



# County of Wellington

## Social Services Department – Housing Services

### DIRECTIVE

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**Directive Number: 2020-11**

**Effective Date: December 23, 2020**

This directive has been developed by the County of Wellington in its role as Consolidated Municipal Service Manager (CMSM) and applies to housing providers funded under the following social housing programmes:

- Provincially Reformed Non-Profit Housing Programmes
  - Provincially Reformed Co-operative Housing Programmes (Co-ops)
  - Local Housing Corporation (LHC)
  - Service Manager Funding Agreement (Post EOA)
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**Subject** 2021 Provincial Rent Freeze

**Legislative Reference** Residential Tenancies Act, S.120,136.1

Housing Services Act, Ontario Regulation 316/19 and Ontario Regulation 367/11

#### **Background**

Effective October 1, 2020, the Residential Tenancies Act (RTA) was amended to:

- set the rent increase guideline at zero per cent for 2021;
- prohibit all rent increases during the rent freeze period of January 1, 2021 to December 31, 2021; and,
- prohibit increases in rent-geared-to-income (RGI) during the rent freeze period of January 1, 2021 to December 31, 2021.

Ontario Regulations 367/11 and 316/19 under the Housing Services Act (HSA) have been amended to support the rent freeze and prohibit all RGI increases during the 2021 rent freeze period. These new provisions apply to most landlords covered under the RTA, including housing providers and rent supplement landlords.

## **Definition**

“Local Rules” means a Local Rule, Directive or Guide established by the County of Wellington for the administration of social housing.

“Rent” means rent as defined by the RTA or housing charges as defined by Co-operative By-laws.

“Resident” means a tenant as defined by the RTA or co-op member as defined by Co-operative By-laws, who pays a geared-to-income housing charge.

## **Direction**

In accordance with regulatory amendments, rents cannot be increased during the rent freeze period, even if proper notice was given in advance of January 1, 2021. This includes increases to rent, as well as increases to charges for extra services (e.g. parking) that are included in the definition of rent under the RTA.

Increases to market rents and RGI are prohibited during the rent freeze period, with the following exceptions:

- Co-operative housing providers may increase their market housing charges as permitted under their by-laws. Co-operative housing providers may not increase RGI charges in 2021.
- Above guideline increases approved by the Landlord and Tenant Board (LTB) prior to October 1, 2020 may be applied to 2021 rents.
- Above guideline increases approved by the Landlord and Tenant Board (LTB) in 2021 if they are for costs related to eligible capital repairs and security services, but not for extraordinary increases in municipal taxes and charges.
- An agreement between the landlord and tenant for an increase in rent for a new additional service or facility (e.g. air conditioning, parking).

## **Application**

### **1. RGI Reviews (Annual and In-Year)**

Housing providers will continue to conduct annual and in-year RGI reviews as required under the Housing Services Act and the County of Wellington’s Local Rules.

For all RGI reviews conducted between December 1, 2020 and November 30, 2021:

- RGI decreases will be implemented the first day of the month following the review; and,
- RGI increases will be implemented effective January 1, 2022.

If a resident reports a change in income that would normally result in an increase to RGI before the 2021 annual review, the housing provider may defer notice of any change until the time of the annual RGI review. Housing providers may advise the household of this deferral by sending out a HP41 Interim Changes template letter. Any decreases to rent will continue to be processed in accordance with Local Rules.

## **2. Retroactive Adjustments**

Retroactive adjustments to RGI are not permitted during the 2021 rent freeze period.

However, residents who report the following changes in 2021 that should have been reported in the prior year(s) may have their RGI retroactively adjusted if:

- A new household member with income moved into the unit in 2020;
- A household member had their income taxes reassessed and RGI calculation for the household in 2020 was based on income reported in the Notice of Assessment; and,
- A household failed to notify a change in income or student status in 2020 as required by Local Rules.

