Fixing the *Social Housing Reform Act*

A Brief to the Minister of Municipal Affairs and Housing

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Co-operative Housing Federation of Canada
Ontario Region

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1. Introduction

This brief calls on the Ontario government to overhaul the *Social Housing Reform Act* to create a more businesslike operating framework, get rid of oppressive rent-geared-to-income (RGI) program rules, and put co-op members back in control of their housing.

The Ontario Region of the Co-operative Housing Federation of Canada represents and serves 490 housing co-operatives and 39,000 co-op households in Ontario. More than half of these co-ops were developed under Ontario programs since the late 1980s. The rest have operating agreements with the federal government.

Co-ops are the only form of resident-managed social housing in Ontario. They are governed by the *Co-operative Corporations Act* (not the *Tenant Protection Act*) and residents are members of their co-ops, not tenants. Co-op members elect the board of directors annually from the membership and contribute to the operation and life of the community through a range of volunteer activities. This involvement gives them a unique role in the governance of their housing and makes them direct stakeholders in its successful operation.

Co-operative housing in Canada is a well documented success story. The latest evaluation of co-operative housing programs (including federal/provincial and provincial programs in Ontario) by Canada Mortgage and Housing Corporation (September 2003) finds that

- more than 90 percent of co-op residents have participated in the operation of their housing and 65 to 70 percent feel that they have the ability to influence decisions about their housing through their participation
- households in co-op housing have achieved more improvement than residents in other housing on key quality-of-life indicators such as improved sense of community, improved relations with friends and neighbours and improved social supports
- 24 percent of co-op residents said they had acquired new financial skills, 38 percent said they had gained organizational experience and 75 percent said they had improved skills in working with others
- co-op housing costs were about 14 percent lower than costs in non-profit rental housing.

This success, however, cannot be taken for granted. It is tied to, and dependent on, several key factors. These include

- real control over important management decisions
- security of tenure for members

- mixed communities (mix of incomes, backgrounds and skills)
- reasonable and predictable funding, both for operations and for rent-geared-to-income subsidies
- a clear and simple accountability framework that protects the public investment but is workable in the context of community-based housing.

The *Social Housing Reform Act* (SHRA) is undermining all of the elements that have contributed to the success of the co-op housing model.[1]

More broadly, the Act is undercutting the community-based housing model that government turned to more than 30 years ago as an alternative to large-scale, government-owned and -run housing. The shift was grounded in the belief that community groups bring special knowledge of, and commitment to, the people they serve and an ability to be flexible and innovate that isn't found in government-run housing. Three decades of experience with community-based housing have proven this belief to be well-founded and visitors from around the world continue to study what we have done right even as community groups fight to keep the model intact.

The SHRA, passed by the Province in December 2000, transferred administration of Ontario-program social housing to 47 municipal service managers. Against the loud protests of co-op members and non-profit housing providers, it terminated project operating agreements that these groups had signed in good faith. In place of these contracts, the Act established a complex and continually changing legislative framework. Problems include

- loss of control by co-ops and non-profits over day-to-day business and community decisions

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[1] A major three-year study in Britain by Price Waterhouse into tenant management in non-profit housing offers some clear and telling conclusions about the factors that contribute to, or undermine, the success of the resident-controlled co-op housing model. The study, *Tenants in Control: an Evaluation of Tenant-led Housing Organizations,* was commissioned by the British government and published in 1995. It found:

> *The TMOs [Tenant Management Organizations] which this study has shown to be most effective and offering the best overall value for money were those which provided their members with the greatest control over their housing management, finances and environment.*
>
> *Residents are prepared to devote their own time to running their housing if it is clear that they can directly influence the decision-making process.*
>
> *The least successful TMOs in this study …[were those which] were tightly constrained in terms of their operational procedures and financial autonomy.*
>
> *By drawing on the enthusiasm and commitment of their members, the TMOs are clearly at an advantage in cost-performance terms …. The TMOs are able to call upon the dedication and commitment of their members to a degree akin to the inputs made by many owner-occupiers in maintaining their homes.*

- cumbersome and punitive RGI program rules that
  - create an administrative burden for staff and volunteers
  - undermine residents' security of tenure
  - create an unhealthy and suspicious environment for subsidized households
- mandatory priorities for municipal social housing waiting lists that have eroded the mixed-income profile of many co-ops and non-profits
- lack of adequate funding and financial certainty
- a prescriptive and intrusive regulatory approach set out in legislation and carried out in practice, that goes far beyond what is needed to ensure accountability and undermines the co-op model of self-governance and, more broadly, the model of community-control.

Co-ops find the new regime almost intolerable, despite the development of positive relationships in a number of regions with municipal service managers. The Act and its regulations have damaged the morale, confidence and commitment of the volunteers who are at the core of co-op housing's success. In Appendix A, co-op staff describe the problems their co-ops are experiencing with the Act in their own words. Without major changes to the Act and its regulations, CHF Canada believes that the viability of housing co-ops operating under the program is seriously at risk.

Members in Ontario-program co-ops contrast their experience with that of members in federal co-ops in the province. Federal co-ops, administered by Canada Mortgage and Housing Corporation, are accountable for the public assistance they receive but operate within a known and fixed program framework with far fewer detailed rules to follow and far less day-to-day checking and second-guessing of management decisions. In the view of co-op members, Ontario-program co-ops have become the second-class citizens of co-op housing in this province.

At the Ontario Region's annual meeting in June 2002, CHF Canada members passed a resolution directing the Region to pursue changes to the *Social Housing Reform Act* as its top priority. At this year's annual meeting, Ontario members will consider a resolution calling for a lobby campaign to back up our call for changes to the Act. A copy of both resolutions is included in Appendix B.

Ontario co-ops are optimistic that the new Liberal government will understand and respond to their concerns. While in opposition, housing critic David Caplan and other Liberal MPPs were strongly critical of the Act, calling for major changes to protect community-based housing. The Liberal party's election campaign focussed on the importance of building strong communities rather than building up government as the way to deliver effective services. We look forward to working with a government committed to supporting communities to undo the damage caused by the *Social Housing Reform Act.*

In the sections that follow, we set out our goals for reform, review our efforts to date to win improvements to the program, outline problems our members are experiencing with the *Social Housing Reform Act* and municipal administration and make a number of recommendations on changes the Province must make to the program to address the problems we have identified.

