

The Regional Municipality of York

Committee of the Whole
Community and Health Services
June 16, 2022

Report of the Commissioner of Community and Health Services

Update on New *Housing Services Act, 2011* Regulatory Amendments

1. Recommendation

Council receive this report for information.

2. Summary

On March 30, 2022, the Province of Ontario released two new regulations under the *Housing Services Act, 2011* with significant implications for the community housing system over the coming years. The regulations introduce service agreements and exit agreements between York Region and community housing providers, and impact service level standards, income and asset limits for determining eligibility, and access systems for offering housing assistance.

This report outlines key implications for York Region as Service Manager, housing providers and households applying for and receiving rent-geared-to-income (RGI) assistance and other Regional subsidies, as well as anticipated implementation timelines.

Key Points:

- The regulatory amendments reflect transformative and positive change for the future of the community housing system, including fundamental changes to the relationship between Service Managers and housing providers from a funding and oversight perspective
- The regulations grant flexibility to meet local needs, ensure housing providers' long-term sustainability, respect the Service Manager role and establish greater transparency across Ontario in areas such as access systems, in alignment with the Region's previous recommendations to the Province
- Regulations allow Service Managers to right-size housing provider funding based on their operational and capital needs through negotiated agreements, shifting from the fixed funding formula currently mandated through legislation
- Housing providers may leave the system if the Service Manager agrees to an exit agreement; however, existing households and municipal investment in those buildings will be protected

- In 2023, staff will seek Council approval on a service agreement framework to inform negotiations with housing providers based on key principles, budget and regulatory requirements
- The new service agreement framework should enable Service Managers to reinvest subsidy savings into local needs as housing provider mortgages end, but further financial analysis is needed
- Minor amendments to policies and programs will be needed to comply with aspects of regulatory amendments, such as updates to the Region's income and asset limit policy for subsidized housing

3. Background

As Service Manager, York Region is responsible for funding and administering community housing

Community housing provides subsidized and affordable housing for households with low and moderate incomes. As Service Manager, the Region is mandated by the *Housing Services Act, 2011* for the following:

- Maintaining a wait list for subsidized housing
- Funding rent subsidies and maintaining legislated minimum service levels of 3,988 RGI units for households with low income following Provincial subsidy rules
- Ensuring community housing providers comply with Provincial legislation and funding agreements
- Establishing local eligibility rules, policies, programs and services for community housing
- Allocating and administering funding for Federal and Provincial housing programs
- Developing and implementing a 10-year housing and homelessness plan

The Region became responsible for funding and administering community housing in early 2000 when the Province transferred its obligations to 47 municipal Service Managers. As System Steward, the Province continued to set the overall vision, legislative and policy framework Service Managers and housing providers are required to follow. The Region fulfills its responsibilities through relationships with housing providers, including non-profits and co-operatives and Housing York Inc., each governed under various Federal and Provincial programs or legislation.

The *Housing Services Act, 2011* includes a prescriptive funding formula that needed to be addressed by the Province as housing provider mortgages mature

Housing providers that received Provincial funding to build new units in the 1980s and 1990s, referred to as Part VII providers, originally entered into operating agreements with the Province, which were to end once the provider's mortgage matured. In York Region, there are 32 Part VII non-profit and co-operative providers, representing 3,320 units. Housing York Inc. owns an additional 1,025 Part VII units.

When Service Managers became responsible for community housing, individual operating agreements were replaced by the *Social Housing Reform Act, 2000* and, later, the *Housing Services Act, 2011*. The Region was mandated to provide an annual operating subsidy with no end date to Part VII providers based on a Provincial funding formula to cover operating and mortgage costs, as well as RGI and property tax funding. The funding formula ensures the operating subsidy provided by Service Managers results in revenues that equal expenses.

The Province committed to addressing the funding formula when these mortgages ended as providers would no longer incur mortgage costs and would not need a subsidy to cover them. Continuing to follow the formula would result in some providers being overfunded and others being underfunded due to differences in their operating and capital funding needs. Addressing this issue required legislative changes to clarify obligations for Service Managers and housing providers as mortgages mature over the next 10 years. This issue was previously communicated to Council in [September 2020](#) and [December 2020](#).

