



The *Housing Services Act*, 2011 and Regulations

Advocacy Centre for Tenants Ontario

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Introduction

- The *Housing Services Act, 2011* ("HSA") comes into force on January 1, 2012.
- The *HSA* replaces the *Social Housing Reform Act, 2000* as the Province's social housing and rent-geared-to-income legislation.
- Regulations include:
 - O. Reg. 367/11 (General)
 - O. Reg. 368/11 (Designated Housing Projects – s. 68 of the Act)
 - O. Reg. 369/11 (Subsidies for Part VII Housing Projects)
 - O. Reg. 370/11 (High Needs Households and Household Income Limits – s.40(4) of the Act)
 - O. Reg. 379/11 (Transition RGI calculation provisions from Part VII of O. Reg. 298/01)

- http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_11h06_e.htm
- http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_110367_e.htm
- http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_110368_e.htm
- http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_110369_e.htm
- http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_110370_e.htm
- http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_010298_e.htm



Purpose of the *HSA*

- To provide for community-based planning and delivery of housing and homelessness services with general provincial oversight and policy direction, and
- to provide flexibility for service managers and housing providers while retaining requirements with respect to housing programs that predate this Act and housing projects that are subject to those programs.

Provincial Interest in Housing and Homelessness

- The *HSA* declares the Province's interest that there be a system of housing and homelessness services that meet criteria listed in s. 4(1):
 - Focused on achieving positive outcomes for individuals and families;
 - Addresses the housing needs of individuals and families in order to help address other challenges they face;
 - Has a role for non-profit corporations and housing co-operatives;
 - Provides for partnerships among governments and others in the community;



Provincial Interest (cont'd.)

- Treats individuals and families with respect and dignity;
- Is coordinated with other community services;
- Is relevant to local circumstances;
- Allows for a range of housing options to meet a broad range of needs;
- Ensures appropriate accountability for public funding;
- Supports economic prosperity; and
- Is delivered in a manner that promotes environmental sustainability and energy conservation.



Local Housing & Homelessness Plans

- Service managers are required to develop local housing and homelessness plans that include:
 - an assessment of current and future housing needs;
 - objectives and targets relating to housing needs;
 - a description of the measures proposed to meet the objectives and targets;
 - a description of how progress will be measured; and
 - such other matters as may be prescribed.



Local Housing and Homelessness Plans

- Local housing and homelessness plans must address the areas of Provincial interest, (s. 4(1) of the *HSA*) and must be consistent with the Minister's policy statements (s. 5 of *HSA*).
- Service managers must consult with the public and the Minister when developing the plan.
- Ministerial approval is not required, but the Minister must be given an opportunity to review a plan and provide comments.
- Service managers must have plans in place by January 1, 2014.



Selling or Developing Social Housing

- Ministerial consent is required for certain corporate changes (*e.g.*, share issuance or transfer, amalgamation, voluntary wind-up), and for the transfer or sale of assets.
- Service manager consent is required for some changes, including mortgaging properties to fund development or redevelopment.

Rent-Geared-to-Income: Overview

- The Government of Ontario promised in its Long-term Affordable Housing Strategy to simplify the province's rent-geared-to-income system, including the income reporting requirements for recipients of RGI assistance (*i.e.*, reporting changes only once a year).
- The current Regulations do not deliver on the Government's promise.
- Except for a few minor changes, RGI rules remain the same as under the *Social Housing Reform Act, 2000*.
- Rules for calculating RGI are still being developed. Currently, Part VII of O. Reg. 298/01 applies as a transitional rule.

- http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_010298_e.htm

Some Changes to RGI Eligibility

- Households continue to have an asset exemption level of at least \$20,000, but there are changes to what is excluded.
- Service managers may set a rule that a household that has been convicted of RGI-related offences is ineligible for RGI assistance for up to two years from the time of conviction, (mandatory ineligibility under the *SHRA*).
- Service managers may set a rule that a household becomes ineligible for RGI assistance if absent from the subsidized unit for at least 60 consecutive days, or at least 90 days in a year.

Changes to RGI (cont'd.)