2. Social Housing Reform Gone Wrong

2.1 Early reform proposals

Since the early 1990s, the co-op housing sector in Ontario has sought reform of the provincial co-op program to deal with problems in its original design. These included a flawed funding model that cut back operating subsidy far too quickly for many co-ops and government oversight that was intrusive and inconsistent. These problems were compounded by a series of cuts by government to operating and capital funding.

In a series of proposals to the Province we called for a more businesslike relationship between co-ops and government under which co-ops would gain more operating independence and predictable funding in exchange for accepting more responsibility for successfully managing their housing. Oversight would be focussed on outcomes and assessing risk rather than on prescribing rules and checking rule compliance.

Appendix C gives more details on our efforts to win program reform through the 1990s.

2.2 *Social Housing Reform Act* abandons community-based housing

By late 1996, CHF Ontario Region and the Ontario Non-Profit Housing Association (ONPHA) had persuaded the Conservative government to work with the co-op and non-profit housing sectors on a new program framework that would meet their goal of less government involvement in social housing and our goal of a more businesslike operating framework. However, within weeks of the government's announcement that they would work with us to redesign the program, the reform initiative was overtaken and sidetracked by the decision to download social housing to municipalities. The focus of the program review shifted from making the program work better to making changes that would facilitate the transfer of responsibility to municipalities.

For three years CHF Ontario Region sat as an 'advisor' (not a full member) on a series of committees and working groups to try to protect the interests of co-ops as well as we could in the face of a government agenda not focussed on their needs.

At the end of this process, the government introduced Bill 128, the *Social Housing Reform Act,* in October 2000. The Bill included some provisions that the co-op sector had called for but overall it was an enormous step backwards. A government *Backgrounder* to Bill 128 promised "providers would gain more autonomy" but the opposite was true. The Bill gutted community

control and introduced an old-style government-run housing program.[2] Co-ops and non-profits lost the rights they had under a two-party contract and had to live with a program forced on them by legislation.

Co-op members reacted strongly and lobbied for changes to the Bill. The government gave in and agreed to hearings on Bill 128. Almost 50 housing co-ops sent in submissions on how to fix the legislation. During the fall, CHF Ontario Region worked very closely with the Liberal and NDP housing critics to identify amendments that co-ops needed and table them with the legislative committee.

We won more than 100 amendments to the Bill but still ended up with legislation that is so badly flawed as to be unworkable and is uniformly denounced by the co-ops trying to operate under its rules. In the words of then Municipal Affairs and Housing critic, David Caplan, during third reading of the Bill, "any effort to make a bad piece of legislation better should be supported. But Bill 128 is a disaster waiting to happen."

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[2] On December 11, 2000, during third reading of Bill 128, David Caplan, Municipal Affairs and Housing critic, said "The best housing that's out there is community-based. The co-op and non-profit housing is some of the best run, best maintained and finest housing that you will find anywhere in this province . . . If you look the province has now taken it over. It is a throwback to an era when housing was run at a provincial level, when you created the kinds of massive housing projects out there. The community-based programs are the ones that have worked and have worked well. Bill 128, I fear, will be the death of these kinds of housing projects which have worked well for all citizens of Ontario."

3. Regulation Changes Under Review

Almost as soon as the *Social Housing Reform Act* and regulations were in place, the government started to amend the regulations, mostly to correct mistakes or clarify intent. But in the summer of 2002, in response to protests from co-ops, non-profits and service managers about problems with the new rules, the Province agreed to do a more systematic review of the regulations.

In October 2002, and January 2004 CHF Ontario Region, ONPHA and the Ontario Regions Group of Service Managers made joint submissions to the Ministry of Municipal Affairs and Housing on regulation changes that should be made immediately. CHF Ontario Region also made a separate submission in October 2002 with recommendations on further changes needed by co-ops because of their model of governance and we responded to the Ministry's consultation paper on regulation changes in March 2003. Three of these submissions are included in Appendix D.

Since then, we have continued to meet with municipal representatives and ONPHA to press the Ministry to move forward with changes in those areas where there is significant consensus. The latest joint submission on regulation changes was made in January 2004. Many of the recommended changes focus on the need to add flexibility to RGI administrative requirements and procedures, and make the system fairer to RGI households.

We urge the Province to follow through on these recommended amendments to the regulations. They will make the program work better. But to make the program work well, much more comprehensive changes to the legislation are needed. The next sections of the brief deal with these changes.

4. Reform Goals

4.1 Focus on achievable reform

Housing co-ops fought hard against the transfer of co-op programs to municipal administration and the cancellation of their project operating agreements. Co-ops continue to believe that the funding and administration of co-op and non-profit housing programs belong at the provincial level. Our members feel strongly that social programs of this kind should not be paid for out of property taxes and they believe that it is inherently less efficient and effective to have 47 program administrators than to have one. Co-ops have learned from experience, as they had predicted, that the closer they are to the program administrator, the harder it is to maintain their autonomy. And the fracturing of program administration across 47 service areas with 47 variations on program rules has made it dramatically more difficult and costly for sector organizations to support their members.

Co-ops also believe that, in a community-based housing system, the funding commitment and program rules should be set out in a two-party contract (operating agreement) that both sides can rely on. This is the model used for every other social housing program in Canada, federal or provincial. Legislation is remote from the co-ops, hard to understand and subject to constant, unilateral change by government. The combined effect is to undermine co-op members' sense of ownership and control of their housing.

Ontario-program co-ops believe that they would be better served if the Province were responsible for program funding and administration and if program requirements and commitments were set out in an operating agreement rather than in legislation. However, at this point, co-ops want to focus on what's achievable in the near future. They cannot operate successfully under the current program. The recommendations in this brief therefore call for major changes to the *Social Housing Reform Act* but assume that the Act remains in place and service managers remain responsible for program funding and administration.

