Licence Appeal Tribunal

Tribunal d'appel en matière de permis

Ontario

DATE: 2013-11-12
FILE: 8241/RHA
CASE NAME: 8241v. Registrar of the Retirement Homes Regulatory Authority

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An Appeal from a Notice of Decision to Refuse a Licence by the Registrar of Retirement Homes Regulatory Authority pursuant to the *Retirement Homes Act, 2010* S.O. c 11

In Touch Retirement Living for Vegetarians/Vegans Inc. o/a In Touch Retirement Living

Applicant

-and-

Registrar of the Retirement Homes Regulatory Authority

Respondent

DECISION AND ORDER

ADJUDICATOR: Laurie Sanford, Vice-Chair

APPEARANCES:

For the Applicant: Elaine Lindo, Agent

For the Respondent: Evelyn Spence, Counsel
Jordan Glick, Counsel

Heard in Toronto: September 17, 18, and October 7, 8, 10, 11, 2013

DECISION AND ORDER

This hearing arises in the course of an appeal to this Tribunal by the Applicant In Touch Retirement Living for Vegetarians/Vegans Inc. o/a In Touch Retirement Living ("In Touch Retirement") from a Notice of Decision to refuse a Licence by the Registrar of Retirement Homes Regulatory Authority (the "Registrar") pursuant to the *Retirement Homes Act, 2010* S.O. c 11 (the "Act") issued on July 17, 2013.

The Registrar has numerous concerns about the operation of In Touch Retirement. The principal concerns may be summarised as follows:

1. In Touch Retirement abused and/or neglected several of its residents.
2. In Touch Retirement did not have in place required policies and procedures.
3. The staff of In Touch Retirement was not trained in basic policies and procedures.
4. Ms. Elaine Lindo, the owner/manager of In Touch Retirement, misled the Registrar on the application of In Touch Retirement for a licence and attempted to mislead at least one Inspector from the Retirement Homes Regulatory Authority ("RHRA") during an inspection under the Act.
5. In Touch Retirement has not paid the fees required by licensees under the Act.

Although it was not yet a requirement under the Act at the time of the site inspection of In Touch Retirement by RHRA officials, the Registrar is also concerned that Ms. Lindo, the owner and operator of In Touch Retirement, was holding herself out as overseeing the administration of medication for residents but she was not qualified to do so under Ontario Regulation 166/11. Similarly, although it was not a requirement under the Act at the time of the inspection, the Registrar alleges that In Touch Retirement did not have a policy with respect to dementia care, although the residence holds itself out as offering these services. The Registrar is also concerned that the staff is not trained in services that In Touch Retirement Homes holds itself out as offering. Other concerns relate to the cleanliness of In Touch Retirement and its residents.

During the course of the hearing, Ms. Lindo asserted that she was a victim of discrimination by the RHRA on the basis of her place of birth. She gave evidence of the alleged discrimination and this matter will form part of this Decision and Order.

FACTS

Abuse or Neglect of Residents

Chronologically, the first allegation of abuse or neglect concerns a resident who will be referred to as Mr. JM. A friend of Mr. JM testified that he was at In Touch Retirement from Labour Day of 2011 to the summer of 2012 when he was transferred to long term care. During his residence at In Touch Retirement, the friend testified, his personal care

was neglected. He was left in a room with a broken window and was also left on the floor when he fell.

Ms. Lindo testified that the Community Care Access Centre ("CCAC") was providing 2 ½ nurses to care for Mr. JM so they really had the responsibility for his care. In Touch Retirement was merely providing services when CCAC was not there. Mr. JM's brother complained about his treatment to the RHRA, which sent a team to inspect the residence. Ms. Debbie Rydall testified that she was one of the RHRA inspectors on that visit. She observed patients with obvious cognitive disabilities who looked dishevelled and unkempt. She noted that In Touch Retirement appeared to have no records of Mr. JM's falls. Ms. Rydall conceded that at the time of her inspection, the Act was not yet in force. Thus, there was no legislative requirement to maintain any specific standard of care or record keeping and RHRA's recommendations to In Touch Retirement as a result of this inspection were designed to bring In Touch Retirement into compliance with the Act when it went into force in July, 2012.

The second allegation of abuse or neglect involves a resident who will be referred to Mr. DS. Ms. Lindo testified that she seeks out prospective residents either on the streets or from hospitals. Her testimony is that most of her residents are former street or homeless people and that she cares for them in exchange for their assignment of their pensions. Family members may also contribute to the resident's care.

