
Update on Prior Years' Report Items

Action Taken

The Pension Investment Committee indicated that it relies on the expertise of the Pension Fund's Real Estate manager to fulfill its fiduciary role with respect to Newvest Realty Corporation. The performance and compliance of Newvest is reviewed regularly by officials of the Department of Finance and quarterly by the Committee in consultation with its advisors. With respect to independent appraisals, the Committee advised that it continues to believe that such appraisals prior to purchase would not add any value to the due diligence process already undertaken by the real estate manager with respect to every purchase and, in fact, may result in unnecessary delays that could be detrimental to the purchase process. Also, the Committee indicated that a review of properties by a designate of the Committee is of limited value given that none of its members have expertise in the real estate field.

With regard to compliance with the *Financial Administration Act*, the Pension Investment Committee was of the view that the Fund was not subject to the *Financial Administration Act*. However, for clarification purposes, the *Pensions Funding Act* was amended on 16 December 2004 to provide the Fund with the authority to borrow in regard to real estate purchases.

Department of Government Services

3.2.7 Prepaid Funeral Services (2002 Annual Report, Part 2.12)

Introduction

In 2002, we performed a review of the prepaid funeral services program. The *Prepaid Funeral Services Act* was assented to on 12 May 2000 and came into force on 22 December 2000. The *Act* is intended to protect consumers who have entered into prepaid funeral contracts from financial loss in the event of the failure of a funeral home. The *Act* also establishes a Consumer Protection Fund for Prepaid Funeral Services (Assurance Fund) to reimburse consumers who lose their investment due to the failure of a funeral home.

The objective of our review was to determine Government's progress on the implementation of this new prepaid funeral services program.

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Conclusions from our 2002 review

As a result of our review we concluded the following:

- Very little progress had been made by the Department with the implementation and administration of the prepaid funeral services program. With the exception of two letters issued to funeral homes during June 2001 regarding licensing and the Assurance Fund, there was little to no follow-up performed by the Department.
- The Department did not establish policies and procedures for the program and did not hire a full-time employee to administer the program until January 2002.
- As of March 2002, only 28 of 91 funeral homes in the Province had submitted licence applications. Of these 28, 27 were licensed although only 4 of these homes had fully complied with all requirements of the *Prepaid Funeral Services Act* and *Regulations*. In addition, while all 27 licensed funeral homes had paid their required licence fee, 13 had not paid the required Assurance Fund assessment.
- A total of \$137,830 was paid from the Assurance Fund bank account from its establishment on 6 April 2001 to 31 March 2002. These payments were for claims arising from the failure of a funeral home in Port aux Basques in November 2000. At that time, 88 consumers had purchased prepaid funerals from the funeral home valued at a total of \$492,790. The \$137,830 paid from the Fund related to 23 of the 88 contracts. Although the *Act* did not come into effect until December 2000, an amendment was made in May 2001 to retroactively honor claims against funeral homes as though the *Act* had come into effect on 1 November 2000. However, the failed funeral home was never licensed under the *Act* and therefore no authority existed under the *Act* to make these payments.

2004 Update

In our 2004 annual report, we included an update on the Department's progress towards implementing the recommendation contained in our 2002 report item. At that time, the Department advised that many of our recommendations had not yet been implemented due to staffing shortages. The Department indicated that it had developed a formal Policies and Procedures Manual, that the process of obtaining licensing applications and supporting documentation and issuing licenses was substantially complete, and that an in-depth review of all license files had been completed to assess compliance with the *Act* with letters being sent to any funeral homes that were not in compliance. The Department also indicated that the Fund was continuing to pay claims related to the failure

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of the Port aux Basques funeral home pending a resolution on whether the *Act* provided the authority for these payments to be made.

Update

In October 2005, we contacted the Department of Government Services requesting an update as to the progress on the comments and recommendation included in our 2002 report. The information provided by the Department in response to our request is outlined below.

2002 Recommendation

The Department should increase its activity regarding the implementation and administration of the Prepaid Funeral Services Act and Regulations.

Action Taken

The Department indicated that it has made good progress with respect to the implementation and administration of the *Prepaid Funeral Services Act* and *Regulations* and that all of the observations contained in the 2002 Report item have been addressed.

The Department also indicated that all outstanding applications for licenses have been processed and either licenses were issued or the operator advised in writing of deficiencies in the application documentation which needed to be remedied before a license was issued.

The Department indicated that a funeral home is only required to make application if they plan to sell prepaid funeral contracts as defined by the *Act*. At present, all submitted applications have been dealt with and those which met the requirements were granted a license. The Department indicated that the industry is well aware of the requirements of the legislation. Should the Department become aware that a funeral home, who is not a holder of a license, is selling prepaid funeral contracts, the Department will take regulatory action to ensure the activity ceases until a license is granted and all required fees and assessments are collected.

The Department indicated that it has developed a Policies and Procedures Manual which provides detailed instructions on the procedures to be followed in the administration of the *Act* and *Regulations*.

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The Department indicated that regarding the in-depth review of the licensee files, the majority of those funeral homes that were written have complied with the Department's request. Follow-up has been required and continues to be an integral part of the ongoing activity associated with this program.

The Department indicated that in terms of the question concerning whether or not the *Act* provides authority for the payment of the Port aux Basques funeral home claims, the Department reviewed this matter with solicitors of the Department of Justice who say it is their opinion that the 24 May 2001 amendment does indeed provide sufficient authority to pay those claims.

3.2.8 Workplace Health and Safety Inspections (2002 Annual Report, Part 2.20)

Introduction

In 2002, we reviewed the workplace health and safety inspection program at the Workplace Health and Safety Inspection Division of the then Department of Labour. The objectives of our review were to determine whether:

- there was an adequate process in place at the Division to determine if employers were complying with the *Occupational Health and Safety Act and Regulations*;
 - the Division had a process in place to monitor its administration of the program; and
 - there was adequate and appropriate reporting of workplace health and safety inspection activity to the House of Assembly.
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