

## **Summary of Input from Service Managers on Improving *SHRA* Regulations (January 31 2003): CHF Ontario Region's Comments**

The following comments from CHF Ontario Region are restricted to those issues which affect co-ops and applicants to co-ops. We have not addressed administrative matters that are exclusively of interest to service managers, and would have no clear or direct impact on providers.

### **1. Regulation 298/01: RGI and Special Needs**

#### Applications:

CHF Ontario Region supports the majority position which calls for more flexibility for service managers in administering waiting lists. We agree that:

- deadlines for confirming applications should be longer
- 16 and 17 year olds who are dependent members of a household should not be required to sign documents
- service managers should be able to decide how often to check the eligibility of people on the waiting list

We do not agree with those minority positions presented which would add complexity to the process or to reduce the rights of applicants, such as:

- applying different asset limits to applicants
- providing written notice only when an application is denied
- relaxing the requirement to provide information on the application process

#### Eligibility Rules:

We note that this aspect of the report has high priority and interest, and has received wide ranging input. The new rules have been found either to be restrictive and punitive to RGI applicants and households, or to be unfair to providers. Clearly the rules have created serious compliance challenges for service managers and providers. Some of the recommendations address the need for alternatives to the termination of subsidy. CHF Ontario Region supports the proposal that the regulations allow for some flexibility in dealing with late reporting of information and making retroactive adjustments. We also agree that:

- the pursuit of income rules are beyond the scope of social housing and should not be included in the eligibility requirements
- the regulation should clarify that arrears accrued in current housing should not be grounds for termination of subsidy
- households in 100% RGI projects who are at market for more than 12 months should be able to go back to RGI when needed (without going to the bottom of the centralised list). But so should households in all projects (who may have to meet certain other conditions).
- the excluded asset rules in the regulations need to be updated regularly.

We do not agree that the criteria for ineligibility should be extended to include past arrears in any form of rental housing. The social housing sector has no control over the rental practices of private landlords. We are concerned that this would further penalize people who have been

victims of a harsh, poorly regulated, rental market. Rental history is a grounds for refusing to allocate a unit, which gives providers sufficient discretion and protection.

We agree that, in general, the limited right of service managers to set local rules has worked quite well, with good stakeholder input. We are concerned about the minority recommendation about standardisation of local rules, since there is no guarantee that the rules would reflect local needs or conditions, or the best interests of providers. On the other hand, we would be concerned about an extension of rights to set local rules, since this would overly fragment the social housing system.

### Special Priority

The recommendations regarding special priority reflect concerns about the integrity of the system. Problems identified included:

- ensuring verification
- ranking by risk
- need to review priority status periodically
- protecting communities from abusers (after special priority applicants move in)

CHF Ontario Region shares these concerns. While supportive of the special priority policy, we are aware that the serious shortage of affordable housing, and the lack of community supports, has presented some serious challenges to the implementation of the policy. We must ensure that the fairness of the application process is not undermined and that social housing communities have appropriate support. We understand that the Ministry is considering establishing a special task force to review the special priority category, and the problems experienced by access systems and social housing providers. We support that process.

### Occupancy Standards/Overhousing

We understand the need for a balance between:

- the efficient use of public subsidies, and
- stability of communities.

The issue of overhousing has been a contentious and upsetting one for co-ops for several years. The challenges have increased as the supply of affordable housing has dwindled.

The *Social Housing Reform Act* sets out rules for dealing with overhousing. Many providers view the rules as a threat to the security of households and the stability of communities. Some service managers are asking for more flexibility and discretion in determining when to require a move, and we support these suggestions. Others want to tighten up the rules, and reduce opportunities to refuse alternative accommodation. CHF Ontario Region cautions that, in the absence of appropriate local choices or sensitivity to the implications of relocation, imposing stricter rules may simply create heightened anxiety and loss of community loyalty and stability. Education, reasonableness, and the need for expanded opportunities should guide the setting of rules in this area.

The introductory paragraph to this section of the report includes a reference to priorities on providers' internal transfer lists. It indicates that internal and external special priority applicants should always be ahead of all others. The text is unclear and perhaps misleading, but if it is

saying that external special priority applicants have priority on the internal list, we have serious concerns.

Section 11 of Regulation 339/01 sets out the rules for an internal transfer list:

- the first priority is internal special priority households (as described in 11.1), and
- the second priority is overhoused households.

The provider may have additional categories of households on the list. CHF Ontario Region has provided a model internal transfer policy (*SHRA* By-law, Article 3) to guide co-ops, and ensure compliance with the regulations. Our internal transfer policy includes households who no longer qualify for a special needs unit, those who may need to move under the co-op's by-laws, and households who may want a voluntary transfer for a variety of reasons. Regulation 339/01 Section 14 (3) says that the provider selects households first from the internal list and then from the external list.

