Amalgamation Framework

A Collaborative Roadmap for Housing Societies

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Brightside Community Homes Foundation, as a place-based organization, is privileged to provide affordable homes for seniors, families, and people with disabilities on the traditional and unceded territories of the xʷməθkʷəy̓əm (Musqueam), Sḵwx̱wú7mesh (Squamish), and səlilwətaɬ (Tsleil-Waututh) Peoples.

This Amalgamation Framework is intended to be a living document.

The Framework, as it is printed here, was completed in October 2022. It is the result of the combined expertise of Pomegranate Consulting and Brightside Community Homes Foundation, and of generous input from a wide variety of stakeholders, funders, and leaders in the community housing sector.

As the intention of this document is to prompt and guide discussion in the community housing space – in particular, between housing societies that are exploring amalgamation – the content of the Framework may change over time.

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Community Housing Transformation Centre
Centre de transformation du logement communautaire

Vancity

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Executive Summary

The current economic and social environment is having a considerable impact on the development and operation of affordable housing and on affordable housing providers. With external pressures, such as higher interest costs, considerable inflation impacting the maintenance and building of affordable housing, an increasingly complex regulatory environment, as well as continuing internal pressures such as aging Boards and a shortage of skilled and experienced staff to take on the operations of societies - particularly smaller organizations, this has placed pressure on the sustainability of these organizations. This will potentially lead to the loss of the existing resource of much-valued affordable homes.

In BC, there are over 800 housing societies owning or managing 75,000 affordable homes, an average of less than 100 homes per society. Many housing societies have only one building and over time, it has become more difficult to recruit experienced staff to operate these buildings. Additionally, Boards are aging out, as those societies that were set up for specific purposes are finding it hard to recruit new Board members due to the small size of the organization, and it is becoming more of a challenge to maintain the buildings and affordability and operate in a sustainable way.

Brightside Community Homes Foundation has developed a framework to consider options to partner or amalgamate. We intend to open source this Amalgamation Framework so that we maximize the opportunities for non-profit societies to work together to retain the affordable housing stock within the affordable housing sector rather than sell it on the open market.

Considering and undertaking an amalgamation can be a daunting task for many organizations. There have been several successful amalgamations and several case studies are presented for guidance. The intent of this framework is to facilitate Board discussion and provide a roadmap to assist with progressing the amalgamation process.

We have highlighted the reasons for considering an amalgamation, the challenges which may arise during the process, and the benefits of an amalgamation. Each organization should consider whether an amalgamation will further their mission and improve the services provided to their beneficiaries.

Some amalgamations are relatively straightforward, whilst others require more detailed consideration. Key questions and checklists are provided in the appendices to help guide organizations in reflecting on ways in which an amalgamation could strengthen the organization in the long term, and to mitigate some of the risks that could be expected from the process. Whilst amalgamations will be led by the interested parties, there is a role for funders to consider how they can support and facilitate such amalgamations.

This framework is for guidance only and interested parties are highly recommended to appoint the appropriate advisers to support them through this process.

Introduction

The National Housing Strategy (2015) outlined the need to create more affordable housing across the country. This strategy was long overdue with the previous federal investment in affordable housing ending in the early 1990’s. Over 1.6M households are defined as being in core housing need with a backlog of 2M affordable homes required across the country.
With an increase in funding programs, from historic levels, at all levels of government, some societies are building their development capacity to increase the number of affordable homes on their existing sites, sites by diversifying procurement through partnerships with municipalities, the private sector, other non-profits or faith-based organizations, or through acquiring sites on the market.

However, due to insufficient government funds to address the backlog of affordable homes required to meet the demand, the fact that housing need is distributed across the province and country, and onerous funding underwriting requirements - it is generally not possible to secure funding for more than one project at a time. This restricts housing societies’ ability to build development capacity with a program approach, rather than with a project by project approach, which is required to create equity and invest resources to grow a long-term real estate development program.

With the urgent need to address the housing backlog, funders and municipalities have initiated programs to encourage the private sector to develop more affordable homes. Private sector partnerships are critical to meeting this backlog; however, specific strategies should be developed to support the capacity of the non-profit sector to deliver long-term affordability.

Building capacity of the non-profit sector is a multi-faceted approach and this proposed amalgamation framework is one strand of the many approaches required to help support the sector protect existing affordable housing, maintain affordability and quality of housing for existing tenants, develop and operate more affordable homes in a cost-effective way and provide comfort to funders to invest in the non-profit sector as it grows its financial and operating capacity.

CRA Definitions (CRA, 2013):

A “merger” is the most integrated form of collaboration involving two registered Canadian charities or non-profits. The CRA terminology for merger includes: amalgamation, asset transfer, membership restructuring (which is similar to a subsidiary) or consolidation (a new entity is created). In a merger, one or more entities will wind up its affairs and transfer their assets to another entity. The bodies that wind up undergo a voluntary revocation of their registration. The Business Number (BN) of the remaining organization is not affected. All the assets are transferred to the remaining organization.

An “amalgamation” occurs when charities or non-profits come together, bringing their memberships, assets, and liabilities into the entity that emerges. The original charities do not cease to exist or dissolve. Although they no longer have separate identities, they continue to exist within a single entity - the amalgamated charity or non-profit. The amalgamated body retains and uses one business number (BN). The other BNs will be terminated. The charity can usually choose which BN it retains.

In a “consolidation”, all of the original bodies dissolve and transfer their assets to a new entity. All of the original bodies that wind up undergo a voluntary revocation of their registration. The new consolidated body needs to submit an application for registration and, if accepted, will typically be given a new BN.

For the purpose of this report, the terms “merger” and “amalgamation” will be used interchangeably, and organizations seeking to merge or amalgamate should retain legal counsel to advise on specific requirements regarding CRA distinctions in the process.

The Non-profit and Charity Environment and the Potential Benefits of Amalgamation:

As there is a significant amount of competition between different organizations in a variety of non-profit and charity sectors, several challenges as outlined below underscore the potential benefits for organizations to consider amalgamations (Blumberg, 2009).

Firstly, funders are increasingly requesting that non-profits and charities work together in some manner, whether through joint programming, partnerships, or amalgamations in order to avoid duplication, increase efficiency and improve service delivery (Blumberg, 2009). Government entities or large foundations, for instance, may find efficiencies in working with one large group rather than multiple smaller groups. In some cases, the amalgamated organization may receive more funds from funders than the individual organizations received prior to amalgamation - this is known as a “merger bonus.”

Many organizations face challenges associated with having insufficient resources, such as funds or staff, for continued operations or expansion. An amalgamation may maximize the public benefit of a set of non-profit or charitable organizations within the sector by combining the limited resources of each group and allowing the amalgamated organization to deliver a higher quality of service than any one of the organizations could have offered on its own. Specifically, an amalgamation can result in cost savings because of the ability to share resources, exercise greater purchasing power and consolidate duplicate governance structures.

In the non-profit and charity sectors, a small number of organizations have a disproportionate amount of the available resources. A particular organization may need to make dramatic changes but, for a variety of reasons, may be unable to execute the changes required to carry out the organization’s mission and expansion plans. While it is often difficult to make major changes to an existing organization, an amalgamation can serve as a catalyst to help initiate adjustments and produce the “political will and strategic thinking to effect changes” that would not otherwise have been accepted or implementable (Blumberg, 2009).

In some cases, a catastrophic or significant event may have occurred in an organization, and amalgamation with another entity may be a lifeline as an alternative to completely dissolving the organization. In these circumstances, one organization can take over the other organization and its assets in order to continue offering the services provided to beneficiaries. In some situations, an amalgamation is the natural progression of a successful partnership between two entities.

Additionally, organizations often face uncertainty in funding prospects; for instance, when a government entity experiences budget cuts and reduces the funding on which a group may have historically been reliant. Amalgamation can help support diversification in funding sources, economies of scale and access to expertise and experience in providing additional services to clients.