RGI can only be retroactively adjusted from the first day of the second month following the change until December 31, 2020. The resident will continue to pay the same RGI in 2021. For example:

- A resident's spouse moves into the unit in September 2020. The resident does not declare the change until March 2021. The resident is currently paying RGI of \$300 and the spouse's income increases RGI to \$600.

The resident's RGI may be retroactively increased to \$600 for November 2020 to December 2020 inclusive. The resident continues to pay \$300 RGI in 2021.

Given that there are no other changes, the resident's RGI will increase to \$600 effective January 1, 2022.

### **Repayment agreements**

Housing providers cannot increase RGI in 2021 to collect retroactive RGI.

Housing providers are encouraged to enter into separate agreements with residents for the repayment of retroactive amounts owing for 2020. Amounts still owing in 2022 may be collected as arrears of rent, including applications to the Landlord and Tenant Board (LTB) for recovery.

## **3. Notification**

Housing providers must notify residents of all RGI changes as a result of an RGI review including assessed RGI increases during the rent freeze period and retroactive adjustments, where applicable.

Notices must specify:

- The amount of the RGI increase;
- The RGI increase will be delayed until January 1, 2022 due to the Provincial rent freeze;
- The resident has 10 days to request a Review of Decision; and,

- The amount owing for 2020 and a request for repayment (retroactive only).

Housing providers are required to use the following:

- HP34 Eligibility and Subsidy Decision template letter to notify residents of RGI increases assessed in 2021 that will be delayed until the expiry of the rent freeze period.
- HP35 Subsidy Overpayment template letter to notify residents of the retroactive adjustment for 2020 and the increased RGI charge beginning January 1, 2022.

To ensure residents pay the correct RGI on January 1, 2022, housing providers are encouraged to provide a second notice closer to this date to remind residents of the increased RGI amount. Housing providers may use the HP36 Reminder Increase template letter.

Housing providers will resume regular annual RGI review practices for reviews conducted on December 1, 2021 or later.

#### **4. Pursuit of Income**

Residents may be required to pursue the following sources of income in order to continue to be eligible for RGI:

- Ontario Works;
- Employment Insurance (EI) benefits;
- Old Age Security, Guaranteed Income Supplement, and Ontario Guaranteed Annual Income Supplement (OAS/GIS/GAINS); or,
- Immigration sponsorship income.

Residents may still be required to pursue this income in 2021; however, any resulting increases to RGI will not be implemented until January 1, 2022.

Residents who fail to pursue income as requested will become ineligible for RGI.

#### **5. RGI Ineligibility**

Housing providers will continue to assess eligibility for RGI throughout the rent freeze period. However, if a resident is determined to be ineligible for RGI between September 1, 2020 and August 31, 2021, the rent cannot be increased to the market rate until January 1, 2022.

Housing providers will continue to give notice of RGI ineligibility within 7 days of making the decision. The notice must specify:

- The resident is ineligible for RGI effective the first day of the month following a ninety (90) day notice period;
- The reason for RGI ineligibility;
- The rent will increase to the market rate effective January 1, 2022 due to the Provincial rent freeze; and,

- The resident has 10 days to request a Review of Decision.

Housing providers are required to use the following template letters to notify residents of RGI ineligibility:

- HP37 Loss of Eligibility Due to Income
- HP38 Loss of Eligibility Failure to Provide Information
- HP39 Loss of Eligibility Due to Increase in Assets

If loss of eligibility occurs for another reason and a template letter is necessary, please contact your Housing Programme Advisor for assistance.

Housing providers are encouraged to provide a reminder notice and may use the HP40 Notice of RGI Ineligibility – Reminder template letter.

Housing providers will resume regular practices and notices regarding RGI ineligibility beginning September 1, 2021.

### **Maximum RGI and 12- Month / 24-Month Rule**

Residents who are paying maximum RGI (e.g. equivalent to the market rent or housing charge) become ineligible for RGI after 12 or 24 months of paying the maximum RGI, depending on when they began paying the maximum RGI.

