



Office of the Auditor General

500 - 330 Portage Avenue
Winnipeg, Manitoba R3C 0C4

March 2006

The Honourable George Hickes

Speaker of the House
Room 244, Legislative Building
Winnipeg, Manitoba
R3C 0V8

Dear Sir:

I have the honour to transmit herewith my report on the *Aiyawin Corporation: The Consequences of Mismanagement in a Shared Responsibility Framework* to be laid before Members of the Legislative Assembly in accordance with the provisions of Section 28 of The Auditor General Act.

Respectfully submitted,

A handwritten signature in cursive script, reading "Jon W. Singleton". The signature is written in black ink and is positioned above the printed name of the Auditor General.

Jon W. Singleton, CA•CISA
Auditor General

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This report illustrates how a not-for-profit urban native housing organization – Aiyawin Corporation (Aiyawin), operating pursuant to agreements and sharing responsibility for its success with the Province, was placed in a precarious financial position due to the organization’s mismanagement of its operations, and a lack of timely and effective administrative oversight and action by the Manitoba Housing and Renewal Corporation (MHRC).

Initially, MHRC, despite the existence of a number of red flags, was not effectively monitoring the performance of Aiyawin. However, I am very encouraged by the positive actions taken by MHRC over the last year with respect to Aiyawin, and with respect to plans underway to strengthen their shared responsibility over Urban Native Housing Organizations in Manitoba, as indicated in their response to our recommendations.

Our review of Aiyawin illustrates the risks to public monies that can occur when external services providers, whether they are for-profit or not-for-profit, operate in the absence of an appropriate accountability framework. Both for-profit and not-for-profit entities, along with public sector funding bodies, have a special duty of care when public monies are entrusted to them for the provision of services.

Aiyawin’s mandate was to improve the social housing conditions of low income Aboriginal peoples through efficient and effective management of its housing units. By permitting conflicts of interest and preferential treatment to occur, Aiyawin failed many of its clients.

The Board and management of Aiyawin, through inadequate board governance, a lack of policies and procedures, and poor management practices, allowed public monies to be used inefficiently, ineffectively, and, in certain instances, for personal benefit.

Aiyawin’s Operating Agreements were terminated, and in October 2005 the Aiyawin housing portfolio was transferred to the Dakota Ojibway First Nations Housing Authority Inc. The review of Aiyawin resulted in a number of recommendations for Boards of Directors and Senior Management of other Urban Native Housing Organizations to review and consider with respect to their operations. I encourage these individuals to examine their own operations and make an assessment as to whether changes are needed to respond to the principles incorporated in our recommendations.



Jon W. Singleton, CA•CISA

1.0 Executive Summary

In March 2003, the Office of the Auditor General (OAG) met with citizens of Manitoba who expressed concerns of mismanagement, misappropriation of assets and conflict of interest regarding the operation of the Aiyawin Corporation (Aiyawin). Aiyawin is a not-for-profit corporation receiving funding from both the Canada Mortgage and Housing Corporation (CMHC) and the Manitoba Housing and Renewal Corporation (MHRC) under the Urban Native Non-Profit Housing Program.

The OAG communicated these concerns to MHRC. Based on these concerns and a subsequent complaint made by citizens of Manitoba to MHRC, an operational review of Aiyawin was conducted by MHRC in February 2004. The results of this review are contained in a November 2004 MHRC report titled, *The Aiyawin Corporation Operational Review* (Operational Review).

In a letter (**Appendix B**) dated November 19, 2004, the Minister of Family Services and Housing (Minister) requested that the OAG conduct inquiries and review the concerns identified in the Operational Review. Additionally, the Minister requested that the OAG address allegations of fraud and theft related to contracting and tendering, and payments to members of the Aiyawin Board of Directors (Board) that had been brought forward publicly with respect to Aiyawin.

Our review was carried out between November 2004 and July 2005. We reviewed specific concerns identified in the Operational Review as well as the above noted allegations of fraud and theft. We found organizational practices that left the organization open to the undue risk of the occurrence of fraud and theft.

Aiyawin did not have in place the necessary leadership, structure, culture, and processes to effectively manage the organization. We believe that the Board and management did not address important issues, did not produce or provide appropriate information when requested, did not have appropriate human resources in place and when provided with the opportunity to address identified problem areas, Aiyawin did not have the appropriate follow-through.

Aiyawin's housing portfolio was not governed and managed to ensure that the portfolio was properly maintained with due regard to economy and efficiency. Aiyawin did not have a documented plan for conducting regular physical inspections of their housing portfolio. MHRC had not conducted any thorough physical inspections of Aiyawin properties from the time of its assumption of responsibility for management and administration in October 1998, to the beginning of our review. MHRC did conduct occasional site visits but these visits were limited to discussions with management and perhaps inspections of a few housing units.

Aiyawin was required to maintain a Replacement Reserve account to be used as a reserve for the replacement or repair of capital items. The Replacement Reserve was to be funded from Aiyawin's operating budget in an amount set out in the Operating Agreements. The Operating Agreements stipulated that Aiyawin was required to seek prior authority from MHRC before accessing funds from the reserve. Although the Board and management

were aware of this requirement, subsequent to September 2001 no prior authority was sought from MHRC. Between April 1, 2000 and March 31, 2004, Aiyawin depleted its Replacement Reserve account balance by approximately 91% placing the organization in financial distress and jeopardizing its future viability.

Concurrent with the beginning of our review, MHRC initiated discussions with Aiyawin in an effort to establish a long term strategic plan and implementation timeline for the purposes of allowing MHRC to continue to provide funding to Aiyawin and to allow Aiyawin to carry out its mandate to provide accommodation for low and moderate income native people.

As part of this initiative, MHRC placed an independent property manager at Aiyawin in order to assist the organization in achieving its strategic objectives by mentoring and training its staff. Despite the efforts of MHRC, and the development of a strategic plan by Aiyawin, Aiyawin's Board and management failed to meet the timelines. Ultimately, MHRC terminated the Operating Agreements with Aiyawin effective June 10, 2005.

CONCLUSIONS

The following table provides a summary of the areas examined and our related conclusions:

Objective	Report Section	Conclusions
To determine whether the changes to Aiyawin's Articles of Incorporation invalidated the Board's resolutions and whether the changes were in compliance with their Operating Agreements.	Articles of Incorporation (Section 4.1)	<ul style="list-style-type: none"> The changes in the Articles implemented by the Board relating to the number of directors and the requirement for a quorum were made in a proper manner and therefore did not render the Board resolutions invalid. However, by changing their Articles without the prior approval of CMHC/MHRC, Aiyawin breached their Operating Agreements.
To determine whether Board members complied with the Articles of Incorporation and their Operating Agreements regarding profiting as a result of their participation on the Board.	Payments to Board Members (Section 4.2)	<ul style="list-style-type: none"> Payment of bonuses to Board members constitutes remuneration or profit and contravened both Aiyawin's Articles of Incorporation and the Operating Agreements. This is also a poor practice for a not-for-profit organization. The number of reported meetings of the Executive Committee or meetings for the purpose of signing cheques, and the amount of remuneration paid to certain Board members for these meetings was excessive. The missing Board Executive

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AIYAWIN CORPORATION: THE CONSEQUENCES OF MISMANAGEMENT IN A SHARED RESPONSIBILITY FRAMEWORK

Objective	Report Section	Conclusions
		<p>Committee minutes are a concern. In the absence of documentary evidence that the meetings took place, it is impossible to ascertain whether the payments to Executive Committee members were appropriate or inappropriate.</p> <ul style="list-style-type: none"> Given the inability of Aiyawin to provide material confirming that meetings took place, and based on the significant number of meetings for which compensation was received by Board members, it appears questionable that these meetings took place and as such Board member compensation appears unreasonable. The payment of advances for meetings that may or may not have taken place was an inappropriate management practice. Having the General Manager make the decision on the dollar amount of bonuses and to which Board members the bonuses would be paid, was an inappropriate management practice.
<p>To determine whether Aiyawin had contracting and tendering processes and procedures in place to ensure that they received value for money when undertaking maintenance and repair work.</p>	<p>Contractors (Section 5.1)</p>	<ul style="list-style-type: none"> Aiyawin's appointment of the General Manager's brother as the exclusive contractor was a contravention of Section 5 of the <i>Urban Native Housing Operating Manual</i>. Aiyawin did not have a documented tendering process in place that would ensure that they were obtaining value for the costs of their contracted services. The lack of a tendering process, including the acquisition of three quotations, created an undue risk for fraud and collusion to occur. Aiyawin management failed to comply with the Board's direction to obtain quotes for all work in excess of \$5,000

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Objective	Report Section	Conclusions
		<p>and the Board failed to follow-up and to ensure that these directives were being acted upon creating an undue risk that excessive costs for work were paid.</p> <ul style="list-style-type: none"> • Aiyawin did not have a process in place to monitor and inspect work that had been undertaken by contractors to identify maintenance and repairs of questionable quality and to take appropriate action when required. This created an undue risk that appropriate work was not performed. • Aiyawin allowed inappropriate access by the exclusive contractor to their business accounts and storage facilities which put Aiyawin assets at risk. • The exclusive contractor’s “exclusivity”, possession of Aiyawin keys to access Aiyawin property and assets, and authorization to utilize Aiyawin’s business account cards could be perceived to categorize him as an Aiyawin employee. As such, Aiyawin may have increased its risk of liability for payroll deductions, such as Canada Pension Plan, on behalf of the exclusive contractor.
<p>To determine whether Aiyawin was administering its Replacement Reserve account in accordance with its Operating Agreements.</p>	<p>Replacement Reserve (Section 5.2)</p>	<ul style="list-style-type: none"> • Aiyawin knowingly breached the Operating Agreements by not seeking permission to expend funds from their Replacement Reserve account. • Aiyawin’s depletion of its Replacement Reserve account placed the organization in financial distress and jeopardized its future viability. • The Aiyawin management and Board failed to provide MHRC with the Replacement Reserve Review Package containing cost estimates for capital renovations. The estimates, when

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AIYAWIN CORPORATION: THE CONSEQUENCES OF MISMANAGEMENT IN A SHARED RESPONSIBILITY FRAMEWORK

Objective	Report Section	Conclusions
		<p>approved by MHRC, would have allowed Aiyawin to proceed with the specified renovations without the necessity of obtaining additional approval.</p>
<p>To determine whether the Board met its responsibility to establish operational policies and procedures.</p>	<p>Aiyawin Corporation Policy and Procedure Manual (Section 6.1)</p>	<ul style="list-style-type: none"> • The Aiyawin Board failed in its responsibility to ensure that policies and procedures were current and provided guidance for conducting Aiyawin’s day-to-day operations. • The Board had no process in place to ensure that directives to management were implemented and carried out. This contributed to the undue risk of ineffective operations and inappropriate practices.
<p>To assess Aiyawin’s human resources policies.</p>	<p>Human Resources (Section 6.2)</p>	<ul style="list-style-type: none"> • Aiyawin had no policy or process in place for the regular evaluation of personnel job performance and did not maintain adequate documentation to support the discipline and/or termination of employees. As a result, Aiyawin exposed itself to the risk of wrongful dismissal or other litigation issues.
<p>To determine whether Aiyawin was following its policy regarding employee advances.</p>	<p>Employee Advances (Section 6.3)</p>	<ul style="list-style-type: none"> • Aiyawin acted in contravention of the <i>Urban Native Housing Operating Manual</i> and ignored its own policy with regards to the payment of advances to employees. • The ability of the General Manager and the Financial Administrator to have issued cheques to themselves posed a potentially serious financial risk to the organization.

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Objective	Report Section	Conclusions
<p>To assess Aiyawin’s practices with regard to employee expense reimbursement and other administrative expenses.</p>	<p>Reimbursements and Other Expenses (Section 6.4)</p>	<ul style="list-style-type: none"> • Aiyawin ignored its own policy with regards to the reimbursement to employees for the use of privately owned vehicles while on Aiyawin business. • The payments made by Aiyawin for repairs to staff and contractor vehicles, and the payment of parking tickets, towing charges and traffic violations incurred by staff members were an inappropriate expense to Aiyawin. • Aiyawin had no process or procedure in place to verify the mileage claims submitted for payment which created a financial risk to the organization. • The Aiyawin Board and management failed to ensure adequate controls and processes were in place to review and monitor cell phone usage and expenditures, and expenditures associated with privately owned vehicles. This resulted in Aiyawin incurring excessive and unnecessary expenditures.
<p>To determine whether Aiyawin was adhering to its signing authorities.</p>	<p>Signing Authorities (Section 6.5)</p>	<ul style="list-style-type: none"> • Aiyawin did not adhere to the Board directive specifying the designated signing authorities. This exposed Aiyawin to undue financial risk.
<p>To determine whether Aiyawin was addressing the concerns expressed in the external auditor’s management letters.</p>	<p>Management Letters (Section 6.6)</p>	<ul style="list-style-type: none"> • The Board and management did not act to address the external auditor’s concerns. This contributed to inefficient and ineffective operations. • No disaster recovery plan was ever developed. The lack of a disaster recovery plan and the sporadic backing up of computer data posed a significant risk that more of Aiyawin’s sensitive documents and information could have been lost and unrecoverable.

