

# Community Housing Notification

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**Policies & Procedures No. 21-02**

**May 12, 2021**

**(Revokes Social Housing Notification 20-11)**

*The Requirements, Recommendations and Guidelines in this communiqué are to be implemented by the housing providers administered under the legislated programs/Operating Agreement identified below:*

- ✓ **Housing Providers under *Housing Services Act, 2011***
- ✓ ***Residential Tenancies Act, 2006***
- Housing Providers under a Federal Operating Agreement
- ✓ **Requirement**
- Guidelines
- Information Only

## **Subject**

### **Eligibility for Modified Units**

**Legislative Reference:** *Housing Services Act, 2011*, s.59-67, O. Regulation 367/11 s.68-85, *Residential Tenancies Act, 2006*, s.7, s.58

## **Purpose/Overview**

To establish a process for selecting households who require a subsidized or market rent modified unit and to determine continued eligibility for a household already occupying a modified unit in a designated housing project.

## **Background**

There are a limited number of modified units within the Community Housing portfolio, and the wait list for these units is lengthy.

Over time, housing providers may have become aware that the individual originally requiring the modifications is no longer a member of the household or the household no longer requires the modifications. Previous provincial guidelines seemed unclear as to what steps housing providers could or should take to ensure that modified units were occupied by households in need of the modification(s). As a result, the modified units remained occupied with households no longer requiring the modifications while households in need of modified units faced lengthy wait times.

The Service Manager determines a household's initial eligibility for modified units while housing providers complete the on-going eligibility review of households occupying modified units. This determination must be done in compliance with prescribed rules.

The *Housing Services Act, 2011* (HSA) s.59 and s. 61(1) indicates that eligibility for special needs housing will be determined in accordance with provincial rules by the special needs housing administrator.

A legal opinion was sought in light of the HSA and regulation clarification. It has been confirmed that the *Residential Tenancies Act, 2006* (RTA) provides that a tenancy in respect of a rental unit that has been developed under a provincial funding program and continues to be subject to Part VII of the HSA may be terminated where the household has ceased to meet the qualifications required for occupancy of the rental unit.

The RTA s.58 (1) par 2, indicates that a landlord may give a household notice of termination of its tenancy/occupancy agreement if the rental unit that is the subject of the tenancy/occupancy agreement is a rental unit described in paragraph 1, 2, 3 or 4 of subsection 7 (1) of the RTA and the household has ceased to meet the qualifications required for occupancy of the rental unit.

Upon review of Section 7 of the *Residential Tenancies Act, 2006* and Part VII of the *Housing Services Act, 2011*, it is now clear that housing providers may move to terminate a tenancy/occupancy agreement if the household no longer requires the modifications within the unit and the household continues to occupy the modified unit.

### **Local Rule**

The Service Manager will adopt/implement the following procedural policy. The intent of the policy is to create a process to ensure that modified units are available only to households in need of modified units. The policy process will also ensure that housing providers complete annual eligibility confirmations for all households occupying modified units. This will ensure that on an on-going basis, only households in need will occupy modified units.

Households found to be ineligible will be advised and expected to move to a regular unit within an acceptable time line determined by the Service Manager. The policy attempts to mitigate the challenges faced by ineligible households and facilitates their move to a new unit.

### **Role of Service Manager**

All applicants must meet all prescribed eligibility criteria to be included on the centralized or housing providers internal wait list. The criteria/steps are:

- completing an application for housing
- completing the Medical Request for Modified Unit form

All applications for modified units will be reviewed to ensure that they are eligible to be included on the modified unit wait list. The housing application form must accompany the Medical Request for Modified Unit form. Only applicants approved for a modified unit will be placed on the modified unit wait list.

Eligibility for a modified unit will be determined based on information contained on the Medical Request Application form. At least one (1) member of the household must require modifications. Each request will be assessed on its own merits.

Applicants who occasionally require a wheelchair or the use of a scooter for outdoor mobility will not be deemed eligible for a modified unit.

Applicants will be required to confirm their eligibility at the time of initial application and annually thereafter as part of the standard application review. Should the annual review indicate that the household is no longer eligible for a modified unit (i.e. an individual requiring the modifications is no longer part of the household), the applicant will be required to update their selections for a regular unit. If the applicant does not qualify for a modified unit and rent-geared-to-income (RGI) subsidy, the application will be cancelled.

