

# Housing Division Notice

Date: August 27, 2013

HDN#: 2013 - xxx

This applicable legislation/policy is to be implemented by the Housing Provider(s) under the following programs:

Please note if your program is **not checked**, this change is **not applicable** to your project.

<input type="checkbox"/>
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Federal Non-Profit Housing Program

Private Non-Profit Housing Program

Co-operative Non-Profit Housing Program

Municipal Non-Profit Housing Program (Pre-1986)

Local Housing Corporation

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## Subject: LOCAL STANDARD – PROPERTY MANAGEMENT

### 1. PURPOSE:

To inform all housing stakeholders of the local background and compliance standard under the *Housing Services Act, 2011 (HSA)* and associated regulations related to property management of Part VII housing projects, including the procurement of, and contracts for, property management services.

### 2. COMPLIANCE STANDARD:

The *Housing Service Act, 2011* establishes the service manager's authority to set local standards on prescribed matters. Under section 75 of the Act, a Housing Provider shall operate a Part VII housing project and govern itself in accordance with both the prescribed provincial requirements and local standards made by the service manager. A service manager may only make local standards with respect to prescribed matters. These prescribed matters are outlined in section 100 of O.Reg 367/11 and include the following:

- i. Conflicts of Interest of Directors, Employees and Agents of a Housing Provider.
- ii. The minimum number of meetings of the Board of Directors of a Housing Provider that must be held.
- iii. The remuneration of the Directors of a Housing Provider.
- iv. Property management relating to Part VII housing projects, including the procurement of, and contracts for, property management services.
- v. Leases for units in Part VII housing projects.
- vi. Multi-year financial plans.

A local standard does not apply to the extent that it conflicts with a provincial requirement, unless the provincial requirement provides otherwise.

### 3. LOCAL STANDARD:

- (1) A Housing Provider shall establish and follow open, fair, transparent and competitive practices in retaining persons to provide property management services for its housing projects and/or in hiring its employees, subject to the provisions of any collective bargaining agreement to which the Housing Provider is a party.
- (2) A Housing Provider shall ensure policies and procedures for hiring staff are compliant with applicable legislation in place. Employee policies and procedures should include provisions governing the following:
  - i. Performance review, discipline and termination
  - ii. Conflict of interest and code of conduct
  - iii. Compensation and benefits including vacation and sick pay
  - iv. Payroll deductions and reimbursement of expenses
  - v. Employment agreements/contracts including job description that clearly outline duties, responsibilities and hours of work
  - vi. Employees are bonded
  - vii. Professional development including participation in sector organization training or forums
- (3) A contract for property management services for a housing project must be in writing and must satisfy the following requirements:
  - i. The term of the contract must not exceed three years, plus two additional one year extensions.
  - ii. Except as outlined in (3)i, the contract must not be renewable or contain a clause that allows the contract to self-renew at the expiration of the current term unless either party notifies the other of an intention not to renew.
  - iii. The contract must not contain a right of first refusal clause or right of first offer clause.
  - iv. The contract must be capable of termination by the Housing Provider on 60 days written notice any time during the term of the contract and on 30 days written notice if the termination is for breach of the contract, unless the parties to the contract agree to shorter notice periods.
  - v. The contract must contain a clause stating that the Housing Provider reserves the right to withhold the Management Fee or Maintenance Fee payments (or part thereof) if the property manager is not fulfilling the terms of the contract.
  - vi. The contract must specifically identify and describe the nature of the goods and services provided under the contract and the consideration to be paid by the Housing Provider.
  - vii. The contract must contain a clause that states that all files and books of account are and will remain the property of the Housing Provider and are provided in a format that is compatible with or easily transferable to the Housing Provider's own system.