4.2 Goals to guide program reform

The following are the broad goals that underlie our recommendations for amendments to the *Social Housing Reform Act* and its regulations:

- renewed member control and commitment
- a simplified accountability framework
- adequate and predictable funding
- a rent-geared-to-income program that works for co-ops and members.

5. Getting Reform Right: Recommended Amendments to the Act and Regulations

In this section of the brief we make a number of recommendations on changes that the Province should make to the *Social Housing Reform Act* to address concerns of housing co-ops. Some are very specific. However, in several cases, we identify problems that run through the legislation and ask the Minister to direct his staff to work with us on specific amendments to address the problems.

It should be noted that, although each recommendation below is associated with one of the goals we have identified, in many cases an amendment would help to achieve more than one of the goals.

In a few cases, this brief incorporates recommendations that we made in earlier submissions (these are included in Appendix D). In most cases we have not restated those recommendations. However, we wish to stress that they are still current and important and we ask that they be considered as part of the review of the *Social Housing Reform Act* and regulations.

In making the recommendations, we speak from the point of view of housing co-ops. However, as the earlier joint submissions show, many of the concerns we raise are shared by non-profits and service managers and, in many cases, they are calling for similar changes to the program rules.

5.1 Renewed member control and commitment

As noted in the introduction, the success of co-op housing is rooted in the simple fact that co-op members have a direct stake in the decisions they make and so tend to make good ones, on both business and community issues. They are likely to take care of the assets and to be loyal to the community. But this stakeholder commitment exists only if co-op members feel they have real control over the decisions that affect them. If that control is eroded then members' commitment to making their housing and communities run well is also eroded.

The *Social Housing Reform Act* has undermined the inherent benefits of the co-op model by stripping away real control of their housing by members. Ontario-program co-ops are finding it harder and harder to keep their members motivated and involved because the program is too complicated to understand and co-op members feel that the detailed program rules and the open-ended authority of service managers leave them with almost no real say in how their housing will be run.

The Act and regulations need to be amended to restore control by members of their housing and renew their commitment to making their communities work.

Most of the recommendations on how to do this are dealt with in the sections below on simplifying the accountability framework, improving the rent-geared-to-income program, and giving co-ops predictable and adequate funding. Making changes in those areas will contribute to member control of their housing.

In addition, we are recommending that the Act and regulations be amended to give back to co-ops the authority they had under their project operating agreements to make important management and governance decisions. There are three areas in particular where our members are saying that decision-making authority should be returned to the co-op.

Investment of capital reserves

Under project operating agreements, co-ops were responsible for investing capital reserves. Investment options were limited to very secure investments. The *Social Housing Reform Act* takes authority for investment of capital reserves away from co-ops and dictates that the funds be invested in the Social Housing Investment Funds managed by SHSC Financial Inc.

This is one of the provisions in the *Social Housing Reform Act* that co-ops resent the most. Co-op boards have a fiduciary responsibility to manage capital reserves and other co-op funds in the best interest of the co-op but the Act removes their authority to do this. Co-ops recognize that the Social Housing Investment Funds are an important new resource that can help them manage their housing and most would make good use of it. But they would also use other investment options including Co-op Housing Investment Programs set up by local co-op federations. Some particularly risk-averse boards would choose to invest only in securities issued or backed by government (an option not available in the Social Housing Investment Funds).

For co-ops, the requirement to invest their capital reserves in these funds has become emblematic of the loss of control of their management, finances and community under the *Social Housing Reform Act.*

Recommendation 1

Eliminate the requirement for co-ops to invest their capital reserves in the Social Housing Investment Funds.

Charges and deposits

Housing co-ops in Ontario do not operate under the *Tenant Protection Act.* The government has recognized the unique “landlord and tenant” relationship that exists in a housing co-op where individual members are tenants but members together are landlords. The rules governing the occupancy relationship between

member-residents and the co-op are set out in the *Co-operative Corporations Act.* This Act gives co-op members the clear right to set collectively the rules they will live by individually. It doesn't include the kind of limits that the *Tenant Protection Act* sets, for example, on fines the landlord can charge tenants, payment of interest on tenant deposits, or even the annual increase in rent. The Act allows co-op members to set their own rules in these areas because of their governance model.

In the interest of applying the same program rules to co-ops and non-profits, the *Social Housing Reform* Act has eliminated co-op members' rights to decide, through by-laws, on additional charges and deposits that they will require of themselves. This failure to recognize the fundamental differences in the governance models of co-op and non-profit housing providers is another source of frustration for co-op members as it undermines their ability to make responsible decisions about how to manage their communities.

Recommendation 2

The Act and regulations should be amended to allow co-ops to adopt by-laws that provide for reasonable additional charges and deposits beyond those permitted in the *Tenant Protection Act.*

Admitting and refusing members

The regulations dealing with appeals of membership refusals set out requirements that conflict with the rules in the *Co-operative Corporations Act.*

The *Co-op Act* says that no one can become a member of a co-operative unless their application has been approved by the co-op's board of directors. This means that when someone has been refused admission to a housing co-operative they have, in most cases, been refused by the board. If their application is later re-considered, the final decision must also be made by the board. This *Co-op Act* requirement conflicts with the regulation which says that

> *An individual who participated in the making of the decision to refuse to offer the unit to the household shall not participate in an internal review of that decision.*

The rules in the *Co-op Act* take precedence over the regulation and must be followed by co-ops.

Recommendation 3

The regulations to the *Social Housing Reform Act* should be changed to recognize the legislated requirement for co-op boards to admit members. We recommend that the following wording be used [*Reg. 339/01 S. 20(2)3*]:

An individual who participated in the making of the decision to refuse to offer the unit to the household shall not participate in an internal review of that decision. This will not apply to an individual who is a director of a non-profit housing co-operative and whose sole involvement in the decision being reviewed was as a director in connection with a board meeting to consider approving the decision.