AIYAWIN CORPORATION: THE CONSEQUENCES OF MISMANAGEMENT IN A SHARED RESPONSIBILITY FRAMEWORK

Objective	Report Section	Conclusions
To determine whether Aiyawin was complying with requests for information from MHRC.	MHRC Review of Financial Statements (Section 6.7)	<ul style="list-style-type: none"> The Aiyawin Board and management ignored repeated requests for clarification or explanation of operational and financial concerns requested by MHRC. This continual refusal to provide information and disregard of budget and Replacement Reserve requirements breached their Operating Agreements, and were contributing factors in MHRC's decision to discontinue funding.
To assess the effectiveness of the governance processes and practices of Aiyawin's Board of Directors.	Aiyawin Board Governance (Section 7.1)	<ul style="list-style-type: none"> The Board lacked the required membership to meet the conditions of their Operating Agreements and to ensure a sufficiently broad range of skill sets to accomplish their mandate. The Board was, in effect, controlled by one individual. The Board lacked the necessary knowledge and expertise to fully scrutinize and critique the financial information provided to them and to use that information to make appropriate decisions. The Board did not provide sufficient control and oversight of Aiyawin and did not hold management sufficiently accountable for Aiyawin's operations and performance. The Board conducted most of its business and decision making through its Executive Committee. However, the Board was unable to substantiate the actions of the Executive Committee. A Board should not delegate its ultimate authority to a Committee. The Board failed to ensure Aiyawin operated in compliance with their Operating Agreements.

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Objective	Report Section	Conclusions
<p>To assess the quality of Aiyawin’s Board minutes.</p>	<p>Board Minutes (Section 7.2)</p>	<ul style="list-style-type: none"> Aiyawin Board minutes were neither complete nor contained sufficient information to allow officers and directors to demonstrate that they had fully complied with their governance responsibility and financial oversight obligations.
<p>To assess whether MHRC exercised sufficient oversight of Aiyawin’s operations to ensure appropriate safeguarding of public assets.</p>	<p>Provincial Responsibility (Section 8.0)</p>	<ul style="list-style-type: none"> MHRC did not monitor, administer and conduct regular physical inspections of housing portfolios in the Urban Native Housing Program, creating the undue risk that problems may not have been addressed. Contrary to the <i>Urban Native Housing Operating Manual</i> that recommends a thorough inspection of each housing project every three years, MHRC had not conducted any thorough physical inspections of the Aiyawin properties, in over six years, between September 1998 and the appointment of the Property Manager in February 2005. MHRC was aware of allegations of mismanagement, human resource issues and conflicts of interest within Aiyawin as early as September 2002 and had identified through their annual financial statement reviews that Aiyawin had operational problems that were not being dealt with or responded to by the Aiyawin Board and management. Despite these red flags, MHRC did not sufficiently follow-up or act to address the problems until their Operational Review.

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2.0 Introduction

2.1 REQUEST

In March 2003 the Office of the Auditor General (OAG) met with citizens of Manitoba who expressed concerns of mismanagement, misappropriation of assets and conflict of interest regarding the operation of the Aiyawin Corporation (Aiyawin). Aiyawin is a not-for-profit corporation receiving funding from both the Canada Mortgage and Housing Corporation (CMHC) and the Manitoba Housing and Renewal Corporation (MHRC) under the Urban Native Non-Profit Housing Program.

The OAG communicated these concerns to MHRC. Based on these concerns and a subsequent complaint made by citizens of Manitoba to the MHRC, an operational review of Aiyawin was conducted by MHRC in February 2004. The results of this review are contained in a November 2004 MHRC report titled, *The Aiyawin Corporation Operational Review* (Operational Review).

In a letter (**Appendix B**) dated November 19, 2004, the Minister of Family Services and Housing (Minister) requested that the OAG conduct an investigation to further review the concerns identified in the Operational Review. Additionally, the Minister requested that the OAG investigate allegations of fraud and theft related to contracting and tendering, and payments to members of the Board of Directors (Board) that had been brought forward publicly with respect to Aiyawin.

Our authority to conduct this review is contained in The Auditor General Act under Section 15(1), audit of recipient of public money, and Section 18(2), access to information:

“15(1) The Auditor General may conduct an examination and audit in respect of public money received by a recipient of public money, including the matters listed in subsection 14(1), and may require the recipient to prepare and give to the Auditor General the financial statements setting out the details of the disposition of the public money received.

18(2) The Auditor General may require and is entitled to receive any information necessary for the purpose of this Act from

- a) any person in the public service or formerly in the public service;*
- b) any current or former director, officer, employee or agent of a government organization or of a recipient of public money; or*
- c) any other person, organization or other body that the Auditor General believes on reasonable grounds may have information relevant to an examination or audit under the Act.”*

On November 24 and 25, 2004, the OAG accompanied by MHRC representatives visited Aiyawin and retrieved files and records necessary for this review.

2.2 SCOPE AND APPROACH

Our review covered the period April 1999 to June 2005 and was conducted between November 2004 and July 2005. This review included extensive interviews, analyses of Aiyawin financial information and a detailed review of correspondence and other supporting documentation.

We interviewed current and former Aiyawin personnel including the General Manager; Financial Administrators; Tenant Liaison Officers; Maintenance Coordinators and other individuals who were identified during our review as having pertinent information that would assist us.

As one aspect of our review, we examined the governance practices of Aiyawin's Board. Our work consisted of a review of Board By-laws, Board minutes, and Board policies and procedures. We examined over five years of Board activity, from May 1999 to February 2005. Interviews were held with both current and past members of the Board during that time period. Issues of governance also formed a part of our discussions when we interviewed current and former management and staff of Aiyawin.

Our work consisted of such examinations and procedures that we determined were necessary to address the concerns, allegations, and other issues that arose during the course of our review.

We reviewed the operations of Aiyawin under the following topics:

- Board of Directors (**Section 4.0**);
- Contracting and Tendering (**Section 5.0**);
- Management of Aiyawin (**Section 6.0**);
- Board Governance (**Section 7.0**); and
- Provincial Responsibility (**Section 8.0**).

2.3 SCOPE LIMITATION

We were informed that minutes for Board Executive Committee meetings were handwritten and subsequently typed and given to the General Manager to be placed in a binder in the office safe. We asked the General Manager to provide us with Executive Committee meeting minutes and we were advised that the Board did not want to provide those minutes due to confidentiality concerns. We then requested the Board to provide us with copies of the minutes for Board Executive Committee meetings. We were told that the minutes had been misplaced or stolen by a person or persons unknown and that electronic copies were not maintained. Furthermore, when we asked the Board to provide us with the original notes of the Executive Committee meetings we were informed that the notes had been shredded.

2.4 SUBSEQUENT EVENTS

In a letter dated June 10, 2005 MHRC informed Aiyawin that effective immediately it was terminating the Operating Agreements with Aiyawin as a result of Aiyawin's having breached its obligations under those Agreements (**Appendix C**).

At the time of the writing of this report, MHRC was engaged in negotiations with another native housing organization to transfer ownership of Aiyawin's housing portfolio to that organization.

3.0 Background

3.1 URBAN NATIVE HOUSING ORGANIZATIONS

The Urban Native Housing Program, administered on behalf of CMHC by MHRC, assists urban native not-for-profit housing organizations to meet their housing needs. CMHC and MHRC provide subsidy assistance under the National Housing Act as well as providing direct mortgage financing to support the organizations' goal of providing rental accommodation to low and moderate income native peoples.

MHRC administers 19 agreements consisting of a total of 1,032 family housing units (primarily single family housing) that are owned and operated by 12 not-for-profit urban native groups.

3.2 AIYAWIN CORPORATION

Aiyawin was incorporated on July 14, 1983 under The Corporations Act of Manitoba as a corporation without share capital.

The Aiyawin website stated that:

"Aiyawin is a non-profit housing corporation. Our mandate is to improve the social conditions of aboriginal peoples by constructing, holding and managing housing units. Also, to provide and maintain housing for low and moderate income earning families and elders of aboriginal ancestry in accordance with the Native Housing Program implemented by the Canadian Federal Government."

"Aiyawin Corporation is governed by a native board who volunteer time, knowledge and effort in delivering quality, affordable housing. Currently, operations are executed with the help of seven full-time staff members."

Aiyawin owned and managed 219 rental housing units in the City of Winnipeg consisting of 187 single family units and an apartment complex containing 32 units. These units were acquired through mortgages provided to Aiyawin by CMHC/MHRC pursuant to a number of Operating Agreements between Aiyawin and CMHC/MHRC under the authority of the National Housing Act. Through these agreements CMHC/MHRC also subsidized the annual operating costs of Aiyawin.

3.3 CMHC/MHRC OPERATING AGREEMENTS

Aiyawin's housing units were divided into two separate portfolios as follows:

- The *Pre-1986 Portfolio* consists of 77 family housing units (primarily single family housing) acquired in conjunction with the federal

government through CMHC; and

- The *Post-1985 Portfolio* consists of 142 family housing units (primarily single and semi-detached housing units and a 32 unit apartment block) acquired in conjunction with the federal and provincial governments on a 75%:25% cost-shared basis.

There were five different Operating Agreements (with several sub-agreements) which set out the rights and obligations of CMHC/MHRC and Aiyawin.

Three of the Operating Agreements were signed with CMHC and applied to the *Pre-1986 Portfolio* and two of the Operating Agreements were signed with MHRC and applied to the *Post-1985 Portfolio*.

3.4 DEVOLUTION OF CMHC AGREEMENTS TO MHRC

In September 1998, the Province of Manitoba and the Government of Canada signed the Social Housing Agreement. Under this agreement CMHC transferred its responsibilities for the management and administration of its housing units in Manitoba to MHRC.

Effective October 1, 1998, the MHRC assumed all rights and responsibilities formerly held by the CMHC pursuant to operating agreements with not-for-profit corporations and cooperative housing groups.

Aiyawin's Operating Agreements with the CMHC were included in the transfer of responsibility from the CMHC to the MHRC. The Social Housing Agreement provided that the Operating Agreements with the CMHC continued to remain in effect.

3.5 FINANCIAL INFORMATION

The financing of Aiyawin's day-to-day business was conducted using an Operating account with monies provided in an annual operating budget, as determined by MHRC.

Under the terms of the Operating Agreements with CMHC/MHRC, another account, the Replacement Reserve account, was required to be established. Replacement Reserve account funds are monies set aside to meet the probable future cost of replacing those component parts of a property or building that simply wear out or reach the end of their usefulness. The Operating Agreements required Aiyawin to obtain permission from MHRC in order to make expenditures from this account. More detail on the Replacement Reserve account is included in **Section 5.2**.

Aiyawin's financial statements reflected transactions of the Operating account but did not include actual transactions of the Replacement Reserve account. These Replacement Reserve account transactions were presented in a note and a separate schedule to the financial statements.

Figure 1 presents a six-year history of revenue and expenditures from Aiyawin's audited annual financial statements.

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FIGURE 1

Six Year History of Aiyawin Statement of Revenue and Expenditures and Net Assets (000s)						
	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05 ⁽¹⁾
Revenue						
Rental revenue	\$ 801.2	\$ 929.3	\$ 834.6	\$ 851.7	\$ 821.3	\$ 865.7
MHRC subsidies	1,721.1	1,682.3	1,845.9	1,848.0	1,848.0	1,846.7
Other income	11.0	16.7	4.7	25.4	136.9	15.2
Total	2,533.3	2,628.3	2,685.2	2,725.1	2,806.2	2,727.6
Expenditures						
Administration	155.4	199.1	196.4	233.5	235.4	292.5
Audit	15.0	15.1	10.9	16.8	13.8	13.2
Maintenance and repairs	328.6	268.1	293.8	301.5	300.0	348.6
Mortgage repayment	1,359.3	1,344.2	1,334.7	1,334.1	1,334.1	1,330.0
Replacement reserve provision	163.5	163.5	171.9	171.9	171.9	171.9
Other	588.6	638.7	550.0	600.7	597.9	634.9
Total	2,610.4	2,628.7	2,557.7	2,658.5	2,653.1	2,791.1
Net Revenue (Expenditures)	\$ (77.1)	\$ (.4)	\$ 127.5	\$ 66.6	\$ 153.1	\$ (63.5)
Operating Deficit recovered from MHRC	-	48.8	-	-	-	-
Subsidy Reduction and Surplus Recovery by MHRC	-	-	-	-	-	(258.5)
Surplus (Deficit), Beginning	(114.9)	(192.0)	(143.6)	(16.1)	50.5	203.6
Surplus (Deficit), Ending	\$ (192.0)	\$ (143.6)	\$ (16.1)	\$ 50.5	\$ 203.6	\$ (118.4)

Source: Aiyawin Corporation audited annual financial statements

(1) Figures are from draft unaudited financial statements

Beginning in the fiscal year 2001/02, and increasing in the following fiscal years, the majority of repair and maintenance work was financed through the Replacement Reserve account outside the budget. Actual Replacement Reserve expenditures were not reflected in the Statement of Revenue and Expenditures and Net Assets of Aiyawin's financial statements.

Figure 2 presents the same six-year history of net revenue (expenditures) from Aiyawin's financial statements (and **Figure 1**) adjusted for inclusion of actual Replacement Reserve transactions. When actual Replacement Reserve transactions are incorporated, operational surpluses for 2002/03 and 2003/04 become significant deficits.

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FIGURE 2

Six Year Analysis of Aiyawin Adjusted Net Revenue (Expenditures) (000s)						
	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05 ⁽¹⁾
Net Revenue (Expenditures) from Financial Statements	\$ (77.1)	\$ (.4)	\$ 127.5	\$ 66.6	\$ 153.1	\$ (63.5)
Add: Replacement Reserve Provision	163.5	163.5	171.9	171.9	171.9	171.9
Net Revenue (Expenditures) before Actual Purchases	86.4	163.1	299.4	238.5	325.0	108.4
Add: Replacement Reserve Interest Income	14.6	22.0	29.6	25.3	20.1	13.8
Less: Actual Replacement Reserve Purchases for the Year	(70.6)	(81.4)	(230.9)	(537.1)	(572.1)	(201.2)
Adjusted Net Revenue (Expenditures)	\$ 30.4	\$ 103.7	\$ 98.1	\$ (273.3)	\$ (227.0)	\$ (79.0)

Source: Aiyawin Corporation audited annual financial statements

(1) Figures are from draft unaudited financial statements

3.6 ORGANIZATION

The Articles of Incorporation (Articles) of Aiyawin stated that the management of the business and affairs of Aiyawin shall be directed by a Board of Directors.