- viii. The contract must define exceptional circumstances that may have an impact on the responsibilities or fees of the bidding firms such as: submission of an overdue budget, annual financial statements, Annual Information Return, or HST rebate claims, completion of the annual review of rent-geared-to-income or market rents/occupancy charges, if overdue, filling vacancies or returning to target, breach letter received from Service Manager, upcoming large capital projects, development of a preventive maintenance plan, development of a management plan (versus updating an existing plan), lawsuits underway.
  - ix. The contract must be non-assignable.
  - x. The contract must contain a training plan to ensure property management staff are kept up-to-date with the City of London local rules, standards and policies and are familiar with existing and new legislative requirements.
- (4) The property management contract or employment agreement shall require that Board receive a manager's report for every Board meeting that includes information on activities relating to administrative, maintenance, tenant/member relations and finance including a complete set of financial statements containing the following:
- i. a balance sheet with current, past month and past year account information
  - ii. an income and expense statement with budget and previous year comparisons
  - iii. a capital expense statement, and
  - iv. bank reconciliations for all accounts.
- (5) During the term of the contract, the property manager and each and every sub-contractor is required to maintain in full force and effect and at its own expense, the following insurance coverage:
- i. General liability insurance including bodily injury and death, personal injury, broad form property damage including loss of use thereof, contractual liability, non-owned automobile liability, owners' and contractors' protective, products and completed operations and employers' liability, with coverage including the activities and operations conducted by the property manager and those for whom the property manager is responsible for in law. These policies will all:
    - a) be written on an occurrence basis with coverage for any one occurrence or claim of at least Three Million Dollars (\$3,000,000);
    - b) be endorsed to name the Housing Provider as additional insured; and
    - c) contain a severability of interests clause and cross liability clauses. The property manager is responsible for payment of any loss or losses within the deductible.
  - ii. Automobile liability coverage in an amount of not less than Two Million Dollars (\$2,000,000).
  - iii. Professional Liability / Errors & Omissions insurance in an amount of not less than One Million Dollars (\$1,000,000) per claim and Two Million Dollars (\$2,000,000) in the aggregate annually.

- iv. Crime and Fidelity insurance in the form of a 3D fidelity-type bond which shall include a third party extension in respect of the Housing Provider's interests.
- v. Sufficient property insurance coverage to adequately cover the property manager's property, equipment and other such property in the care, custody and control of the property manager. Such policy shall also contain a waiver of rights of subrogation against the Housing Provider.

Prior to execution of a property management contract and annually at expiration date of the insurance policies, the property manager shall provide the Housing Provider a certified true copy of the above policies or a Certificate of Insurance satisfactory to the Housing Provider evidencing the same.

- (6) Every corporation providing management services for a housing project shall give notice to the Housing Provider of any change in control of the corporation.
- (7) The property manager or employee must agree to have access to materials and information regarding the Housing Provider's individual tenants/members and shall treat them as confidential information not to be disclosed to third parties or used in any unauthorized way without the prior consent and knowledge of the individual tenants/members. The property manager or employee must agree to abide by the Conflict of Interest Guidelines of the *Housing Services Act, 2011* and City of London as it applies to the property management or employment agreement.

The property manager or employee must further agree that where a breach of such guidelines shall occur by the employee or property manager and its employees or Directors, the property management or employment agreement shall, at the written request of the Housing Provider be terminated.

The City of London may exercise a remedy under the *Housing Services Act, 2011* through proper course in the event of a triggering event having made reasonable efforts to assist the housing provider to deal with the situation. This would include, but not limited to, the terminated of a property management contract in exercising any of the powers or performing any of the duties of the housing provider under the HSA.

The property manager or employee further must agree that where such termination occurs, neither the Housing Provider nor the City of London shall be liable to the property manager or employee for any charges or costs incurred by the property manager or employee as a result of the termination.

- (8) A Housing Provider is not required to follow open and competitive practices in retaining person(s) to provide property management services if the City of London is satisfied that open and competitive practices are not appropriate under the circumstances in order for the Housing Provider to obtain a reasonable level of property management services at a reasonable cost.

**4. ACTION:**

The local standard in this Housing Division Notice (HDN) is effective immediately.

The HDN is to be reviewed by the Board of Directors and noted within the respective agenda and meeting minutes at the earliest possible opportunity.

As this HDN specifically addresses matters pertaining to the Board, including but not limited to rules of order and governance, and/or matters requiring specific Board action including review or changing of Board By-laws, it must be received and formally acknowledged by the Board. A copy of this HDN shall be retained with the corporate bylaws and made available for reference and review.