5.2 A simplified accountability framework

Eliminate excessive regulation

The *Social Housing Reform Act* is burying co-ops in paper work. Co-op staff across the Province tell us that the amount of time they have to put into meeting program requirements, and filling out forms to prove it, has doubled or tripled. Many of the comments by staff included in Appendix A refer to this problem.

The Act and regulations take the approach of including a rule for every possible circumstance. The requirements are so complex that staff and members simply cannot understand what they are expected to do. And neither can service managers. Rules are interpreted very differently by different service managers, or even by different staff within a single service area.

The complex and cumbersome accountability framework forces co-ops to shift resources from serving members to complying with rules. This is seriously affecting the confidence and enthusiasm of co-op boards and staff and undermining the quality of life in co-ops.

The problems are so serious that it will not be sufficient to tinker with the rules. The approach to accountability in the Act and regulations needs to be fundamentally re-thought.

Recommendation 4

The *Social Housing Reform Act* and its regulations should be comprehensively reviewed to identify and eliminate unnecessary administrative requirements and put in place a clear and simple accountability framework that protects the public investment but is workable in the context of community-based housing.

Simplify reporting requirements

Co-ops operating under the *Social Housing Reform Act* are spending unprecedented amounts of time reporting to service managers on how they are running their housing. Even where co-ops are not in difficulty, some service

managers are routinely requiring reports from the co-op (oral or written) on how they are handling management tasks such as hiring contractors. These requirements drain scarce resources from the job of managing the housing and serving members.

The Act reasonably requires providers to submit to the service manager an annual report with prescribed information on the co-op's performance and a report on the households living in the co-op. However, Section 112 (6) of the Act also gives the service manger an open-ended right to ask for whatever additional reports and information they want, whenever they want:

> *A housing provider shall give the service manager, at the times specified by the service manager, such other reports, documents and information as they service manager may reasonably request relating to the housing provider`s compliance with this Act and the regulations.*

Much clearer limits, similar to those found in the cancelled operating agreements, must be placed on a service manager's right to require additional reports and information.

Recommendation 5

Except where a co-op has already been identified as being a project in difficulty, a service manager's right to request additional reports, documents and information should be limited to circumstances where the service manager has reasonable grounds to believe that the co-op may be a project in difficulty, as defined in Section 18 of the Act. When requesting additional reports, documents or information in these circumstances, the service manager should be required to inform the co-op, in writing, of the grounds for the request.

The administrative burden on co-ops can also be reduced, and program administration made more effective, by simplifying and standardizing the formats of required reports.

Recommendation 6

The reporting requirements in the annual information return should be simplified and standard reporting formats should be adopted for audited financial statements and the subsidy request form.

More consistency in treatment of projects in difficulty

As noted above, in some regions, co-ops are finding that service managers are taking a very hands-on approach to their new responsibilities. The Act makes service managers responsible for program administration and co-ops responsible

for property management. The successful operation of community-based housing relies on the distinction being respected unless the service manager has special reason to intervene.

We believe that, in the ordinary course, service manager resources are most productively focussed on ensuring that certain end results are achieved, rather than on monitoring in detail the steps taken to achieve the results. We believe that this approach will produce better operating performance by providers, contribute to positive working relationships between service managers and providers, and allow service managers to focus their limited resources on being supportive and more closely involved when a project is in difficulty.

Co-ops are concerned that the provisions in the Act governing when a service manager can intervene in the co-op's operations are too open-ended. Section 115 gives a very broad definition of what constitutes a breach of the Act. The breaches listed in the section are called "triggering events" and they permit the service manager to exercise a remedy. The section says, for example, that service managers can step in if the "housing provider contravenes this Act or the regulations" or the "housing provider has failed to operate the housing project properly".

Once a triggering event has been identified, the remedies available to the service manager are extreme with few restrictions on their use. The Act requires the service manager to act reasonably but it includes no mechanism for overseeing the requirement. If a co-op feels that a service manager's action has not been reasonable and they have not been able to resolve the matter with the service manager, their only recourse would be to challenge the action in court. Co-ops don't have the resources to take legal action to test whether a program administrator has exceeded their authority under the Act nor should they be expected to use members' money to do this.

Co-ops don't doubt that service managers have the best interests of the co-op in mind when they intervene but they find it frustrating and demoralizing to have an outside party second-guessing their decisions on matters they feel should be entirely within their authority.

To some extent, these problems are inevitable given the program delivery model imposed by the *Social Housing Reform Act*. Legislation is open to interpretation and what the law means gets tested and refined in courts over time. This is an argument against putting program rules for a community-based housing program in legislation. It is also to be expected that when 47 different administrative bodies attempt to interpret and apply the same rules there will be significant variations. This is an argument against downloading of program administration to municipalities.

However, there are some steps that the Province can take, short of repealing the *Social Housing Reform Act*, to help mitigate these problems. We have two recommendations.

Recommendation 7

Sections 115 (Triggering Events) and 116 (Remedies) of the Act should be reviewed and rewritten to define more clearly and reasonably what constitutes a breach of the Act by housing providers and to place more appropriate and reasonable limits on the remedies that service managers can exercise if they judge a breach has occurred.

Recommendation 8

The Act should be amended to give co-ops the right and ability to challenge actions of the service manager through an appeal to the Ministry of Municipal Affairs and Housing leading to an internal administrative review, fairly conducted by the Ministry.

Section 18 of the Act identifies a number of circumstances under which a co-op will be considered to be in difficulty. One is the open-ended and subjective provision that "the service manager is of the opinion that a housing provider has failed to comply with an obligation under the Act and that the failure is material". If a project is in difficulty, the Act requires the service manager to "promptly give written notice to the Minister".

CHF Ontario Region is not aware that any notices have been given to the Minister by service managers that a co-op is in difficulty, but we know that a number of service managers have issued triggering event letters to co-ops. There is no obligation for the service manager to inform the Minister when a triggering event letter has been issued. The triggering events cited by service managers often are that the co-op has contravened the Act or has failed to operate the housing project properly. Yet none of these has been deemed by any service manager to be *material* failure to live up to an obligation under the Act as set out in Section 18.

