



Briefing Note

Date: October 18, 2019
To: Community Stakeholders
From: Housing Services, City of London
Regarding: Community Housing Modernization Strategy - Provincial Regulatory Amendments Ont. 367/11 & New Ontario Regulation 316/19

Purpose

- To provide an overview of the amended Provincial regulations and new legislation that will impact social housing in Ontario.

Overview

- The Government of Ontario has announced the following regulatory changes to Ont. 367/11, under the Housing Services Act:
 1. Housing Provider authority to refuse to offer a unit to a household based on a previous eviction for serious illegal activity;
 2. Enabling tenant transfers between different housing providers in the same Service Manager service area; and,
 3. Client loss of eligibility for social housing if a household refuses an offer of housing of their preferred choice and where the unit meets the Service Manager's occupancy standards.
- The Government of Ontario has also announced a new Ontario Regulation 316/19, which is intended to simplify the calculation of rent-geared-to-income (RGI) assistance:
 4. "Determination of Geared-to-Income Rent under Section 50 of the Act" under the *Housing Services Act*.
- Although these regulations have been formally passed, the Ministry of Municipal Affairs and Housing has set a variety of compliance date for each regulatory change.
- The Housing Division will work with municipal and provincial colleagues to better understand how to operationalize these new regulatory compliance obligations.
- The Service Manager is open to receiving input from both internal and external stakes in response to these change and how to best operationalize within London.

Regulatory Amendments Overview

1. **Authority to refuse to offer a unit to a household based on a previous eviction for serious illegal activity.**
 - As part of the Government of Ontario's Community Housing Renewal Strategy, the province is amending regulations to give social housing providers the authority to refuse to re-house a tenant based on a previous eviction for a serious criminal offence.
 - The rule provides a new tool for housing providers to address safety concerns.

- Currently, social housing providers can evict tenants for serious crimes such as drug trafficking, harming individuals or damaging property, however, these tenants have the option re-apply to live in the same social housing building.
- Prior to this amended regulation, social housing providers were only permitted to refuse to offer a unit to a household who has reached the top of the waiting list in certain limited circumstances that are set out in section 50 of Ontario Regulation 367/11 (e.g., based on their rental history, population mandate of the building, and the housing provider has reasonable grounds to believe the household will not pay their rent, etc.).
- In order to refuse a household under this new regulation, the housing provider must also have reasonable grounds to believe the household would pose a risk to the safety of one or more other people at the housing project (e.g. other residents, staff).
- In addition, this ground of refusal is only available where the past Landlord Tenant Board eviction order was based on certain types of serious illegal activity (outlined further below).
 - It applies only if the eviction order was issued within the past five years.
 - Refusals are connected to tenants who have been issued an N6 (Notice to End your Tenancy - For Illegal Acts or Misrepresenting Income in a RGI Rental Unit)
- The new ground of refusal applies only where there was a previous eviction order based on an illegal act involving one or more of the following:
 - Production, trafficking, or possession for the purpose of trafficking an illegal drug;
 - Illegal production, distribution or sale of cannabis;
 - Physical violence or attempted physical violence against another person;
 - Physical harm, attempted physical harm, or a risk of physical harm to another person;
 - Human trafficking; or
 - Use of threats to, intimidation of, and harassment of another person.
- The province has also allowed the Service Manager to make exceptions based on extenuating circumstances.
 - In practice, this will allow a prospective tenants the opportunity to appeal to the Service Manager directly if they disagree that their criminal history does not warrant a refusal for social housing.
- This new community safety rule takes effect immediately, as of September 23, 2019 however Service Managers can elect to implement no later than January 1, 2021.
 - The ministry intends to develop guidance material to support housing providers that choose to implement this rule within their building(s).

2. Enabling tenant transfers between different housing providers in the same Service Manager service area.

- Changes have been made to the regulation regarding tenant transfers between different housing providers in the same Service Manager area.
- Previous regulation stated that household(s) living in social housing must be added to the Service Manager's centralized waiting list if the household(s) wanted to transfer to a unit operated by a different social housing provider which means a household would have to wait (based on priority sequence) for an offer of housing.

- This regulation has been revoked and a household living in a RGI unit is no longer required to apply to be added to the centralized waiting list if the household wishes to transfer to a unit operated by a different housing provider in the same service area. The new regulation attempts to move household transfers in a more timely fashion.
- Service Managers are not required to place these households on the centralized waiting list.
- Service Managers may determine their own processes and criteria for managing these types of transfers in collaboration with the housing community.
- The regulation has been amended to include subsection 47(5.1) which states that a housing provider may, with the approval of the Service Manager, may select a household for a vacant unit if the household is occupying a unit operated by a different housing provider in the same service area, is in receipt of RGI assistance and has requested a transfer to a unit.
- The special priority policy applies to the selection.
- This new changes with come into effect on January 1, 2020, however Service Managers can elect to implement no later than January 1, 2021.

