

## Request for Decision

### Local Rules Under the Housing Services Act (HSA)

Presented To:	Community Services Committee
Presented:	Monday, Jun 17, 2013
Report Date	Thursday, May 23, 2013
Type:	Managers' Reports

### Recommendation

WHEREAS the Housing Services Act (HSA) replaced the Social Housing Reform Act (SHRA) as the key piece of legislation governing social housing;

AND WHEREAS the HSA requires that Service Managers review any local rules adopted under the SHRA with a view of making them consistent with the HSA requirements;

THEREFORE BE IT RESOLVED THAT the City of Greater Sudbury approve the revised HSA compatible local rules as outlined in the report dated May 23, 2013 from the General Manager of Community Development.

### Finance Implications

There are no financial implications.

### EXECUTIVE SUMMARY

The City of Greater Sudbury has been designated as the Service Manager for the administration of the Provincial and Federal Housing programs transferred from the Province.

The Housing Services Act (HSA) gives Service Managers responsibility for establishing a number of rules, standards, practices and policies. Some of these were previously set out as provincial requirements under the Social Housing Reform Act (SHRA). Those are now subject to local discretion.

This report includes explanations of the areas of discretion, references to the related sections of the Act and associated regulations and provides recommendations regarding each area of discretion.

Listed below are the "areas of discretion" for which local policies need to be established.

1. Time frame for a household to notify the Service Manager of any change in their circumstances.
2. Household Asset Limits – the option of setting a maximum asset limit an RGI applicant may have and still remain eligible to receive rent-geared-to-income assistance.

#### Signed By

##### **Report Prepared By**

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*Digitally Signed May 23, 13*

##### **Division Review**

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##### **Recommended by the Department**

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3. Disqualification period for misrepresentation and fraud.
4. Maximum absence from unit – the length of time all members of the household can be absent from their unit and remain eligible for rent-geared-to-income assistance.
5. Refusal of offers of accommodation – the maximum number of refusals of offers of accommodation a household may have and remain eligible to remain on the centralized wait list.
6. Occupancy Standards – the size of unit an RGI household is eligible to occupy.
7. Overhousing - household ceases to meet the occupancy standard for the unit they currently occupy.
8. System for selecting waiting households for vacant units – centralized wait list.
9. Rent-geared-to-income assistance for in-situ market rent households – market rent households currently residing in social housing who experience a significant change in their circumstances could be offered RGI assistance based on their original date of application.
10. Opportunity to Comment – households have the opportunity to comment on any third party information that may be used to make a decision regarding their eligibility for rent-geared-to-income assistance.
11. Transfers from other service manager areas – a local rule that would allow transfers from other service manager areas.
12. Refusal to Offer – the reasons why a housing provider may refuse to offer a vacant unit to an applicant household.

Housing Services held two consultation meetings with local social housing providers. The consultation examined the issues and concerns surrounding the local areas of discretion. The following table summarizes the existing policies and the proposed recommendations. These reflect the discussion and the consensus of the stakeholder consultations.