The test of whether a project is in difficulty and whether a triggering event has occurred are similar and closely related but there are no links in the Act between these two sections.

There seems to be reticence on the part of some service managers who have issued triggering event letters to formally identify a project as being in difficulty which would lead to the involvement of the Ministry of Municipal Affairs and Housing.

CHF Ontario Region has been impressed with the approaches used by a number of service managers when co-ops have difficulties. These include working

closely with sector organizations, providing funding for board training and education plans, and cost-sharing the expense of the mediators and facilitators.

However, the goodwill of service managers should not have to be relied on. The Act needs to be amended to include

- more specific requirements of service managers to identify a project as being in difficulty and notify the Minister, particularly when it is exercising remedies that are only appropriate if a project is at risk
- a more explicit link between the projects in difficulty and triggering events provisions.

We believe that clearer requirements in this area will help ensure a more consistent approach to dealing with projects in difficulty across the province and the involvement, where appropriate, of people with specialized training and expertise in dealing with projects in difficulty.

Recommendation 9

The Act should be amended to define more clearly when a project that has received notice from a service manager, under Section 115 that a triggering event has occurred, is considered to be a project in difficulty under Section 18, requiring notification of the Minister.

5.3 Adequate and predictable funding

A flawed funding model in the former program, combined with years of cuts to operating budgets and moratoriums on contributions to capital reserves, undermined co-ops' ability to successfully manage their housing. A key goal of reform has been to fix these problems and give co-ops adequate and predictable funding.

Unfortunately, the *Social Housing Reform Act* has failed to deliver the more businesslike and reliable operating framework that co-ops had hoped for. In some respects, the funding arrangement is less secure than ever:

- more than three years after the *Social Housing Reform Act* was passed, new funding benchmarks still have not been set and co-ops don't know how much money they will get to run their housing
- the new funding model is more complicated than ever with some significant flaws
- capital reserves are seriously underfunded with no announced plans to deal with the problem

- the new requirement to share operating surpluses with service managers promotes in-year spending to avoid losing funding and limits co-ops' ability to put funds aside in good years to cover shortfalls in later years
- the complicated new program is much costlier than the old one to administer but no additional funding is being made available.

A number of amendments are needed to the Act and regulations to deal with these problems.

Set and implement new funding benchmarks

Since the *Social Housing Reform Act* was passed in December 2000, co-ops have been operating in a state of suspended animation waiting for the new funding benchmarks to be set and the new funding model to be applied.

The process of coming up with a methodology to set the new benchmarks has been bogged down for a number of reasons. The biggest problem has been that it is not possible to devise a system that will treat fairly and take into account the particular circumstances of hundreds of housing providers that have been operating for more than a decade. The task was made more difficult when political direction from the former government attempted to bias the outcome.

This delay has caused enormous problems for housing co-ops. They are operating under a mix of old and new program rules with different service managers taking different approaches to trying to paper over this problem. It means that good financial management is impossible. Training on a new funding model that hasn't been implemented has had to be postponed over and over as multiple deadlines for setting the benchmarks were missed.

The delay has had serious financial consequences for co-ops in several parts of the province (notably southwestern and northern Ontario) where the base funding levels leave a number of them insolvent. Service managers agree that the projects are not viable with the current funding but, for the most part, are only willing to contribute ad hoc, emergency funds until the benchmarks are set.

It is not possible to devise a flawless system for setting the new funding levels. The Minster should proceed, without further delay, to put in place the new funding benchmarks and allow individual anomalies and problems to be worked out by co-ops and service managers through a review and appeal process.

Recommendation 10

The Minster should immediately set new funding benchmarks that give co-ops adequate funding to maintain their housing and communities. The benchmarks should be released simultaneously to service managers, housing

providers and CHF Ontario Region and the Ontario Non-Profit Housing Association.

In the event that providers find their benchmarks unacceptable, an appeal to the Minister is allowed under the Act. The process for making such an appeal should be specified. When funding levels are reduced, the phase-in period for the reduction must be reasonable.

Amend the funding formula

We have five recommendations for changes to the funding formula.

a. Revise the formula for calculating the Mandatory Payment (annual reduction of operating subsidy)

The current calculation of the Market Rent Index uses a blended index that assumes the charge on all units that turn over should be increased by an index based on local market rents (normally the CMHC index) while charges on units that do not turn over are protected by the provincial rent control guideline. This complicated formula reflects changes to the *Tenant Protection Act* by the former government which decontrolled rent increases on vacant units, and saw average rents rise dramatically. The formula could result in

- aggressive upward pressure on market rents, resulting in vacancy problems
- rapid withdrawal of the operating subsidy
- variable charges for the same size unit
- difficulty predicting revenues.

The formula needs to be changed to simplify the calculation of the Mandatory Payment, ensure consistent market charges, and help keep the units marketable.

Recommendation 11

The regulations should set the Market Rent Index at the lower of the rent control guideline or local (CMHC) index, or else treat all projects as if they are in flat and declining markets and apply the funding formula used in those circumstances.

b. Set a limit on repayment of operating subsidy

The operating agreements for Ontario-program co-ops, which were terminated by the SHRA, treated operating subsidy and RGI subsidy as separate and distinct forms of assistance. The operating (bridge) subsidy was intended to bridge the gap between the actual economic costs of the housing and the market rent

revenues that might reasonably be generated. It decreased annually as rental revenues increased, and the subsidy was fully repayable. A tracking mechanism was included in the annual information return, so it was possible to determine when the total operating subsidy had been repaid. At the point of full repayment, the reduction in annual subsidy stopped and the co-op continued to receive RGI subsidy.

Under the new funding model in the SHRA, the repayments of operating subsidy (called Mandatory Payments) have no termination point, so a provider's total subsidy will continue to decrease indefinitely. This means that, in effect, over time the provider will be internally subsidizing its RGI households, and may even be required to pay subsidy to the service manager. We believe this is unfair and unreasonable.