Many funders and regulators such as municipalities are requiring more complicated forms of reporting and are placing “greater demands on non-profits and charities for accountability, transparency, measurement and evaluation” (Blumberg, 2009). As some funders require monthly or quarterly reporting, smaller organizations may not have the resources to comply with these requirements and it may be advantageous for some groups to come together to share the resources and systems required to meet these standards.

Moreover, non-profits and charities face a greater demand for transparency and accountability to the general public. To meet higher standards for accountability, organizations often need to adopt an updated technology infrastructure and establish best practices for operations and reporting. With fewer financial resources, many smaller groups have outdated or inefficient technologies and fewer qualified staff.

In these circumstances, an amalgamation could allow multiple organizations to share the cost of an investment in establishing improved operating and reporting systems. An amalgamation can allow an organization to benefit significantly from the technical, financial, fundraising, and other resources of another organization (Blumberg, 2009). Furthermore, a larger staffing cohort resulting from an amalgamation can allow for greater specialization in particular domains in which an organization may aim to develop. Many small housing operators struggle with having insufficient resources to spread over the number of projects or buildings in their portfolio. An amalgamation with another organization may provide the opportunity to offer improved and broader services.

An amalgamation with another group or multiple groups in the sector can also increase visibility and improve awareness about the cause and shared interest of the organizations. The public may feel that a particular area is overcrowded with organizations, such as in sectors where fundraising campaigns are common, and public opinion may favour an amalgamation. An amalgamation may result in greater public profile and credibility, greater resources for fundraising and development, and more clarity in the public view about the organization’s mission and activities. Furthermore, some organizations have trouble attracting human resources, including staff and volunteers, because of limited opportunities or low profile in the community. This has resulted in many non-profits having a limited pool of staff who are near exhaustion or burnout. An amalgamated entity with greater public visibility and resources can attract qualified staff and alleviate this pressure (Blumberg, 2009).

Lastly, in some cases for national activities, collaborations between different organizations which are geographically based in different areas can save on costs through a decentralized model instead of having one national organization operate (Blumberg, 2009).

Current Environment for Non-profit Housing Providers

Specifically, within the non-profit housing sector, organizations face a number of pressures which could potentially be alleviated by an amalgamation. Many organizations struggle to maintain an aging housing stock which, in many cases, have deferred maintenance needs and require significant capital maintenance. The challenges associated with asset retirement are made more severe where the organization has operating agreements which are close to expiry. Moreover, many organizations in the sector have aging boards and senior management, a lack of financial resources, and thinly-stretched staff which compromise the level or service they can provide to their beneficiaries.

A summary of feedback from various stakeholders is outlined below:
Housing Societies

- Most societies entered amalgamations through unexpected events rather than planned – generally, these were mainly by referrals from funders when a society had been facing challenges, or approaches from societies who are known to take amalgamation forward.
- There has not been a structured approach to amalgamation and it has been more on an ad hoc basis with some society amalgamations being more successful than others – many lessons have been learned.
- Amalgamation is not always seen as the best route for growth as it takes up resources and there are potential liabilities that come out later which may not have been known at the time of amalgamation. There are differing views as some are actively pursuing amalgamations as part of their growth strategy.
- However, amalgamation can be seen as strengthening the nonprofit housing sector if there is a structured and supported approach to this process.

Funders

- Funders have generally been more open to continuing to support a broader range of societies. Some have expressed a desire for amalgamation as it would achieve economies of scale. However, there is a sense that amalgamations should occur from a grassroots approach, with minimal guidance from the funders on amalgamation as an option.
- There was no clear vision on where funders saw the sector in 5 - 10 years' time.
- There was a view that small, local providers were better connected to local communities and the larger societies could be seen as empire- building. There is an active engagement to try and save smaller societies rather than see consolidation of the sector being a key success driver. This may be because many communities across BC only have one or two NPOs, so it is difficult for funders to bring in outside agencies (who may not have yet developed their own capacity). The perception of "empire-building" should be proactively managed by organizations, funders and stakeholders so that there is a positive experience when amalgamations occur, particularly for the beneficiaries.
- Extension of operating agreements had taken the pressure off some societies that had been considering handing keys back or amalgamating.

- There was, however, strong concern that the sector must grow capacity and societies need to build up their balance sheets if they are to take advantage of future funding rounds, especially with the strict underwriting requirements and if there is a need to reach out to the commercial market, as government funding dries up.
- More sophisticated societies with development experience can help facilitate the planning process – more support is required by funders and municipalities during the design, planning and funding stages with less experienced and smaller societies taking up resources.
- Societies can build confidence with funders by showing a successful amalgamation and integration, but would need to have their own internal processes in order.

Reasons for Considering Amalgamation

- Expansion into new geographical areas
- Adding property onto the balance sheet to strengthen the financial capacity of the society
- Building capacity by bringing in expertise and experience
- Adding complementary services to support clients
- Collaborating with funders to support a society facing challenges, which can lead to other opportunities
- Keeping affordable housing stock within the sector
- Potential redevelopment opportunity

Reasons Why Societies Desire Amalgamation

- Board is tired and aging, and do not want their legacy/identity/heritage to disappear into the hands of a for-profit developer; board has reached out to funders or society
- Retirement of the long-term director or manager of the building (especially the case for single-building organizations)
- Society could be facing financial stress
- Buildings are in disrepair and a society does not have the resources to maintain their assets
- Organizations desire to expand and grow the sector

Non-profit and Charity Stakeholders

In considering an amalgamation, an organization must consider the stakeholders who should be involved in initial discussions and updated throughout the process.

- Members
- Board
- Employees of organization
- Volunteers
- Government (CRA, federal, provincial, and municipal)
- Partners
- Media
- Public - media interest in non-profit and charities is greater relative to a for-profit company of the same size and revenue
- Donors
- First Nations and Indigenous housing societies
- Organizational Associations such as CSSEA, HEABC if applicable
- Beneficiaries, residents

A common mistake that many organizations make in an amalgamation is spending time only with a few of several stakeholder groups. This could result in other stakeholder groups being excluded from the dialogue and being discontent with the amalgamation process. It is important to engage all stakeholders, collect their input, keep them updated on the amalgamation, and explain to them the different reasons for decisions made throughout the process. Different stakeholder groups will have different concerns and will require different conversations. When a collaboration involves combining multiple organizations, the stakeholders of all groups need to be reflected in the governance discussions (Blumberg, 2016).

The board of a charity or non-profit may make some decisions but the process by which decisions are implemented is carried out by the staff. Charities and non-profits often do not correctly calculate the cost of an amalgamation - accounting and legal costs are incurred, but organizations should also consider the cost of staff time and opportunity cost.

Stakeholder Concerns with an Amalgamation

Throughout the discussion process, organizations should consider feedback from the stakeholders who may have strong concerns on the amalgamation (Blumberg, n.d.).

Firstly, the board of directors may have concerns about the potential impact of an amalgamation. Directors have the responsibility of confirming that the board itself functions as effectively as possible by finding the best people to serve, providing adequate training for members, and managing its meetings and committees well. In many cases, the board which initially results from the amalgamation will be a larger board than any one of the organizations had, and the board will likely become smaller in size over the course of a year or several years. Some board members may be concerned that the number of their representative board will be reduced and that some of them will not be serving on the consolidated board.

Furthermore, it can take time for the newly formed board to become effective so organizations should consider that there will be delays in time during which the boards would have otherwise been focused on the organization's other objectives. During the course of an amalgamation, the board typically redirects its attention to the amalgamation and many other areas of the board's focus tend to be put on hold.

A board is responsible for setting the mission and strategic objectives and evaluating progress in achieving these objectives. As such, a board of an organization considering amalgamation would need to consider whether the amalgamation would enhance or compromise the organization's vision and strategic goals. To ensure that an organization has necessary financial resources to carry out its objectives, directors must consider how the organization's funders view amalgamation and if it would impact their funding prospects (Blumberg, 2016).

The board is also responsible for ensuring that the organization operates in a fiscally responsible manner and complies with all laws and regulations applying to it. With respect to an amalgamation, a board could consider that a small organization could be very fiscally responsible and efficient on its own while in some cases, having a larger combined organization delivering higher level services could be more financially efficient. Boards will likely consider the economies of scale and the complexities of bureaucracy that can be present in larger organizations (Blumberg, 2009).

