

York Region Comments on Proposed Amendments to the *Housing Services Act, 2011* and Regulations

The Province has proposed amendments to the existing legislative framework that governs the provision of community housing to:

1. Simplify the Rent-Geared to Income Calculation
2. Social [Community] Housing Waiting Lists
3. Support Community Safety

Table 1: Detailed York Region Comments on Proposed Amendments to the Housing Services Act, 2011 and O. Reg. 367/11 General

Proposed Changes	York Region Recommendation	Rationale
Simplifying the Rent-Geared-to-Income (RGI) Calculation		
<p>Move to a simplified rent calculation based on 30 per cent of Adjusted Family Net Income (AFNI) as determined (where possible) using the tenants' most recent income tax return information</p>	<ul style="list-style-type: none"> • York Region supports the move to simplify the rent calculation rules. • The Region recommends all housing programs that use similar provincial rent calculation rules or have similar outcomes be allowed to count toward local Service Level Standards. 	<ul style="list-style-type: none"> • Administering simplified subsidy programs may encourage continued participation of Housing Providers in the provision of community housing as their operating agreements or mortgages end. • Currently, Service Manager funded and delivered subsidy programs do not count toward Service Level Standards unless they use provincial RGI calculation rules. • For example, York Region currently funds nearly 300 households through a Regionally-funded program that uses income tax data to calculate subsidy. These units are not counted toward the Service Level Standards despite providing a similar benefit to the existing RGI calculation. The ability to count Rent Assistance and other

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		<p>programs that resemble RGI towards service levels would recognize the significant role that Service Managers play in funding and delivering additional subsidy programs beyond RGI. It would provide Service Managers with additional flexibility in meeting their service level obligations and the local needs of their residents.</p>
<p>Rent for a family unit would be calculated by taking 30 per cent of AFNI, dividing by 12 months, and adjusting for utility charges or allowances (if applicable)</p>	<ul style="list-style-type: none"> To ensure that utility charges and allowances better reflect actual utility costs, update utility scales in O. Reg. 298/01 s. 51 on an annual basis and index them to increase each year. 	<ul style="list-style-type: none"> Existing utility scales are too low and do not reflect actual utility costs incurred by either the household or the housing provider The legislation requires a housing provider to provide a utility allowance if the household is paying their own utilities and a utility charge if the housing provider is paying the utilities. The utility allowances/charges have remained the same for decades and not reflective of current costs. For example, in York Region, utilities for a townhouse in the southern area of York Region may cost a household on average \$350 per month. Under the legislation a household would be provided with an \$80 utility allowance.
<p>All tenants in full-time studies at a recognized educational institution would now have their income exempt from the rent calculation, removing the existing conditions attached to this exemption</p>	<ul style="list-style-type: none"> Clarification is needed on how this would apply to full-time students who are heads of household as well as full-time students who left their parents' household. 	<ul style="list-style-type: none"> The existing conditions set out in O. Reg. 367/11 only exempt those who are full-time students who have never left their parents' household. Expanding the definition to "all tenants in full-time studies" could have a financial impact on the Region, as tenants could continuously participate in full-time

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		education and their income would be exempt, requiring the Region to pay more in subsidy.
Net income would be verified by a tenant's most recent notice of assessment or proof of income statement issued by the Canada Revenue Agency, or if not available, by other methods determined by the Service Manager.	<ul style="list-style-type: none"> Support Service Managers to use the existing Automated Income Verification Program created by the Ministry of Finance/Canada Revenue Agency. 	<ul style="list-style-type: none"> Using Automated Income Verification would be more efficient for Service Managers while reducing the reporting burden for tenants and ensuring accuracy.
For tenants who work, exempt \$1,800 per year of family unit employment income from AFNI, matching or exceeding the current employment deduction offered to tenants.	<ul style="list-style-type: none"> Recommend removal of the employment income exemption. 	<ul style="list-style-type: none"> Introducing an additional income exemption is not consistent with the goal of simplifying the rent calculation rules, is less transparent for tenants, and will require additional verification by housing providers.
Remove imputed income from the rent calculation for non-interest bearing assets (e.g. real estate, art, certain bank accounts)	<ul style="list-style-type: none"> Recommend that Service Managers be given flexibility to set an imputed rate of return on non-interest bearing assets, and on assets transferred outside of the household, to ensure that such assets are taken into account when determining the need for subsidy. Recommend that the province clarify the eligibility rules for households that transfer assets in order to reduce their rent or qualify for subsidy. 	<ul style="list-style-type: none"> Although it is currently set at 0 per cent, the imputed rate of return is the only tool available to Service Managers to ensure that tenants' assets, such as property, are appropriately taken into account when calculating their RGI. O. Reg. 298/01, s. 50(10) is linked to the application of the imputed rate of return, but addresses the ownership of assets that are transferred outside of the household and indicates that households that transfer assets in order to reduce the amount of rent they pay or to qualify for rent geared to income. This section of the legislation