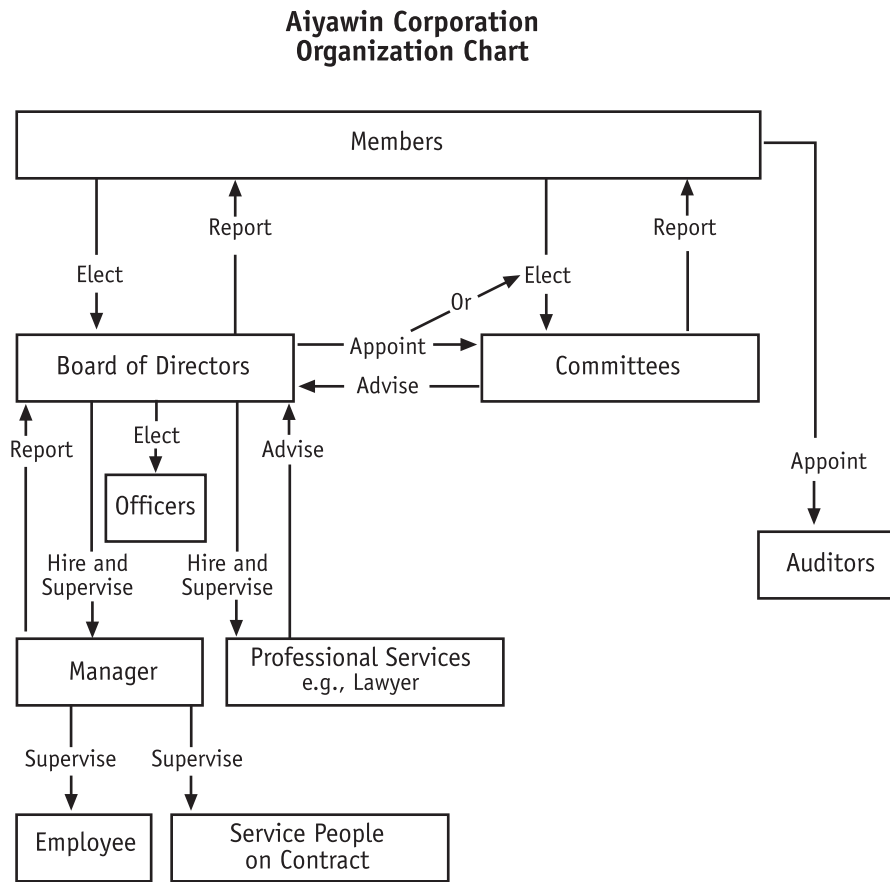
A General Manager hired by and reporting to the Board was to provide the overall day-to-day management of Aiyawin's operations with the assistance of the following personnel:

- A Financial Administrator responsible for recording and maintaining the financial records;
- A Tenant Liaison Officer providing the overall day-to-day management of Aiyawin's housing units with the assistance of the General Manager;
- A Maintenance Coordinator providing required repair and maintenance information to the General Manager as a priority. Additionally, the Maintenance Coordinator was to provide the day-to-day management of needed repairs and maintenance to Aiyawin housing units with the assistance of the General Manager and to ensure that the repairs and maintenance were completed in a timely manner. The Maintenance Coordinator was assisted by two Maintenance Technicians; and
- A Receptionist/Administrative Assistant handling the telephone, walk-in traffic, mail and rent receipts and providing support as directed by the General Manager and as requested by other office staff.

An organization chart for Aiyawin is presented in **Figure 3**.

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FIGURE 3



Source: Aiyawin Corporation

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4.0 Board of Directors

As part of its obligation for the management of Aiyawin's business and affairs, the Board was responsible for complying with the conditions as set out in both their Operating Agreements and in their Articles.

4.1 ARTICLES OF INCORPORATION

The originating Articles of Aiyawin filed in 1983 required that:

- The management of the business and affairs of Aiyawin shall be directed by a Board consisting of a minimum of seven and a maximum of eleven directors who must be members of Aiyawin; and
- A quorum for the transaction of the business of the Board shall consist of five directors and no business shall be transacted at a meeting of directors unless a quorum of the Board is present.

Observations

- The Operating Agreements with CMHC/MHRC required that Aiyawin not change or alter its Articles without written approval from CMHC/MHRC.
- The Articles of Aiyawin were amended by Board resolution in February 1996 to reduce the minimum number of Directors from seven to three and alter the quorum requirement from five to a majority of the directors. This amendment was made without the approval of CMHC/MHRC, contrary to the requirements of the Operating Agreements.
- Aiyawin provided us with an incomplete set of their Board minutes for meetings that took place from May 25, 1999 through December 17, 2004. Through a review of other Aiyawin documentation we found Board minutes for four additional Board meetings. We noted that during this time frame there were several months for which no Board minutes were provided or no Board meeting took place.
- The Operational Review had concluded that due to the Articles having been altered, in contravention of the Operating Agreements, that all Board resolutions adopted between April 2002 and December 2003 were invalid. Subsequent to the November 2004 release of the Operational Review to the Board, a resolution was passed at the Board meeting of December 17, 2004 which adopted and ratified all previous resolutions passed by the Board from June 19, 2001 to December 10, 2004. This resolution, presented below, was approved by a quorum of six Board members:

“The directors having reviewed the motions of the Board of Director meetings from June 19, 2001 to December 10, 2004 do hereby agree to adopt and ratify these resolutions.”

Conclusion

- The changes in the Articles implemented by the Board relating to the number of directors and the requirement for a quorum were made in a proper manner and therefore did not render the Board resolutions invalid. However, by changing their Articles without the prior approval of CMHC/MHRC, Aiyawin breached their Operating Agreements.

4.2 PAYMENTS TO BOARD MEMBERS

The Articles of Aiyawin and the Operating Agreements stated that directors shall serve as directors and officers without remuneration and no director shall directly or indirectly receive any profit from his/her position as a director or officer, other than being paid for reasonable expenses incurred in the performance of his/her duties.

Observations

- At the Board meeting of December 11, 1995 a motion was passed whereby Board members were to receive an expense allowance of \$100 per year (without receipts) as reimbursement for expenses incurred for Board related activities. This allowance was increased to \$250 per year at the Board meeting on January 12, 1996.

- A resolution of the Board dated April 4, 1996, changed the expense allowance to a set rate of payment for out-of-pocket expenses at \$30 per meeting. The Board was to meet on a monthly basis.
- At the Board meeting of May 30, 1999, a resolution was passed to honour and ratify all out-of-pocket expenses for meetings and business of Aiyawin. This resolution indicated that it reaffirmed a 1998 Board of Directors motion.
- At a meeting of the Board on August 7, 2001, subsequent to a telephone poll of the four Board members, a resolution was passed to increase the reimbursement for out-of-pocket expenses from \$30 to \$60 per meeting.
- A memorandum dated August 8, 2001, from the General Manager to the Financial Administrator, noted that the out-of-pocket expense rate for Directors' attendance at regular Board meetings had been increased to a rate of \$60 per meeting, and that the Chair of the Board had indicated that this rate was for regular Board meetings only.
- Interviews and documentation indicated that Board members were being paid for attendance at regular Board meetings. Board Executive Committee members were being paid for Board Executive Committee meetings and cheque signing, as well as attendance at regular Board meetings.
- **Figure 4** presents a six-year history of payments to Board members. The three Board members identified in the figure are long-serving members and were Aiyawin's only Board members from February 2003 to the beginning of our review in November 2004.

FIGURE 4

Six Year History of Payments to Board Members				
	Board Member #1	Board Member #2	Board Member #3	All Other Board Members ⁽¹⁾
1999/00	\$ 720	\$ 3,900	(3)	\$ 8,770
2000/01	390	3,000	(3)	5,230
2001/02	3,510	4,230	\$ 540	2,203
2002/03	7,440	7,440	720	660
2003/04	12,060	12,300	780	(4)
2004/05 ⁽²⁾	6,220	6,470	420	(4)
Total	\$30,340	\$37,340	\$ 2,460	\$16,863

Source: Aiyawin Corporation

(1) Consists of 13 individuals who were Board members at various times. One of these individuals was a former Board Executive Committee member who was paid \$13,350 between April 1999 and December 2001.

(2) Payments to November 16, 2004 inclusive

(3) Not a Board member during this time period

(4) No other Board members during this time period

- Included in the payments shown in **Figure 4**, are advances paid to two of the Board members for attendance at future Board meetings. Interviews and a review of Aiyawin financial records established that beginning in May 2003 through August 2004, Board Member #1 received 7 advances totaling \$5,500 and Board Member #2 received 10 advances totaling \$6,370.
- Our review of financial records indicated that despite the issuance of advances for future meetings, the two Board members continued to be paid per diem rates for Board meetings attended. They received further advances prior to drawing down the original advances through attendance at meetings. Advances made from May 2003 through August 2003, were offset by journal entries indicating attendance at Board Executive Committee meetings or for cheque signing. However, subsequent to August 2003, journal entries were no longer made to offset the advances and there were no records to indicate that any meetings took place.
- Interviews indicated that cheque signing usually took place once per week and on many occasions cheques were taken to the residence or workplace of Board Executive Committee members for signing. Board members estimated that the signing process took 1 to 1½ hours while staff estimated 20 to 30 minutes.
- We requested copies of minutes for Board Executive Committee meetings from Aiyawin for our review. Aiyawin was unable to provide these minutes.
- Based on the Board minutes that were provided for our review for meetings that took place from May 25, 1999 through November 16, 2004, a total of 64 Board meetings were documented. For 30 Board meetings between May 25, 1999 and July 26, 2001 inclusive, payments to Board members were made at \$30 per meeting attended. For the subsequent 34 Board meetings payments to Board members were made at \$60 per meeting attended. Following November 16, 2004, no further payments were made to Board members.
- Based on the total payments made to the three Board members, **Figure 5** presents the number of meetings that these Board members would have had to attend to justify the payments made to them.

FIGURE 5

Number of Board Meetings Required Based on Payments to Board Members			
	Board Member #1	Board Member #2	Board Member #3 ⁽¹⁾
April 1, 1999 to August 6, 2001			
Total payments made for period	\$ 1,380	\$ 7,410	n/a
Board meetings attended at \$30 (30 meetings)	900	900	n/a
Payments in excess of meetings attended	\$ 480	\$ 6,510	n/a
Additional meetings required at \$30	16	217	n/a
August 7, 2001 to November 16, 2004			
Total payments made for period	\$28,960	\$29,930	\$ 2,460
Board meetings attended at \$60 (34 meetings)	2,040	2,040	1,860
Payments in excess of meetings attended	\$26,920	\$27,890	\$ 600
Additional meetings required at \$60	449	465	10
Total additional meetings required	465	682	10

Source: Aiyawin Corporation

(1) Board Member #3 became a Board member at October 17, 2001; from August 7, 2001 to November 16, 2004, Board Member #3 attended 31 Board meetings

- In addition to the payments to Board members noted in **Figures 4 and 5**, beginning in December 2002 and continuing annually through November 2004, Board members #1 and #2 received a Christmas bonus.
 - The 2002 Christmas bonuses of \$500 each were paid to these Board members the day prior to the Board meeting in which the motion to pay the bonuses was passed.
 - The 2003 Christmas bonuses of \$1,000 each were paid to these Board members 17 days prior to the motion to pay the bonuses being passed.
 - The 2004 Christmas bonuses of \$1,000 each were paid without a Board motion.
- These bonuses were not reported as taxable income by Aiyawin to the Canada Revenue Agency and no T4s were issued to the individuals involved.
- We were informed that the decisions to pay the bonuses and the amount to be paid were made by the General Manager in consultation with the Financial Administrator. The rationale for the receipt of bonuses by

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Board Member #1 and Board Member #2 was that, as members of the Executive Committee, they did most of the work and put in the extra time while Board member #3 did not.

Conclusions

- Payment of bonuses to Board members constitutes remuneration or profit and contravened both Aiyawin's Articles of Incorporation and the Operating Agreements. This is also a poor practice for a not-for-profit organization.
- The number of reported meetings of the Executive Committee or meetings for the purpose of signing cheques, and the amount of remuneration paid to certain Board members for these meetings was excessive. The missing Board Executive Committee minutes are a concern. In the absence of documentary evidence that the meetings took place, it is impossible to ascertain whether the payments to Executive Committee members were appropriate or inappropriate.
- Given the inability of Aiyawin to provide material confirming that meetings took place, and based on the significant number of meetings for which compensation was received by Board members, it appears questionable that these meetings took place and as such Board member compensation appears unreasonable.
- The payment of advances for meetings that may or may not have taken place was an inappropriate management practice.
- Having the General Manager make the decision on the dollar amount of bonuses and to which Board members the bonuses would be paid, was an inappropriate management practice.

5.0 Contracting and Tendering

In 1992 CMHC published the *Urban Native Housing Operating Manual* (CMHC Manual) which outlines CMHC expectations as to how a project should be managed in accordance with the Operating Agreements. Interviews with Aiyawin's management confirmed to us that Aiyawin utilized the CMHC Manual as a loose guideline for their operations.

Section 5 of the CMHC Manual states:

"The Sponsor shall ensure that in all financial transactions, both contractual and non-contractual, no Board member or management officer of the Sponsor, or staff member of the project or families of either will derive any direct or indirect financial benefit from such transactions."

Section 7 of the CMHC Manual, which provides tendering guidelines for repairs and renovations exceeding \$3,000, states that, *"the work must be advertised as a tender or proposal call"*. Where repairs and renovations do not exceed \$3,000, the CMHC Manual states that, *invitational tenders "may go out to a minimum of three pre-selected contractors"*.