In order to ensure that management operates the organization as efficiently as possible and uses the best available systems, policies, and administrative practices to do so, directors will need to consider if the changes necessary to effectively operate the amalgamated entity can be made by all organizations involved in the amalgamation. For instance, the amalgamated organization may need a larger staff pool, a CFO, a more comprehensive property management system or updated technologies which one of the merging organizations may not be able to afford. A review of the inventory of management systems of the organizations would be appropriate so that a fit for purpose system can be implemented. The board is responsible for selecting and evaluating the performance of the CEO and in many cases, amalgamation occurs when the E.D. or CEO of an organization retires.

Secondly, employees may oppose amalgamation because of concern about their position in the new organization. In the case of one of the entities being unionized, the union may have concerns with respect to an amalgamation. An amalgamation can sometimes result both organizations adopting the salary and benefits of the more expensive organization, which increases the costs of the amalgamated entity (Blumberg, 2009).

Additionally, donors and funding agencies may also have concerns regarding an amalgamation. As a result of the structural or operational changes, the amalgamated entity may not be as attractive to funders or eligible for certain types of funding for which the individual organizations were eligible.

Lastly, professional advisors may oppose the possibility of an amalgamation due to the concern that they will lose a client rather than gain a bigger client.

To ensure that an amalgamation is successful, it is beneficial for the participating organizations to anticipate likely opposition and consider adjustments to the plan and responses to the objections which could be raised.

Developing Relationships

There are several ways in which opportunities for amalgamation or partnership present themselves.

- Introduction via funder who is aware that the society is in difficulties
- Workshops and conferences to let people know of your experience and that you are interested in potential partnerships
- Providing support to smaller societies to achieve specific project goals and building a relationship over time
- Providing administrative or other capacity support
- Word of mouth
- Sector-wide recognition (i.e. organizations that may reach out)
- When a CEO/ED or Chair is retiring; using existing mutual contacts to set up a call

Costs of an Amalgamation

Prior to initiating an amalgamation, organizations need to assess the potential costs to be borne by the amalgamating entities. Often understated are the staff time and opportunity costs associated with carrying out an amalgamation and it is recommended that the organization track the staff time to be expended on the amalgamation, as well as the cost of missed opportunities such as fundraising campaigns, grants, or the completion of existing projects and strategic initiatives. Additionally, costs for accounting, legal and other professional advisors can also be significant. Following an amalgamation, it is valuable to have impartial evaluation of the financial outcomes with audited financials as well as a building assessment report.

It may be difficult at the outset of the amalgamation process to identify the total expected amalgamation and legal costs. Some feedback on a relatively straightforward amalgamation (taking over an existing operating agreement) indicated costs in the range of $40,000 - $50,000 for consultant fees and does not include staff time.

Legal and Compliance Considerations

If a charity and nonprofit are amalgamating, the organizations must ensure that the activities of the nonprofit are charitable. Also, the nonprofit will have to cease any activities that a registered charity cannot conduct.

With respect to the mechanics of amalgamation, different types of organizations will have to look at feasibility. For circumstances involving trust, the organizations must review the terms of the trust deed to see whether an amendment is possible. Unincorporated associations must review the agreement between the members, usually a constitution. If the constitution does not account for mergers, consent must be obtained from all members in order to proceed. For corporate mergers, references must be made to corporate law and the letters patent and by-laws of the corporation.

Amalgamation is a process by which two or more corporations governed by the Canada Business Corporations Act (CBCA), the “amalgamating corporations,” merge and carry on as one corporation, the “amalgamated corporation”. There are two ways to amalgamate under the CBCA, long-form amalgamation, which requires that each corporation sign an amalgamation agreement which is approved by shareholders; and short form amalgamation, which is approved by a resolution of the directors and does not require approval of the shareholders. In order for a provincial corporation and a federal corporation to amalgamate, both corporations must be incorporated under the Canada Business Corporations Act (CBCA). If one of the corporations is incorporated under another statute, it must first continue into the CBCA before it can amalgamate with the other corporations. Provincial and federal corporations can also amalgamate through an arrangement authorized by the CBCA (Government of Canada, 2016). It is highly recommended that societies seek legal and financial advice at an early stage of the process to understand the implications and options for amalgamation.

Key Considerations with Collaboration and Amalgamation

In proceeding with an amalgamation, organizations need to consider the potential risks and issues which may arise during or after the amalgamation process (Blumberg, n.d.). It is important to consider these matters at an early stage so that adequate resources and processes are put in place to mitigate these risks.

Firstly, one or more of the organizations seeking to amalgamate may have attachments and strong feelings associated with the changes to be expected with the amalgamation. For instance, some entities have boards with long-standing directors who may have strong opinions about maintaining the entity’s “legacy,” unique culture, and established mission being subsumed by the other organization.

Secondly, many amalgamations result in changes in the staffing pool, pay scales, and human resources processes. The subsequent changes of a potential loss of jobs may affect the work culture of each organization. Additionally, with greater efficiencies that could be implemented in the amalgamated entity, some existing staff members may be concerned about being asked to fulfill more responsibilities or different roles. Staff who do not retain the same role in the amalgamated entity may express discontent or become unhelpful as the amalgamation proceeds. Furthermore, an amalgamation can result in competition for roles within the amalgamated organization, such as in the case in which there are two permanent Executive Directors or Chief Financial Officers who have a long history with their respective organizations and it must be determined who would fulfill this sole position in the amalgamated entity (Blumberg, 2009).

Another outcome of an amalgamation to be considered is the compatibility of the organizational cultures. This includes each entity’s respective attitude to “taking on risk, decision-making processes, management style, beneficiary participation, flexibility to change, and theories of change” (Blumberg, 2009). Amalgamations are beneficial when the organizations are appropriate for one other and the organizational cultures fit well together.

Given that amalgamations can take extended periods of time, from 6 months to several years (depending on type of amalgamation and considering the implementation period), it is crucial to consider the opportunity cost which may be incurred as the result of an amalgamation. In particular, time and resources are directed towards the amalgamation which may otherwise be spent on fundraising, development or other efforts in furthering the organization's mission. During transition periods, beneficiaries may also be affected if one or all organizations struggles to maintain the same quality in the provision of their programming and services.

The time required to obtain regulatory approval and undergo administrative changes can be costly; the CRA, for example, can take months to review and approve changes to an entity's objectives. In estimating the costs to be expected from the amalgamation, an organization should account for staff time, professional costs, as well as rebranding, relocation, training of staff on new systems, integration, and unification which can take years after the amalgamation (Blumberg, n.d.). While this can be an intense period of change, it provides an opportunity for organizations to review their processes and strengthen their organizational structure and capacity.

Amalgamations can also affect an individual organization's mission and it will often take time to build trust between two organizations which are to establish a shared mission. In these cases, it is helpful if the groups have worked together for a period of time prior to the amalgamation.

Given these potential risks, it is therefore essential to properly calculate the cost of an amalgamation, obtain legal and other professional advice at the appropriate time, and understand the challenges to be expected.

Some key areas to consider when undertaking an amalgamation:

- Understanding the full liabilities of the property and society – undertaking detailed due diligence in a timely manner
- Tenant Engagement – be clear on how the amalgamation will impact on tenants and ensure all the tenancy agreements are in place
- Staff – providing training and support to adapt to new culture - this can be more challenging if many staff members are involved
- Existing Board exit – existing Board members understand their responsibilities have ended and step away
- Opportunity cost – time and resources required to identify a partner, develop the relationship, undertake due diligence, tenant and staff engagement and operational amalgamation

Potential Benefits with Collaboration and Amalgamation

There are many potential benefits to considering collaboration and amalgamation, as the affordable housing sector seeks to address the rising challenges in finding safe and secure affordable housing in our communities.