According to her testimony, Ms. Lindo found Mr. DS on the street, dirty and hungry. She took him to a hospital and subsequently learned that he had run away from his home on previous occasions. He was 69 and wearing only a hospital gown and pants when he arrived at In Touch Retirement on September 18, 2012.. Mr. DS suffers from dementia. Ms. Lindo testified that she only wanted to take him in care for a short time until his family was found, because of the state of his health. Mr. DS pays In Touch Retirement for his residence but the amount of his payment is in dispute. According to Ms. Lindo, Mr. DS receives a pension of $400 per month and this is augmented with occasional contributions from his family or withdrawals from his bank account. Mr. Edmond Lum, an inspector and investigator with RHRA, during an inspection of In Touch Retirement, reviewed financial documents which appeared to show that Mr. DS pays In Touch Retirement $1400 a month.

Ms. Lindo gave extensive evidence about what room and bed Mr. DS was assigned to in the house. She provided an elaborate explanation of where Mr. DS kept his clothes. Mr. Lum contradicted this evidence. His inspection drew him to conclude that Mr. DS was not assigned a room or a bed for a period of several months but was sleeping on a loveseat by an elevator on the second floor. He spoke to a staff member who confirmed this. Another former member of the staff at In Touch Retirement testified at the hearing. She took photographs of Mr. DS sleeping on a loveseat, his legs draping off the side of the couch, which was too short for him. Her evidence was that Mr. DS did not have an assigned bed and had been sleeping on the loveseat for three or four months.

Ms. Lindo explained this discrepancy by saying that Mr. DS refused to sleep in a bed. He caused trouble for the other residents when she tried to place him in a room with others and would leave any bed she assigned to him. Her testimony was that she tried to encourage Mr. DS to stay in his assigned bed. She testified that "if you would try to encourage him with force, he would try to leave the home."

Mr. DS did leave the home on four occasions, according to the evidence of Mr. Lum and of Police Constable Marcel Aquilina. According to Police Constable Aquilina, the police were called on all four occasions and in one instance Mr. DS was missing overnight and twenty police officers were involved in the search for him.

When Mr. Lum questioned Ms. Lindo about Mr. DS wandering from In Touch Retirement, she gave a variety of explanations for his leaving the home. In her last explanation, she stated that the then current policy was that Mr. DS was not to leave the home without being accompanied by a member of the staff. This policy was a verbal one, she said, but all the staff were aware of it and she had assigned a specific staff member to go with Mr. DS the last two times he had left the home and wandered off. When Mr. Lum interviewed this staff member, she was initially afraid to talk. Eventually, she told Mr. Lum that while the staff had been told to go with Mr. DS, there were not enough staff members to accompany him and that she had not gone with Mr. DS when he left the home.

Ms. Lindo testified that Mr. DS's son has told her not to worry about Mr. DS's sleeping arrangement as that was what he had been doing at home. Ms. Lindo did not call Mr. DS's son as a corroborating witness and she presented no evidence beyond her testimony to support her contentions. Mr. DS is still at In Touch Retirement. Ms. Lindo testified that she is looking for another place for him.

The RHRA received a complaint that in February or March, 2013 a third resident, who will be referred to as Mr. PH, was pushed off his walker by another resident. Ms. Lindo and a former staff member testified that Ms. Lindo called an ambulance for Mr. PH when he complained of a sore leg. Ms. Lindo denied that either Mr. PH or anyone else told her of the incident. Ms. Lindo also said, both to the RHRA and during her testimony, that she did not believe that Mr. PH had in fact been pushed, because his roommate was too gentle to injure him. Therefore, she did not conduct an investigation into the incident. She told Mr. Lum that she was unaware of a mandatory reporting requirement for allegations of resident-on-resident violence. When the RHRA investigated this incident, they could find no records showing Mr. PH's injury or of his being sent to the hospital.

Lack of Policies and Procedures

The Act came into effect in stages, beginning in July, 2012. Some of the policies envisioned by the Act were not a legislative requirement until 2013 or later but there is a core set which came into effect with the Act in July, 2012. These include a policy to

promote zero tolerance of abuse, an internal complaint policy and an emergency plan to address situations such as a fire in the building.

