The Member Representatives will be present at these sessions, with our legal counsel and actuaries, and available to answer any questions you may have.

We thank you all for your anticipated support. If you have any further questions, please do not hesitate to contact any of us below:

Ms. Marian Lorenz (416) 299-8977	Ms. Mary Silva (416) 293-3430	Dr. Al Harrison (416) 792-5591
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