The Province made transformational change to the system in recent legislation, and York Region provided feedback to inform regulation development

As communicated to Council most recently in [April 2022](#), the Province launched its Community Housing Renewal Strategy in 2019, which is a plan to work with partners to stabilize and grow the community housing sector. Under the strategy, the Province made broad and enabling legislative amendments in July 2020 to the *Housing Services Act, 2011* through the *Protecting Tenants and Strengthening Community Housing Act, 2020*. This set the stage for new service agreements that would address the obligations for Service Managers and housing providers after mortgages mature, as well as introduce modernized approaches to broaden the types of housing assistance counted towards required service levels, which currently count only RGI units. The Province committed to developing regulations to enact changes in each of these areas.

In [February 2022](#), the Region responded to the Province's consultation on areas of proposed regulation development based on principles previously endorsed by Council. Staff also consulted with other Service Managers, the Ontario Municipal Social Services Association, and the Association of Municipalities of Ontario to identify areas of mutual interest and opportunities for alignment in responses. The Region's response outlined the following key recommendations:

- A new service agreement framework must provide flexibility for Service Managers and housing providers to enter into new agreements, and any exit agreement provisions must protect public investment and affordability for residents
- Future funding arrangements should allow Service Managers to fund specific needs of each housing provider
- A one-size-fits-all funding formula risks overfunding some housing providers while underfunding others, and poses challenges for addressing local housing needs
- A broader range of housing assistance should be counted towards RGI service levels
- Service Managers should have discretion to determine which programs should be offered through the access system

4. Analysis

New regulatory amendments impact four parts of the community housing system and generally align with York Region’s recommendations

On March 30, 2022, the Province released [O. Reg. 241/22](#) and [O. Reg. 242/22](#), which amend the general regulation under the *Housing Services Act, 2011* related to four key areas in the Act:

1. Service agreements with housing providers, including exit agreements (effective beginning July 1, 2022)
2. Service level standards (effective beginning July 1, 2022)
3. Income and asset limits for households (effective July 1, 2022, with implementation required by July 1, 2023)
4. Access systems for housing assistance (effective by January 1, 2023)

Overall, regulatory amendments generally align with the Region’s positions and reflect significant and positive change for the future of the community housing system. Regulations respect the Service Manager role as primary funders of the system, provide flexibility to meet local needs and ensure the long-term sustainability of housing providers and existing assets.

New service agreement requirements fundamentally change the relationship between Service Managers and housing providers, and allow Service Managers to right-size funding based on providers’ operational and capital needs

The Province developed new service agreement provisions in the general regulation to clarify the relationship between Service Managers and housing providers once mortgages mature. Following the end of any original obligations, housing providers and Service Managers may enter into a service agreement for the continued operation of community housing.

Regulations also allow new providers to enter the system. Service agreements include a minimum term of 10 years, and must:

- Include a financial plan developed jointly by the Service Manager and housing provider establishing how revenues will equal expenses, including projected capital expenses, and address how unit rents will be set, to be reviewed every five years
- Require Service Managers to fund the provider for RGI assistance, equal to the difference between 30% of household's net income and the unit's rent, and specify a target for RGI subsidies or other forms of assistance. Service Managers have the option to provide additional funding
- Require housing providers to continue to use the subsidized housing wait list to allocate RGI assistance, including following existing wait list eligibility rules and priority rules for survivors of domestic abuse and human trafficking
- Include a process to manage issues of non-compliance and dispute resolution between Service Managers and housing providers

Service agreements provide a significant opportunity to reduce complexity, ensure housing providers' long-term sustainability and continue to grow the community housing system. Service agreements fundamentally change the funding relationship between Service Managers and housing providers from the prescriptive formula currently mandated by the Province. As mortgages mature, funding arrangements will instead be determined through negotiations with individual providers based on their operational and capital needs, following the baseline regulatory provisions outlined above. This change allows the Region to provide the right level of funding to ensure each housing provider is sustainable by addressing operating and capital repair needs and avoid over or under funding.

Staff will develop a local service agreement framework for Council approval in 2023 to guide negotiations with housing providers

In 2023, staff will seek Council approval on a York Region service agreement framework to inform negotiations with housing providers based on key principles, best practices, budget and regulatory requirements. The Region will negotiate service agreements following the Council approved framework as providers reach the end of their original obligations, determined by their mortgage maturity dates. Housing providers are critical stakeholders in the system, and the Region will work collaboratively with each individual provider to develop long-term financial plans in recognition that a one-size-fits-all approach cannot meet their diverse needs. As negotiation and development of service agreements is a new undertaking for all Service Managers, Service Managers across the Province will work together to establish best practices.