<b>Policy Title</b>	<b>Current Policy</b>	<b>Recommendation</b>
1. Notice of Change of Applicant Circumstances	Council approved local rule – all changes must be reported within 30 calendar days.	Confirm adoption of requirement to report and provide verification of all changes in circumstances within 30 calendar days.
2. Maximum Household Assets	Council approved no asset limit.	No asset limit be imposed at this time.
3. Disqualification Period for Misrepresentation and Fraud	Council approved 2 year disqualification period for reapplication for RGI assistance after conviction for RGI offence.	Confirm and adopt 2 year disqualification period.
4. Maximum Absence from Unit	No set limit for absence from unit.	No maximum absence period be imposed at this time.
5. Maximum Number of Refusals of Offers of Accommodation	SHRA deemed a household ineligible for the centralized wait list if they refused three (3) suitable offers of accommodation.	Confirm and adopt three (3) as the maximum number of refusals of offers of accommodation to remain eligible for the centralized wait list.
6. Occupancy Standards	Council approved a range from smallest to largest: - couples share a bedroom - one bedroom per additional household member - special consideration for medical conditions	Confirm and adopt existing occupancy standards.
7. Overhoused	SHRA deemed a household overhoused if they occupied a unit larger than required under occupancy standards. In order to remain eligible for continued RGI assistance a household was required to transfer to “right” sized unit.	Adopt existing policy requiring overhoused households to transfer to right sized unit.
8. System for Selecting Waiting Households	Centralized wait list is currently maintained on a modified chronological basis. Priority in placement on the wait list is given to victims of domestic violence. Council approved local priority Urgent status ranks immediately below provincially mandated Special Priority households and ahead of all chronological applicants.	Confirm and adopt modified chronological wait list system giving priority in placement to victims of domestic and those households who meet the eligibility criteria for Urgent status.
9. RGI Assistance for Market Renters	Council approved local rule which gave the original date of application to social housing market rent households who experience economic hardship and require RGI assistance.	Confirm and adopt policy granting original date of application on centralized wait list for social housing market rent households who have experienced a significant change in their circumstances.
10. Opportunity to Comment	SHRA required that households be given an opportunity to comment on any third party information received that would adversely affect a decision pertaining to the household.	Adopt policy requiring that households be given the opportunity to comment on third party information prior to any decision becoming final.
11. Transfers between Service Manager Areas	Any tenant household wishing to move from one housing community to another is required to make a new application and be added to the centralized wait list.	Adopt a policy confirming that all tenant households wishing to move from one housing community to another is required to make a new application and be added to the centralized wait list.
12. Refusals to Offer Accommodation	SHRA detailed limited reasons why a housing provider could refuse to offer accommodation to a prospective tenant.	Adopt a policy detailing the circumstances when a housing provider could refuse to offer accommodation to a prospective tenant: poor rent paying habits, unit not suitable for household due to physical characteristics of unit; in the case of a housing co-operative the housing provider believes the applicant household will not accept the responsibilities of being a member of a housing co-operative.

## **Background**

The report provides the detail of the discussions/consultations regarding the areas of discretion available under the Housing Services Act.

## **Housing Services Act (HSA) Local Rules**

### **1. Notice of Change of Applicant Circumstances**

**HSA, s 42, O. Reg. 367/11 s 28**

**Rent-geared-to-income households are required to provide notice of any changes to their circumstances and are required to provide information and documentation within thirty (30) days of the change taking place.**

The previous legislation (SHRA) only allowed 10 days for households to report changes.

CGS adopted a local rule requiring RGI applicants and tenants to report changes in income, or any changes in the household composition within thirty (30) days of the change having taken place. Failure to do so could result in the household being found ineligible for RGI assistance. For consistency, the same time frame was adopted for both applicant and tenant households.

The intent of the regulation is to ensure that changes are reported in a timely manner. This will permit rent adjustments to be made to accurately reflect the household's financial circumstances and continued eligibility.

Service Managers have the discretion to establish a longer time frame for reporting changes.

The requirement to report changes within 30 days is consistent with the rent-geared-to-income program rules in place prior to devolution.

Households can continue to be eligible for rent-geared-to-income assistance if extenuating circumstances exist that prevented the household from reporting a change in their circumstances.

Where a change was not reported within 30 days of its occurrence, the household will be made ineligible for RGI assistance.

## **RECOMMENDATION**

**Rent-geared-to-income households and applicants must report all changes and supply supporting documentation to the Service Manager or Housing Provider within 30 calendar days of any change in information or documentation taking effect.**

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### **2. Maximum Household Assets**

**HSA, s 42, O. Reg. 367/11 s 35**

**The Service Manager has the flexibility to decide whether or not to establish local eligibility rules that set out a maximum income and asset limit amount that a household can have and still be considered eligible for rent-geared-to-income assistance in their service area. The asset limit cannot be set lower than \$20,000.**

Service Managers have the discretion to establish a maximum asset limit that a household can have and still be eligible for RGI assistance. If established, an asset limit would have the effect of making a household ineligible for RGI assistance if the gross household income/assets exceed the limit set. There is

no requirement under the legislation to set an asset limit.