At the time of initial application, the Registry will also advise applicants of the following:

- when they are offered a modified unit, such an offer will be conditional on the applicant reconfirming their eligibility for a modified unit with the housing provider;
- if at the time of the conditional unit offer the housing provider determines that the household is no longer eligible for a modified unit, the offer will be withdrawn and the applicant will be given the opportunity to update their application for a regular unit. They will retain their original date of application. However, if the household does not qualify for RGI subsidy, the Registry will cancel the application.
- should the household occupy a modified unit and at a later date is deemed ineligible to occupy such a unit (i.e. the individual requiring the modifications no longer resides in the unit), the household will be required to vacate the unit. If the household is receiving and remains eligible to receive RGI assistance, the Registry will provide the ineligible household with a process which will assist the household to move to another unit.

The process regarding ineligible households is described later in this notification.

### **Role of the Housing Providers**

Housing providers will be required to make adjustments to their lease/occupancy agreement involving modified units. The leases/occupancy agreements will have to indicate that the occupancy of the modified unit is based on the household's continued eligibility for the unit. Should they be deemed ineligible, the household acknowledges that they will be required to vacate the unit in accordance with the established Service Manager process.

O. Reg. 367/11 s. 76 (1) par. 3 states that if the unit has accessibility modifications, the housing provider must select the household that requires those modifications. Upon selecting a household for a modified unit, the housing provider will be required to select the household from the Registry modified wait list or their internal wait list, provided that the household has been deemed eligible by the Registry for a modified unit. When making an offer of accommodation, the housing provider will confirm the household's eligibility for a modified unit. Should it be determined that the household no longer meets the eligibility criteria, the housing provider will notify both the Registry and the applicant in writing. The letter must provide the applicant with an opportunity to submit a Request for Internal Review of the original decision. The letter must

also advise the applicant to contact the Registry in order to review the application. The conditional offer of accommodation will be withdrawn.

Households occupying modified units must adhere to all aspects of their lease/occupancy agreement and are subject to the same requirements, rules and laws as other households. Housing providers are expected to follow all legislation and local rules with respect to households occupying the modified units.

In accordance to the standard process, housing providers are required to complete an annual eligibility review for all households. In addition, the housing provider is required to confirm that the household occupying the modified unit continues to be eligible for the unit as per O. Reg. 367/11 s. 80 (1).

The housing provider must initiate the eligibility review process at the time it becomes aware that the household may no longer meet the eligibility criteria.

Should the household be found to no longer require the modifications in the unit, the housing provider will immediately notify the household in writing and will provide a copy of the letter to the Registry. The notice will advise that the household has been deemed ineligible for the modified unit and that it will be required to move. The notice must provide the household with an opportunity to submit a Request for an Internal Review. The notice will explain that the Registry will forward the household an application in order to place them on the centralized wait list. The housing provider has the opportunity to place the household on the internal wait list for the next appropriate regular sized unit when available.

**The housing provider will not proceed to evict any households deemed ineligible as they no longer require the modifications without the prior written consent of the Service Manager.**

It should be noted that the housing provider may proceed to evict the household without Service Manager consent should the reason(s) to proceed satisfy any of the other legislative criteria.

### **Modified Unit Eligibility of Households**

#### **Initial Modified Unit Eligibility Deemed by the Housing Registry:**

**Note: Only the Housing Registry may determine a household's initial eligibility for a modified unit. Housing providers cannot determine initial eligibility for a modified unit.**

A household may only be considered eligible for a modified unit if one or more of its members provide the completed Medical Request for Modified Unit form from a physician, verifying that modifications are required in order to live independently and satisfy both legislative and local eligibility criteria. This documentation must be submitted to the Housing Registry.

Eligibility must be determined within thirty (30) days after the application is deemed complete.

All applicants on the wait list requesting a modified unit, must meet all legislative and local eligibility criteria to be considered eligible for a modified unit by the Housing Registry.

If a current household wishes to be placed on a housing provider's internal wait list for a modified unit, they must submit the Medical Request for Modified Unit form to the Housing Registry in order to be considered eligible for a modified unit.

Once confirmation of eligibility is determined by the Housing Registry, the household may be placed on the housing provider's internal wait list, should they have an appropriately sized unit. They must supply all required documentation to the Registry and/or the housing provider in a timely manner. All standard protocols and remedies in this regard continue to apply. RGI households in modified units will be subject to the same rules set out in the Unit Allocation Process (Community Housing Notification 20-05). If the housing provider believes that the move will cause undue hardship to the household, they will contact the Service Manager.

### **Continued Eligibility:**

Housing providers shall ensure that any household occupying a modified unit meets the continued eligibility criteria for a modified unit on an annual basis, once housed, during the annual file review period, after they are initially deemed eligible by the Housing Registry.

If there is a change in a document or information that the household has provided with respect to the application or ongoing eligibility, the household shall provide such updated documentation and information within thirty (30) days from the date that the content of the document or information changed.

All wait list applicants and current households must abide by this policy and follow the process identified. Failure to do so will make them subject to the appropriate legislative and policy remedies.