Recommendation 12

The Act should identify a deadline for the termination of housing providers' obligations to repay operating subsidy (Mandatory Payment), similar to that included in the cancelled project operating agreements. Mandatory Payment obligations should end when the operating subsidy is paid back. At no point should Mandatory Payment requirements apply to RGI subsidy.

c. Eliminate surplus sharing or, alternatively, set conditions on how surpluses may be used

Co-ops have argued that the new requirement imposed by the Act to share up to half of any operating surplus with the service manager discourages good management, and encourages increased oversight by the funder. Operating surpluses, when they do arise, are normally the result of

- imprecise budgeting arising from the inability to know certain costs in advance (such as utilities)
- better than projected operating performance (low vacancies, cost efficiencies)
- deferred maintenance.

The first factor is as likely to result in operating losses as gains, while the second and third could, in theory, be offset by higher costs in the future. Providers do not plan to earn a profit, but need the flexibility to earn surpluses in order to cover past or future losses. The sharing of surpluses promotes the "use it or lose it" approach to fiscal management, and any attempt by service managers to control this will add to the cost of program administration.

The surplus sharing requirement would at least be fairer if matched by deficit sharing, but this is not part of the funding model. This one-sided arrangement could leave co-ops in a precarious financial position.

The following table illustrates the problem. In this scenario, after four years of operating with fluctuating surpluses and deficits, the co-op would break even without surplus sharing. However, under the new rules in the Act, the co-op is in a deficit position, not because of poor management, but because of the unfair program rules. The service manager, on the other hand, has benefited from the surplus the co-op ran in two of the years with no obligation to share the deficit in the other two years.

	Year 1	Year 2	Year 3	Year 4	Total
Annual surplus (deficit)	-500	250	500	-250	0
Co-op share	-500	125	250	-250	-375
Municipal share	0	125	250	0	375
Cumulative surplus (deficit)	-500	-375	-125	-375	

In the third reading debate of Bill 128, David Caplan, then Municipal Affairs and Housing critic, singled out this flaw in the funding model:

> *If a housing provider is adequately managing – in fact, managing better than they had thought – and generates a surplus, they have to give half of that surplus away to the local district manager. Correct me if I am wrong, but there is no longer any incentive at all for a housing provider to generate a surplus, because they have to give it away. What you get is the kind of situation that you had in the past at school boards, at municipalities, hospitals and other transfer agencies. When it comes to the end of the year, if there is any money left in their budget, they have to go ahead and spend it all ….*

Recommendation 13

Eliminate the requirement for co-ops to share up to 50% of any operating surplus with the service manager.

Co-ops feel strongly that getting rid of the requirement to share surpluses is good business practice and should be implemented. If, however, the government is not prepared to make this change because of service manager opposition we recommend the following as an alternative.

Recommendation 13 (alternative)

A surplus to be shared with a service manager is any surplus that remains after

- **any accumulated deficits from previous years are offset**
- **any liabilities not included in the funding formula are discharged**
- **an operating reserve equal to two months of operating expenses is funded**

- **any supplements to normal capital reserve fund contributions are made if a capital reserve plan prepared for the co-op by a qualified professional shows the capital reserve to be under funded.**

d. Clarify and rationalize the amount of the annual contribution to the capital reserve

In the former funding model, the capital reserve contribution was treated as a pass-through, and inflated by a regional index. We have a concern about the provision in the Act that changes this.

In the new funding formula the capital reserve contribution is part of the benchmarked costs, which are used to set the affordable mortgage payment and the mortgage subsidy. The funding formula assumes that the ratio of operating costs to revenues is constant over time. This ratio is a key part of determining the amount of the Mandatory Payment.

In order to increase the amount of the required annual contribution, the Act says the contribution is to be inflated each year by an index *yet to be determined*. It is critical to the financial well-being of co-ops that an appropriate index is set.

If the capital reserve contribution is inflated by an index that is higher than the one used to calculate the Mandatory Payment (the annual decrease in operating subsidy), then the provider will be under pressure to constrain other operating expenses.

If the capital reserve contribution is not going to be treated as a pass-through and excluded from the benchmarked costs, the index used should be the same as the one used to calculate the Mandatory Payment. This will rationalize the funding formula for the provider. However, it would lead to a different index for each project, further complicating the funding model. The index will also then be unrelated to actual increases in the cost of capital replacements and repairs.

Recommendation 14

The capital reserve contribution should be taken out of the benchmarked costs and treated as a pass-through amount, as it was in the bridge subsidy formula under the former programs for co-ops and non-profits. The contribution should increase annually by a regional index set by the Province or Social Housing Services Corporation.

Recommendation 14 (alternative)

Alternatively, the index used to inflate the annual contribution to the capital reserve should be the same as the one used to calculate the Mandatory Payment.

e. Payment of RGI subsidy to actual rent levels

The funding formula in the Act calls for service managers to base the amount of RGI subsidy paid on the lesser of the actual rent charged or the indexed market rent. This limits a co-op's ability to respond to market conditions that may not be captured by the market index.

As part of approving the annual operating budget, co-op members vote on the level of housing charge increase. They have a direct financial incentive not to charge themselves any more than is necessary to cover their costs, but need to be free to increase housing charges above the market index if they feel it is necessary and the new housing charge level can be marketed. Under the formula now in the Act, co-ops have to surcharge market-rent units if they find it necessary to increase charges above the Market Rent Index.

Recommendation 15

Change the funding formula to base the amount of RGI subsidy paid to co-ops on the actual housing charges set by co-op members.

Increase capital reserve funding

Adequate capital reserves are essential to the financial viability of housing co-ops. While repaying their first mortgage, co-ops have no ability to borrow to pay for major repairs or replacements and, unlike condominiums, cannot impose a special levy on residents to bring reserves to the required level.

A series of studies by individual service managers and the Province have all found that capital reserves of Ontario-program housing providers are seriously underfunded. This is also the conclusion of IBI Consultants in a report to the Ministry of Municipal Affairs and Housing on the adequacy of capital reserves. In large part, the shortfall is the result of an extended moratorium by the Province in the 1990s on contributions by providers to their capital reserves.