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		<p>should be retained to ensure that Service Managers have authority to limit households from transferring assets in order to qualify for subsidy.</p>
<p>Minimum rent will be increased by the annual rent increase guideline under the <i>Residential Tenancies Act, 2006</i> from 2001 to present, and indexed to future increases. Minimum rent would increase at the same rate that is allowed for rent increases in private market rent-controlled units.</p> <p>For households receiving social assistance whose monthly non-benefit income is below the prescribed limits, rent would continue to be determined under the existing “rent scales” in O. Reg. 298/01.</p>	<ul style="list-style-type: none"> Recommend setting minimum rent the Ontario Works Program maximum shelter rate. 	<ul style="list-style-type: none"> Current Ontario Works (OW) and Ontario Disability Support Program (ODSP) rent scales are significantly lower than the OW and ODSP maximum shelter rates. For example, an ODSP client receives and pays \$109 in a community housing building, and \$497 for the same size unit in the private sector. This discrepancy shifts the cost for social assistance from the province (which pays the social assistance benefits) to Service Managers’ tax levy. In addition, this approach can lead to significant rent increases for households that transition from social assistance to employment or pension income. For example, when an ODSP client transitions from ODSP to pension income, the method of calculating their rent also changes. Their rent increases from the ODSP rent scale rate of \$109 to \$423 (30 per cent of their income). Aligning the rent scales with maximum shelter rates will make this transition more equitable.
<p>As of July 1, 2021, all RGI calculations would be calculated using the new, simplified approach.</p> <p>Between July 1 and December 31 2021, Service Managers would be</p>	<ul style="list-style-type: none"> Allow Service Managers to begin transitioning to income tax-based calculations beginning in July 2020, at their discretion, with full implementation required by December 31, 2021. 	<ul style="list-style-type: none"> The streamlined rent calculation approach will benefit Housing Providers and Service Managers and significantly reduce the reporting burden for tenants. This change should be implemented as swiftly as

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<p>required to re-calculate rent for all existing RGI tenants using the proposed new rules, with a requirement to provide a consistent effective date for all tenants in the same building.</p>	<ul style="list-style-type: none"> • Provide Service Managers with flexibility to stagger effective dates for tenants within the same building 	<p>possible.</p> <ul style="list-style-type: none"> • Housing providers should be allowed to stagger the effective date to manage program administration • York Region is already well-positioned to begin implementing an income tax-based rent calculation as a similar approach is already used in Region-funded subsidy programs.
<p>The new minimum rent would take effect July 1, 2021 and would be automatically indexed thereafter.</p> <p>For tenants paying minimum rent prior to July 1, 2021, minimum rent increases will be phased-in over a multi-year period beginning July 1, 2020.</p>	<ul style="list-style-type: none"> • Recommend that the new minimum rent be implemented in full beginning July 1, 2020. 	<ul style="list-style-type: none"> • Immediate implementation in full will be simpler for Housing Providers and more transparent for new and existing tenants who would otherwise have different minimum rent rates, and will also reduce costs for Service Managers.
<p>Social [Community] Housing Waiting Lists</p>		
<p>Refusal of Offers</p> <ul style="list-style-type: none"> • Restrict the ability of households on the wait lists to refuse offers of housing assistance • Households would be required to accept the first offer; Service Managers would have authority to make exceptions on a case-by-case basis in the event of extenuating circumstances • Applicants would continue to have 	<ul style="list-style-type: none"> • York Region supports the intent to require households to accept the first offer of housing, with opportunity for Service Managers to make exceptions based on extenuating circumstances. • This proposed change is consistent with the Region's request to the Province to reduce the number of refusals for applicants from three to one, endorsed by Council in March 2018. 	<ul style="list-style-type: none"> • The existing requirement for three refusals prolongs Housing Provider vacancy loss, which is paid for by Service Managers. • If Service Managers do not have flexibility to require a minimum number of building choices, households may choose to select only one highly desirable building and wait until there is a unit in that building.