A change of approach is needed from funders to help support organizations that have been building their capacity over recent years to develop more affordable homes. As funding becomes more constrained with higher interest rates, higher inflation and growing demand, funders will want to work with organizations that have experience of building affordable housing at scale. The non-profit sector is currently fragmented with a large number of small societies who do not have the resources and capacity to build more affordable homes or maintain their existing housing stock. This housing could potentially be lost to the for-profit sector as properties may be sold on the open market. Having an industry approach to considering collaboration and amalgamation will help smaller societies which are facing difficulty in providing services to their residents, as well as larger societies that are seeking ways to build more affordable homes and improve their services.

Working with local partners provides societies with local knowledge and expertise, enabling these groups to expand into new areas. This approach reduces the risks and costs of expanding into new areas and adds value to the local community by bringing in expertise.

The potential economies of scale of an amalgamation would be attractive to funders in terms of value for money - the efficiencies created could release funds to build and maintain more affordable homes or provide additional services for residents. Overhead is reduced on a per unit basis, which makes additional funds available to increase affordability, maintain assets and build more affordable homes.

Amalgamation can help build capacity in organizations and the non-profit sector by sharing knowledge from experiences gained in areas such as affordable home development, provision of support for relocated residents during construction, and improvement of maintenance and resident services. Leveraging existing experience reduces the risks of expanding into new areas, thereby saving costs, improving revenues and assisting more people in accessing and sustaining affordable homes.

A growing organization with expanding services offers opportunities and attracts individuals who are keen to build their careers in the sector as employees or Board members. This brings new energy to the sector and more opportunities to improve services.

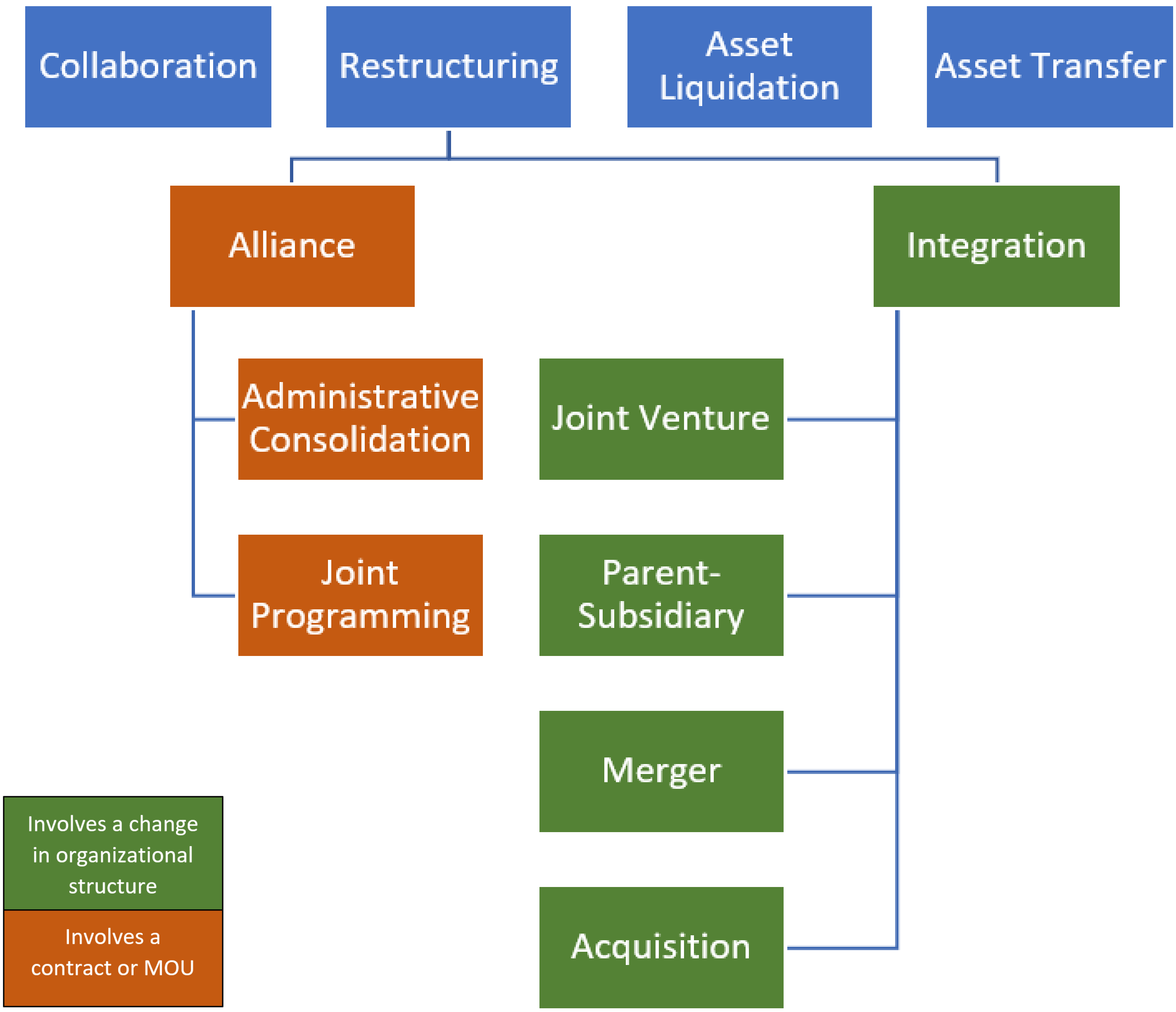
Organizations with strong balance sheets, a development track record, well-maintained assets, good governance and residents who are well-supported, will encourage investment from funders in both the public and private sectors.

Different Types of Partnership (Collaboration, Alliance, Integration)

In considering how to proceed with a merger or amalgamation, organizations can consider that different types of partnership are possible, as outlined in the diagram below adapted from La Piana's Partnership Matrix (n.d.).

With the option of collaboration between two or more charities or nonprofits, several options for partnership that are short of a merger exist which can be helpful for nonprofits facing times of change (Van Bortel et al., 2010). This can include sharing of information, coordination of programs, joint programming, or joining fundraising. Besides a merger or asset transfer, other options for partnership include: a sharing of physical spaces in buildings; one organization can contract another to carry out services which it cannot itself perform; groups can create jointly managed programs or consolidate administrative functions (Blumberg, n.d).

Diagram 1 – Different Types of Partnership



In a collaboration, there is no permanent organizational commitment and each organization maintains its own decision-making autonomy. Collaborating organizations work together in a mutually-beneficial manner towards a unified goal which is strengthened through their collective action. Formal or informal agreements may be established to identify how the organizations are to share resources, responsibilities, and liabilities. These collaborations are typically time-limited (La Piana, n.d.).

In contrast to a collaboration, restructuring occurs, through either an alliance or integration, when two or more organizations establish an ongoing partnership to broaden their reach or enhance effectiveness. There is typically a transfer or sharing of decision-making power (La Piana, n.d.).

One type of restructuring can take the form of an alliance, whereby both organizations put forward a formal commitment to act with shared or transferred decision-making power. There is no change to the corporate structures of the partnering entities. An administrative consolidation is an alliance which involves the sharing or contracting of administrative responsibilities to increase the operational efficiency of the participating organizations. Alternatively, joint programming is an alliance that includes the joint managing of programs. Organizations can also jointly create and manage revenue-generating projects, such as a combined capital campaign or social venture (La Piana, n.d.).

In contrast to collaborations and alliances, an integration is a restructuring that includes changes to corporate control or structure, which could entail a dissolution of one or more of the organizations.

Nonprofit organizations can also consolidate administrative, program, or fundraising functions within a joint venture corporation, which is jointly governed by the participating entities to fulfill their shared goals.

Another type of integration occurs through the creation of a parent-subsidiary structure, which integrates the administrative and program services of the partner organizations to increase operational efficiency. This structure allows the identity of the individual groups to remain intact while operating as a merged organization, offering the benefits of a consolidated organization while maintaining separate legal entities. This option is often chosen due to restrictions on the transferability of contracts and licenses, or other temporary restrictions (La Piana, n.d.).