The Province has a responsibility to address this problem. The first and most important requirement is to top up the capital reserves of housing providers to bring them to the required level.

Recommendation 16

The Province should determine whether the level of capital reserves in each co-op and non-profit is adequate and, where the funding level is found to be inadequate, provide one-time capital funding to bring the reserves to the required level.

One of the recommendations of the IBI report on how to deal with the shortfall in capital reserve funding is to create a pooled emergency reserve fund that providers could apply to, on an emergency basis, in cases where their capital reserves are inadequate and capital repairs or replacements are urgently needed. The Social Housing Services Corporation echoed this recommendation in a proposal to the Minister.

The Ontario Region strongly supports the creation of this type of emergency or stabilization fund, possibly paid for out of the surplus in the annual federal transfer payment to the Province for housing.

Recommendation 17

The Province should establish a stabilization fund to provide emergency loans to housing providers for capital work where the providers' reserves are inadequate.

5.4 A rent-geared-to-income program that works for co-ops and members

Co-ops believe that

- all households in the co-op should be treated equally well
- housing should be secure as long as members comply with co-op by-laws
- a mix of incomes and diverse households contribute to a healthy community.

A shortage of affordable housing, new provincial and local waiting list priorities, and harsh new RGI rules under the *Social Housing Reform Act,* have combined to undermine these core values that co-ops bring to housing their members.

The new RGI rules under the *Social Housing Reform Act* have created an extremely difficult environment for co-ops and their members. The punitive approach to households receiving RGI assistance was imported directly from the *Social Assistance Reform Act,* the other piece of legislation passed by the Conservative government that affected recipients of social assistance.

The requirements for RGI households to pursue income and to allow their personal information to be broadly shared with associated government ministries and organizations, is based on an assumption that RGI households are lazy and likely to abuse the system. Co-op boards and staff have been forced by the legislation to play a far greater, and more pro-active, enforcement role than ever before. Many tell us they now feel like subsidy police The threat of termination of subsidy on a number of new grounds, and the overhousing rules, have had a severe impact on the sense of security for many RGI households.

We have a number of recommendations for changes to the program rules in the Act and legislation related to RGI assistance that will result in a fairer, more humane program for RGI recipients, and a more manageable administrative role for co-ops.

Return responsibility for RGI administration to co-ops and non-profits

Since the release of the report of the Social Housing Committee in 1998, co-ops and other providers have been resisting the shift towards the integration of RGI subsidy with other government assistance programs (Ontario Works and Child Care). Co-ops point to the overwhelming evidence that the different programs barely overlap, and that only a small minority of RGI households are in receipt of other forms of government assistance.

Despite this, the *Social Housing Reform Act* took the administration of the RGI program out of the hands of providers and gave it to the service managers. Only a last-minute amendment to the legislation allowed service managers to delegate this responsibility back to providers through service agreements.
The great majority have chosen to do this but, even when a service agreement is in place, the ultimate authority remains with service managers. They can change their minds at any time and, after a notice period, cancel the agreement. They can also change the terms of the agreement if they wish, leaving providers with the option of signing a new agreement or having the service manager take over administration of the program.

This transfer of responsibility for the RGI program from co-ops to the service manager is another major example of where the Act shifts control of a service and related decisions from the community to government.

The change also adds significantly to the administrative complexity and cost of the program. Each of the more than forty service agreements had to be negotiated separately by co-ops and non-profits with the support of their service organizations. Each is different. Many include requirements that are extraneous to the operation of housing co-ops but are necessary because, as an agent of the municipality under the agreement, the co-op must meet the accountability requirements of the municipality. Because two parties share responsibility under the agreement, in many areas there is an awkward and unclear division of authority, responsibility and liability.

Recommendation 18

Return responsibility for administration of RGI assistance to co-ops. The role of service managers should be to monitor compliance with the legislation and to administer the RGI funding.

Simplify procedures for appeals of RGI decisions

One area where the administrative burden imposed by the Act has been greatest is in dealing with appeals by co-op members and applicants of decisions related to RGI assistance. The Act has introduced the "opportunity to comment" by applicants and members on third-party information used in making decisions about RGI assistance and special needs households. The complicated and inflexible rules related to this have dramatically increased the time staff must spend on RGI administration.

The problem has been compounded by the way some service managers are interpreting the new rule. They take the view that, when RGI-related information is submitted by a single member of a household on behalf of the household, other household members must be given the opportunity to comment as if the information had been provided by a third party. This extreme interpretation means that almost all decisions become subject to the opportunity to comment provisions.

Clearly, affected households need to be aware of all information used by the co-op in making a decision concerning them. Co-ops are used to dealing fairly with members when allocating or taking away RGI assistance. The *Co-operative Corporations Act* already includes a requirement for procedural fairness when making decisions about RGI assistance. There is no need for an additional layer of requirements concerning notification and feedback to be prescribed in the Act. The rights of applicants and members are well protected through the appeal process.

The Act has also added significantly to the co-op's administrative burden (as well as hurting RGI recipients, as discussed below) by introducing precise and inflexible requirements related to appeals of RGI decisions. It is reasonable for the Act and regulations to require co-ops to hear appeals of adverse RGI decisions when requested. Co-ops have always done this. But much greater flexibility is needed in how appeals are handled.

Recommendation 19

Eliminate the opportunity to comment provisions in the Act and regulations and make the requirements concerning the timeframes, notices and hearings related to appeals more flexible.

Require occupancy standards to be no more restrictive than the provincial standards

The occupancy standard set by the Province under the old program struck a good balance between maximizing use of the housing stock and respecting the right of residents to reasonable living space. Under the new program, service managers

may choose to use the provincial standards or may set standards that are more restrictive. Co-ops and non-profits developed under Ontario programs provide modest accommodation. Tighter restrictions than those included in the provincial standards are not necessary or appropriate.

Recommendation 20

Eliminate the right of service managers to set local occupancy standards that are more restrictive than the provincial standards.