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<p>choice over their preferred buildings</p> <ul style="list-style-type: none"> • Service Managers have discretion to include a minimum number of buildings tenants may select 		
<p>Tenant transfers</p> <ul style="list-style-type: none"> • Tenants currently receiving RGI could transfer to other housing providers within the service area without reapplying to the subsidized housing wait list • Service Managers would have flexibility to determine the way transfers are handled in their service area 	<ul style="list-style-type: none"> • While York Region appreciates enabling legislation that gives Service Managers greater flexibility to help households transfer to more appropriate accommodations, permitting transfer between Housing Provider buildings should be at the full discretion of Service Managers through the establishment of a local rule. • Service Managers should not be required to allow transfers between housing providers and be given maximum flexibility without provincial requirements to determine how best to meet their local needs. 	<ul style="list-style-type: none"> • Allowing existing tenants to transfer between housing providers would have the unintended consequence of delaying access to a subsidized housing unit for households on the wait list, particularly for new buildings and/or buildings in desirable locations. • Service Managers will need flexibility to prioritize households on the wait list for available vacancies. • Requiring Service Managers to permit transfers of existing tenants between housing providers would significantly increase administration time and costs.
<p>Asset Limits</p> <ul style="list-style-type: none"> • The Province is considering future legislative changes to require all Service Managers to have a local rule on assets so that all households would have to pass an asset test to be eligible for RGI 	<ul style="list-style-type: none"> • York Region supports a move to require asset limits, provided that Service Managers continue to have flexibility to determine an appropriate amount for their service area. • The Region recommends the province enables Service Managers to permit grandfathering of existing subsidized tenants who have assets above the asset limit. • The Region recommends the Province standardize and simplify the provincial 	<ul style="list-style-type: none"> • York Region implemented an asset limit as of October 1, 2018. The Region's recommendations reflect issues and questions that arose during the implementation process. • Asset limits are an important tool to target subsidies toward households who are least able to afford market rate housing in a community. However, asset limits need to be carefully considered to ensure that people are not penalized for saving and to

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	<p>exemptions, and amend the existing list to exclude RRSPs/RRIFs from the asset limit, to ensure fairness for tenants who do not have workplace pensions.</p> <ul style="list-style-type: none"> The Region recommends the Province establish a consistent policy for treatment of joint assets, including Special Priority applicants who may have joint assets with the abusive individual, and application of local asset limits to household members under 16. 	<p>provide fairness for households who may not have control over an asset.</p> <ul style="list-style-type: none"> Asset limits impact existing subsidized tenants who may have limited income but will lose their rent subsidy if their asset is over the asset limit. Service Manager should have discretion to establish a grandfathering provision to support existing subsidized tenants.
Support Community Safety		
<p>Amend s. 50 of O. Reg. 367/11 by adding a new reason for housing providers to refuse applicants:</p> <ul style="list-style-type: none"> Refuse to re-house a household based on a previous eviction for a serious criminal offence If a member of the household had previously been evicted due to serious illegal activity, a housing provider would have the option to refuse to offer a unit 	<ul style="list-style-type: none"> The Region recommends the Province clearly define “serious criminal offence” and consider a time limit to ensure that individuals are not permanently barred from accessing subsidized housing, particularly for offenses committed at a young age. The Region also recommends that the Province invest in supportive housing programs for individuals who are being released from prison in order to reduce recidivism and improve re-integration into the community. Further details are needed to assess the impact on York Region 	<ul style="list-style-type: none"> While it is critical to ensure community housing tenants are safe from crime, policies that permanently bar people who have committed criminal offences from subsidized housing can serve to further marginalize those individuals, particularly as they may also face barriers in obtaining employment and housing in the private market. As a result, they may be at greater risk of re-offending and/or experiencing homelessness. Community safety has not been a significant issue in York Region to date.