Mergers and acquisitions occur when administrative and program functions are integrated to increase the operational efficiency and impact of the partnering organizations. In a merger or amalgamation, the entities are dissolved into a newly created organization which includes some of all of the resources, administrative functions, and programs of the partnering entities. In an acquisition, one entity is dissolved and “acquired,” and its programs and assets are transferred to the “acquirer,” the surviving organization which may also adopt the acquired entity’s board members, constitution and bylaws, and mission.

When an organization is no longer capable of maintaining its assets, staff, or programs, an asset liquidation can occur, whereby the struggling organization transfers its assets and liabilities to another nonprofit organization. This process requires legal counsel and accounting expertise in order to arrange for asset liquidation and debt resolution.

In an asset transfer, one organization is unable or unwilling to maintain a capital asset or program and transfers the asset or program to another organization. In this scenario, assets and liabilities are assessed and compensation is negotiated between the parties (La Piana, n.d.).

It should be noted that there are legal constraints on formal partnerships depending on the status of the participating organizations. If the collaboration is between qualified donees, such as two or three registered charities, there would be fewer regulatory restrictions on the partnership. There are the most number of restrictions which apply to a partnership between a charity and a non-charity. For example, for partnerships involving a transfer of resources between a qualified donee and a non-qualified donee (such as nonprofit or business), greater consideration must be taken to ensure legal, federal, and provincial regulatory compliance. On the other hand, collaboration between two or more non-qualified donees (two organizations which are not registered charities) is comparatively easier (Blumberg, n.d.).

Conclusion

Considering and undertaking an amalgamation can be a demanding task for many organizations. Generally, organizations which are considering the option to amalgamate from a position of strength have already built in-house capacity to support this type of initiative. There have been several successful amalgamations and some case studies have been presented for guidance. The intent of this framework is to facilitate Board discussion and provide a roadmap to assist with moving forward the amalgamation process.

This framework highlights the reasons for considering an amalgamation, as well as the challenges and benefits. Each organization should carry out an internal assessment to determine whether an amalgamation will further its specific mandate.

While some amalgamations can be comparatively straightforward, others require more detailed consideration. Key questions and checklists have been provided to help guide organizations in considering whether or not an amalgamation would be beneficial for the entity long term, and to mitigate potential challenges which could arise.

Whilst amalgamations will be lead by the interested parties, there is an active role for funders to consider ways that they can support and facilitate such amalgamations.

This framework is for guidance only and interested parties are highly recommended to appoint the appropriate advisers to support them through this process.

Appendix 1

Overview: Questions for Non-profit Housing Providers to Answer when Considering an Amalgamation

There are many issues that need to be analyzed before the prospective partners involved understand whether an amalgamation is appropriate.

The following are some of the questions for a nonprofit or charity to answer in considering a merger or amalgamation (Blumberg, 2009):

1. What are the drivers for merger? Why do you believe that a merger will be beneficial for your group?
2. What are short, medium and long-term goals of merger?
3. Have you carefully identified a number of possible merger partners and if not, why not?
4. Is this the right time to merge?
5. Are the merger organizations unincorporated, trusts or incorporated? Are they set up under provincial or federal jurisdiction?
   - How the organizations are set up affects how the merger can proceed
6. What are the legal objects of each merger partner? Are they acting currently within objects? Will objects need to be changed with the CRA?
   - The CRA will need to evaluable the organization's activities, purposes, etc. and the process of CRA approval on objectives changes could take over a year
7. Do the organizations have the legal powers necessary to effect the proposed merger?
8. Does either organization need to modify its governing documents?
9. Have the necessary professional advisors, including a lawyer who is knowledgeable about non-profit mergers, been retained to assist and give advice on the merger? Is the lawyer knowledgeable about non-profit and charity law?
   - Each merging organization should have its own legal representation as it is generally not appropriate for a lawyer to act for more than one group.
10. How many voting members are there for each organization? Who are the members and will they support the merger? What do the statute and by-laws provide in terms of quorum for a members' meeting and can this be achieved?
    - Mergers are more complex with organizations that have a greater number of members, and multiple voting classes for membership.
11. Who are the stakeholders of each organization and will they support a merger?
12. Who is going to be the dominant party or will there be equality?
13. How many board members are there for each party to the merger? How many will there be with the merged entity? What skills, resources, diversity, and connections does each board member bring?
    - Usually, the merged board is larger and will likely be reduced down over time

14. Is the merger in the best interest of both organizations? The directors of an organization must be satisfied that the merger is beneficial and Members in a non-profit need to vote in favour of the merger.
15. Are values aligned? What are the strategic mandates for each organization, and do they complement each other? Do they add value? How much time will be spent on the merger discussions, and how long will it take for the merger to take place?
16. How many employees are there? Will all employees move to the merged entity? If not, has there been a process established for termination, has severance been prepared for each employee to be laid off? How many years has each employee worked for the organization? Is a review of factors relevant to termination and severance required? What was last year's total payroll? If one organization is paying its employees more than the other, will the more "efficient" organization have to raise the amount that it is paying its employees? Will there be employment law issues, pension liability issues, et cetera? Will there be redundancies at some point, and will they be handled appropriately by attrition or proper notice or termination and severance payments? If one organization is unionized, will the other one become unionized? If each has a union, which union will represent the employees or will both remain?
    - The charity and non-profit sector spend a significant portion of its funds on HR and salaries so this must be considered when entities of different sizes and pay scales merge together.
17. Are there any liabilities or potential liabilities with respect to either of the parties?
    - Insurance coverage for liability coverage needs to be reviewed. If there is a liability with one party, it could mean that a merger could potentially not be able to proceed.
18. Have both organizations been provided with a list of all actual and threatened litigation over the last five years?
19. Has each party reviewed the financial statements and information of the other?
20. Does one or both charities have any special purpose trusts or endowments, and what donor restrictions need to be complied with?
    - The resources of one entity may not be allowed to be used for all of the merged entity's activities
21. What name will the merged entity have, and has it been reserved?
    - The necessary branding processes to follow in the merged entity should be considered.
22. Have debts been appropriately identified and dealt with?
    - A due diligence process needs to be carried out to assess title searches, find loans which have not been discharged, and Personal Property Security Act (PPSA) registrations.
23. What are sources of revenue for each organization? Will donors, funders, and earned income be able to continue and be assigned or transferred to the merged entity?
    - It is important to have conversations with donors and funders prior to the merger to establish support.

24. Are the organizations’ cultures compatible, and is there a fit? Have both parties to the merger successfully completed work together?

25. Is there a communication strategy in place to consult with and communicate with each stakeholder?

    - The boards of the organizations should be passing resolutions to validate the decisions regarding the merger (Blumberg, 2016).

26. Is there a plan for implementing the merger?

27. What will the post-merger structure look like? There should be a post-merger plan established?

28. What obligations will the merged entity take on in terms of continuing programs of one or the other organization, if any?

29. Are there any particular consents required for the merger? Are there provincial or federal acts or regulations that could affect the merger such as the Public Hospitals Act for a hospital merger?

    - It is important to obtain consents from funders to the merger and obtain commitments with respect to funding. Funding after a merger can be less, the same, or more from a funder, and it is important to know what the effect of the merger will be on a major funder or funders.

Appendix 2

Internal Self-Assessment for Organizations Pursuing an Amalgamation

According to La Piana (2000), there are eleven key questions which the society considering the amalgamation should ask to assess its strengths, weaknesses, and needs. This set of questions will also contribute to the internal working relationships and common understanding necessary for an entity to successfully complete an amalgamation. La Piana (2000) highlights the considerations of each of these key questions below:

1. What is motivating your desire to amalgamate?
2. What do you expect from an amalgamation?
3. Can you keep a focus on mission?
4. Do you have a unity of strategic focus?
5. Can your leaders speak with one voice?
6. How solid are board-management relationships?
7. Are you currently in a crisis?
8. Do you have a history of successful risk-taking?
9. Do you have a growth orientation?
10. Is there an opening in an executive position?
11. Do you know of other successful amalgamations?

1. What is motivating your desire to amalgamate?

It is important for an organization to explicitly recognize the reasons for interest in a possible amalgamation and it is important to put in writing for later reference the reasons for which an organization is initially starting on this path. The motivations may be mission-related, economic, political, or social.