**5. AUTHORIZATION:**

*Original signed by*

Date:

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Louise Stevens

Director, Municipal Housing

**Appendix 1 - Background and Additional Information**

## Appendix 1 - Background and Additional Information

**HDN:** 2013-188  
**Date:** August 27, 2013  
**Subject:** Local Standard – Property Management

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Many Housing Providers contract property management companies to operate their buildings. Others hire staff and operate their properties themselves. Either way, the expectations of property management are the same – to ensure the successful day-to-day operation of a non-profit Housing Provider. Finding a property management company or staff that can handle the complexities of operating non-profit housing while protecting the values and mission of the organization can be difficult.

### Property managed vs. self-managed non-profit Housing Providers

When deciding which model of service delivery is right for your organization, decision-makers should consider the following:

- How will this decision affect the budget for the building? Which option is a more financially viable approach to administering housing?
- How will each model of service affect tenants/members? Will there be a change in the current level of service? If so, will there be an impact on operations because of the change? For example, if tenants/members are used to having staff on site five days a week, will a reduced office hour schedule affect the consistency of rent payments?

### Reasons why a non-profit Housing Provider may choose to:

<b>Contract a property management company</b>	<b>Hire staff</b>
to access a team of workers with varied skills instead of trying to find one or two employees with a broad range of skills to benefit from a management system that is up and running, and has trained staff to avoid human resource issues, including hiring, supervising, firing, covering for absences and negotiating benefits to have a predictable, fixed fee to ensure laws are being followed	to employ workers who are directly accountable to the Board, and have no other bosses to hand-pick staff who share management philosophies such as tenant/member empowerment to choose a more cost-effective option (for a large organization ) to have staff who have an interest in the long-term health of the organization to maintain a personal relationship between staff and tenants/members if you don't have access to property management companies willing to bid (small and/or rural organizations)

**Once a Housing Provider has decided to hire a property management company, it is crucial that the Board spend some time figuring out exactly which services they need.**

When seeking a property management company, assess the organizational needs. The Board should look through current job descriptions and create a master list of tasks that the organization requires. If current gaps in service exist, and the Board would like them covered by a property management contract, make sure to include those on the list. Roles and tasks may be sorted into categories that include administrative, financial, maintenance and tenant/member relations.

The Board will also need to look at:

- How much can the non-profit afford to pay?
- How many hours of on-site service do you want from the property management company each week?
- Do you want the property management company to provide maintenance services as well?
- If the non-profit has its own employees for maintenance, do you want the property management company to supervise their work?

Before starting the bidding process, the Board should also check for information about the tendering process in the non-profit's spending By-law and Conflict of Interest By-law. For example, conflict of interest rules in the by-laws may tell the Board that their current property management company should not advise them in the hiring process. The spending By-law will probably say that the non-profit must get written quotes if it wants to hire a company to manage the non-profit.

### **Preparing a Request for Proposals**

Once a Housing Provider has a clear sense of what the needs of the organization are, the next step is to prepare a Request for Proposals (RFP). Non-profit Housing Providers need to provide prospective property managers with clear direction, expectations and targets.

An RFP should include:

- a brief description of portfolio, target and building history
- details of services required
- timelines of tendering process
- how proposals will be evaluated
- site visit schedule
- interview process

The first step in preparing an RFP is to decide what is important to the Board. Is it a high level of tenant/member satisfaction? Maybe it is low turnover, low vacancies, low rent arrears or significant operating surpluses. Once the Board has decided what is important, these principles will guide the RFP.

Next, it is important to outline financial procedures. The RFP should state that financial statements be provided monthly to the Board, including:

- a balance sheet with current, past month and past year account information
- an income and expense statement with budget and previous year comparisons
- a capital expense statement
- bank reconciliations for all accounts

It is important to include a clause in the RFP which states that all files and books of account are and will remain the property of the Housing Provider. If the contract for services with the property manager ends, it is critical that the books of account are provided in a format that is compatible with the Housing Provider's system.

An RFP must outline what should happen in exceptional circumstances. For example, in the case of a lawsuit or a triggering letter from the service manager, the RFP must outline what responsibilities the property manager would have when dealing with certain issues that arise.

Another important feature of the RFP is to develop a detailed tendering process. What is the timeline? Is it public, by invitation or pre-qualification? How will the interview process take place? How will the property management company be kept accountable if hired?