The HSA provides that the Service Manager may exempt or exclude certain types of assets from consideration under local asset limits. There were a number of exclusions omitted in the HSA that existed under the previous legislation, most notably student grants, loans or awards; amounts received for damages or compensation for pain and suffering or to cover expenses due to injury or death of a household member.

Applicants with significant assets have not traditionally been attracted to social housing communities. The establishment of an asset limit is viewed as an artificial barrier to accessing the social housing program. In a recent survey of other Service Manager areas, only 2 had established asset limits. Their asset limits were much greater than the minimum (\$60,000).

The Long Term Affordable Housing Strategy permits Service Managers to set up asset-building initiatives to help tenants save for education, home ownership, etc. Payments received from Service Managers under this type of initiative would also be exempt from the list of assets.

## **RECOMMENDATION**

**It is recommended that no asset limit be established for Greater Sudbury.**

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### **3. Disqualification Period for Misrepresentation and Fraud**

**HSA, s 42, O. Reg. 367/11 s 36**

**Service Managers may choose to implement a local rule making a household ineligible to re-apply to receive rent-geared-to-income assistance for up to 2 years from the time of conviction for a rent-geared-to-income related offence. (fraud or misrepresentation of income)**

Under the SHRA a household convicted of a rent-geared-to-income related offence was automatically disqualified from receiving any further rent-geared-to-income assistance for a minimum period of 2 years.

Service Managers were able to set local rules establishing longer periods of disqualification. CGS adopted the provincial standard 2 year disqualification period.

There is no automatic disqualification under the HSA.

There have been very few households actually convicted by either the courts or the Landlord & Tenant Board of a rent-geared-to-income offence (fraud or misrepresentation of income). Of those, several have reapplied for rent-geared-to-income assistance after their disqualification period and, after repaying any outstanding arrears.

## **RECOMMENDATION**

**It is recommended that the two (2) year disqualification period be continued.**

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### **4. Maximum Absence From Unit**

**HSA, s 42, O. Reg. 367/11 s 37**

**Service Managers may set a local rule which would deem a household ineligible to receive any further rent-geared-to-income assistance if all members of the household were absent from the unit for at least 60 consecutive days or up to a maximum of 90 days in a year. The HSA rule would not apply if the absence is for medical reasons.**

Previously CGS chose not to adopt an absence from unit policy under the SHRA.

The HSA allows Service Managers to establish an absence from unit policy if all members of the household are absent from the unit for a specified number of consecutive days (no less than 60 days). The HSA also now allows the Service Manager to set a rule for the maximum number of days in a year all members are absent, where the days do not have to be consecutive (not less than 90 days).

Extended absences from rent-geared-to-income units are not a large issue for housing providers in this community.

## **RECOMMENDATION**

**It is recommended that no absence from unit policy be established.**

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### **5. Maximum Number of Refusals of Offers of Accommodation**

**HSA, s 42, O. Reg. 367/11 s 39**

**It was a mandatory requirement under the SHRA, that applicant households ceased to be eligible to be active on the centralized wait list if they refused three (3) suitable offers of accommodation.**

The HSA allows Service Managers to set a local rule regarding the number of refusals before a household is deemed ineligible. The minimum number of refusals can be no less than three (3).

A very small number of applications (less than 30) are cancelled by the Housing Registry annually due to 3 refusals.

Setting a limit on the number of refusals is one method of culling the wait list – if there is no limit on the number of refusals the wait list grows. Adopting a policy limiting the number of refusals ensures that only those interested in being housed are active on the wait list.

The Service Manager continues to have discretion on what constitutes a refusal and may specify the reasons that an offer of accommodation would not be counted.