- Follow up questions to ask:

  Which of the three elements best describes your motivations? (improving finances, gaining access to a larger skill set, or enhancing the pursuit of your mission?)

2. What do you expect from an amalgamation?

This question is best answered by a group of board members and senior managers. The more specific the outcomes, the easier it will be later on during the amalgamation negotiations to assess whether the proposed structure can reasonably be expected to produce those outcomes.

- How will we measure accomplishment of these outcomes?
    - Outcomes are best stated in measurable terms (e.g., an organization may hope to achieve a 30 percent increase in annual revenue or to manage 50 more housing units each year).

3. Can you keep a focus on mission?

Many significant issues may arise in the course of negotiating and implementing an amalgamation; for some of these matters, leaders and stakeholders may have a high amount of emotional investment. The best way to proceed with the amalgamation when these issues are faced is to maintain focus on the organization's social mission. This is important because an amalgamation may entail the creation of new programs, consolidation or change within existing programs. Given that the needs of the mission may cause changes in programs and services, an organization should distinguish between its programs and services and its mission. It is advisable to establish a partnership that retains what is most important to the advancement of the mission, which will help the rest of organization to adapt.

- How flexible is the organization in pursuing its mission?
    - It may be best for the organizations to concentrate on a joint mission. Whenever the amalgamation negotiations committee faces a difficult point in discussions, it is helpful to ask everyone present to consider how the resolution of this point can advance the organizations' joint mission.

4. Do you have a unity of strategic focus?

- Do the people in your organization share a sense of the critical issues that need to be addressed?
- If there are conflicting priorities, are there strategies which each group (board, executive, staff) could suggest to address this?
    - Strategy serves to advance mission. Amalgamation is all about strategy (where to move next, how to move, in what company) so strategic differences will inevitably arise in amalgamation discussions
- Self- Assessment: List the top 3 critical issues facing your non-profit, from the perspectives of the board, executive, management staff and field staff.
    - Critical issues are defined as those issues that are most significant to the organization's future success.
    - Are there major differences in the critical issues identified by the different groups? Are the issues complementary or competing?

5. Can your leaders speak with one voice?

In order to negotiate with another entity regarding amalgamation, it is important that leaders have the ability to speak and act in unison. Input from board members, staff and volunteers should be sought early on and it may be helpful to use town hall meetings, focus groups, surveys, and interviews to gauge the reaction of clients, partners, beneficiaries, funders and other stakeholders.

The following are a number of survey questions suggested by La Piana (2000) to ask internal groups within an organization (Board, Executive Director, Management staff, field staff):

- (1 - 5 rating, for strongly agree to strongly disagree):
  - An amalgamation with this partner is a good idea
  - I feel good about this process
  - I look forward to staying on after the amalgamation
  - I will support the board's decision whether I agree or not
  - Amalgamations are a part of the future of this sector

Any rating above 3, if expressed by a significant number of individuals from any constituency, is a cause for concern and should be explored further as to reasons why the group may have those concerns.

6. How solid are Board-management relationships?

One of the keys to a successfully functioning nonprofit organization is the presence of a smooth working relationship between the board of directors and staff, especially between the board and management and most particularly between the board president and executive director.

These questions may help to uncover potential issues with the Board-Management relationship to address potential disagreements regarding central beliefs about the organization.

It may be useful to collect answers to these questions anonymously and it is perhaps best done by an independent consultant:

- Do the members of the board and the executive director get along?
- Do they respect one another?
- Do they routinely support each other?
- Who ultimately makes decisions regarding the nonprofit?
- Is the board satisfied with this arrangement?
- Is the executive director satisfied with this arrangement?
- Are other staff members satisfied with this arrangement?
- Has the organization experienced a high turnover in executive directors (more than once every four years)?
- Do board members tend to leave before their term is over?

7. Are you currently in a crisis?

Non-profits have limited resources to manage multiple issues at one time and if an organization is struggling with an acute cash shortage, adapting to rapid growth, recovering from a recent operational challenge, or engaged in an internal struggle, it may not have the energy to focus on a new and challenging opportunity such as that represented by a potential amalgamation (La Piana, 2000).

On the other hand, many non-profits are in chronic crisis: cash is scarce, there has been a series of negative press stories, or there is ongoing internal conflict. Ideally, such a non-profit needs to resolve these matters before pursuing amalgamation. Otherwise, the organization's weakened position and lack of focused attention could force it into the role of the weaker party in the amalgamation and compromise its negotiating power.

In some cases, however, an amalgamation may help a struggling organization to face its chronic issues and to take advantage of opportunities that could arise as a result of the amalgamation – new program growth, the addition of a capable executive director, or new committed board members.

Questions to assess if an organization is in crisis mode:

- Are you currently facing a crisis in your organization?
- Will you be able to resolve these crises before entering into amalgamation discussions with another party?
    - If not, how will your crisis affect the process? Could the crisis weaken your position in the negotiation process? How can you compensate for this or make changes in the organization?

8. Do you have a history of successful risk-taking?

If an organization has a reputation for succeeding at well-calculated risks, this is an indication that it will be able to handle the trials of an amalgamation.

There is inherent risk in pursuing an amalgamation – ample time may have been spent in negotiations which do not ultimately move forward; a prospective group may prove to be unsuitable for a partnership; particular benefits expected from the amalgamation may not be realized.

The following are questions to ask to access if an organization has a history of successful risk-taking:

- Are you successful risk-takers? Recount three risky endeavors you undertook successfully
- Are there other times when your organization undertook risks, but did not succeed? What factors lead to this lack of success?
- Was your organization more or less likely to take risks after these occasions?
- Given its experiences with success and failure, how is your organization likely to respond to a merger?

9. Do you have a growth orientation?

Successful non-profits tend to be growth-oriented and growth is likely one of the motivations of an organization seeking to amalgamate. Since adapting to becoming part of a larger organization may take some time, an organization should ask the following questions to assess growth orientation:

Questions to assess if an organization is in crisis mode:

- What has been the percentage growth of your annual operating budget during each of the past five years, relative to the year immediately proceeding? (note the year and percentage change in growth).
- Does your organization welcome growth? Give an example.
- Are your systems easily expandable to accommodate growth? Give an example.
- Does your board have a plan for incorporating new board members? Give an example.

10. Is there an opening in an executive position?

An amalgamation will often require that a decision be made regarding the appointment of the executive to lead the amalgamated organization. While the selection of the executive director is a decision for the board of the merged entity, this decision should be considered early on as it impacts the current executives, managers, staff, beneficiaries, and other stakeholders.

If the selection of an executive director will be necessary, a specific process will be needed to determine the appointment of the leader of the merged entity.

The following are questions to assess the proposed leadership of the amalgamated organization (La Piana, 2000):

- Survey Questions to be Considered Prior to the Start of Negotiations:
    - Indicate all of the acceptable ways to address the selection of the Executive Director position in the new entity:
        - Our current E.D. takes the lead of the merged organization
        - Our partner's current E.D. takes the lead of the merged organization
        - We ask the two incumbents to recommend which one of them should serve as the executive
        - Another staff person within one of the organizations takes the lead of the merged organization
        - The two boards hold a joint selection process and decide between the two current executive directors
        - The two boards hold a joint selection process and decide between the two current executive directors and outside candidates
        - The merged board chooses an executive director through a post-merger selection process

11. Do you know of other successful amalgamations?

- Identify stories of successful non-profit mergers in your sector. Is everyone in your organization aware of these success stories?

The survey questions above presented by La Piana (2000) will help an organization to identify its strengths and weaknesses and focus internal discussions to come to a common understanding of the amalgamation's goals.

An organization will make a better candidate for an amalgamation when it has clarity on its mission; has unity in the voice of its leadership; has positive board-management relationships; is not in crisis; has a history of successful risk-taking a growth orientation.

Appendix 3

Criteria for Partnership

As there is significant diversity within non-profits and charities in the housing sector, every amalgamation is unique. Organizations considering a merger or amalgamation must therefore consider a number of criteria for assessing compatibility prior to moving forward with the other entity, as outlined below (Blumberg, n.d.).