Regulations could allow York Region to use subsidy savings to invest in local needs after housing provider mortgages end, but savings may be limited in the short-term

The Region currently provides \$28.9 million annually to cover housing providers' mortgage costs. Analysis of projected savings communicated to Council in [December 2020](#) was based on the Provincially mandated funding formula. This analysis found approximately \$600 million in subsidy savings over 40 years after capital repair needs are addressed. Under new regulatory amendments, funding arrangements are based on negotiations rather than a set funding formula.

Staff are in the early stages of analyzing new regulatory requirements within the current fiscal environment to understand savings after mortgages mature. Housing providers have mortgage maturity dates ranging from 2023 to 2031. This means the Region is required to run two parallel housing programs until all mortgages mature, with some providers still funded under the previous prescribed funding formula and others entering into service agreements with a new funding arrangement.

Under the prescribed funding formula, the Region is experiencing cost escalation in mortgage, utility and insurance expenses, with costs in these areas increasing by approximately \$1 million in 2022. To manage increases within existing budgets, subsidy savings may need to be used to address inflationary costs. Over the short term, this may limit the Region's ability to use initial savings to address other housing priorities.

As all providers move to new funding arrangements outlined in service agreements, the Region expects to see subsidy savings which could be reinvested to address Regional housing priorities in alignment with the Council motion passed in [December 2020](#). The service agreement framework to be presented to Council in spring 2023 will include financial assumptions and a projection of available subsidy savings over time. As more information is known through financial modeling and service agreement negotiations, staff will have a better understanding of subsidy savings available to include in the capital budgeting process to increase supply.

Exit agreement provisions protect existing households and municipal investment

Regulatory amendments also provide a vehicle by which housing providers may exit the community housing system after their original obligations end. Service Managers and housing providers must agree through an exit agreement signed by both parties that meets regulatory requirements.

To sustain existing affordable housing options for residents with low and moderate income, it is critical providers remain in the system after mortgages mature. New exit agreement regulations consider the need to sustain the system by protecting existing households as well as the significant historical investments from the municipal tax base and other levels of government. Exit agreements must include a plan for how the housing provider will accommodate existing households, including the continued delivery of RGI or an alternate form of assistance if the household agrees. Exit agreements must also include a plan implemented by the housing provider for the continued operation or redevelopment of the

building, or reinvestment of the proceeds of sale into affordable housing. Considerations for exit agreements in York Region will be brought to Council along with the service agreement framework in 2023.

A broader range of housing assistance programs can be counted towards service levels and regulatory amendments do not increase service levels

The Region is required to fund and maintain 3,988 RGI units, referred to as its “service level.” RGI is only provided at “legacy” social housing sites – those housing providers transferred to the Region when it became responsible for housing in the early 2000s. Since that time, the Region has designed and funded new programs such as the Regional Rent Assistance Program, which increases affordability in new Housing York Inc. and non-profit developments. The program provides income-based rent subsidies similar to RGI assistance to approximately 300 households and, like RGI, is offered to applicants on the subsidized housing wait list. Under previous rules, units supported through the Region’s Rent Assistance Program could not be counted towards service levels.

O. *Reg 242/22* sets out a program framework that, if followed, will permit other forms of Service Manager funded housing assistance to be counted towards service levels. This change will recognize Council’s investment into the housing system beyond the minimum mandated levels and better position the Region to continue meeting its Provincial requirements should housing providers exit the community housing system. With minor adjustments to the rent calculation approach – moving from using income tax line 15000 (total income) to line 23600 (total income net of certain deductions) – the Region would be able to count Rent Assistance towards its service level. The calculation change could mean some households receiving Rent Assistance may see a reduction in their contribution to rent, resulting in higher subsidy costs. It is anticipated any cost increases may be absorbed within the Housing Services Branch’s existing operating budget. Further analysis will be conducted to understand the impact on households and the Region’s budget, and any changes will be communicated to households and housing providers in advance of implementation. Notably, regulations do not increase mandated service levels, which align with the Region’s recommendations to the Province.

Regulations related to access systems will provide greater transparency to help applicants understand their housing options

Regulatory amendments require Service Managers to have an access system for housing assistance that meets certain requirements. The requirement to maintain a subsidized housing wait list remains in place, but Service Managers are now required to provide more consistent and transparent information to applicants on rent benefits provided by the Region, how they access them, and how they compare to one another.