#### **12-Month Rule**

If a resident was already paying maximum RGI on January 1, 2021 and becomes ineligible in 2021 due to the 12-month rule, housing providers will use HP32 12 Months at Market template letter to notify them about the 12-Month rule. In this case, no rent increase is required.

If an RGI review completed between December 1, 2020 and June 30, 2021 results in an increase to maximum RGI, the housing provider will send the appropriate letter identified in section 5 to notify the resident of the RGI increase effective January 1, 2022. Closer to this date, the provider will send the HP40 Reminder Ineligibility and Increase template letter to remind the resident of the increased RGI amount and notify them of the 12-month rule. This second reminder notice is mandatory for all residents increased to maximum RGI.

#### **24-Month Rule**

If an RGI review completed between July 1, 2021 and November 30, 2021 results in an increase to maximum RGI, the housing provider will send the appropriate notice identified in section 5 to notify the resident of the RGI increase effective January 1, 2022. Closer to this date, the provider will send a revised HP40 Reminder Ineligibility and Increase template letter to remind the resident of the increased RGI amount and notify them of the 24-month rule. This second reminder notice is mandatory for all residents increased to maximum RGI.

Housing providers will resume regular practices regarding maximum RGI and the 24-month rule beginning December 1, 2021.

## **Reinstating RGI Eligibility**

Residents who were notified of RGI ineligibility between September 1, 2020 and August 31, 2021 may request reinstatement of eligibility any time prior to December 31, 2021. If the housing provider subsequently determines that the resident is eligible for RGI (e.g. requested information has been provided, income has been pursued), the provider will reinstate RGI eligibility, and the rent will remain at the applicable RGI rate for January 1, 2022.

If a household remains ineligible and is at risk of eviction, housing providers are directed to contact their Housing Programme Advisor with any relevant details.

If a household requests reinstatement of RGI on January 1, 2022 or after, the housing provider may reinstate RGI in accordance with Local Rules or with the approval of the Housing Services Division.

## **Targets**

Residents who are determined ineligible for RGI between September 1, 2020 and August 31, 2021 will continue to be considered as RGI households until January 1, 2022 for the purpose of:

- determining the number of units under the housing provider's target plans; and,
- filling vacancies.

## **6. Transfers**

Households who transfer to a different unit are required to sign a new lease or occupancy agreement. RGI increases as a result of a transfer to a new unit during the 2021 rent freeze period are implemented at the time of move-in. This may occur as a result of:

- An assessed RGI increase in the previous unit that was not implemented due to the rent freeze;
- An increased utility adjustment at the new unit; or,
- An increase in other services or facilities for the new unit.

Residents who are requesting a transfer during the rent freeze period should be advised that their rent could increase if they move.

## **Over Housed Transfers**

Over housed residents are required to follow the same process to move during the rent freeze period even if a move would result in an increase to RGI.

## 7. Tracking

Housing providers are required to track:

- RGI increases that have been deferred to January 1, 2022; and,
- RGI ineligibility, where the increase to the market rent or housing charge has been deferred to January 1, 2022.

Tracking this information will also assist the provider when providing reminder notices of rent increases for January 1, 2022.

This Directive is effective immediately.

If you require additional information, please contact the Housing Programme Advisor.



Mark Poste  
Director of Housing

- Appendix 1 – HP34 Eligibility and Subsidy Decision
- Appendix 2 – HP35 Subsidy Overpayment
- Appendix 3 – HP36 Reminder Increase
- Appendix 4 – HP37 Loss of Eligibility Due to Income
- Appendix 5 – HP38 Loss of Eligibility Failure to Provide Information
- Appendix 6 – HP39 Loss of Eligibility Due to Increase in Assets
- Appendix 7 – HP40 Reminder Ineligibility & Increase
- Appendix 8 – HP41 Interim Changes
- Appendix 9 – HP32 12 Months at Market