5.1 CONTRACTORS

Observations

- From April 1999 to January 2002, Aiyawin utilized several contractors and painters to complete renovation work on their housing stock. In January 2002, repair and renovation work was granted to a single contractor. Other than the CMHC Manual, and occasional directives from the Board, Aiyawin does not have any written policies related to contracting and tendering.
- In October 2001 the Aiyawin Board directed the Maintenance Coordinator to obtain quotes from three companies to undertake bathroom renovations. Two of the companies were to be used on a trial basis for a few months to determine which company was the most satisfactory.
- Between November 2001 and December 2001, the two contractors completed bathroom renovations on thirteen housing units. One of these contractors was the brother of the General Manager. The Maintenance Coordinator wrote a report to the Board, dated January 2, 2002, that outlined and compared the labour costs, material costs, and recalls for deficient workmanship for each of the two contractors.
- As a result of this report, on January 23, 2002, the Board granted “exclusivity” to the brother (exclusive contractor) of the General Manager. In interviews with management and the Board we were told that the General Manager did not participate in this decision and that the Board had considered the possibility of a conflict of interest. Further, the Board believed that, as long as the Board hired the exclusive contractor and approved and monitored his work, a conflict of interest did not exist.
- Aiyawin does not have a conflict of interest policy and there is no evidence that the Board had any involvement in the approving and monitoring of the exclusive contractor’s work.
- During the course of our review, we found correspondence that stated that the General Manager had received a lump sum payment of \$10,000 from the exclusive contractor for consulting and contracting services. We were informed that the services had not been provided and no payment had been made.
- Our review of Aiyawin documentation relating to repair and maintenance work indicated that prior to September 2002 the Maintenance Coordinator was monitoring contractor performance. Subsequent to that date, we could find no documented evidence that this process continued.
- In January 2004, the Maintenance Coordinator went on sick leave. Between January 2004 and the beginning of our review in November 2004, the duties and responsibilities of the Maintenance Coordinator

position were being fulfilled by the General Manager with the assistance of the Maintenance Technicians. A review of documentation confirmed that between April 2004 and November 2004, the General Manager approved 31 of 39 purchase orders relating to work of the exclusive contractor.

- Our review of available documentation and interviews determined that between July 17, 2001 and November 19, 2004, the exclusive contractor received a total of \$683,011 for repair and renovation work undertaken for Aiyawin. **Figure 6** presents payments by Aiyawin to the exclusive contractor by year.

FIGURE 6

Payments to Exclusive Contractor by Year	
Year	Amount
July 17, 2001 to March 31, 2002	\$ 42,817
April 1, 2002 to March 31, 2003	222,355
April 1, 2003 to March 31, 2004	274,740
April 1, 2004 to November 19, 2004	143,099
Total	<u>\$683,011</u>

Source: Aiyawin Corporation

- Interviews and documentation determined that the exclusive contractor was able to charge purchases of building and repair materials at Aiyawin suppliers. We were also advised that the exclusive contractor had a key and unlimited access to the Aiyawin maintenance storage room where the Maintenance Coordinator and his staff maintained Aiyawin's supply of repair and maintenance materials. Aiyawin management and staff confirmed that no other contractors were afforded these privileges.
- On January 23, 2002 the Board issued a directive requiring the periodic review of the repair and renovation work performed by the exclusive contractor including all costs, and the comparison of those costs to estimates solicited from other contractors in the renovation industry. Two further Board directives dated September 29, 2003 and March 22, 2004, directed the Maintenance Coordinator to continue to obtain estimates for any repair and renovation work over \$5,000.
- On July 12, 2002, MHRC, in response to a request by the Maintenance Coordinator, provided Aiyawin with a list of contractors interested in quoting on and performing renovation work. Our review found no evidence that any of these contractors had been contacted to provide competitive bids for Aiyawin repair and maintenance work.
- On March 22, 2004, subsequent to completion of the fieldwork by MHRC for their Operational Review, the General Manager reported to the Board

that MHRC personnel were concerned that repair and renovation work, performed for Aiyawin, had not been conducted using short-form contracts. Despite this concern, our review of all available documentation determined that no short-form contracts were utilized with the exclusive contractor subsequent to the General Manager's report.

- We were informed in interviews that in a few cases, work that had been undertaken by Aiyawin's maintenance staff was billed by, and payments made to, the exclusive contractor.
- From a review of available Aiyawin financial records, we identified 242 payments made to the exclusive contractor for repair and renovation work undertaken between July 17, 2001 and November 19, 2004 (**Appendix D**). From this review we noted the following:
 - Payments for 62 jobs were in excess of \$3,000, 33 of which exceeded \$5,000.
 - Between April 2002 and November 2004, the exclusive contractor undertook 32 contracts, valued at approximately \$247,500 for work in excess of \$5,000, for which there were no competitive bids obtained.
 - Of the 242 payments for jobs undertaken by the exclusive contractor, only 105 of the jobs had quotes on file from the exclusive contractor.
 - For 240 payments there was no documentation that quotes had been received from any other contractors.
 - For the two cases where documentation was available:
 - In one case where a quote from another contractor was solicited we noted that this contractor was requested to provide a quote that was equal to or higher than an attached quote. While the attached quote did not identify the contractor, the exclusive contractor was eventually awarded the work and was paid the exact amount of the quote that had been attached.
 - In the second case three quotes were obtained in relation to an insurance claim. The exclusive contractor was the highest bidder for labour; however, the General Manager expressed a preference to use the exclusive contractor. Ultimately, the exclusive contractor invoiced and was paid \$2,500 more than his quote and \$3,425 higher than the lowest quote.
 - In 175 cases, the invoice date preceded the date of the purchase order.
 - In 44 cases, the invoice was produced on the same day as the purchase order.
 - In 77 cases the quote amount was the same as the invoice amount.

- Although the exclusive contractor's quotes included materials and labour in 40 cases, the related purchase orders and invoices did not reflect materials being purchased and paid for by the exclusive contractor in 28 cases.
 - Of the 40 cases noted above, the exclusive contractor invoiced and received payment equal to or in excess of the quoted amount in 35 cases.
 - We were informed that occasionally contractors were paid prior to their work being completed.
- Documentation determined that the exclusive contractor was able to undertake extra work without prior approval from the Maintenance Coordinator or the General Manager. We found three scopes of work authored by the Maintenance Coordinator which were provided to the exclusive contractor. Invoices show that the exclusive contractor undertook more work than had been outlined in the scopes of work. While the Maintenance Coordinator was mainly responsible to determine the type and the scope of work required, the General Manager made the ultimate decision of what work was to be done.
 - MHRC performed an inspection in October 2002 on five properties where work was undertaken pursuant to a special funding project. In April 2003, MHRC provided Aiyawin with the inspection report that stated, *"the work in question was inspected in the absence of detailed work descriptions or specifications"* because the work itself had been performed on the same basis and identified deficiencies at three of the properties. The deficiencies identified were painting that had not been done, inferior workmanship that included painted surfaces that were improperly prepared, and the "sloppy" application of "inferior quality" stucco. This work had been performed by the exclusive contractor and another contractor and was paid for by Aiyawin in August 2002 prior to any verification by Aiyawin of the completeness or quality of the work.
 - In April 2005, personnel from the OAG, accompanied by an independent property manager appointed by MHRC and the current Aiyawin Maintenance Coordinator, conducted an inspection of both the interior and the exterior of 21 Aiyawin properties. We also conducted an exterior only inspection of one multi-unit property containing 10 residences. Contractors, including the exclusive contractor, had been paid to complete work on these units between March 2003 and November 2004. In the course of this inspection, we observed the following examples of deficient and incomplete work:
 - Cupboard doors, originally drilled for right-hand installation had been re-drilled for left-hand installation and the right side drill holes had been capped.
 - A newly installed window had been covered with plastic to keep out the drafts. The window had not been insulated nor fastened and was loose within the frame.

- No underlay had been used in a carpet replacement installed by the exclusive contractor. At the same property six doors were left unfinished and window installers had cut out a large area of drywall but had not replaced the drywall to fit the newly installed window.
 - At some properties unused 4' x 8' sheets of Oriented Strand Board (OSB board) and other materials for shed construction were abandoned by the exclusive contractor.
 - A back porch built by the exclusive contractor was paneled throughout the interior. The paneling had buckled at every seam on all walls and the casings around the doors were not finished. A new exterior door had been installed; however, we observed an empty hole to accommodate a deadbolt or doorknob above the existing door handle.
 - In one bathroom, a moisture proof wall panel was used for shower walls; however, there was no backing behind the centre of the sheets to provide support. Wooden casings and quarter round molding were used as finishing between the bathtub, the walls and the ceiling.
 - At one property, we observed a potentially hazardous situation. In August 2003, the exclusive contractor removed asbestos wrap from hot water pipes in the basement of this currently occupied residence. The removal of the asbestos from the pipes was incomplete as asbestos residue was hanging from the pipes.
 - At the above property the exclusive contractor had been paid to paint the soffits, fascia and windows. Some portions of the fascia had been painted, however, complete sections were devoid of paint. The soffits had not been painted at all.
 - The exclusive contractor attended one property with materials for the replacement of the kitchen floor. Due to concerns of the resident, the exclusive contractor did not do the work, left the property and removed the materials. The exclusive contractor received full payment for the work. Aiyawin is unable to account for the materials that were removed from the property by the exclusive contractor.
 - In numerous locations we found that unfinished doors were hung as bought, with no paint. We also noted that casings and trim in many instances were incomplete.
 - Several sheds made from OSB board had not been painted. One shed appears to have been constructed from scrap materials.
 - At one property, a shed for which the exclusive contractor received payment to build, was not found.
- Aiyawin provided very few written scopes of work to be quoted on, or provided minimum information to the contractor. The resulting quotations from the exclusive contractor contained minimal descriptions

regarding the work to be done. For example, the term “complete gut” was used to describe the work for many bathroom and kitchen renovations.

- Interviews indicated that the common understanding of a “complete gut” was to strip the room down to the stud walls. However, our review of the work completed by the exclusive contractor determined that actual work done under the term “complete gut” was different from job to job. Of the 21 properties inspected, three had bathroom work completed and described as a “complete gut”. None of the three met the common understanding.

Conclusions

- Aiyawin’s appointment of the General Manager’s brother as the exclusive contractor was a contravention of Section 5 of the *Urban Native Housing Operating Manual*.
- Aiyawin did not have a documented tendering process in place that would ensure that they were obtaining value for the costs of their contracted services. The lack of a tendering process, including the acquisition of three quotations, created an undue risk for fraud and collusion to occur.
- Aiyawin management failed to comply with the Board’s direction to obtain quotes for all work in excess of \$5,000 and the Board failed to follow-up and to ensure that these directives were being acted upon creating an undue risk that excessive costs for work were paid.
- Aiyawin did not have a process in place to monitor and inspect work that had been undertaken by contractors to identify maintenance and repairs of questionable quality and to take appropriate action when required. This created an undue risk that appropriate work was not performed.
- Aiyawin allowed inappropriate access by the exclusive contractor to their business accounts and storage facilities which put Aiyawin assets at risk.
- The exclusive contractor’s “exclusivity”, possession of Aiyawin keys to access Aiyawin property and assets, and authorization to utilize Aiyawin’s business account cards could be perceived to categorize him as an Aiyawin employee. As such, Aiyawin may have increased its risk of liability for payroll deductions, such as Canada Pension Plan, on behalf of the exclusive contractor.

5.2 REPLACEMENT RESERVE

Under the terms of the Operating Agreements, Aiyawin was required to set up a Replacement Reserve account that was to be credited annually with an amount specified in the Operating Agreements, or as determined by CMHC/MHRC from time to time. These funds, along with accumulated interest, were to be held in a separate bank account and/

or invested only in accounts or instruments insured by the Canada Deposit Insurance Corporation. The use and disposition of Replacement Reserve account funds was subject to the approval or direction of CMHC/MHRC.

Further, a document entitled, *The Replacement Reserve, A Guide For Use*, prepared by MHRC and distributed to Aiyawin, describes the Replacement Reserve as follows:

“The replacement reserve is a fund kept by each housing sponsor under the terms of its operating agreement. The reserve is used to replace or repair what are known as capital items. The replacement reserve is funded from a sponsor’s operating budget through an annual or monthly transfer to the reserve. The amount to be transferred, which is an eligible operating expense, is the amount set out in the operating agreement or another amount approved by Manitoba Family Services and Housing.”

The CMHC Manual also states that the Replacement Reserve is:

“A separate interest-bearing account that the ‘Sponsor’ is required to set up. This money is to be used to replace large items (stoves, refrigerators, flooring, roofs, etc.).”

Observations

- Prior to September 2001, Aiyawin had made requests to MHRC for use of Replacement Reserve funds as required under the Operating Agreements.
- In response to an Aiyawin submission of a Maintenance and Improvement program plan detailing future expenditures, MHRC sent a letter dated September 17, 2001 to Aiyawin regarding the process for these future expenditures. MHRC’s letter noted that approval for individual items in this plan was no longer required.
- This letter referred to Maintenance and Improvement program expenditures rather than Replacement Reserve expenditures. Aiyawin management indicated that they interpreted this letter as granting them permission to access Replacement Reserve funds without MHRC approval.
- In a letter dated October 4, 2001, MHRC, responding to a question in a letter from the General Manager as to whether or not there had been any changes to the definition of the Replacement Reserve, noted that, *“The Replacement Reserve criteria that CMHC provided before the Social Housing transfer to the Province would continue to apply”*.
- Subsequent to the receipt of these letters, Aiyawin no longer sought MHRC approval for the use of Replacement Reserve funds. However, we found documentation confirming that the General Manager was aware that authorization was still required for Replacement Reserve expenditures. In a memo dated May 23, 2002, from the General Manager to the Maintenance Coordinator, the General Manager instructed the Maintenance Coordinator to ensure that MHRC was to be notified and their authorization received for all expenditures in excess of \$5,000 paid from the Replacement Reserve account, as this authorization was a condition of the Operating Agreements.