The notion that an external special priority household would jump to the top of the internal list is unreasonable. Taking away priority for a move from in-situ households may result in an overhoused household losing the chance to stay in their community. It may also discourage and demoralize long time households who have been waiting for a particular unit or type of unit. There will always be a vacancy arising from an internal move, and in fact, the vacancy might well be more suitable for the special priority household. So we argue strongly against it.

### Waiting Lists and Priority Rules

CHF Ontario Region agrees with the majority position on the issue of allowing some priority for market rent households who become eligible for subsidy. This is a key issue for co-ops. We urge the Ministry to revise the regulations to clearly allow for local discretion on the matter. The regulations should allow market rent households to receive subsidy, under certain conditions, where the co-op is under target for RGI units, without recourse to the centralised waiting list. We believe that this makes sense in terms of effective administration, and the economic and community health of co-ops and other providers. Mixed income, community based social housing has a long history of effective management of RGI subsidy. This has produced vigorous, loyal and stable communities, which have had a positive impact on the larger community. Service managers appreciate this, and have joined in the demand to roll back the restrictive and impractical rules imposed by the *SHRA*.

The recommendation to allow providers to alternate between priority households and those on the chronological list would help maintain a better balance of needs within the community and offer some hope to those households with no recognized priority status.

### RGI Calculations

Many of the problems identified in this section pre-date the *SHRA* and many reflect the generally harsh environment for RGI households in Ontario in recent years. Some depend on long overdue improvements to the social assistance rates. We would support those recommendations which promote:

- rules which are fair to both working households and those on social assistance
- reduced reporting for those on fixed incomes
- a formal and regular review of RGI rules, including consideration of expenses such as child care, and the method of determining utility charges and allowances

- a different approach to RGI calculation for recipients of disability benefits under the Canada Pension Plan (CPP-D) or spouse's allowance under *the Old Age Security Act* (Canada).
- more consistent, fair and workable notice periods for increases and decreases of RGI charges.

We do not support any proposal for the further integration of RGI subsidy with the Ontario Works (OW) rules.

### Procedural Provisions

The regulations set out an extremely complex system of rules about RGI and special needs decisions, including:

- how and when they are made
- how and when they are given to applicants and households
- how and when they may be appealed

Most service managers and providers have found the new regime daunting, time consuming and even demoralizing. Households find the procedures confusing and intimidating. The rules make volunteer boards nervous.

CHF Ontario Region supports the recommendations which would:

- allow more flexibility in the system with longer time lines, and discretion for less formal options
- eliminate the cumbersome separate step of an opportunity to comment by ensuring a fair appeal process which would include the chance to correct information
- clarify the authority of service managers and providers to set up a review panel to conduct appeals.
- recognise the authority of co-op boards to approve members (under the *Co-operative Corporations Act*)

We do not agree with the minority recommendation to allow authorised third parties to appeal a decision on behalf of a household. This adds to (rather than reduces) the formal complexities of the system. It could lead to a protracted and overly legalistic review process.

### Special Needs Housing

There seems to be a growing consensus among service managers and some providers that special needs applications for modified units should be administered through the centralised waiting list. A number of providers have already delegated this responsibility to service managers. CHF Ontario Region feels that access to modified units should be quite flexible because of the individual differences and particular needs of applicants. Applicants and providers should be able to use the centralised list, but there should be some ability to match applicants with units more directly, if this better meets the needs of the applicant and provider. Not all special needs applicants need RGI subsidy. Market households may not want to be obliged to go on a centralised waiting list. We do not feel that the regulations need to be changed, since they already allow for flexibility.

We are concerned that mandating the use of the centralized list for special needs applicants who need support services will add another level of bureaucracy to those seeking housing, and those providers offering units.

CHF Ontario Region agrees that there should be more flexibility in the rules for filling vacancies in special needs units where there is a proven absence of suitable or interested applicants.

Our *SHRA* By-law addresses the issue of dealing with occupants of special needs units who are no longer eligible for the unit. The by-law requires such occupants to apply for an internal transfer, with the right to appeal. The by-law allows the co-op to set a maximum number of refusals before proceeding with eviction. We would recommend that the regulations allow a similar approach for all providers.

## **2. Regulation 339/01**

### Corporate Governance

CHF Ontario Region disagrees strongly with the recommendation that service managers should have the authority to approve corporate by-laws. This represents a serious affront to the autonomy of co-ops and would undermine the rights of members under the *Co-operative Corporations Act*. We would not be prepared to accept such a rule.

We believe that the current provisions on conflict of interest in the *SHRA* regulations are acceptable. That said, we do encourage co-ops to adopt a Conflict of Interest By-law which promotes practices which are tailored to the co-op model of governance.