The clearer the RFP, the more likely the property management company is to complete the work in a way that suits the organization.

### **Tendering**

Good tendering practices include:

- a review of the existing contract to ensure it meets current legislative requirements and organizational values, and clearly defines what the property manager will be accountable for
- a comprehensive description of the services required
- provision of the same information to all bidders
- consistent, open, fair and transparent processes at all times

### **Posting and receiving Requests for Proposals**

Request for proposals should be sent to a minimum of three companies. This allows for variation in proposals which will make it easier to select the best candidate and defend the Board's choice of company.

Begin the tendering process at least three to four months before the expiry of the current contract. This allows sufficient time for advertising, receiving and evaluating bids, and awarding a new contract. When bids are by invitation only, there is a chance that it may not provide the same range of experience as a public tender. It is wise, therefore, to invite a number of property management companies with different amounts of experience to submit a bid.

Bidders should submit a highly detailed plan of how the non-profit organization will be managed including, but not limited to:

- qualifications
- insurance - the property management company should provide proof that it is fully insured and bonded and is therefore solely responsible in the event of claims, costs, expenses, fines, demands, losses, damages, actions, suits or proceedings, etc.
- firm profile
- experience - the property management company should provide a written description of its knowledge of general property management practices and relevant legislation, including its experience in non-profit housing management and the experience of individuals assigned to the project
- management plan
- fees and extras
- references from auditor and other non-profit groups

### **Assessing applicants**

Once applications are received from interested companies, the Board will need to assess the bids. Sometimes non-profit organizations assume that the lowest price bid is the one that they should select; however, the Board will need to assess the following areas:



1. **Knowledge and skill in the business of social housing.** Property managers without experience working within the framework of the *Housing Services Act*, Federal operating agreement or *Co-operative Corporations Act*, should show a commitment to develop the required knowledge and skills. Property managers need to demonstrate that their employees have the knowledge and expertise to manage day-to-day operations and received the appropriate training to meet the legislative requirements of the non-profit as well as to manage the property effectively.
2. **Willingness to work within the organizational framework.** Property managers should demonstrate an awareness of the organization's mandate and a commitment to work within it. For example, if the organization is tenant/member-focused, the property management company should express a willingness to work with tenants/members.
3. **Reliability.** Property managers should provide references from other organizations that show a commitment to providing consistent and reliable service.
4. **Past experience.** Property managers should have experience working in properties of a similar size, and buildings of a similar age. They should also demonstrate that they can achieve operational and financial targets set by the Board.

It is important to use a consistent evaluation method to rank proposals. Ideally, the evaluation method will be included in the RFP so that applicants are aware of how they will be assessed. It is wise to include an interview process in the RFP as a way to assess the applicants. You will also need to decide how to weigh each section of the proposal or criteria area.

### **Monitoring**

Once a property management company has been hired, the work has just begun. In addition to on-site work, a property management company will also be accountable to the Board of Directors. The Board should receive monthly financial statements that reflect all financial transactions to month end, including accruals and variance analysis against budget for both the reporting period and year-to-date, evidence of monthly bank reconciliations and a monthly manager's report that includes, but not limited to:

- Recommendations on major purchases per spending/purchasing policy
- Information on major budget variances
- Evidence of payment of payroll expenses to Canada Revenue Agency, if applicable
- Progress on capital work plan, including annual budget and year-to-date expenditures, comparison of actual expense to budget, and job status
- Out-of-the-ordinary expense or income issues
- Vacancy/unit turnover information (standard is 3% of market rent revenue), including trends and vacant unit months
- Summary of results of tenant/member exit interviews (if they are being done)
- Arrears report including allocation to bad debt account (at or near 2% of rent receivables)
- Market and RGI units relative to required target plan
- Work orders generated and completed, breakdown of types of maintenance
- Report on current condition of facilities and plan for replacements
- Personnel issues, complaints and feedback received on accessibility issues and accommodation requests
- Legislation compliance, including Fire code compliance
- Identified risks and risk management, including security issues
- Quarterly or annual HST rebate claims

Board members should take the assessment of service by the property management company very seriously. Ultimately, the Board's level of skill is crucial to effectively assessing the property management company. Using the right Board members or acquiring the additional skills necessary will enhance the ability of the Board to perform this function.