- Service managers may set a rule that a household is ineligible for RGI assistance if over-housed for at least one year after being notified they are over-housed.
- Service managers may not establish a local eligibility rule that treats households receiving RGI differently based on the length of time they have been receiving RGI.
- Service managers may set a rule that a household becomes ineligible for RGI assistance if the household fails to report a change in income or household composition within a minimum of **30 days**.

Changes to RGI (cont'd.)

- Local rules may allow subsidized tenants from different service manager regions to “swap” subsidized tenancies.
- Service managers are given some flexibility over the system of selecting households from the waiting list, which may take into consideration the household’s preference for certain housing projects (no longer based on length of time spent on the waiting list).

What Hasn't Changed in RGI

- Basic requirements – age, independence, status in Canada, *et cetera*.
- Ineligibility – removal order.
- Ineligibility – amounts owed by household for arrears or damages from a previous social housing provider.
- Cessation of eligibility – failure to obtain income.
- Cessation of eligibility – failure to divest residential property.
- Local rule – maximum prescribed household income.



Notices of Social Housing Decisions Opportunity to Comment Eliminated

- A notice of a decision, including reasons, must be served on a household within seven business days after the decision is made.
- If the decision can be reviewed, the notice must include a statement that the household may request a review of the decision, and information about the review process and deadline.
- Tenants no longer have an opportunity to comment on information a service manager or housing provider receives from a third party.



Social Housing Appeals

- Service managers must establish an appeals system regarding decisions related to RGI administration.
- The system must include the following:
 - Reviewer must not have participated in the making of the decision;
 - Reviewer must be knowledgeable of the relevant provisions of the *HSA* and Regs.
 - Reviewers must not have discussed the decision under appeal with the person who made the decision.



Issues to Monitor

- Matters related to RGI assistance have not been simplified.
- The 30-day reporting period for a change in household income or composition is a far cry from the once-a-year requirement the Government of Ontario promised.
- Tenants do not have a right to an oral hearing by an impartial panel for social housing appeals.

But...

- the Province has promised to hold consultations as it develops new rules for calculating RGI.
 - Local communities and clinics should use these consultations as an opportunity to remind the government of its promises under the Long-Term Affordable Housing Strategy.



Opportunities for Clinics

- Local Housing and Homelessness Plans
 - Service managers are required to consult with their local communities when developing their plans. Clinics are ideally situated to offer advice on local housing and homelessness issues and to organize community participation in the consultations.
 - Local plans must be reviewed by the Minister. An opportunity exists for clinics and community groups to make submissions directly to the Minister to highlight deficiencies in a local plan.

Opportunities (cont'd.)

- Ministerial Consent Required to Sell Housing Assets
 - In the City of Toronto, for example, the Mayor, City Council and the municipal social housing provider's board of directors have adopted resolutions to sell housing assets. Clinics and community groups have a role in making the Minister aware of the importance of preserving social housing in their communities.

Opportunities (cont'd.)

- The Centralized Waiting List
 - Because households are no longer selected based exclusively on length of time spent on a local waiting list, clinics will be able to advocate on behalf of a household to expedite placement with a housing provider.
 - Rules relating to Special Priority Status remain the same as under the *SHRA*, including priority over non-Special Priority Status applicant households.

Opportunities (cont'd.)

- Social Housing Appeals
 - Clinics can advocate for oral hearings before an independent panel to determine social housing appeals.
 - The City of Ottawa's system is a useful model.
 - ACTO will produce template submissions that promote an independent and knowledgeable panel to hear social housing appeals, which clinics may tailor to meet their needs.

Opportunities (cont'd.)

- Other Local Rules
 - Service managers have expanded authority to set rules regarding household asset levels, absences, *et cetera*.
 - Clinics can use this opportunity to advocate for liberal rules.
 - But this requires ongoing monitoring of local government and participation in developing these rules.



Conclusion

- The primary goal of the *HSA* appears to be continued devolution of responsibility for social housing to local municipalities.
- The *HSA* provides greater flexibility to service managers, including the method of selecting households from the waiting list. The exercise of such discretion should be closely monitored.
- The focus on local patterns of housing need and homelessness gives legal clinics an opportunity to participate in developing local plans and local rules.
- Legal clinics may also contribute to upcoming consultations on developing new RGI rules.