Firstly, every non-profit or charity would have unique objectives, as outlined in its constitution and bylaws. When organizations come together, they will need to amend their objectives or create new objectives. For organizations which operate in different geographical regions, it must also be considered that each entity in an amalgamation would be subject to the provincial and municipal regulations of that entity's geographical area.

Secondly, organizations have different tolerance for risk. For instance, one housing organization may have experience with development projects while another may desire to maintain a narrower scope of work and focus on maintaining housing operations, rather than new development. Each board should consider how much risk the organization is comfortable assuming (Blumberg, 2016).

Additionally, while some organizations have a high degree of public profile, others are comparatively unknown in the public eye. Non-profits with a higher public profile need to exercise greater caution as there are more people who would be concerned about the organization's activities (Blumberg, n.d.).

Non-profits also differ in the extent to which they rely on donors and level of government support. Some organizations receive 70% - 80% of their funding from the government while others are only reliant on a few private donors. It would be important to make sure that the government organization or funders are in support of any changes related to organizational structure so that there is no loss of funder support after an amalgamation.

Non-profits and charities can be independent or have affiliations. Organizations including some religious groups, for example, hold affiliations which could have their own rules and regulations for compliance.

Another factor which ought to be considered in choosing a potential partner for amalgamation is the number of resources to which the organization has access. An amalgamation would be affected by the changes which certain organizations can bear and the amount of funds they have available to spend on the amalgamation process.

Within the non-profit housing sector, there are also differences amongst organizations in their organizational memory structures and the amount of data and knowledge which an organization holds. Furthermore, an organization's values should be considered in partnership discussions – prospective partner organizations may have different cultures, ways of operating and values.

An organization's pool of staff and volunteers is another consideration in assessing a potential amalgamation partner. As a result of changes implemented with an amalgamation, staff could feel alienated, and volunteers could leave the organization which could cause the entity's impact and effectiveness to be reduced (Blumberg, 2016).

Another factor of compatibility to be considered in a potential amalgamation partner is the geographical reach of the entity's work. Some non-profit housing providers operate locally within specific municipalities while others operate throughout the province and still other groups have the capacity to operate nationally. The areas in which each organization operates, and its scope of work may affect the type of partnership that would be most effective for the operational plans of the combined entity.

The following are red flags which warrant further examination in the consideration of an organization as an amalgamation partner (Blumberg, 2016).

- The records of an organization are in disarray
- An organization has recently lost a major donor or revenue source
- An organization has recently lost its charitable status or has been audited for non-payment or for withholding taxes or other obligations
- One party is unwilling to provide full disclosure to the other party
- One party finds out about litigation that was not mentioned upfront in the amalgamation talks

Appendix 4

Interorganizational Assessment – What makes a good partner for your organization?

If an organization is interested in pursuing an amalgamation but has no particular partner in mind, it may not be optimal to identify by research the organizations that would fit criteria for a potential merger, as this could be seen as predatory by other non-profits. Instead, it is suggested that non-profits use their usual communication channels to make a public statement of their openness to partnering and to let the reliable informal communication network spread the word.

When an organization has a potential partner or multiple partners in mind, La Piana (2000) offers the framework outlined below to approach the first steps in the amalgamation discussions and assessment of the other entity before pursuing formal negotiations.

According to La Piana, the keys to successfully handling the initial assessment period with multiple potential partners involve speed, courtesy and being forthright. It is necessary to keep each party informed and move effectively so that there is a minimum of time investment for any partner which is not selected.

Working with Multiple Potential Partners (La Piana, 2000)

- It is best to inform each group that you are also having initial discussions with other groups. You should likely keep the names of the other groups confidential, but you can indicate how many there are.
- Establish a timeline for the initial discussions
    - Choose a partner for serious negotiation as soon as possible. Dragging out the initial stage could lead to hard feelings on the part of the non-profit which you do not choose.
- Establish thresholds with each potential partner
    - What are the minimum requirements for a partner? Do they meet these? You are only trying to establish if this partner would be a good fit at this stage.
- Once you determine which of your prospective partners is most likely to be a good match, inform the other interested parties immediately.
    - It is best to avoid leaving the other party “hanging” while you negotiate with your preferred party, which could lead to resentment. It is better to tell these non-profits that if the negotiations with the selected group do not work out, you would like to return to them and ask if they are still interested in pursuing talks at that time. This will preserve your credibility and show respect for the other group’s time.
- Never enter into full merger negotiations with more than one party at a time unless it is to be a multiparty amalgamation.

The First Discussion with a Potential Partner (La Piana, 2000)

In the initial discussion, an organization proposing amalgamation should make it clear that the suggestion to explore the partnership is tentative and much more consideration would be necessary prior to moving forward. This will help the other group feel that the organization is only a half-step further along in considering amalgamation and that it does not have a hidden agenda.

To initiate the conversation immediately with mention of an amalgamation may cause concern in the other party. It is instead best to focus on the common interests of the two organizations, and how they could work together. This leaves open the possibility of partnership options which are short of an amalgamation and will hopefully engage both parties to be open to ideas.

It is advisable to suggest an informal meeting of a few leaders from each entity. These leaders could be from the boards, with perhaps the executive directors involved. It would be prudent to stress the need to keep the matter confidential until the boards first have a chance to discuss.

Lastly, prior to leaving the initial discussion, the two organizations can establish the next steps. Each organization's representative could agree to discuss the idea with a few trusted board contacts, the executive committee and the executive director. The next meeting should be tentatively set within a few weeks of the initial discussion. Immediately after the discussion, the organization's representative should write down his or her initial thoughts on what the other organization's issues could be in conducting an amalgamation, and this report should be shared with the board.

The First Informal Meeting (La Piana, 2000)

At the initial meeting, there should be a focus on establishing trust and an interpersonal connection between the parties. The content of the initial discussion is important, but it is more important that the parties leave the initial meeting with a feeling that they would like to move forward in working with the other party.

Topics to be discussed in this initial meeting include: each organization's histories, current challenges, strengths, and weaknesses. At this stage, the discussion may not be completely detailed but each party will obtain a sense of the other organization's position on major issues such as funding, governance, and level of board-staff collaboration.
It is also an opportunity for each entity to gauge potential signs indicating that the amalgamation may not be suitable for either organization.

Questions to Ask in Assessing a Potential Partner (La Piana, 2000)

- Do you trust your potential partner?
    - The negotiations process can offer an opportunity to increase and build trust between organizational leaders and staff.
- Do you know your partner and have a history of working successfully work them?
    - The two organizations may be longtime collaborators, competitors, have staff who have attended the same conferences, executives who may belong to the same associations, and board members may know each other. It is important for each party to gain a sense of the other organization's history, budget, programs, major funders, culture, and values.
    - Each organization may conduct a survey with the following questions to assess the level of trust established with the other organization
        - Answer on a scale of 1 - 5 (distrust, low trust, moderate trust, high trust, or inadequate opportunity to build trust).
        - List 5 experiences that have influenced the feelings of trust or distrust that led to your selection of a trust score.
            - If your selection of a trust score was based on fewer than 5 incidents, it might indicate that your view of the potential partner is coloured more by feelings than reality. A negative perception of another organization can often be traced to a specific historical event.
        - List 5 ways in which you have worked with this particular potential partner in the past. Rate your satisfaction with each experience.
- What is the other organization's potential contribution?
    - You must perform a clear assessment of the usable skills and resources of the organization.
- Does the partner bring skills, strengths, contacts, and other resources needed by your organization to achieve desired outcomes?
- Are these attributes (e.g. financial strength, assets) actually usable within your organization?
    - Identify the conditions that would need to be present in order for the other organization's skills and assets to be usable by your organization. You will likely need to use your imagination to predict what those resources might achieve when combined with your own. For instance, a partner's larger budget will only be useful to your organization if: the organization is financially healthy and if the needs you want to fund it will be a high priority for the merged entity.

- Make a list of Usable Skills and Assets of the other organization
    - Make a list of what you believe to be the greatest assets of your potential partner.
    - Which of your potential partner's skills and assets would help you achieve your desired outcomes and address your critical issues?
    - How is this skill or asset usable to your organization?