On January 17, 2013, the RHRA conducted a site visit to assess the readiness of In Touch Retirement for licensing under the Act. According to the testimony of one of the inspectors and the documentation of the inspection, In Touch Retirement had at that time no verifiable policies relating to zero tolerance of abuse, no internal complaints policy and no emergency plan. Ms. Lindo told the inspectors that she could not find the policies. She produced some templates for policies produced by an industry association but nothing specific to In Touch Retirement. In subsequent correspondence received by the RHRA on April 12, 2013, Ms. Lindo advised that her old policies were under review as In Touch Retirement had received updated policies at the end of 2012. Included with this response was a template for a policy on zero tolerance of abuse. In places, the template had been adapted to refer to In Touch Retirement but there were no specific or substantive policies developed for the home. Ms. Lindo also provided a statement of In Touch Retirement's fire safety compliance in which she stated that:

> Our fire safety systems and practices are compliant with the Ontario Fire Code and are monitored on a 24-hour basis. Monthly fire drills are conducted requiring both resident and staff participation.

On February 5, 2013, the RHRA conducted an inspection of the residence in response to a specific complaint by Constable Aquilina about Mr. DS and others wandering from In Touch Retirement. During this inspection, Ms. Lindo claimed that she had policies on abuse and neglect of residents in a binder "somewhere". When asked for her policy on emergency plans for missing residents, she gave the same answer. She was not asked about her policies for internal complaints. Subsequently during the inspection, Ms. Lindo conceded that In Touch Retirement did not have an emergency plan dealing with situations involving a missing resident or other emergencies.

On June 20, 2013, the RHRA conducted an inspection of In Touch Retirement in response to a complaint from a former staff member about Mr. DS sleeping on the love-seat. Mr. Lum, the RHRA inspector, also conducted a follow-up inspection to earlier visits during this call and Ms. Lindo produced an emergency plan which she stated had come into force in March, 2013. The fire section of the plan consists of the following statement:

> The Fire plan approved by (insert city or Town) fire department is located attached. Staff and residents are trained in the implementation of the fire plan including the participation of the staff in fire drills.

According to Mr. Lum, this is inadequate as no fire procedure is provided as required under the Act.

Ms. Lindo also provided an Abuse and Neglect policy. Mr. Lum testified that two areas were not covered by the policy. First, there were no notification procedures. According to Mr.Lum, the policy should contain a requirement to notify the resident or substitute

decision maker of any suspected abuse or neglect and this notification should occur within 12 hours of the incident. There is a further obligation to notify residents or substitute decision makers of the outcome of any investigation.

Mr. Lum in his testimony did not mention whether or not he found a policy regarding internal complaints during this latest inspection.

Ms. Lindo testified that she supplied the RHRA with all the policies that they requested, although she did acknowledge that during one inspection the policies were on a computer but inaccessible because the printer was not functioning. She testified that while the policy of zero tolerance of abuse looks like a template, the explanation is that she was told she could only change certain things, as the policy was designed to be universal. By contrast, Mr. Lum testified that the RHRA was looking for customization of the policy template.

Lack of Staff Training

Mr. Lum testified that during the site inspection of January, 2013, the RHRA had found no evidence of a training regime for the staff.

One former staff member and one current staff member of In Touch Retirement testified. Both said they had been provided with minimal or no training. Both testified that they worked alone on the night shift and had never been involved in a night-time fire drill. When the current employee was asked what she would do if a fire broke out, it was clear that she was reasoning through her answer for the first time. She testified that she would try to involve the able-bodied residents in removing the disabled ones. She conceded that most of the residents with mobility issues live on the second floor and it would be difficult to evacuate them in the event of a fire.

Ms. Lindo testified that the staff receives orientation training and on-going training on a monthly basis. She produced no evidence to corroborate this testimony. The one witness Ms. Lindo called is the current employee who, as noted above, testified that she had received no training.

Misleading Information

The Registrar alleges that Ms. Lindo attempted to mislead the RHRA both on her application for licence and during the follow-up to the application as well as during some of the RHRA inspections.

On her application, Ms. Lindo is asked whether In Touch Retirement has been subject to "any orders, tickets or charges under the *Health Protection and Promotion Act, 1990*" and she answered "No". Subsequent investigation showed that the home had received tickets under the *Health Protection and Promotion Act, 1990.* During her testimony, Ms. Lindo explained that she did not feel that In Touch Retirement should have received the tickets.