- A review of Aiyawin’s financial statements for the fiscal years ending March 31, 1999 to March 31, 2004 determined that the Replacement Reserve account had been significantly reduced.

Figure 7 presents a six-year analysis of the Replacement Reserve account.

FIGURE 7

Six Year Analysis of Aiyawin Replacement Reserve Account						
	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05 ⁽²⁾
Balance, beginning of year	\$609,746	\$717,162 ⁽¹⁾	\$821,316	\$792,027	\$452,155	\$ 72,127
Add: Provision for the year	163,548	163,548	171,948	171,950	171,950	171,950
Interest income	14,550	21,961	29,640	25,308	20,068	13,797
	787,844	902,671	1,022,904	989,285	644,173	257,874
Less: Purchases and fees	70,618	81,355	230,877	537,130	572,046	201,195
Balance, end of year	\$717,226 ⁽¹⁾	\$821,316	\$792,027	\$452,155	\$ 72,127	\$ 56,679

Source: Aiyawin Corporation audited annual financial statements

- (1) *Balance, beginning of year* as reported in the 2000/01 financial statements, did not agree with *Balance, end of year* in the 1999/00 financial statements. The 2000/01 financial statements did not provide any explanation for this difference.
 (2) Figures are from draft unaudited financial statements.

- From the end of the fiscal year ending March 31, 2001 to the end of the fiscal year ending March 31, 2004, Aiyawin reduced the Replacement Reserve account balance by approximately 91%.
- In a letter sent to the General Manager, dated December 3, 2002, MHRC requested that Aiyawin prepare and submit the Replacement Reserve Review Package. This Package estimated the costs of replacing major capital items. Aiyawin management did not prepare or submit a Replacement Reserve Review Package to MHRC.
- Aiyawin management could not provide any reason for not replying to the repeated requests of MHRC to submit the Replacement Reserve Review Package, other than to say that they did not adhere strictly to guidelines. Management agreed that the Replacement Reserve Review Package should have been submitted.

Conclusions

- Aiyawin knowingly breached the Operating Agreements by not seeking permission to expend funds from their Replacement Reserve account.
- Aiyawin’s depletion of its Replacement Reserve account placed the organization in financial distress and jeopardized its future viability.
- The Aiyawin management and Board failed to provide MHRC with the Replacement Reserve Review Package containing cost estimates for capital renovations. The estimates, when approved by MHRC, would

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have allowed Aiyawin to proceed with the specified renovations without the necessity of obtaining additional approval.

6.0 Management of Aiyawin

Aiyawin's General Manager during the period of our review was hired in April 2000. Besides providing overall day-to-day management of Aiyawin operations, the job description for the General Manager identified the following responsibilities:

- Manage and supervise Aiyawin staff and ensure the due implementation and adherence to staff policies;
- Follow up on Board directives and motions made and maintain files on minutes, directives, motions and policies;
- Ensure the corporation's compliance with its Project Operating Agreements with CMHC/MHRC;
- Monitor and control project operating costs within the approved annual/project operating budgets in conjunction with the Financial Administrator;
- Maintain a secure information and financial control system; and
- Report to MHRC, the Board and the Executive Committee regularly.

6.1 AIYAWIN POLICY AND PROCEDURE MANUAL

The CMHC Manual states that, *"the board is responsible for establishing policies on human resources management, administration and finance, maintenance, and tenant selection and relations"*.

The only version of the *Aiyawin Corporation Policy and Procedure Manual* (Aiyawin Manual) that we were able to obtain had an effective date of November 1, 2001.

This manual was a revision of an earlier version of unknown date. However, documentation indicated that some form of the Aiyawin Manual had been in existence since at least 1995.

Observations

- The Aiyawin Manual contains policies on employee advances, expense reimbursements, human resources management, confidentiality, and internet and email usage protocols.
- Aiyawin has no formal policies in place for the day-to-day operation of Aiyawin's business including conflict of interest and the areas of tenant/leasing, tenant files, waiting list management, arrears/eviction, maintenance planning, and budget variance reviews. Aiyawin indicated that they use the CMHC Manual as a guideline.
- At the Board meeting of February 26, 2002, the Board directed the General Manager to prepare a Tenant Guidelines Manual in conjunction with the Maintenance Coordinator and the Tenant Liaison Officer.

- At the same February 26, 2002 Board meeting the General Manager was directed to update the Aiyawin Manual relating to a change in the reimbursement for the use of personal vehicles.
- Neither of the above directives were carried out by the General Manager.
- In the Board minutes of October 8, 2003, the General Manager was directed by the Board to update the Aiyawin Manual in applicable areas based on new changes in Government policies/notices, law and employment standards and to provide the Board with the updates by the end of October 2003. This update was never done.
- We determined from interviews and documentation that the Board did not follow up to ensure that management acted on their directives.

Conclusions

- The Aiyawin Board failed in its responsibility to ensure that policies and procedures were current and provided guidance for conducting Aiyawin's day-to-day operations.
- The Board had no process in place to ensure that directives to management were implemented and carried out. This contributed to the undue risk of ineffective operations and inappropriate practices.

6.2 HUMAN RESOURCES

The General Manager's job description under the subheading "Office Administration" includes, amongst others, a responsibility for the "recruitment, hiring, discipline and dismissal of staff in accordance with employment law and Corporation policies". Although it is not known when the Board conferred these responsibilities on the General Manager, a Board minute on September 29, 2003, stated that, "The Manager's Board given authority to hire and terminate employees has been removed with this motion. The Board of Directors as per policy in place are to hire or terminate employees, after review of report submitted by the Manager".

The Aiyawin Manual states that any report dealing with staff disciplinary or other human resource issues is to be placed in that staff member's personnel file.

Observations

- We reviewed Board minutes and identified directives from the Board to the General Manager requiring the filing of disciplinary and other personnel information in personnel files.
- We determined that as of November 10, 2000 personnel files were being kept in the office of the Financial Administrator. In a memo on that date the General Manager requested that any personnel files in the Financial Administrator's office be transferred to the General Manager's office.
- On March 23, 2002 the Chair of the Board wrote to the General Manager and directed that all employee files were to be kept in the Financial

Administrator's office in order that they may be updated in a timely manner.

- On March 26, 2002, the Board minutes reflected that the Board had directed the Financial Administrator to prepare new personnel files which were to be reviewed at this meeting. This was necessary as the location of the original personnel files could not be determined. The Board minutes reflect that these files were reviewed by the Board.
- We reviewed all available personnel files for past and present employees and found that these files, in all but one instance, contained only timesheet information. We are aware of a number of terminations for cause over the period of our review; however, we found no evidence, other than in the one noted instance, of any staff evaluations, disciplinary reports and/or any reports for termination in any of the employee files.

Conclusion

- Aiyawin had no policy or process in place for the regular evaluation of personnel job performance and did not maintain adequate documentation to support the discipline and/or termination of employees. As a result, Aiyawin exposed itself to the risk of wrongful dismissal or other litigation issues.

6.3 EMPLOYEE ADVANCES

The CMHC Manual states that,

"Under no circumstances should an employee be given a loan or a salary advance".

Observations

- The Aiyawin policy relating to employee advances, in effect as of January 1, 2001, stated that there shall be no staff employee advances other than for travel for the funeral of an immediate family member or an emergency situation approved by the Board of Directors.
- We reviewed Aiyawin financial records from April 1999 to November 24, 2004 for any advances paid to Aiyawin staff. We found that the first employee advance was made in December 2000, but such activity was minimal until 2003/04.
- We were provided with no written approval by the Board or any Board or Executive Committee minute authorizing any of these advances other than in one instance. In this situation we reviewed documentation concerning a \$1,500 loan agreement, in the form of an employee advance to the General Manager, for the purchase of a personal vehicle. A repayment agreement dated August 16, 2001 was signed by the General Manager but not by any member of the Board. A copy of the

cheque advice contained a handwritten notation that called for repayment of the advance within seven months and noted approval for the advance by a majority of the Board via a telephone poll. The notation was initialed by the Board Chair.

- Other than in the situation noted above, there was no plan in place for the repayment of these advances. **Figure 8** illustrates a five-year history of advances to, and repayments by, Aiyawin staff.

FIGURE 8

History of Aiyawin Employee Advances												
	General Manager				Financial Administrator				Other Employees			
	#	Advances	Repay-ments	Balance	#	Advances	Repay-ments	Balance	#	Advances	Repay-ments	Balance
2000/01	1	\$ 1,500	\$ 1,250	\$ 250	-	\$ -	\$ -	\$ -	-	\$ -	\$ -	\$ -
2001/02	2	1,500	1,550	(50)	-	-	-	-	-	-	-	-
2002/03	2	250	100	150	-	-	-	-	-	-	-	-
2003/04	15	7,600	4,500	3,100	8	3,050	1,200	1,850	6	2,125	1,525	600
2004/05 ⁽¹⁾	11	4,218	3,285	933	8	2,250	900	1,350	6	1,300	1,200	100
Totals	31	\$15,068	\$10,685	\$ 4,383	16	\$ 5,300	\$ 2,100	\$ 3,200	12	\$ 3,425	\$ 2,725	\$ 700

Source: Aiyawin Corporation

(1) Payments to November 16, 2004 inclusive

- Approximately \$8,000 had not been repaid as of November 16, 2004.
- A recipient of employee advances indicated that the advances were obtained as a result of emergency situations. When asked to describe the emergencies, the employee stated that the money was required to pay personal bills that were due.
- We were informed by a Board member, that the policy relating to employee advances had been changed sometime in 2002/03 to allow for advances to occur. This change in policy is not reflected in any Board minute or in any other documentation provided to us. In interviews with other Board members we were told that they had no knowledge of any policy relating to employee advances.
- 25 out of 29 or 86% of the cheques issued for advances to the General Manager and the Financial Administrator from September 29, 2003 to November 24, 2004 were signed jointly by these two individuals.

Conclusions

- Aiyawin acted in contravention of the *Urban Native Housing Operating Manual* and ignored its own policy with regards to the payment of advances to employees.

Website Copy

- The ability of the General Manager and the Financial Administrator to have issued cheques to themselves posed a potentially serious financial risk to the organization.

6.4 REIMBURSEMENTS AND OTHER EXPENSES

The Operational Review identified the over-expenditures of administration and other budget items as an area of concern.

Observations

- The Aiyawin Manual in effect at November 1, 2001, sets out the basic guidelines relating to reimbursement of expenses to employees for the use of privately owned vehicles while on Aiyawin business. One of the guidelines stipulated that payment for mileage was to be inclusive of gasoline and maintenance costs.
- At the Board meeting of February 26, 2002, the Board set a mileage reimbursement limit of \$150 per month. The Board directed the General Manager to send a memo of this decision to staff and update the Aiyawin Manual to reflect the change.
- On February 27, 2002, the General Manager sent a memo to all staff advising that effective immediately, all staff travel claims were to be restricted to a maximum of \$150 per month. The memo further stated that any claims in excess of the maximum amount must be submitted for authorization to the General Manager, in written form, clearly detailing the reason for the additional travel.
- In the 33 month period from February 26, 2002 through November 24, 2004, the General Manager was paid for 33 mileage claims, of which 23 claims were in excess of the \$150 maximum amount. During the same period, other Aiyawin employees were paid for 159 mileage claims, of which 64 claims were in excess of the \$150 maximum amount.
- Interviews and documentation confirmed that on occasion the General Manager was using the Aiyawin credit card for gasoline purchases while also claiming mileage expenses. Gasoline purchases were to have been deducted from the mileage expenses claimed, however, we found no evidence that this occurred.
- In interviews with management and the Board we were told that the \$150 maximum mileage claim per month was insufficient to meet the travel requirements of the job. When asked why the limit had not been increased, the reply was that by verbal authority this was allowable. We were informed that no verification of mileage claims was undertaken.
- Aiyawin paid vehicle repair expenses for staff and the exclusive contractor as well as paying for parking tickets, towing, and traffic violations for staff members. One recipient informed us that there was no intention that the money was to be paid back.

- Interviews with Board members indicated that there was no formal cell phone usage policy in place but that they were aware that the cell phones were to be used for business purposes. We were told that the Board was generally aware of the monthly costs of the cell phones and that the General Manager was responsible for administering the cell phone plans.
- In discussions with Board members, one Board member estimated that she utilized 40% of her cell phone time for business purposes. Another Board member informed us that she utilized the majority of her cell phone time for business purposes.
- The General Manager acknowledged to us that the cell phone costs were excessive and that he had neglected to review the plans. Although aware of personal usage of cell phones, he advised us that he did not “stringently” monitor cell phone expenses and personal usage.
- Our review of Aiyawin financial records determined that except for 2004/05, a detailed breakdown of individual cell phone expenditures for the Board and employees was not possible. The review indicated that the following approximate yearly expenditures for cell phone usage between fiscal years 1999/00 to 2003/04 were:

1999/00	\$ 1,600
2000/01	\$ 3,650
2001/02	\$ 7,400
2002/03	\$ 9,250
2003/04	\$12,050

- During the 9 month period, April to December 2004, the average monthly cost of the cell phone plans for Aiyawin was approximately \$400. During this period, the average monthly billing for cell phone use was approximately \$700. A detailed review of this period showed that the General Manager, one staff member, and one Board member had significantly exceeded their plan costs.
- In an interview with the Board member who had exceeded her plan, we were informed that there was no requirement to pay back the personal use portion of the monthly expense, or any overages in excess of the monthly plan limits. The Board member was never asked to repay these amounts. Another Board member advised us that she thought requests for repayment were made, but she was unaware of any actual repayments.

Conclusions

- Aiyawin ignored its own policy with regards to the reimbursement to employees for the use of privately owned vehicles while on Aiyawin business.
- The payments made by Aiyawin for repairs to staff and contractor vehicles, and the payment of parking tickets, towing charges and traffic

violations incurred by staff members were an inappropriate expense to Aiyawin.