Steps in a Canadian Charity or Non-profit Amalgamation (Blumberg, 2009)

1. Obtain board approval for any negotiations.
2. Have a confidentiality and non-solicitation agreement with any prospective merger partner.
3. Establish a committee or representative from each organization to deal with the merger and establish terms of reference for the committee or representatives.
    - Each organization can have its own committee, and they can come together as a joint committee
4. Work together with the other organization to discuss feasibility.
5. Identify all assets owned by each organization, restrictions on the asset and the ease with which that asset can be transferred to another entity.
    - Assets could include real estate, intellectual property, valuable equipment, et cetera.
    - Some assets may be difficult to transfer and would require special considerations of the transactions required to transfer those assets
6. Identify all liabilities and ongoing obligations including service agreements, leases, employment, funding agreements, and partnership agreements with domestic and foreign partners.
7. Conduct a comprehensive due diligence process on your potential partner to identify any concerns or impediments to merger.

Legal Costs of an Amalgamation

In considering an amalgamation, it is more cost effective, both in terms of legal fees and organizational resources, to obtain some legal advice many months prior to the process. In some cases where lawyers are retained at the end of the process to finalize the details of the amalgamation agreement, the parties may find out that the plan on which they had been working over the past year may not be realizable (Blumberg, n.d.).

Each entity should obtain impartial legal advice from a third party, given that a lawyer on the board may be in favour or opposed to an amalgamation and this could affect their views on the proceedings of the merger. For non-profit organizations and charities, in particular, it is crucial to obtain relevant, accurate, practical, impartial, and timely advice to guide an amalgamation process. In many cases, most amalgamation discussions are not carried out with the appropriate initial considerations, which can result the process being more costly and less likely to succeed.

The following are questions outlined by Blumberg (2009) which can serve to provide guidance in estimating total legal costs to be expected to carry out a merger:

- What structure is being considered- amalgamation, consolidation, or asset transfer? Will you need to deal with dissolutions of the other organizations?
- How much discussion takes place before decisions are made? Some organizations can act nimbly in decision-making while others can have "decision-paralysis" and take years for consensus to be achieved.
- Are the amalgamation partners all up to date in their filings and have clear governance structures?
- What is the lawyer's role in due diligence? Is the lawyer going to be directly involved or will the client (the organization) do most of the due diligence?
- Are there significant liabilities or contingent liabilities?
- Are there employees, especially long-term employees, or unions that need to be planned for?
- How quickly and completely is requested information provided by the organization to the lawyer?
- What is the time horizon for completing the merger?
    - Amalgamations are easier and much less expensive if there is more time to determine options which are more time- and cost-effective. Specifically, lawyers can often provide options to reduce legal costs. For instance, if an organization begins planning one year before the amalgamation needs to take place, there could be the option to engage notaries or junior lawyers at lower hourly rates.
- How much internal capacity and availability of staff does the organization have to conduct the amalgamation? This would reduce the amount of assistance which the lawyer would need to provide.
- Are there concerns from funders and other stakeholders that would need to be resolved?
- How helpful is the other party to the amalgamation?
- Are the memberships that need to approve the transaction broad or narrow? More costs tend to be accrued for larger organizations that have, for instance, hundreds of members compared to those which only have several members who need to submit approval.
- Are there restricted funds or gifts held by one or the other party?
- Are there changes requested by the organization in the form of instructions?
- Does the amalgamation go through or is it abandoned before completion?
- Does the organization require assistance post-amalgamation with the integration issues?

Appendix 5

Case Studies

Merger: Lookout Housing & Health Society and Keys Housing and Health Solutions

Research initiated by BC Non-Profit Housing Association (BCNPHA) and BC Housing (2018) and conducted by CitySpaces Consulting Ltd., outlines the processes of several mergers. One case study is summarized below and other further information on merger case studies may be found in the BCNPHA and BC Housing 2018 Report.

The merger process between two non-profit housing societies, Lookout Housing & Health Society ("Lookout") and Keys Housing and Health Solutions ("Keys") was initiated when the Executive Director of Lookout, Karen O'Shannacery, planned for retirement and an executive search for new leadership led to Shayne Williams, the Executive Director of Keys. A process was launched to explore the option for Keys to transition to Lookout, which could benefit both organizations and increase growth and build capacity in the sector.

During the exploration process, Mr. Williams gained knowledge about Lookout's sites and programs by touring Lookout's facilities and shadowing Ms. O'Shannacery. It was recognized that Lookout and Keys had similar mandates, clientele and services.

As part of the preliminary opportunity review, both Executive Directors presented to the Lookout Board the expected benefits of the potential merger, including the acquisition of talent, physical assets and social infrastructure. Additionally, a SWOT analysis was undertaken, and the risks of the merger were discussed with the Board. Subsequently, both boards provided approval to move forward with the next steps and an agreement between Lookout and Keys was established to jointly explore the potential merger.

To initiate the due diligence process, two separate committees were established from the board members of each society. Each committee was tasked with preparing due diligence reports to assess whether the merger would be feasible and beneficial for the organizations and their beneficiaries. Significantly, the due diligence committees included board members who supported the merger, as well as some who opposed the merger; this allowed for a more diverse set of concerns to be brought forth. The due diligence reports analyzed by both committees included a review of insurance and mortgages, as well as "portfolios, contract requirements, covenants on title, building assessments, liabilities, expiring agreements, financial statements, bank account information and human resource grievances" (BC Housing & BCNPHA, 2018). Staff surveys were conducted, and findings were considered by the due diligence committees.

The due diligence reports compiled by the committees suggested that a merger could provide improved service delivery and economies of scale. After the risks and benefits of the merger were presented and discussed with the Boards, the due diligence committees made the recommendation to their respective Boards to endorse an official merger.

After the motions to proceed were approved by both Boards, a Memorandum of Understanding was created between Lookout and Keys and a plan was established for the merger process. As a result of the merger, Lookout acquired "a 40-bed emergency shelter, 6 independent units for persons with disabilities, 11 addiction recovery beds, low-cost dental care clinic, free medical clinic, high- protein food bank, community farm and a drop-in centre specifically for people living with HIV" (BC Housing & BCNPHA, 2018). While several challenges arose in the process with respect to integrating both organizations' staff, beneficiaries, and organizational cultures, there was "minimal disruption" to tenants and best practices and policies from both societies were adopted.

This ultimately resulted in a merged organization (Lookout), which prepared a new strategic plan that was shared with the wider community and its stakeholders. This merger highlights the importance of clearly determining whether or not both entities have a shared vision and executing a well-planned due diligence process.

Merger: Horizon Housing and Forward Housing

Horizon Housing

Forward HOUSING

In Calgary, two affordable housing non-profits, Horizon Housing and Forward Housing, announced plans to merge in the fall of 2022. The proposed merger reflects both entities' desire to provide more affordable housing in Calgary, improve the experience of current tenants, and provide a "robust voice" for housing affordability in the city (Horizon Housing and Forward Housing, 2022). A due diligence process was undertaken, and the boards of both entities approved the merger in June of 2022. As the organizations have complementary strengths and similar values, missions and organizational cultures, the benefits of the merger are expected to include: improved economies of scale and increased capacity; the removal of competition between the two entities for development opportunities and funding; and greater collective impact.

After the merger, the combined organization would provide homes to over 2,000 Calgarians, including more than 500 independent seniors, and own and/or operate 30 buildings in the city. The combined entity will maintain the partner relationships previously held by the two organizations. Martina Jileckova would lead as the Chief Executive Officer and Gary McNamara would serve as the Chief Integration and Operating Officer. After the completion of the merger, the combined entity will establish a new name and brand.

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- City of Vancouver
- Vancity Community Foundation
- M'akola Housing Society
- Affordable Housing Society
- Greater Victoria Housing Society
- Nanaimo Affordable Housing Society

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[1] The provision of input for this report reflects neither an endorsement nor a criticism of the concept of amalgamation from the stakeholders mentioned.

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