On the personal history report portion of her application, Ms. Lindo was asked, "Have you ever been charged with an offence under the *Criminal Code* (Canada) . . . ." Ms. Lindo answered "No". Subsequent investigation revealed that Ms. Lindo was charged and found not guilty of assault. She testified that she did not report the charge because she was acquitted and because she could not accept the idea that she was charged. She felt she was charged with assault as part of a plot by the previous owners of In Touch Retirement to take back the home.

The application also asked, "Have you ever been convicted of an offence under the *Criminal Code* (Canada) . . . ." Ms. Lindo answered "No". Subsequent investigation revealed that Ms. Lindo was found guilty of failing to comply with a recognizance order not to be within 100 metres of In Touch Retirement. Ms. Lindo justified her response by explaining that her lawyer directed her to plead guilty and that she did not feel that she had a choice. She was in jail at the time and felt that her life was in danger unless she pled guilty and got out.

As part of the application process, applicants provide the RHRA with the results of a police records search. Ms. Lindo advised the RHRA that she had not completed this at the time of her application but she was including a previous police check, done in 2006. In the application for this police records search, she gave her place of birth as "England". In a March, 2013 request for "Police Vulnerable Sector Check", she gave her place of birth as "Jamaica". She initially explained the difference to the RHRA by saying that Jamaica was a British colony. However, during the hearing, she took the position that she should not have to reveal her place of birth as it was irrelevant to an application for a licence. She also advised that she believed she had been discriminated against by the RHRA on the basis of her place of birth. The question of discrimination will be dealt with below.

Mr. Lum testified that Ms. Lindo attempted to mislead him on the question of whether Ms. DS had an assigned room and bed. Ms. Lindo showed him an empty room she asserted had been assigned to Mr. DS. Given that this was a private room and Mr. DS was not paying for a single room, Mr. Lum investigated and was told by staff members that Mr. DS did not have an assigned room or bed but had been sleeping on a loveseat by the elevator for some months.

Non-payment of fees

Ms. Lindo concedes that she has not paid any of the licencing fees charged by RHRA since 2012. She justified this non-payment first by explaining that she had never received a document showing that she was licensed and therefore should not have to pay fees. She also testified that she thought the fees were too high and ought to be adjusted to reflect the fact that she deals with street people who cannot afford to pay high rates for their accommodation, which puts her at a financial disadvantage compared to other retirement homes.

Ms. Cathy Pappas, the RHRA manager of licencing, testified that any institution which wished to be licenced as a retirement home under the Act was invited to submit an application by July 3, 2012. All those which did so were deemed to be licensees until their application could be formally reviewed. Thus, although In Touch Retirement did not have a physical licence, it was a deemed licensee under the Act and therefore liable for the licence fees.

Discrimination

During the hearing, Ms. Lindo declined to answer the question of where she was born on the grounds that the RHRA had discriminated against her on the basis of her place of birth. She testified that where she was from, or her past criminal activities, had nothing to do with her or In Touch Retirement. Her belief is that the RHRA should be focussed on all the good things she has done and should be trying to help her improve rather than focussing on her past. Where she was born is not something the RHRA needs to know, in her opinion. Her testimony was that the hearing should have included information from nurses and nursing home professionals who understand the environment that she works in rather than inexperienced RHRA inspectors who were unduly influenced by a negative newspaper story about In Touch Retirement and by searches they did on the internet.

Ms. Lindo also testified that the home was in substantially worse shape, and the residents less well cared for, under the previous owners than under her ownership. She feels that the RHRA should focus on the improvements to the home and the care of the residents that she has made.

DECISION

Section 35 of the Act reads:

The Registrar shall issue a licence to operate a specific retirement home to an applicant if, in the opinion of the Registrar, the applicant has complied with section 34 and the following criteria have been met:

1. The applicant has demonstrated that the following persons are competent to operate the home in a responsible manner in accordance with this Act and the regulations and are in a position to provide or facilitate the provision of care services to its residents:
    i. The applicant,
    ii. If the applicant is a corporation,
        A. the persons who have a controlling interest in the applicant, and
        B. the officers and directors of the applicant . . . .
2. The past conduct of the persons described in subparagraph 1 i, ii, ii and iv affords reasonable grounds to believe that the home will be operated,
    i. in accordance with this Act and the regulations and all other applicable Acts, regulations and municipal by-laws,
    ii. with honesty and intregrity, and
    iii.in a manner that is not prejudicial to the health, safety and welfare of its residents . . . . .