### **Qualitative and quantitative data**

When monitoring the property management company, consideration should be given to both quantitative and qualitative data. Quantitative data is clear and measurable including: vacancy losses; bad debts; rent arrears; unit turn over; market rents and rent incentives; non-rental revenue; operating surpluses; returns on investments; maintenance cost per unit; administration cost per unit; and response time on work orders.

Other data is qualitative and expressed with opinions or degrees of satisfaction. It usually relies on personal opinion or established views. Some examples include: quality and time limits of reporting; adherence to legislative requirements; the quality of preventative maintenance; operational review success or issues; tenant/member satisfaction; tenant/member complaints; and staff complaints.

### **Conclusion**

Regardless of whether the non-profit housing organization contracts a property management company or staff, the Board is ultimately responsible for governing the organization. Staff of a property management company, in addition to taking responsibility for the building, must foster the work of the Board. Governance, management and administration overlap so it is essential that everyone clearly understands who is responsible for what. The more informed the Board is, the better the decisions they will make.

### **Resources for Non-Profit Housing Providers**

- Property management resources, web link: <http://www.onpha.on.ca/prop-mgmt-resources>
  - ✓ guidelines for tendering for property management
  - ✓ sample procedures for tendering
  - ✓ Request for Proposals for property management
  - ✓ sample interview topics
  - ✓ sample property management agreement
  - ✓ property management accountability checklist
- Evaluating your property management, web link: [www.onpha.on.ca/prop-mgmt-eval](http://www.onpha.on.ca/prop-mgmt-eval) including:
  - ✓ sample agreement
  - ✓ legislation compliance checklist
  - ✓ performance measures checklist
- The Social Housing Resource Committee (SHRC), a group of 20 provider and property management representatives across Ontario, has developed a series of free templates to assist non-profits with tendering property management agreements. The guide and template documents can be found at <http://www.hscorp.ca/wp-content/uploads/2011/12/Tendering-for-Property-Management-Services-for-Non-Profits.pdf>

The Tendering Guide includes:

- Guide to Tendering (PDF)
- Bid Package: Standard Invitation Letter Template (DOC)
- Bid Package: Request for Proposals Template (DOC)
- Bid Package: Management Agreement Template (DOC)
- Appendix: Evaluating Bids (PDF)

## Resources for Co-operative Housing Providers

Co-operative Housing Providers should contact the [Co-operative Housing Federation of Canada](#) to access templates designed specifically for co-ops. The website contains resources on hiring and orientation, employment laws and requirements, supervising management and management reporting to the board including:

- ✓ Choosing management for your co-op (November 2007) — A CHF Canada guide to your co-op's management choices
- ✓ Guide to hiring a housing co-op manager (Ontario) (2006) — A guide to hiring a manager and getting them started in the job.
- ✓ Guide to tendering for co-op management in Ontario housing co-operatives (2012) (MS Word) (pdf version) — A CHF Canada guide to hiring a management company for your co-op.
- ✓ A quality co-op employer charter (May 2009) — Your co-op can become a quality co-op employer by adopting this charter and signing this (MS Word) certificate.
- ✓ Housing co-op manager sample job description — A CHF Canada sample housing co-op manager job description
- ✓ Property management training for co-op managers : An investment in your co-op's success (PDF)
- ✓ Evaluating co-op management: a tool to help co-ops complete an evaluation of the services offered by their management company.
- ✓ What to include in a manager's report: a checklist of items for effective reporting to the board by the co-op manager (PDF)

## Other Resources

Online portals are also available for non-profit Housing Providers who have procurement needs to access suppliers providing various goods and services from across Canada.

Biddingo.com is an online portal that connects suppliers providing various goods and services to buyers from the Provincial, Municipal, Education, Crown Corporation, Housing, Construction and Healthcare sectors and Private companies from across Canada. <http://www.biddingo.com/onpha>.

MERX Canadian Public Tenders offers access to thousands of opportunities with government departments and agencies that you may not have considered as potential customers. MERX Canadian Public Tenders provides a fast, simple and centralized way for you to view opportunities and find the ones suited to your business MERX <http://www.merx.com/>