## **RECOMMENDATION**

**It is recommended that CGS continue to remove applications from the wait list after 3 refusals of a suitable offer of accommodation.**

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### **6. Occupancy Standards**

**HSA, s 42, O. Reg. 367/11 s 42**

**Under the SHRA Service Managers had the ability to set local occupancy standards. Greater Sudbury chose to adopt the provincial standard set out in the legislation. Greater Sudbury adopted a largest/smallest unit range when assessing the suitability of an available unit for an applicant household and as part of ongoing eligibility reviews.**

Service Managers must now set their own occupancy standards, as long as they comply with provincial rules. The HSA requires Service Managers to ensure that the local occupancy standards consider households who occupy a larger unit than required due to a medical condition and households where a child who normally lives in the household is attending school elsewhere.

Under the occupancy standards currently in place the smallest unit for which an RGI household is eligible has: one bedroom for every two members of the household; plus an additional bedroom if there is an odd number of members of the household. The largest unit for which an RGI household is normally eligible has: one bedroom for any two members in the household who are spouses (including same sex partners); plus one additional bedroom for each additional member of the household.

In some circumstances, households may request one additional bedroom in excess of the largest unit for which they would normally qualify. An additional bedroom is approved in exceptional circumstances when the household can demonstrate that there is an inability to share a bedroom due to a disability or serious medical condition, additional room is required to accommodate essential medical or disability related equipment; or where an additional room is required for an individual who is not a member of the household but who is employed by a member of the household to provide support services necessitated by the member's disability or medical condition.

## **RECOMMENDATION**

**It is recommended that the existing CGS occupancy standard continue to be followed.**

**The smallest unit for which a RGI household is eligible has:**

- **one bedroom for every two members of the household; plus**
- **an additional bedroom if there is an odd number of members in the household.**

**The largest unit for which an RGI household is normally eligible has:**

- **one bedroom for any two members of the household who are spouses (including same sex partners); plus**
- **one additional bedroom for each member of the household.**

**An additional bedroom can be assigned to a household if the household demonstrates the inability to share a bedroom due to a disability or serious medical condition, additional room is required to accommodate essential medical or disability related equipment; or where an additional room is required for an individual who is not a member of the household but who is employed by a member of the household to provide support services necessitated by the member's disability or medical condition.**

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## **7. Cease to meet Occupancy Standards – Overhousing**

**HSA, s 42, O. Reg. 367/11 s 38**

**Under the SHRA, households housed in a unit larger than the largest size permissible under the Service Manager's Occupancy Standard were required to move to the "right" sized unit in order to continue to be eligible to receive RGI assistance. These households are considered to be overhoused. The Service Manager has been given discretion under the HSA to set a local rule regarding the ongoing eligibility of overhoused households.**

**If the Service Manager does not adopt a rule regarding the eligibility of overhoused households, the household cannot be declared ineligible for ongoing RGI assistance, regardless of the number of refusals of offers of accommodation until at least 12 months after having been deemed overhoused. This is a change from the previous legislation.**

Currently, a relatively small percentage of the social housing portfolio is occupied by overhoused households (less than 10%). Under the existing policy, when a household is initially deemed to be

overhoused, they may be added to the housing provider's internal transfer list if there is an appropriately sized unit within the provider's portfolio. If not, the overhoused household is added to the centralized wait list and are asked to select and maintain a minimum of three (3) housing projects. If the household has not been moved to an appropriate sized unit within their housing community within 12 months, their application is forwarded to the centralized wait list.

Should the tenant household still be overhoused after 12 months on the centralized wait list, they are required to further expand their housing selections to a minimum of six (6) housing projects.

Should an overhoused tenant household refuse three offers of accommodation or should they ask to have their application removed from the centralized wait list, they cease to qualify to receive any further rent-gear-to-income assistance.