As Mr. Glick, Counsel for the Registrar, noted in his submissions, the wording of section 35 differs markedly from the wording of most of the statutes with which the Tribunal deals. In this case, licensing is not a right but a privilege which will only be granted if the applicant satisfies certain requirements. It follows from this that in a hearing to determine the suitability of an applicant for licence, the onus of proof lies with the applicant. In this case, the Registrar presented his case first to give Ms. Lindo an opportunity to hear the case she had to meet. However, order is not onus and does not change the fact that it was for Ms. Lindo to demonstrate not only that the concerns raised by the Registrar were unfounded but that In Touch Retirement, with her as its owner and operator, is qualified to be licensed.

Mr. Glick also argued that the Tribunal in reaching its decision owed deference to the decision of the Registrar. In his submission, the powers of the Tribunal, enunciated in section 103 of the Act include the power to "....substitute its decision for the order or decision of the Registrar ...." This differs from the Tribunal's power, as set out in other statutes to substitute its *opinion* for that of the regulator, in Mr. Glick's submission. This is not a meaningful distinction for the purposes of determining whether or not the Tribunal owes deference to the previous decision or proposed decision of a regulator. In this case, the Tribunal conducts a hearing, as opposed to the regulator who investigates. Under the Act, it is clear that the Tribunal holds a fresh hearing into the matter. It is well established law that the Tribunal does not owe deference to the decision of a regulator where the enabling statute establishes that the regulator acts as an investigator rather than a trier of facts and where the Tribunal is conducting a fresh hearing.

The question for the Tribunal is whether In Touch Retirement with Ms. Lindo as its owner and operator qualifies for a licence under section 35 of the Act.

Ms. Lindo gave her evidence in an intelligent and articulate manner. She also repeatedly tried to mislead the Tribunal as she had attempted to mislead her regulator, the RHRA. In denying her criminal charges and conviction, she substituted her own judgment for that of the courts. She attempted to deceive an RHRA inspector by claiming that Mr. DS had an assigned room and bed when Mr. Lum's investigation and the testimony of a former employee demonstrated that for some months Mr. DS did not have a room and slept in a corridor beside the elevator. Photographic evidence showed him sleeping on a loveseat that was too short for him. She then claimed that Mr. DS liked to sleep on a loveseat but produced no evidence to substantiate her claim. She claimed to have policies and training in place when the evidence of employees was that they were not trained. She was not able to produce a complete policy for the RHRA or for this hearing, although she repeatedly claimed to have them. It is difficult to give any credibility to Ms. Lindo's evidence.

The treatment of Mr. DS alone disqualifies In Touch Retirement from registration. Even if, as Ms. Lindo claimed, Mr. DS preferred to sleep on a couch, she should have provided him with a couch that was long enough for him. There is no evidence that she made any attempt to put a couch in a room for him. Even if he insisted on sleeping in the corridor by the elevator, and there is no credible evidence that this was his

preference, she should have provided him with a privacy screen or some other device to preserve his dignity. Knowing that he had wandered from his home in the past, she should not have permitted him to wander off from In Touch Retirement on four occasions. The danger to Mr. DS was extreme. Instead of providing the supervision Mr. DS required, Ms. Lindo relied on the police to find him. She should not have lied to the RHRA inspector by claiming that Mr. DS had a private room when the evidence was persuasive that he did not, at the time of the inspection, have an assigned room. The treatment of Mr. DS is a clear case of neglect of a resident.

Ms. Lindo's refusal to investigate or report the alleged resident-on-resident violence against Mr. PH was a violation of the mandatory reporting requirements of the Act. It is another example of Ms. Lindo substituting her judgment for the requirements of the law, in this case the requirements of the Act.

In Touch Retirement's lack of fire policies and training raises grave concerns about the health and safety of its residents. According to Ms. Lindo's own internal census, more than half of the residents of In Touch Retirement suffer from some form of dementia. Yet these people did not receive night time fire drills. They were left in the overnight care of a single staff member, herself untrained in emergency fire procedures. This falls lamentably short of the standards of care required by the Act.

Ms.Lindo's deception of the RHRA on her application with respect to her past criminal charges and conviction raises obvious concerns about her ability to operate a retirement home with honesty and integrity. Her attempts to mislead the RHRA inspector and this Tribunal also give ample grounds to believe that In Touch Retirement, with her as its owner and operator, would not operate the home in accordance with the Act. Her refusal to pay the license fees also raises concerns about her governability and therefore about her ability to be bound by the Act.