Table 2: Additional Recommendations

Issue	York Region Recommendation	Rationale
<p>Service Level Standards</p> <ul style="list-style-type: none"> Currently, only programs that follow provincial RGI rules may be counted toward Service Level Standards. 	<ul style="list-style-type: none"> Allow Service Managers to count all programs that increase housing affordability for tenants toward Service Level Standards. 	<ul style="list-style-type: none"> The ability to count all Service Manager funded programs toward service levels would recognize the significant role that Service Managers play in funding and delivering additional subsidy programs beyond RGI. It would provide Service Managers with greater flexibility to meet their obligations within their local context.
<p>Wait list administration</p> <ul style="list-style-type: none"> Wait lists for community housing are growing and wait times are increasing, particularly in service areas where market rate housing costs are high. Prescribing the management of a wait list for a benefit that may never arrive for many households is inefficient and expensive for Service Managers while providing no benefit to households that are waiting. 	<ul style="list-style-type: none"> The Region recommends the Province move away from an overly prescriptive legislated wait list process to an enabling framework with best practice guides and system level outcomes. 	<ul style="list-style-type: none"> Prescriptive rules do not work for all communities and contexts. Giving Service Managers tools to establish processes that best meet local needs will reduce administrative burdens and allow Service Managers to reinvest funds currently spent managing the wait list into portable housing benefits and other rent subsidy programs.

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<p>Special Priority Policy</p> <ul style="list-style-type: none"> The intent of special priority is to quickly house applicants at risk. As the Province has expanded the special priority category to other groups, such as survivors of human-trafficking, the wait for a subsidized unit will become even longer. 	<ul style="list-style-type: none"> Amend the Special Priority provisions of the <i>Housing Services Act, 2011</i> and <i>O. Reg. 367/11</i> to better balance the demand of Special Priority and chronological applicants: <ul style="list-style-type: none"> Tighten eligibility requirements for Special Priority to better reflect the original intent of the policy. Allow Service Managers to require Special Priority applicants to accept a portable housing benefit, if available Extend the required response time in <i>O. Reg. 367/11 s. 44 (4)</i> in which Service Managers must respond to a Special Priority application, as the current 14 day timeframe is unrealistic The Province is encouraged to expand access to Violence Against Women shelters and invest in second stage housing. 	<ul style="list-style-type: none"> In York Region in 2017, special priority applicants waited on average 1.7 years for subsidized housing, a significantly shorter time than chronological applicants, and although they represent approximately 1 per cent of the wait list, filled more than 30 per cent of all vacancies. Broadening criteria for Special Priority increases overall wait times for both Special Priority and chronological applicants. Tightening eligibility requirements for Special Priority and giving Service Managers authority to require Special Priority applicants to accept a portable housing benefit will help support applicants with urgent safety access housing more quickly.
<p>Social Housing Exemptions</p> <ul style="list-style-type: none"> <i>Residential Tenancies Act, 2006, s. 7</i> and <i>O. Reg. 516/06, s. 6</i> provide exemptions for social housing providers to support the delivery of rent subsidy programs, including exemptions from rules relating to tenant selection and rent increases. These exemptions only apply while the provider continues to operate under its original social housing 	<ul style="list-style-type: none"> Review and amend social housing exemptions in <i>Residential Tenancies Act, 2006, s. 7</i> and <i>O. Reg. 516/06, s.6</i> to provide certainty that exemptions continue to apply for Housing Providers who continue to deliver subsidized housing programs past the expiry of their operating agreements. Clarify application of social housing exemptions to units constructed under new affordable housing programs, such 	<ul style="list-style-type: none"> These changes would support the Province's goal to sustain the existing community housing system. Applying social housing exemptions to units built under newer affordable housing programs would provide flexibility to implement new and innovative rent subsidy programs to provide greater depths of affordability to low income wait list applicants who need it.

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<p>program. The exemptions do not apply to new housing programs that have not been added to <i>O. Reg. 516/06</i>, and it is unclear if they will apply to Housing Providers affected by expiry of operating agreements.</p>	<p>as the Investment in Affordable Housing Program, Ontario Priorities Initiative Program and Canada-Ontario Community Housing Initiative</p>	