- Aiyawin had no process or procedure in place to verify the mileage claims submitted for payment which created a financial risk to the organization.
- The Aiyawin Board and management failed to ensure adequate controls and processes were in place to review and monitor cell phone usage and expenditures, and expenditures associated with privately owned vehicles. This resulted in Aiyawin incurring excessive and unnecessary expenditures.

6.5 SIGNING AUTHORITIES

The Articles stated that all Aiyawin cheques were to be signed by two individuals in such manner as the Board may from time to time designate by resolution.

Observations

- On September 29, 2003, a Board motion directed that the General Manager and the Financial Administrator were not to sign the same cheque. The authorized signing authorities were to be the General Manager or the Financial Administrator and one of the Board members, either the Chair or the Secretary-Treasurer.
- Aiyawin could not provide us with the banking resolution to reflect this directive.
- We reviewed cheques written between September 29, 2003 and November 16, 2004, and noted that the General Manager and the Financial Administrator continued to be the only signatories on 24% of cheques issued during that time period. Of the approximately \$224,000 disbursed by these cheques, 20% were payable to the General Manager, Financial Administrator or the exclusive contractor. We were informed that the Financial Administrator was not aware of the Board directive restricting signing authority.
- Many of the cheques signed by both the General Manager and the Financial Administrator were payable to Board members for attendance at Board meetings or advances for attendance at future Board or Board Executive Committee meetings.
- We were told that the designated signing authorities had not been adhered to because Board members were not always available and cheques needed to be signed.

Conclusion

- Aiyawin did not adhere to the Board directive specifying the designated signing authorities. This exposed Aiyawin to undue financial risk.

6.6 MANAGEMENT LETTERS

Aiyawin's external auditor provided the Board with an annual management letter detailing items that came to their attention during the annual financial statement audits that the external auditor felt required corrective action by the Board.

Observations

- We reviewed the management letters for the fiscal years ending March 31, 1999 to March 31, 2004 and determined that, except for some minor changes, all the letters were virtually the same. Some of the items continuously noted by the auditor in their management letters included the need for:
 - An accounting manual outlining paper flow and procedures so that accounting functions can be maintained in the absence of the staff accountant or in the event of staff change;
 - A formal disaster recovery plan to be developed and communicated to all relevant personnel in order to minimize the impact of lost or destroyed accounting records and other sensitive documents and information on ongoing operations;
 - The General Manager to perform the following functions on a monthly basis to maintain internal control in the organization:
 - Review and approve monthly bank reconciliations and journal entries; and
 - Scan payrolls and approve by initialing;
 - A central filing system to replace the need for excessive copying of various documents; and
 - Management to address the Replacement Reserve and Repairs and Maintenance policy internally and with MHRC. Aiyawin is required to request prior approval from MHRC for certain Replacement Reserve expenditures. There is not always evidence of this approval on file.
- A review of documentation determined that no accounting manual was ever produced.
- Aiyawin experienced several losses of information due to computer crashes. We noted that Schedule D of Aiyawin's financial statement for the year ended March 31, 2003 reported that \$537,130 of Replacement Reserve purchase detail was not available due to a critical computer failure resulting in permanent data loss.
- We reviewed available backup tapes and found that no backup schedule or procedures were being followed, and that backups were being created sporadically. In some cases the backups had failed and the backup tapes were not readable and consequently were of no value. Backup tapes were not stored offsite.

- We examined available bank reconciliations for evidence of review by the General Manager. We found no evidence of any General Manager review prior to July 2003. Between July 2003 and October 2004, we noted 14 of 16 reconciliations had been initialed, but not dated, by the General Manager.
- A review of payroll records between April 4, 2003 and October 29, 2004, indicated that 34 of 51 payroll runs had been signed off by the General Manager, 11 had been signed off by an unidentified person, and 6 had not been signed off.
- We examined journal entries for the period of our review and found no evidence of any review by the General Manager.
- No central filing system was developed. A review of files in the General Manager's office determined that very few files existed subsequent to 2002.
- Our review determined that despite annual notification from its external auditor that Aiyawin was required to request approval from MHRC for certain Replacement Reserve expenditures, no such requests were made subsequent to September 2001. We could find no evidence of any internal policies for repairs and maintenance.

Conclusions

- The Board and management did not act to address the external auditor's concerns. This contributed to inefficient and ineffective operations.
- No disaster recovery plan was ever developed. The lack of a disaster recovery plan and the sporadic backing up of computer data posed a significant risk that more of Aiyawin's sensitive documents and information could have been lost and unrecoverable.

6.7 MHRC REVIEW OF FINANCIAL STATEMENTS

MHRC reviewed Aiyawin's financial statements on an annual basis and provided a Financial Statement Review Letter to Aiyawin requesting clarification or explanation of operational concerns identified as a result of their reviews.

Observations

- We reviewed the Financial Statement Review Letters for the fiscal periods ending March 31, 1999 to March 31, 2004 and identified the following recurring issues:
 - Observations noted in the external auditor's management letters, needed to be reviewed and the suggested changes implemented;
 - The Replacement Reserve account was underfunded and an explanation was required outlining why there would continue to be an unfunded portion of the Replacement Reserve; and

- Approved budgets had not been followed and explanations were being requested.
- Through interviews and documentation we determined that Aiyawin did not respond to MHRC's requests for information and explanations.
- The General Manager noted that Aiyawin overspent its budget because he disagreed with the funding model used by MHRC and considered the annual budget allotments to be insufficient to meet their needs.
- The General Manager could not provide any explanation why Aiyawin did not address the issues raised in the management letters of Aiyawin's auditors or respond to questions raised by MHRC in their annual review of Aiyawin's financial statements.

Conclusion

- The Aiyawin Board and management ignored repeated requests for clarification or explanation of operational and financial concerns requested by MHRC. This continual refusal to provide information and disregard of budget and Replacement Reserve requirements breached their Operating Agreements, and were contributing factors in MHRC's decision to discontinue funding.

7.0 Board Governance

Corporate governance can be most simply defined as *"the system by which an organization is directed and controlled"*.¹ Effective governance practices relate to how a governing body (most often, a board of directors) leads and oversees an organization. Regardless of whether the governing body is responsible for a private sector corporation, a public sector entity, or a not-for-profit voluntary organization, what each has in common is that a group of people have been elected or appointed to provide direction and control to an organization.

Effective governance is built upon four pillars:

1. **Stewardship** - As stewards, Boards act on behalf of others, and are trustees of an organization's mandate and its resources. A Board is therefore given the ultimate authority for the actions of its organization. As a result of this stewardship, a Board needs to honour the trust that has been placed in it.
2. **Leadership** - A Board fulfils a leadership role and as leaders, Board members are expected to reflect the priorities and values of the stakeholders which they represent and from which they are drawn. Leadership is about the relationship between the governors and those governed. Therefore, a Board needs to develop positive relationships with all stakeholders, ensure respect between parties, and build a sense of commitment.

¹ London Stock Exchange, *"Report of the Committee on the Financial Aspects of Corporate Governance"* (Cadbury Report), 1992.

3. **Responsibility** - Having been given a fiduciary responsibility, Boards are expected to manage the resources of the organization efficiently and effectively to accomplish the desired aims. Board members are expected to be reliable, and to allow appropriate factors and considerations to influence their judgment, including consideration of the effect of their decisions on others. They are also expected to devote the personal time and energy to ensure that governance is appropriate and adequate.
4. **Accountability** - Boards are ultimately accountable for the actions of their organization. Accountability is the requirement to answer for the discharge of responsibilities that have been conferred on and that affect others in important ways. It requires that Boards understand who is responsible for what, what performance is to be achieved, and what information is required to ensure appropriate decision-making.

Effective governance requires appropriate mechanisms be established by the Board to enable effective decision making, ensure clear accountability, and provide for regular review and assessment of management and operations. Although the specific practices, functions and activities of a Board will, and are expected to, differ based on the particulars of the organization, a Board's work must ensure that the key governance elements of setting strategic direction and providing corporate oversight (control) are performed.

7.1 AIYAWIN BOARD GOVERNANCE

Section 3 of the CMHC Manual states:

"The board is responsible for establishing policies on human resources management, administration and finance, maintenance, and tenant selection and relations. It must also organize and appoint ad hoc committees; set and follow a budget; ensure that all legal obligations are met; provide firm leadership; and maintain open lines of communication."

Observations

Board Composition and Membership

- Aiyawin has no membership other than the Board members. From December 2001 to November 2004, Board members never totaled more than four members, and from June 2003 never totaled more than three. As these were the only members of Aiyawin, they elected themselves to executive positions.
- Subsequent to June 2003, we found no evidence that Aiyawin actively sought new membership. In March 2004, the Board gave a directive to the General Manager to place advertisements in the Winnipeg newspapers and all Aboriginal Centres regarding recruitment of new Board members. We could find no documentation to confirm that these advertisements were placed. No new Board members were appointed at this time.

- We were informed that recruitment of new Board members was difficult due to the time commitment and work involved in a Board position. We were also informed that some of the few Board members who had been recruited prior to June 2003 left due to personality conflicts. We observed that after being informed in the Operational Review that their lack of Board members was a breach of their Operating Agreements, and subsequent to the beginning of our review in November 2004, Aiyawin was successful in recruiting several new Board members.

Background and Training

- Most Board members lacked the educational background and financial expertise required to oversee the organization. None of the three Board members who continuously served on the Board between October 2001 and November 2004 had any board experience prior to Aiyawin.
- We interviewed the three Board members who continuously served on the Board between October 2001 and November 2004. The Board members had little understanding of the roles and responsibilities of a Board member.
- The Board minutes of December 14, 2000 noted that Aiyawin had requested that CMHC provide a Board development workshop. This workshop did not take place. Aiyawin provided no initial or developmental training to its Board members during the period of our review.

Board Processes

- Board members advised us that Board meetings were generally held once and sometimes twice per month when deemed necessary. However, based on the minutes supplied to us, only six meetings were held from November 25, 2003 through November 24, 2004. One meeting was the Annual General Meeting to appoint members and Board members, one meeting was held to approve Christmas bonuses, and four meetings were held to conduct the business of the organization. During this time period, the three Board members received \$11,400, \$11,590 and \$660 in payments for attendance at Board and Board Executive Committee meetings and for bonuses.
- From October 2001 to November 2004, the Board had only one subcommittee, the Executive Committee.
- We were informed that much of the business of Aiyawin's Board was conducted in Executive Committee meetings that occurred two or three times per week. We were told that these meetings were sometimes conducted over the phone, in a restaurant over lunch, at the workplace of the Board Chair or at Aiyawin's offices.
- We were informed that minutes for Board Executive Committee meetings were handwritten and subsequently typed and given to the General Manager to be placed in a binder in the office safe. We asked the General Manager to provide us with Executive Committee meeting

minutes and we were advised that the Board did not want to provide those minutes due to confidentiality concerns. We then requested the Board to provide us with copies of the minutes for Board Executive Committee meetings. We were told that the minutes had been misplaced or stolen by a person or persons unknown and that electronic copies were not maintained. Furthermore, when we asked the Board to provide us with the original notes of the Executive Committee meetings we were informed that the notes had been shredded.

- We were also informed that the detail of Board Executive Committee meetings was given to other Board members at regular Board meetings by verbal reports. Our review of Board meeting minutes found no reference in any of these minutes of any report of any Executive Committee meeting.

Board Effectiveness

- Through interviews, a review of the Board minutes and other documentation, it was determined that the Board did not follow up on directives given to the General Manager. We noted several occurrences in the minutes where the Board directed the General Manager to complete tasks by a specific date or for the next Board meeting. A review of Board minutes for subsequent meetings either provided no information to confirm that the task had been completed or requested again that the General Manager complete the task. Ultimately, none of the tasks were completed by the General Manager.
- Management letters provided to the Board by Aiyawin's external auditors were not fully addressed.
- In interviews with Board members we determined that they were not familiar with the Operating Agreements. We were told that it was not until the release of the Operational Review that they became aware of the requirement to request the use of Replacement Reserve funds. However, we found several copies of *The Replacement Reserve, A Guide For Use* and the *Replacement Reserve Review Package* in the Aiyawin offices. Correspondence from MHRC in September 2001, as well as the external auditor's management letters to Aiyawin identified this requirement.
- The Board did not fully respond to MHRC requests for clarification and explanation on various items concerning Aiyawin operations.
- We were informed that the decision for the payment and amount of bonuses for Board members was decided by the General Manager in consultation with the Financial Administrator.

Conclusions

- The Board lacked the required membership to meet the conditions of their Operating Agreements and to ensure a sufficiently broad range of skill sets to accomplish their mandate. The Board was, in effect, controlled by one individual.

- The Board lacked the necessary knowledge and expertise to fully scrutinize and critique the financial information provided to them and to use that information to make appropriate decisions.
- The Board did not provide sufficient control and oversight of Aiyawin and did not hold management sufficiently accountable for Aiyawin's operations and performance.
- The Board conducted most of its business and decision making through its Executive Committee. However, the Board was unable to substantiate the actions of the Executive Committee. A Board should not delegate its ultimate authority to a Committee.
- The Board failed to ensure Aiyawin operated in compliance with their Operating Agreements.

7.2 BOARD MINUTES

Maintaining a thorough paper trail is critical to demonstrate compliance with a board's fiduciary obligations to the organization. One way to effectively document decisions made by officers and directors is to prepare and maintain detailed minutes of board and executive meetings. An appropriately detailed record will allow officers and directors to demonstrate that they have fully complied with their financial oversight obligations.²

A failure to keep and maintain minutes of board and executive meetings could well be construed as an affirmative act by directors to cover up their failure to properly monitor the financial condition of the organization.³

Observations

- We reviewed the set of Board minutes provided to us by Aiyawin for Board meetings that took place from May 25, 1999 through December 17, 2004, totaling 60 meetings. We noted that this set was incomplete. Through review of other Aiyawin documentation we found Board minutes for four additional Board meetings.
- Of the 60 Board Meeting minutes that we received, only 10 included agendas and none had any financial, management or personnel reports attached.
- Despite our request, Aiyawin was unable to provide us with minutes of any Board Executive Committee meetings that may have taken place.
- In interviews we were told that the Board Executive Committee members, subsequent to the release of the Operational Review, did not see the need to keep minutes for meetings now that they were no longer claiming expenses.