Ms. Lindo alleged that she had been discriminated against by the RHRA on the basis of her place of birth. In fact, the RHRA does not directly ask an applicant to supply his or her place of birth. The RHRA requires an applicant for a licence to produce a Police Records Search or Check to confirm that the statements made on the application about the criminal record of an applicant are correct. It does appear that in the application for such a Police Records Search that the applicant is required to declare his or her place of birth. That is a requirement made of all persons applying for a police check. It seems obvious that the purpose of the information is to permit the police to direct their search appropriately. It was Ms. Lindo who, in correspondence with the RHRA, chose to include a previous application she made to the police for the police search in which she gave her place of birth as England. By contrast, a 2013 application she made for a "Police Vulnerable Sector Check" she listed her place of birth as Jamaica. Mr. Glick submitted that the issue for the Registrar was not where she was born but the fact that she had supplied two different places of birth to the police in requesting criminal records searches.

Ms. Lindo argued that her past was of no business to the Registrar and had nothing to do with her ability to run In Touch Retirement. The wording of section 35 of the Act makes it clear that the "past conduct" of the home and its operator is a significant part of the statutory test for determining eligibility for licensing. Past conduct is an important consideration for the Registrar because it is incorporated into the Act as an important consideration in licensing. Therefore, it is very much the business of the Registrar to consider Ms. Lindo's past.

Ms. Lindo also argued that her case ought to have been considered by nurses or other professionals familiar with the operation of retirement homes. Here again, the Act does not specify that nurses or health professionals ought to be considering licensing matters. In any event, during the hearing it was open to Ms. Lindo to call on such professionals for their testimony. She chose not to call these witnesses.

Regarding the issue of discrimination, section 1 of the *Human Rights Code*, R.S.O. 1990, Ch H.19 provides:

> Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.

Ms. Lindo has not demonstrated that she has been treated differently from or unequally in respect of any other applicant for a licence under the Act on the basis of her place of birth. Nor has she demonstrated that the Act is inherently discriminatory based on place of origin. Her claim of discrimination must fail.

Her suggestion that the RHRA should focus on the improvements she has enacted at the home is also bound to fail. The Act establishes absolute, not comparative, standards of care. Regardless of the condition of the home when she assumed ownership, it was Ms. Lindo's obligation to bring In Touch Retirement into compliance with the Act.

The Registrar raised a number of other concerns about In Touch Retirement's qualifications. Some of these concerns are serious. However, many of the concerns raised deal with matters not yet in force under the Act at the time they were identified. The Tribunal has determined, based on the concerns identified above, that In Touch Retirement as operated by Ms. Lindo does not qualify for licensing under the Act. Accordingly, it is not necessary to consider the other issues raised by the Registrar.

Finally, the Tribunal notes that there appears to be a gap in the Act that has the potential to leave the residents of In Touch Retirement unprotected. Under section 49 of the Act, there is a procedure to be followed by a licensee which is voluntarily ceasing operation. The procedure mandates a transition plan approved by the Registrar, notification to each resident of the proposed closing, and reasonable help for those residents who request alternate accommodation. However, when a licensee involuntarily ceases operation as, for example, when a licence is refused of revoked, the

Act is silent on how the residents are to be cared for. A licensee may no longer offer regulated care services after a licence has been revoked or refused. However, there is no provision in the Act to deal with the care of residents during a transition period or pending their removal to alternate care.

Mr. Glick advised that the provisions of the *Residential Tenancies Act* provide residents with some basic rights. However, more than half of the residents of In Touch Retirement suffer from some form of dementia. To withdraw care to them and leave them to find alternate accommodation on their own is to risk having them left homeless or uncared for. This is not in keeping with the intent of the Act, which is stated in section 1 of the Act to be:

> The fundamental principle to be applied in the interpretation of this Act and any regulation, order or other document made under this Act is that a retirement home is to be operated so that it is a place where residents live with dignity, respect, privacy and autonomy, in security, safety and comfort and can made informed choices about their care options.

It is the Tribunal's hopeful expectation that the RHRA will be guided by this fundamental principle and will therefore enlist the help and support of the CCAC, alternate retirement homes or other community resources to address the needs of the residents of In Touch Retirement as it ceases to operate as a retirement home.

ORDER

Acting under section 103 of the Act, the Tribunal affirms the decision of the Registrar to refuse to issue a licence under the Act to In Touch Retirement.

LICENCE APPEAL TRIBUNAL



Laurie Sanford, Vice-Chair

Released: November 12, 2013