## **RECOMMENDATION**

**It is recommended that CGS continue to require households deemed overhoused to move to units that meet the occupancy standard for the household. The household will continue to be eligible for rent-gear-to-income assistance for at least 12 months after being deemed overhoused.**

**It is further recommended that upon addition to the centralized wait list, overhoused households be required to initially select and maintain a minimum of three (3) housing selections. Should an overhoused household not be housed within 12 months of having been added to the centralized wait list, they would then be required to increase the number of selections to six (6). Overhoused households would be subject to the same policies regarding the maximum number of refusals while on the centralized wait list.**

**Should an overhoused household refuse three (3) suitable offers of accommodation, they would cease to be eligible to receive any further rent-gear-to-income assistance. Overhoused households would cease to be eligible to receive any further rent-gear-to-income assistance should they ask to have their application removed from the centralized wait list.**

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## **8. System for Selecting Waiting Household - Centralized Wait List**

**HSA, s 47, O. Reg. 367/11 s 45-46**

**The SHRA required Service Managers to co-ordinate access to rent-gear-to-income accommodation. The Service Managers were responsible to develop and administer a centralized wait list.**

**Under the HSA, Service Managers must have a system for selecting rent-gear-to-income households for vacant units. Service Managers must still maintain a centralized waiting list for rent-gear-to-income assistance, but now they have the flexibility to adopt alternative systems for selecting households from the wait list.**

**Regardless of the system selected, the provincial priority for placement on the centralized wait list for victims of domestic violence remains.**

**Service Managers continue to have the ability to set local priorities for placement on the centralized wait list (i.e. Urgent Status).**

Currently the centralized waitlist is maintained on a modified chronological basis. Priority in placement on the wait list must be given to those applicants who meet the criteria for Special Priority status – victims of domestic violence. CGS previously adopted a local priority category URGENT status. Households who



meet the following criteria are eligible for Urgent status on the wait list and rank immediately below eligible Special Priority households: persons who are living on the street; persons living in substandard housing which has been condemned by the municipality; persons using the emergency shelter system as their primary residence or persons whose homes have been destroyed by natural disaster; persons awaiting release from hospital who cannot return to their former place of residence and will not be released from hospital until suitable accommodation is found or families whose children are at risk of apprehension by child protection agencies due to the household not having adequate housing and lack of housing is the only protection issue outstanding.

The wait list is maintained on a chronological basis after any priority category applications are considered. The applicant with the oldest date of application ranks higher than an applicant with a later date of application.

Maintaining the centralized waitlist on a modified chronological basis ensures that the housing needs of those applicants with the most urgent housing need (SPP & URG) are addressed relatively quickly and that all applicants have a reasonable expectation of being housed.

## **RECOMMENDATION**

**It is recommended that the CGS continue to maintain the centralized wait list on a modified chronological basis with priority continuing to be given to victims of family violence, and those households who meet the criteria for Urgent status and then on a chronological basis.**

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## **9. RGI Assistance for In-Situ Market Rent Households – System for Selecting Households**

**HSA, s 47, O. Reg. 367/11 s 48**

**The Service Manager's system for selecting households must include rules for providing RGI assistance to market rent households residing in designated social housing projects. These tenants must be on the centralized wait list.**

Under the previous legislation, CGS adopted a policy to permit social housing market rent households who have experienced a significant change in their circumstances to apply to receive RGI assistance "in-situ". If the household meets the criteria under the policy, they are given their original date of application and are added to the waiting list for the housing community where they live. This gives the household an advantage but not necessarily priority on the wait list. Based on their original date of application, the household may not be first for RGI assistance.

Households who are paying market rent as a result of ceasing to qualify for RGI under the social housing program rules do not currently meet the criteria and are given a current date of application. The SHRA set targeting restrictions for in-situ households. These restrictions have not been carried forward into the HSA.

Service Managers now have the ability to create a local rule that would allow RGI assistance to be offered to in-situ market rent household.