² *Directors & Boards, First Quarter 2005 Edition*, article entitled, "The Must-Have Record: Board Meeting Minutes".

³ *Ibid.*

Conclusion

- Aiyawin Board minutes were neither complete nor contained sufficient information to allow officers and directors to demonstrate that they had fully complied with their governance responsibility and financial oversight obligations.

8.0 Provincial Responsibility

The Social Housing Agreement between Canada and Manitoba signed on September 10, 1998, transferred responsibilities for the management and administration of the portfolio of housing units funded under not-for-profit and co-operative housing programs from Canada through CMHC to Manitoba through MHRC. MHRC was to assume all rights and responsibilities which CMHC had under project operating agreements with not-for-profit project sponsors and co-operative housing groups.

MHRC would be responsible for the planning and budgeting of federal funding for social housing in Manitoba and for the administration of project operating agreements with third parties.

Section 7, Maintenance and Repairs, of the CMHC Manual states:

"To ensure that the units are being maintained in accordance with proper administrative practices and the Operating Agreement, CMHC schedules a thorough inspection of each housing project every three years. The results of each inspection are sent to the Sponsor, but this inspection does not take the place of the Sponsor's regular inspections and/or preventive maintenance."

Observations

- In the summer of 1998, CMHC conducted an operational review at Aiyawin covering the period from October 10, 1996 to July 15, 1998. Their key findings were:
 - Aiyawin should consider increasing its membership base in order to attract Board members;
 - The Aiyawin Board should resolve the issue as to who is responsible for the operations of Aiyawin on a daily basis;
 - Aiyawin should develop appropriate policies with respect to tendering of contracts, inspection of units, and tenanting; and
 - Aiyawin should repay monies advanced from the Replacement Reserve.
- We reviewed all MHRC documentation relating to Aiyawin covering the period of our review. We examined Housing Project Financial Statement Questionnaires completed by MHRC for their annual review of Aiyawin's financial statements. We determined from our examination of the questionnaires that no thorough physical inspections of Aiyawin properties had taken place from the time of the transfer of

responsibility for management and administration of the portfolio from CMHC to the beginning of our review.

- MHRC employs five portfolio administrators who are responsible for MHRC's administration of approximately 13,400 housing units, and approximately 5,000 personal care homes and group home beds. MHRC utilizes two staff from Capital Planning to complete physical inspections of housing units. Capital Planning personnel estimated that between 75 and 100 housing units per year could be physically inspected.
- We were informed that MHRC did conduct occasional site visits to Aiyawin. A typical site visit was limited to discussion with management and perhaps a few inspections of housing units. We were informed that MHRC staff resources limited the planned site visits to once every three years.
- As noted earlier in this report, we determined that Aiyawin was not responding to continual requests by MHRC for information and explanations related to MHRC's annual review of Aiyawin's financial statements.
- MHRC had received numerous complaints over the years relating to mismanagement. Most complaints related to human resource issues but were not supported by documentation or witnesses. In September 2002, MHRC received a package of information from an anonymous source. This package contained documentation relating to the employment of the General Manager's brother as a maintenance contractor.
- We reviewed documentation dated December 5, 2002, which stated that MHRC had received a number of unsolicited allegations of mismanagement and possible fraud at Aiyawin.
- As a follow-up to an OAG discussion with MHRC in the summer of 2003, the OAG requested in a letter dated November 10, 2003, that MHRC review a number of concerns regarding Aiyawin and provide the OAG with a formal response to this request. In December 2003, a response was provided to the OAG indicating that MHRC would be conducting an operational review in the following year.
- We reviewed documentation that showed that MHRC was going to conduct an Operational Review of Aiyawin. After unavoidable delays MHRC wrote to Aiyawin on October 6, 2003 advising them of the dates of the review and providing a client visit questionnaire for completion. This questionnaire was completed and signed off by the General Manager on November 10, 2003.
- An Operational Review was conducted in February 2004 and completed with a report issued in November 2004. On November 19, 2004, the Minister requested that the OAG review the concerns identified in the Operational Review. Additionally, the Minister requested that the OAG address allegations of fraud and theft related to contracting and tendering, and payments to members of the Board of Directors that had been brought forward publicly with respect to Aiyawin.

- On November 22, 2004, MHRC informed Aiyawin that MHRC required that the Board of Directors provide a detailed plan of action to respond to the recommendations set out in the Operational Review, by December 13, 2004.
- Aiyawin had presented a response to the Operational Review and met with MHRC personnel on December 13, 2004. MHRC rejected the response as it did not satisfactorily address the recommendations. MHRC required Aiyawin to provide a satisfactory response to each recommendation by December 31, 2004 or MHRC would appoint a receiver/manager, and suspend funding.
- On December 31, 2004, Aiyawin presented a satisfactory response to the Operational Review. In a covering letter Aiyawin acknowledged and accepted the recommendations, and attached a detailed action plan complete with a timeline for completion.
- MHRC appointed an independent Property Manager to train and direct staff and to co-manage Aiyawin's operations effective February 2005. More specifically, the Property Manager was to inspect and assess housing inventory, develop recommendations based on the housing inventory review and develop maintenance procedures and programs to include purchasing procedures, contract specifications, contract selection process, contract awarding and follow-up inspection procedures. As well, the Property Manager was to develop formal procedures for employee selection, hiring, training and evaluation. The Property Manager was to report to MHRC on a regular basis.
- In a letter dated February 23, 2005, Aiyawin notified MHRC that they perceived the appointment of the Property Manager with management authority as equivalent to the appointment of a receiver/manager. Aiyawin advised MHRC that any attempt to appoint a receiver/manager would be challenged in a court of law. Aiyawin also advised MHRC in this correspondence that they believed that MHRC was taking an adversarial as opposed to a supportive position towards Aiyawin. Over the following three months, Aiyawin failed to meet the obligations and timelines they had set out and agreed upon with MHRC and we could find no evidence that they had taken any action to do so.
- In a letter dated June 10, 2005 MHRC informed Aiyawin that effective immediately it was terminating the Operating Agreements with Aiyawin as a result of Aiyawin's having breached its obligations under those Agreements (**Appendix C**).
- On June 28, 2005, Aiyawin's Board of Directors provided MHRC with a copy of a Special Resolution passed by the Board indicating that they agreed to transfer the assets and liabilities of Aiyawin Corporation to the Dakota Ojibway Tribal Council Housing Authority Inc. (DOTCHI).

Conclusions

- MHRC did not monitor, administer and conduct regular physical inspections of housing portfolios in the Urban Native Housing Program, creating the undue risk that problems may not have been addressed.
- Contrary to the *Urban Native Housing Operating Manual* that recommends a thorough inspection of each housing project every three years, MHRC had not conducted any thorough physical inspections of the Aiyawin properties, in over six years, between September 1998 and the appointment of the Property Manager in February 2005.
- MHRC was aware of allegations of mismanagement, human resource issues and conflicts of interest within Aiyawin as early as September 2002 and had identified through their annual financial statement reviews that Aiyawin had operational problems that were not being dealt with or responded to by the Aiyawin Board and management. Despite these red flags, MHRC did not sufficiently follow-up or act to address the problems until their Operational Review.

9.0 Recommendations

In light of MHRC's termination of its operating agreements with Aiyawin, we submit the following recommendations for the consideration of MHRC and the Urban Native Housing Organizations in their future ongoing operations. While these recommendations flow directly from the conclusions we reached during our review of Aiyawin, we believe they would be useful to all Urban Native Housing Organizations and the MHRC.

9.1 FOR THE BOARDS OF DIRECTORS OF URBAN NATIVE HOUSING ORGANIZATIONS

- Schedule regular reviews of governance, direction and oversight policies.
- Identify the information the Board requires to fulfill its responsibilities, and ensure that management provides such information in a timely manner.
- Meet on a sufficiently regular basis to permit the Board to make decisions in a timely manner. Overall Board authority and responsibility for decision-making should be retained even when certain activities are delegated to committees.
- Review the appropriateness of organization policies related to the levels of reimbursement of expenses paid to Board members for attendance at Board meetings. These levels of reimbursement should comply with the terms of the organizations' operating agreements.
- Ensure that the Board, and their Committees, have appropriately detailed minutes that will allow officers and directors to demonstrate that they have fully complied with their oversight obligations.

- Establish a clear set of competencies and guidelines for the future recruitment of Board members. The Board of Directors should collectively have the skill sets and knowledge necessary to assess whether information provided to them is appropriate and complete. Board members with financial and housing management knowledge and expertise would be very beneficial.
- Regularly assess Board Committee structure to ensure that the mandates and specific responsibilities are clearly defined.
- Set term limits to encourage continuous renewal of Board directors and officers.
- Provide formal orientation programs for all new Board members to assist them in understanding the key strategic and financial risks of managing and operating subsidized social housing projects. This should include familiarization with all operating agreements and relationships with stakeholders.
- Provide regular training and development opportunities for Board members to enhance effective governance.
- Develop and implement monitoring practices to ensure that management complies with their policies and directives. Boards oversee the operations of an organization, while managers should be allowed to manage the day-to-day operations.
- Adopt a comprehensive documented conflict of interest policy for employees, management, and the Board. The policy should include a declaration form to be signed annually by all employees, management, and the Board, to ensure a consistent approach to issues. This policy would enable the Board to demonstrate an active role in ensuring that conflicts of interest, or the perception of conflicts of interest, do not exist.
- Review and ensure management takes appropriate actions to implement the recommendations highlighted in management letters from their external auditors in a timely manner.
- Review and assess the appropriateness of expenses incurred by senior management and put in place processes to ensure that management expenses are closely monitored. Boards should receive periodic reports on management expenses and where questions of appropriateness arise Boards should take whatever remedial action may be necessary in a timely manner. This may, in certain circumstances, include seeking legal advice.
- Conduct and document annual formal evaluations of senior management to assess senior management's performance against organizational plans and adherence to Board policies.
- Conduct periodic self-evaluations to determine opportunities for improvement in their governance practices.

- Implement a ‘whistle blower’ policy and guidelines to provide employees with a confidential process to identify or report issues affecting the operations of the organization. The policy should provide protection against retribution.

9.2 FOR THE SENIOR MANAGEMENT OF URBAN NATIVE HOUSING ORGANIZATIONS

- Review and assess the appropriateness of staff expenses incurred and that processes are in place to ensure that staff expenses are closely monitored. General Managers should review staff expense reports and where questions of appropriateness arise should take whatever remedial action may be necessary in a timely manner. This may include reporting the issue and the actions taken to the Board.
- Ensure that personnel files are maintained on a current basis for each of the organization’s employees. These files should contain appropriate documentation to support management decisions related to human resource issues such as promotions, pay scales, bonuses, discipline or dismissal. Without such detailed documentation the organization could be at risk of wrongful dismissal suits or other litigation.
- Ensure that a documented tendering process is in place so that the organization obtains value for the costs of their contracted services. Obtaining competitive bids mitigates both the organization’s exposure to the risk of fraud and collusion, and the risk of an actual or perceived conflict of interest.
- Implement a documented process to regularly inspect housing portfolios to determine what maintenance and repairs are required to be undertaken, and to monitor and evaluate the quality and completeness of the maintenance and repairs undertaken in a timely manner. This would allow for the prioritizing of the work to be undertaken, ensures that value for money was obtained for services, and helps to establish budgetary needs.
- Ensure that the organization’s accounting function has documented procedures outlining paper flow and operational processes. Standardization within the accounting function will provide continuity in the event of a staffing disruption or change.
- Develop and implement a formal disaster recovery plan to ensure that the organization’s sensitive documentation and information is safeguarded. This recovery plan should incorporate strategies for the retrieval of electronic data in the event of technological failures. All recovery plans should require secure offsite storage of backup tapes and other documentation.
- Communicate openly with MHRC staff and respond in a timely manner to information requests from MHRC. Failure to respond to such requests may result in a breach of the operating agreements and may jeopardize the organization’s future viability.

9.3 FOR THE MANITOBA HOUSING AND RENEWAL CORPORATION

- That MHRC develop a long term strategy to undertake regular physical inspections of the units within each housing portfolio.
- That MHRC staff maintain an ongoing dialogue with the organizations in order to better understand their operations and financial requirements and to deal with problems in a timely manner.
- That MHRC ensure that a comprehensive monitoring function for subsidized social housing projects is appropriately designed and resourced.
- That MHRC define the appropriate guidelines for its administrative staff to follow in the event that they become aware of issues of concern that may impact compliance with the operating agreements or MHRC informational requests. Appropriate guidelines would allow for a timely response to and resolution of these issues.
- That in light of the observations contained in this report, MHRC establish a review process to determine whether there are any changes or additions that should be incorporated in future operating agreements with subsidized social housing organizations.

10.0 Response from Officials

We appreciate the recommendations contained in the report and are pleased to advise of the following activities that have been undertaken by the Department over the past year to address the concerns identified.

Our staff made every effort to work with the Aiyawin Board of Directors following the release of our November 2004 Operational Review. Following numerous meetings, we advised the Board on January 11, 2005 that we required reassurance that they had the ability to follow-up on their proposed plan to address concerns identified in the Operational Review.

On February 2, 2005, we appointed a property manager and on June 10, 2005, we advised Aiyawin that they were in breach of the Operating Agreements, that the subsidy was being suspended, and the MHRC was terminating the Operating Agreements.