As outlined to Council in [September 2021](#), the Region is implementing process enhancements to streamline the subsidized housing wait list, which will better position the Region to meet these new regulatory amendments. In January 2021, the Region launched a new online portal, which enables households to submit applications electronically and enables more effective and efficient communication with applicants. The Region is implementing a new process to offer rent subsidies whereby applicants can view and

express interest in available vacancies and portable benefits, giving them more information about units and programs to support informed housing decisions. Staff will identify other opportunities to meet access system requirements through these ongoing initiatives, including completing any website updates, enhanced applicant communication materials, and additional resources for staff to help applicants understand their options.

York Region's existing income and asset limits already comply with new Provincial direction

The Province now requires all Service Managers to establish local income and asset limits by July 1, 2023. Income limits cannot be below the Provincially prescribed household income limits (\$78,000 for York Region in 2021), and asset limits cannot be below \$50,000. Asset limits pertain to households applying for and receiving RGI assistance, while income limits pertain only to those applying for assistance, as households receiving RGI assistance become ineligible if their income exceeds 30% of their unit's market rent.

Previously, Service Managers had the option to establish local income limits for wait list applicants, and asset limits for applicants and households receiving a rent subsidy. In [March 2018](#), Council approved an income limit of \$80,000 and an asset limit of \$75,000, which both took effect in 2019. The asset limit was set to provide households sufficient opportunity to save while targeting those most in need. The income limit was set at the fourth income decile (rounded to \$80,000 in 2018) for York Region on the basis that it would enable a household to afford a market rent of nearly \$2,000 a month at 30% of income. In Canada Mortgage and Housing Corporation's Fall 2021 Rental Market Report, average rents in York Region ranged from \$979 for a bachelor unit to \$1,816 for a three-bedroom unit. Based on this information, the income limit remains at an appropriate level for households to rent in the private market while they wait for housing, and target those with lower incomes.

Since implemented, the income and asset limits have been working well to target assistance to those most in need and remain aligned with similar Service Manager policies in neighbouring municipalities.

Staff will review the income and asset limits in 2024 to ensure they continue to support households most in need

York Region's existing income and asset limits meet the new regulatory requirements. The policy will be updated to use income tax line 23600 instead of line 15000 to verify eligibility against the income limit and ensure asset exclusions continue to match those set out within the regulation.

Regulatory amendments require the Region to periodically review and update local policies as needed, but do not mandate a timeline to do so. When the income and asset limits were approved in 2018, Council directed staff to review the income limit every three years following implementation. This review, scheduled for 2021, was deferred pending release of the regulatory amendments. As the current policy complies with the new regulations and limits reflect the current rental market, staff will review the income and asset limits in 2024. Any adjustments to the amounts at this time could have significant impact on applicants and

households receiving a subsidy, as well as housing providers who are responsible for verifying household eligibility for subsidy each year.

5. Financial

The Region currently provides \$28.9 million annually to cover housing providers' mortgage costs. New service agreement regulations allow the Region to provide right-sized funding based on housing providers' operational and capital needs and may result in savings which can be reinvested in the system. In 2023, Council will be presented with a service agreement framework for approval that includes financial assumptions and a projection of the amount of subsidy savings over time. The subsidy savings available to invest in priorities such as new supply will be included in the Housing Services Branch's capital budget submission for Council approval in December 2023.

Implementation of other regulatory amendments, such as service levels, may have cost implications as the Region makes program adjustments to count the Rent Assistance Program toward service levels. It is anticipated any cost increases may be absorbed within Housing Services Branch's existing operating budget. Staff are conducting additional analysis to understand the financial impact of these changes.

6. Local Impact

The Region works with community housing providers in all nine local municipalities to provide affordable rental homes to tenants and cooperative members, including market and subsidized units. Regulatory amendments provide an opportunity for the Region to continue working with housing providers and local municipalities to sustain existing community housing and increase supply, which is a critical priority as residents continue to face affordability challenges.

7. Conclusion

York Region supports the Province's efforts under the Community Housing Renewal Strategy. Community housing is a valuable publicly funded asset and important component of local housing and homelessness systems. These regulatory amendments can help to reduce the complexity of the system by improving access to housing assistance, ensure housing providers' long-term sustainability, and allow Service Managers to respond to growing local needs.

For more information on this report, please contact Jody DeGagne, Director, Housing Strategy and Program Delivery at 1-877-464-9675 ext. 72010. Accessible formats or communication supports are available upon request.



Recommended by:

Katherine Chislett
Commissioner of Community and Health Services



Approved for Submission:

Bruce Macgregor
Chief Administrative Officer

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