## **RECOMMENDATION**

**It is recommended that CGS continue to allow RGI assistance to be offered to in-situ social housing market rent households who have experienced a significant change in their circumstances based on their original date of application.**

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## **10. Opportunity to Comment**

**HSA, s 53, O. Reg. 367/11 s 61**

**Under the previous legislation the opportunity to comment was a mechanism which allows a household seeking or receiving RGI assistance to comment on information they did not directly provide to either the Service Manager or Housing Provider. A household is given the opportunity to comment on information received from a third party that will be used to make a decision affecting their eligibility for rent-geared-to-income assistance. The Opportunity to Comment provisions are not a requirement under the HSA.**

It is procedurally fair to provide households with an opportunity to comment on information received from third parties that have a bearing on a decision impacting their eligibility for RGI assistance. Under the existing policy, the household must be given a summary of the information received; a description of the proposed decision to be made using the information; an opportunity and a deadline by which they may comment in writing on the information. Currently the household has 30 days within which to provide comment. Experience gained since the implementation of the original policy has shown that providing 30 days for a household to comment on third party information significantly delayed the effective date of the eligibility decision. A change to 10 days would allow sufficient time for the household to respond without significantly delaying any decision.

### **RECOMMENDATION**

**It is recommended that a household continue to be provided with an opportunity to comment on third party information received by the Service Manager or Housing Provider prior to a final decision regarding the household's eligibility for RGI assistance. It is further recommended that the time frame within which the household may provide written comment be set at 10 business days.**

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## **11. System for Selecting Waiting Households - Transfers from other Service Areas**

**HSA, s 47, O. Reg. 367/11 s 48**

**The service manager may adopt a local rule that would permit transfers of existing RGI households from other service areas, if there is an “exchange agreement” with another Service Manager. The exchange would be without regard to wait list or to priority on the wait list.**

Under the SHRA, any tenant household wishing to move from one housing community to another was required to make a new application and be added to the centralized wait list. There are approximately 2000 households on the local centralized wait list at any given time.

The HSA allows for the “exchange” of RGI households between service manager areas. If adopted, such a policy would give an existing RGI household in another community priority in placement on the centralized waitlist in Greater Sudbury and vice versa. A recent survey of Service Managers did not indicate much interest in establishing exchange agreements.

### **RECOMMENDATION**

**It is recommended that CGS continue to require all existing households interested in rent-geared-to-income assistance to complete a new application. The application will be added to the centralized wait list and will be ranked on a chronological basis.**

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## **12. Refusals to Offer**

## **HAS, s 47, O. Reg. 367/11 s 50**

The rules for refusal to offer were set out in the previous legislation and now can be set as a local rule. Housing Providers may refuse to offer a unit to an applicant only under the following circumstances: the applicant household does not meet the provider's mandate; based on the rental history the provider believes that the household is likely to fail to pay the rent/housing charge on time and in full; the provider has reasonable grounds to believe the unit is not suitable for the applicant household due to its physical characteristics, in the case of a housing co-op, the applicant household does not agree to accept the responsibilities of being a member of the co-op, or the co-op believes the household will not accept those responsibilities; and it is unreasonable for the household to reside in shared accommodation.

**The household must be notified of the decision in writing and be provided the opportunity to ask for a review of the decision.**

CGS currently follows the policies set out in the previous legislation.

In order to be considered eligible to be added to the centralized wait list, an applicant's household must meet the basic eligibility criteria for social housing.

It is rare that a social housing provider refuses to offer accommodation to a rent-geared-to-income household. It is very serious to be denied access to rent-geared-to-income housing. Procedural fairness would suggest that the "punishment should fit the crime" and everyone deserves a second chance.

Housing providers must be prepared to defend any refusal to offer as part of the decision review process.

## **RECOMMENDATION**

**It is recommended that CGS adopt the existing policy on Refusal to Offer confirming the circumstances when a housing provider could refuse to offer accommodation to a prospective tenant: poor rent paying habits, unit not suitable for household due to physical characteristics of unit; in the case of a housing co-operative the housing provider believes the applicant household will not accept the responsibilities of being a member of a housing co-operative.**