On June 28, 2005, it was agreed by the Board to transfer the assets and liabilities of Aiyawin Corporation to the Dakota Ojibway Tribal Council Housing Authority Inc. (DOTCHAI). On October 20, 2005, the portfolio was transferred to the Dakota Ojibway First Nations Housing Authority Inc. (DOFNHAI), a subsidiary of DOTCHAI. Our experience with this organization has been very favourable to date, and we are working closely with them in addressing the property management issues.

Increased Inspection Staffings

The Capital Planning Branch has increased its staff complement from three to five, which has enhanced its cyclical inspection process. However, we are currently in the process of adding two more staff to bring the staff complement to seven. This will allow us to implement a three year cyclical inspection program that will result in all housing units monitored by the Portfolio Administration Branch being inspected on a regular basis.

For the Urban Native portfolio, inspections have been completed on projects administered by three of the twelve Urban Native Groups. It is anticipated that inspections will be completed on the remaining nine groups by the end of the 2006/07 fiscal year.

Increased Staffing of Portfolio Administrators

In October 2005, staffing in the Portfolio Administration Branch was increased from five to eight portfolio administrator positions. This has resulted in a reduced number of housing projects assigned to each portfolio administrator, allowing more time to be dedicated to each housing organization.

In January 2006, the independent Property Manager brought in to manage Aiyawin Corporation, joined the Portfolio Administration Branch on a contract basis. This property manager will be responsible for the Urban Native portfolio. Once this realignment is completed, it will be communicated to the Manitoba Urban Native Housing Association (MUNHA).

Urban Native Housing Organizations

As noted above, plans are underway to create a permanent Portfolio Administrator position to work specifically with each Urban Native housing organization, and provide training and support to MUNHA.

Comprehensive Monitoring Plan

The additional staffing complement in the Portfolio Administration Branch will allow for a total of 16 Operational Reviews to be completed annually.

Reviews will be prioritized based on risk assessment tools which include a review of audited financial statements and inspection reports, as well as documented complaints from tenants or other individuals.

The framework for the monitoring plan includes the risk assessment, an Operational Review which will be carried out according to a Monitoring Protocol and Client Visit Questionnaire, as well as a follow-up and monitoring procedure.

The Department will look to the "Grant and Other Funding Accountability Guide" which provides structure and guidance for departments related to authorization, control, and monitoring of government funding arrangements. In addition, the Manitoba Comptrollership Framework

requires departmental Comptrollership Plans to include information related to the internal control processes that are in place in departments to mitigate risk and ensure proper stewardship over public resources. Both of these documents will be reviewed by the Department in light of this report, and measures taken to strengthen the authorization of grant funding, as well as monitoring and accountability related to such funding arrangements in the future.

Procedure to Address Allegations or Complaints

The Portfolio Administration Branch has adopted a process for follow-up on allegations or complaints of financial misconduct involving government funding to external service providers as implemented by the Department's Agency Accountability and Support Unit. This process identifies the steps to follow when financial/managerial complaints or allegations are made.

Operating Agreements

When the Aiyawin portfolio was transferred to Dakota Ojibway First Nations Housing Authority Inc. (DOFNHAI), a revised Operating Agreement was entered into which provides Family Services and Housing with more appropriate remedies in the event of mismanagement.

A new framework for Operating Agreements with the Urban Native Program has been implemented that will have the Branch take every opportunity to revise current Operating Agreements using the DOFNHAI agreement as a template.

It is anticipated that the physical inspections being completed by Capital Planning Branch may result in opportunities to negotiate revised Operating Agreements under the new framework.

In addition, under the Section 95 Pre-86 program a revised Operating Agreement has been developed. It is currently being utilized when the non-profit groups under this program encounter financial difficulties and require additional funding. This new template will be used for any other opportunities that may occur in the future under this program.

In closing, we wish to thank the Office of the Auditor General for undertaking the audit of the Aiyawin Corporation and reviewing the concerns identified in our 2004 Operational Review.

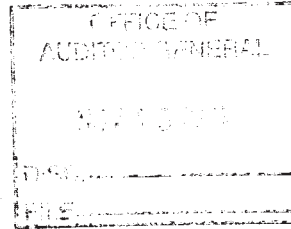
Appendix A

GLOSSARY OF TERMS

Cheque Advice	The detachable portion of a cheque that details the purpose or other specific information regarding the cheque.
Invitational Tender	Restricted to a minimum of three invited participants to provide written offers (bids) for goods or services at a specified cost or rate. Generally used for renovations not exceeding \$5,000.
Management Letter	A letter to the management of an organization from the external auditor subsequent to the completion of the annual audit. The letter details issues that the auditor feels require action to improve the practices of the organization.
Operating Agreement	An agreement between CMHC or MHRC and Aiyawin for the funding of federally assisted social housing units. The agreement details the responsibilities of both parties.
Operational Review	A comprehensive review of the operations of an organization complete with findings, conclusions and recommendations.
Oriented Strand Board (OSB)	Construction paneling comprised of wood strands ranging from 3 1/2" to 6" long and approximately 1" wide. The strands are dried, sorted, and mixed with wax and a waterproof exterior-type binder and formed into large continuous mats. These mats are oriented in cross-directional layers for increased strength, then pressed at a high temperature and pressure to form panels.
Scope of Work	A brief description of the repair and maintenance work required to complete a particular job.
Short-form Contracts	An abbreviated contract used when maintenance work exceeds \$5,000. Three written bids are required. The short form includes both the tender information and, when duly executed it becomes the actual contract for the work to be undertaken.
Urban Native Housing Operating Manuals	Manuals created by CMHC to help Urban Native Housing Organizations manage their projects. The manuals should be viewed as a reference guide for use by organizations in the daily management of their housing projects.

LETTER RECEIVED FROM MINISTER OF FAMILY SERVICES AND
HOUSING

Appendix B



MINISTER OF
FAMILY SERVICES AND HOUSING

Room 357
Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

November 19, 2004

Mr. Jon Singleton, CA, CSA
Auditor General
Office of the Auditor General
500 - 330 Portage Avenue
Winnipeg MB R3C 0C4

Dear Mr. Singleton:

I am writing with regard to the operation of the Aiyawin Corporation (Aiyawin) and recent allegations that have been brought forward by citizens of Manitoba with regard to conflict of interest, and the management and operation of Aiyawin.

As you may be aware, Aiyawin is a private non-profit housing corporation that owns and manages a housing portfolio, governed under an operating agreement with the Manitoba Housing and Renewal Corporation (MHRC). In consideration of concerns raised, an operational review has been conducted by the MHRC. This operational review has now been completed. Based on the results of the operational review, we will be taking aggressive action to address the findings and take whatever action is necessary to ensure that the affairs of Aiyawin are managed in an appropriate manner. We will be providing you with a copy of the Operational Review shortly, including the recommendations which will be actioned immediately. The department will keep you apprised of our actions with respect to this matter. We are prepared to take alternative action if proper Board governance procedures are not undertaken by the current Board of Aiyawin.

In consideration of our findings to date, we are of the opinion that a further investigation into the operation of Aiyawin is warranted. Accordingly, it would be greatly appreciated if your office would consider assisting the MHRC and the Department to further review and resolve the concerns identified in a collaborative manner. In our opinion, the expertise that the Office of the Auditor General would be able to provide us in this matter would be of great value. In particular, we would appreciate your assistance with regard to allegations related to fraud and theft that have recently been brought forward with respect to Aiyawin.

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Appendix B

(cont'd.)

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We understand that the Office of the Auditor General may elect to issue a report to the Legislative Assembly with respect to its work on this review. In addition, the Department of Family Services and Housing/MHRC would be pleased to accommodate any incremental costs relative to this review.

Thank you for your consideration of this matter.

Yours sincerely,



Christine Melnick
Minister
Family Services and Housing

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BREACHES OF OPERATING AGREEMENTS

Appendix C

Effective October 1, 1998, the MHRC assumed all rights and responsibilities formerly held by the CMHC pursuant to operating agreements with not-for-profit corporations and cooperative housing groups.

PRE-1986 PORTFOLIO Operating Agreement dated June 20, 1984 Operating Agreement dated October 31, 1984 Operating Agreement dated May 2, 1985	
Operating Agreement Requirement	Nature of Breach
The recipient shall operate the project within the provisions of the Operating Budget – Schedule D, to each Sub-Agreement which may be amended from time to time in accordance with Clause 10 (Section 8(1)).	Aiyawin has not operated the project within the provisions of the operating budgets.
Recipient shall not change or alter articles of incorporation without prior written approval of the Corporation (Section 12).	Aiyawin changed its Articles of Incorporation without the prior approval of MHRC.
The amount of revenue to be used or set aside for replacement reserves shall be such as may be determined by the Corporation. The said reserve is to be funded annually. The use and disposition of reserve funds so created shall be subject to the approval or direction, as the case may be, of the Corporation. The said reserve fund is to be comprised of monies deposited in a special bank account identified for its intended purpose and/or invested in Government bonds or such other securities as may be acceptable to the Corporation (Section 15).	Aiyawin used Replacement Reserve funds for unauthorized purposes and without obtaining the approval or direction of MHRC.

POST-1985 PORTFOLIO Operating Agreement dated March 30, 1987	
Operating Agreement Requirement	Nature of Breach
The Sponsor shall operate the project within the provisions of Operating Budget – Schedule C, that has been approved by the Active Party and that may be amended from time to time by the Active Party (Section 9(1)).	Aiyawin has not operated the project within the provisions of the operating budgets.
The Sponsor shall not change or alter its articles of incorporation without the prior written approval of the Active Party (Section 20).	Aiyawin changed its Articles of Incorporation without the prior approval of MHRC.
The amount of revenue to be used or set aside for replacement reserves shall be such as may be determined by the Active Party. That reserve shall be funded annually by the Sponsor, and interest shall accrue thereon. The use and disposition of the reserve funds so created shall be subject to the approval or direction, as the case may be, of the Active Party. That reserve fund shall include monies set aside and include accumulated interest and must be held in a separate bank and/or indicated only in accounts or instruments insured by the Canadian Deposit Insurance Corporation or as approved by the Active Party. Withdrawals are to be charged to interest and then principal (Schedule E) (Section 12).	Aiyawin used Replacement Reserve funds for unauthorized purposes and without obtaining the approval or direction of MHRC.

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Appendix C

(cont'd.)

POST-1985 PORTFOLIO Operating Agreement dated December 31, 1993	
Operating Agreement Requirement	Nature of Breach
The recipient shall operate the project within the provisions of the Operating Budget – Schedule C, to each Sub-Agreement which may be amended from time to time in accordance with Section 8 (Section 9(1)).	Aiyawin has not operated the project within the provisions of the operating budgets.
<p>The Sponsor shall not cause or tolerate any changes in the instrument of its incorporation or bylaws previously reviewed and accepted by the Contributor without the prior written approval of the Contributor (Section 15(1)).</p> <p>The Sponsor shall violate its instrument of incorporation or bylaws and acknowledges that the Contributor, in entering into this agreement, is relying and will rely upon the expectation that the Sponsor will always comply with them (Section 15(2)).</p>	Aiyawin changed its Articles of Incorporation without the prior approval of MHRC.
The Sponsor shall establish a Replacement Reserve Fund. The amount of revenue to be used or set aside for replacement reserves shall be such as may be determined by the Contributor and set out in Schedule E, which schedule the Contributor may replace from time to time. The said fund is to be funded annually with interest accruing thereon. The use and disposition of the fund so created shall be subject to the approval or direction, as the case may be, by the Contributor. The said fund is to be comprised of monies including accumulated interest and must be held in a separate bank account and/or indicated only in accounts or instruments, insured by the Canadian Deposit Insurance Corporation or as approved by the Contributor. Withdrawals are to be credited to interest first and then principal (Section 11).	Aiyawin used Replacement Reserve funds for unauthorized purposes and without obtaining the approval or direction of MHRC.
The Sponsor shall ensure that in all financial transactions, both contractual and non-contractual, no board member or management officer of the Sponsor or staff member of the Project or their families will derive any direct or indirect financial benefit from such transactions. Where situations arise in which there could be a possible conflict of interest, the involved person shall declare such conflict in writing and not participate in any discussion or decision affecting this transaction (Section 9(6)).	A family member of a management officer of Aiyawin derived direct financial benefit from transactions with Aiyawin.
The Sponsor shall ensure that it remains a corporation regulated under an appropriate statute or ordinance in Canada respecting non-profit corporations and which, by its governing legislation or instruments and in fact has its directors serve as directors and officers without payment or benefit and with no direct or indirect profit or gain from their positions as directors or officers, provided that they may be paid reasonable expenses incurred by them in the performance of their duties (Section (2)(vi)).	The directors of Aiyawin received payments as a result of serving as directors.

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EXCLUSIVE CONTRACTOR PAYMENT ANALYSIS

Appendix D

From a review of Aiyawin financial records, we identified 242 payments made to the exclusive contractor for renovation work undertaken from July 17, 2001 to November 19, 2004. The results of the review are presented below.

Exclusive Contractor Payment Analysis July 17, 2001 - November 19, 2004					
	Jul.17/01 to Mar.31/02	Apr.1/02 to Mar.31/03	Apr.1/03 to Mar.31/04	Apr.1/04 to Nov.19/04	Total
Contracts	36	93	72	41	242
Quotes obtained	7	14	57	27	105
Same quotes and invoice amounts	7	5	42	23	77
Quotes with materials and labour	3	-	10	27	40
Invoices with materials and labour	-	2	7	1	10
Payments from replacement reserve	23	76	60	30	189
Payments from general operating	13	17	7	11	48
Invoices and purchase orders with same date	15	6	6	17	44
Invoices predate purchase orders	21	80	50	24	175
Invoices without GST charge	35	55	-	-	90
Invoices where GST overpaid	-	-	8	-	8
Invoices where GST underpaid	-	-	1	-	1
Invoices for more work than required	-	2	7	-	9
Invoice overpaid	-	1	-	-	1

Source: Aiyawin Corporation

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