### **Action Required RGI Households Deemed Ineligible for a Modified Unit**

Households that have been deemed ineligible to occupy a modified unit will be notified in writing by the housing provider.

Reasons for cessation of eligibility are listed but not limited to:

- a) the housing provider discovers that, at the time of the initial or a subsequent determination of eligibility, the household did not meet the eligibility requirement set out above; or,
- b) the household no longer has any occupants who require modifications or provincially-funded support services in order to live independently; or,
- c) the household, prior to occupying a modified unit, fails to notify the housing provider if there is a change in a document or information that the household has provided with respect to its modified unit application within thirty (30) days of the change.

The housing provider notice will advise the RGI household that as a result of being deemed ineligible, it will be required to move to another unit/housing project in order to maintain its RGI subsidy.

The housing provider's notice will advise the household that it is required to immediately contact the Registry to receive further assistance and instructions. The notice will also provide the household an opportunity to submit a Request for Internal Review of the original decision. The housing provider must immediately provide the Registry with a copy of the notice.

Upon receipt of the housing provider notice, the Registry will advise the household in writing that:

1. the household must immediately complete a new housing application,
2. the application must identify a minimum of three (3) selections from the list of designated housing projects,
3. the household must keep their application current,
4. the household will be expected to increase their selections by three (3) on a yearly basis, to the maximum number of selections available to them within their geographic area of preference, and
5. after one (1) refusal of an offer of accommodation, the household will be removed from the wait list.

The Registry's notice will advise the household that under the rules, a household deemed ineligible because it no longer requires modifications will be permitted to reside in the unit so long as they maintain their tenancy/membership in accordance with their lease/occupancy agreement AND comply with this policy.

Further, a household receiving RGI subsidy will be eligible to receive subsidy while it waits for an appropriate unit so long as it maintains their eligibility for RGI assistance in accordance with the legislative requirements AND comply with this policy.

Assuming the household continues to meet the appropriate RGI criteria and complies with the policy, the household will remain eligible for RGI subsidy once it moves to a new unit.

It is recognized that searching for a new unit may present a hardship to some tenants/members. To assist in this regard, the Registry will provide the household with its original date of application. This should place the household favourably on the centralized wait list for the selected housing projects and therefore help expedite access to an appropriate unit.

Where necessary, the Service Manager will offset any dual rent scenario faced by the household.

Should a household not comply with the above requirements, the Registry will advise the household in writing that it is in non-compliance and what is required to remedy the non-compliance. This notice will also advise of the consequences of non-compliance (i.e. loss of subsidy, eviction or both).

The household will be given the option to remedy the non-compliance within the time line provided by the Registry and/or an internal review of the Registry's original decision. The time line to request a review will be the same as that provided to other applicants and tenants/members requesting a review of a decision under legislation which is fifteen (15) business days.

Should the household ultimately fail to submit a Request for an Internal Review and/or remedy the non-compliance within the permitted time frame, the household will be notified in writing and advised which remedies the Registry will pursue. The Registry will immediately advise the housing provider who will immediately take the appropriate steps (i.e. suspend RGI subsidy, begin eviction process or both).

### **Market Rent Households Deemed Ineligible for a Modified Unit**

Market rent households that have been deemed ineligible to occupy a modified unit will be given proper notice in writing by the housing provider to vacate the unit. The notice will also provide the household an opportunity to submit a Request for Internal Review of the original decision.

The housing provider must immediately provide the Registry with a copy of the notice.

**The housing provider will not proceed to evict any households deemed ineligible as they no longer require the modifications without the prior written consent of the Service Manager.**

It should be noted that the housing provider may proceed to evict the household without Service Manager consent should the reason(s) to proceed satisfy any of the other legislative criteria.

### **Conclusion**

Given the demand for modified units, it is expected that this policy will ensure on-going access to those households requiring modified units.

The new policy is consistent with the Housing and Homelessness Plan as it will ensure that modified units in designated housing projects serve their intended target population.

### **Action Required**

The policy in this notification is effective immediately.

Housing providers are required to:

1. Provide a copy of this Social Housing Notification to all members of the Board of Directors;
2. Ensure that all initial requests for modified units have been approved by the Housing Registry;
3. Ensure the lease/occupancy agreement for modified units complies with the requirements of this policy; and
4. Ensure the attached Medical Request for Modified Unit is provided annually to all households occupying modified units to determine ongoing eligibility unless the housing provider is satisfied that the information and documents previously provided are adequate to determine that the household continues to be eligible for a modified unit, O. Reg. 367/11 s.81 (2).

For more information or should you have any questions or concerns, please contact your Program Administrator.

A handwritten signature in cursive script that reads "Cbriscoe".

Cindi Briscoe, B.A.  
Manager, Housing Services

*(disponible en français)*