3. Client loss of eligibility for social housing if household refuses an offer of housing of their preferred choice and where the unit meets the Service Manager's occupancy standards.

- Currently, a household becomes ineligible for RGI assistance if that same household refuses a minimum of three offers of RGI assistance from a Service Manager.
- The regulation has been amended to state that a household would no longer be eligible for RGI assistance if a household refuses a single offer from a Service Manager.
- The offer must be for assistance in a unit that meets the Service Manager's occupancy standards and is in a housing project for which the household has expressed a preference.
- If a household refuses an offer for a portable housing benefit it would not be considered as a refusal under this rule.
- A household remains eligible if the Service Manager is satisfied that there are extenuating circumstances.
 - Examples of potential extenuating circumstances could include situations an applicant is in the hospital, receiving treatment for addiction, or if an applicant is a survivor of domestic violence or human trafficking and a preferred building is no longer safe due to the proximity of an abuser.
- The provincial rule on refusal of offers would apply to all applicants on centralized waiting lists, including special priority applicants (SPP).
- All Service Managers are required to comply with the provincial rule on refusal of offers by January 1, 2021.

New Regulation – Ont. 316/19 - Determination of Geared-to-Income Rent under Section 50 of the Housing Services Act, 2011

4. "Determination of Geared-to-Income Rent under Section 50 of the Act" under the Housing Services Act.
- The province is implementing a suite of changes to the RGI calculation to make calculating rent simpler for Service Managers, housing providers and tenants.

- Several changes have been made to the RGI calculation and related processes, including:
 - RGI calculation process will be a simplified, annual process based on 30 per cent of adjusted family net income determined, where possible, by the household members' net income amounts in their notices of assessment for the relevant taxation year.
 - Household members whose income is to be included in the rent calculation will be required to file their income tax returns annually as a condition of continued eligibility, subject to Service Manager discretion in extenuating circumstances
 - A household member's net income may be calculated differently depending on when rent is being reviewed.
 - In some instances, net income may be based on a projection of net income for the next 12 months in situations where income tax return information is not available or where it does not accurately reflect the current financial position of a household member.
 - A review of a household's RGI rent must be conducted every 12 months.
 - In-year reviews may only be completed under specific circumstances (e.g., permanent change in household composition, a decrease in income of 20% or a change in full-time student status), and households will no longer be required to report an increase in income before their next annual review.
 - All household members in full-time studies will now have their income exempt from the rent calculation, removing the existing conditions attached to this exemption.
 - For household members who work, the new system will continue to exempt \$75 or \$150 per month of family unit employment income (depending on family size) but simplify the criteria to determine the amount.
 - Minimum rent will be increased and indexed with the province's annual rent increase guideline, subject to phase-in for existing tenants paying less than indexed minimum rent.
 - The length of time that RGI households can pay market rent before losing eligibility for assistance will be extended from 12 to 24 consecutive months.
- No changes will be made to certain aspects of the RGI calculation, including:
 - Most definitions in the regulations including the definitions for a "family unit" and "benefit unit";
 - Utility scale and rent scale tables; and,
 - Most eligibility rules and rules for local rules.
- Rent for a family unit would be calculated by taking 30 per cent of annual adjusted family net income (AFNI) divided by 12 months.
 - AFNI the total of the net income of each member of the household excluding those in full-time attendance at a recognized educational institution divided by 12.
 - Rent will be adjusted for utilities, services and heating and is subject to minimum rent
 - Before applying the 30 per cent, monthly adjusted family net income is reduced by an employment-related earnings deduction of either \$75 or \$150 per month, depending on the size of the family unit.

- Rent for a social assistance benefit unit would generally be calculated using the prescribed “rent scales”.
- As of July 1, 2021, all Service Managers will be required to use the simplified regulations.
 - Service Managers would be required to recalculate rent for all existing tenants within 12 months of that date as part of client’s annual eligibility review.
 - For tenants with rent increasing, their rent will be phased in gradually over many months.

Background

- The Housing Services Act, 2011 establishes the legislative framework for social housing in Ontario.
- Service Managers are responsible for determining a household's eligibility for RGI assistance and priority access to subsidized housing in their service area.
- Once an applicant household is determined to be eligible for RGI assistance, they are placed on a centralized waiting list.
 - When the household reaches the top of list, they are offered a subsidized unit in a social housing building.
- Municipalities, through Service Manager’s footnote play an important role in the delivery of housing programs and services in Ontario.
 - For example, service managers are the primary funders of social housing for low-to-moderate income households.
 - In addition, service managers oversee numerous affordable housing initiatives that provide housing assistance for people at a range of incomes who cannot afford local market rents.

Next Steps

- The Housing Division will work with local and provincial colleagues to better understand how to operationalize these new regulatory compliance obligations.

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