### Operation of Housing Projects

With regard to the recommendation for written hiring policies approved by the board, CHF notes that the model Organisational By-law for co-ops includes guidelines on hiring. Hiring is the legal responsibility of the board. As long as job descriptions and contracts are in place, and the provider follows the *SHRA* requirements for open and competitive practices, a separate policy on hiring should not be mandatory.

### Selection of Households for Units

Many of the items noted here are repeated from earlier sections, and indicate a high degree of concern about the allocation of units.

**Internal special priority:** Service managers have a number of recommendations on the issue of special priority on the internal transfer list. The suggestions (service manager review, central waiting list involvement, etc) add administrative complexity. Perhaps this matter is best referred to the proposed Task Force on Special Priority.

**In-situ market households:** Many service managers want to give some kind of priority to in-situ market households, and want the regulations relaxed and clarified to allow this. We support this.

**Vacancies in modified special needs units:** CHF Ontario Region agrees with the recommendation that, on a case by case basis, providers should be allowed to allocate modified units to non-special needs households, to limit vacancy loss. However we do not agree that this

would be done on a temporary basis, and that the occupants would lose their housing if a special needs applicant becomes available. This situation is not the same as one where someone who moves into special needs housing later becomes ineligible. Once housed, the non-special needs households should have security of tenure with the provider, under the same conditions as other households. They may be asked to relocate to a non-modified unit once one becomes available. This would be voluntary. We do not believe that there would be legal grounds for eviction in the event that they refused to move.

**Grounds for refusal:** We agree with the recommendation to expand the grounds for refusal to include previous eviction for cause, or evidence of potentially damaging behaviour.

### Leases and Occupancy Agreements

CHF Ontario Region understands that the requirement that 16 and 17 year olds in all RGI households must sign the lease is creating legal difficulties for non-profits. Even in co-ops, which have historically encouraged co-ops to offer membership to 16 year olds, concerns have been expressed that the requirement could be a problem for some households. There are situations where the adult members of a household would not want to depend on their 16 or 17 year old children to sign documents.

We agree with service managers that 16 and 17 year olds should not be mandated to sign the lease or occupancy agreement if they are dependents, or if they are in school full time and their income is not included in the rent calculation. We agree further that the adult tenant/member should be authorised to take responsibility for other members of the household being in compliance with the *SHRA* regulations.

### Capital Reserves

Some service managers are concerned that providers have until five months after year end to make the annual contribution to the capital reserve funds. The reasons for their concerns are not noted in the report.

CHF Ontario Region believes that the additional time (up until the submission of the AIR and audited statements) is reasonable since it allows co-ops to confirm decisions (with the auditor) about:

- what expenses will be charged to the reserves
- what part of the co-op's portion of operating surplus may be allocated to the reserves

The current rule also allows providers to keep some working capital on hand to meet their spending needs before year end reconciliations of subsidy.

It is reasonable for the audit to include an accrual for the past year end contributions, to limit the adjusting entries.

We agree that the under funding of reserves is a serious issue which the Province must address if providers are to be put on a sound financial footing. We are still waiting for the results of a study of capital reserves, commissioned by the Province more than two years ago. Preliminary findings indicated that annual contributions to the reserves are too low. Many service managers have conducted their own replacement reserve studies which demonstrate serious shortfalls in

reserve funds amongst providers. We urge the Province to release its report and take action to ensure that providers have sufficient reserves to ensure long term viability.

CHF Ontario Region does not agree that service managers should have additional control over a provider's capital reserve spending. Providers should be encouraged to have a capital reserve plan, and effective spending policies.

### Subsidies/Funding Model

CHF Ontario Region shares the concerns about the delay in the implementation of the funding model and the inability to comment on an untested formula. We have similar concerns about the complexity of the model. The market rent index formula is difficult to understand and will be very challenging to implement. It seriously impedes a provider's ability to forecast revenues accurately, since the level of subsidy is based on the turnover in market units. The market rent index formula could lead to :

- a patchwork of different market charges for the same type of unit in a project
- discrepancies between the budgeted and the year end subsidy entitlement, which may be significant if the provider isn't able to estimate the number of market moves accurately, and will affect the bottom line
- extreme pressure on market rents, especially in the case of multiple unit turnover, leading to marketing challenges and vacancy losses.

The formula must be simplified and the index used for market rents must be more appropriate for social housing.

We reject the minority recommendation that providers should have to seek service manager approval before allocating their share of operating surpluses to their capital reserve. This is unnecessarily intrusive. Training on (and experience with) the new funding model will allow providers to understand how best to use any operating surpluses. Allocation to capital reserves has normally been viewed as an indication of good management.

### Administration

CHF Ontario Region agrees that there should be some clarification about the minimum insurance coverage required, and has urged the Province to consult with stakeholders on this issue.

Note: The remaining miscellaneous issues (Reg 368/01) covered in the summary are of administrative and compliance importance to service managers but not directly relevant to providers.

CHF Ontario Region  
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