Allow providers more discretion in administering the occupancy standards

The regulations say that

- anyone who is overhoused must be added to the co-op's internal transfer list, or to the municipality's central waiting list, if the co-op does not have a unit of the appropriate size
- overhoused households who have not transferred internally after one year must be removed from the internal list and placed on the central waiting list.

The issue of overhousing and the potential need for members to move out of the co-op is a very serious and upsetting one for co-ops, particularly in the case of seniors. A number of co-op staff raise this concern in their comments in Appendix A. Co-ops want a reasonable balance between concern about the expenditure of public funds and concern about the stability of co-op communities and fairness to members.

The real problem is that there is not enough affordable housing for those who need it and so there is enormous pressure on providers to make "good use of a scarce resource". The overhousing provisions in the regulations try to "maximize use of the housing stock" but they are having the effect of undermining healthy communities. The "housing stock" is people's homes and communities, and every effort should be made to avoid unreasonable turnover and dislocation. We think that allowing some discretion to permit minimal overhousing, in particular circumstances, would achieve the necessary balance of interests.

Recommendation 21

Amend the regulations to allow co-ops and non-profits to exercise some discretion when dealing with minimally overhoused households under certain conditions. Households that may be given special consideration would include

- **seniors**
- **long-term residents**
- **households with health, age or family challenges for whom a move would be disturbing or dangerous (verification from a doctor could be required)**
- **households that are waiting for a special needs unit.**

Variations from the occupancy guidelines should be considered on an individual basis and decisions to grant exceptions fully documented.

Amend centralized waiting list rules to allow the allocation of units to a greater mix of households

Under the new program rules, special priority households, and any other local priority households, are always placed at the top of the waiting list. This results in a high number of extremely needy households being referred from the centralized waiting lists, with no associated community supports. This has changed the profile of many co-op communities. The chances of a low- or moderate-income household, with no provincial or local priority, getting housed is remote in some co-ops. The lack of supports puts a lot of pressure on co-ops which expect their members to make a contribution to the community.

Co-ops believe that they do not have the resources to support the new level of high priority households in their communities.

Recommendation 22

The rules governing priority on centralized waiting lists should be amended to provide that every *second* or *third* vacancy in a co-op will be allocated to a priority household.

Eliminate punitive eligibility rules and rigid reporting deadlines

There has been a great degree of consensus among co-ops, non-profits and service managers about the harsh nature of the new RGI rules and the increased potential for households to lose their subsidy for administrative reasons. Some large housing providers report that, if they were to comply with the regulations, thousands of households would lose their subsidy and, soon after, their housing. Strictly speaking, this can happen under the SHRA rules if a household is a day late reporting changes in their income or household composition.

Many co-ops and non-profits are particularly uncomfortable with the pursuit of income requirements that say residents can lose their subsidy if they fail to apply for certain types of government and support income for which they may be eligible. Under this regulation providers must make judgements about people's personal circumstances and must have knowledge of a variety of government income support systems. These are duties which extend far beyond the normal expectations of a housing manager. Co-op staff have always tried to help those members who need assistance get access to a range of supports, but do not want that role to be tied to a household's eligibility for housing subsidy.

Recommendation 23

- **Where a household fails to report changes of income or household composition by the required deadline, co-ops and non-profits should have the discretion to waive termination of subsidy where, in their judgement, circumstances warrant and to make retroactive changes to the housing charge calculation, where appropriate.**
- **The pursuit of income requirements should be removed from the regulations.**

Permit allocation of RGI subsidy to in-situ market households experiencing a drop in income

Under the SHRA rules, co-ops can allocate RGI subsidy to households paying market housing charges only under very limited circumstances. This has led to serious hardship and economic evictions for a number of market households. In many cases, these households have lived in the co-op for a long time and made important contributions to the co-op. This is demoralizing for both the member and co-op.

Some service managers have given a local priority to in-situ market households by using the date of the household's initial move-in as the date of the RGI application. But the regulations do not *require* this, and indeed some service managers do not believe that the regulations permit them to give any priority to in-situ households.

The regulations should be amended to provide a more appropriate balance between the interests and stability of the co-op community and the needs of applicants on the waiting list.

Recommendation 24

Co-ops should be given flexibility to allocate RGI assistance to in-situ market households that experience a drop in income based on

- **length of time the household has lived in the co-op**
- **the urgency of the situation**
- **the availability of RGI subsidy (i.e. the co-op is under its RGI target).**

6. Conclusion

The *Social Housing Reform Act* abandons community-based housing. Desperate to get out of the affordable housing business, the Conservative government tore up operating agreements signed by co-ops and non-profits and the Province and put in place an old-style program that gives effective control of the housing to government officials rather than community owners.

While in opposition, Liberal MPPs were highly critical of the *Social Housing Reform Act*, predicting that it would undermine the viability of co-ops and non-profits and strip them of control of their homes. David Caplan, housing critic at the time the Act was passed, called Bill 128 a "disaster waiting to happen". In the lead-up to the election, in a meeting with CHF Ontario Region, Dominic Agostino, David Caplan's successor as housing critic, said "We can't try to run these programs from Queen`s Park. The Liberal Party believes in local community-based decision-making." He said he would support a full review of the Act if the Liberals formed the next government.

During the election campaign, George Smitherman, MPP for Toronto Centre-Rosedale, supported co-ops' call to overhaul the Act. In a special pamphlet for housing co-ops in his riding he said "the *Social Housing Reform Act* … took away the autonomy of co-ops and tried to make co-ops more like other forms of public housing. I fought, and voted against, the Act because it was bad and punitive legislation. We need to make the rest of our public housing more like co-ops, not the other way around."

We are calling on the government to take action to deal with the serious concerns about the *Social Housing Reform Act* expressed by co-ops and by Liberal MPPs while in opposition and during the election campaign. Housing co-ops across the province are united in opposing this legislation and in their determination to win changes that will let them run their co-ops as co-ops.

The election of a government that believes in "strong communities" and is promising to "work with communities, not against them" gives our members new hope that, guided by some common goals, we can work in partnership with government to fix the *Social Housing Reform Act*.

We look forward to meeting with you to begin this work.

Recommendation 25

We ask the Minister to

- **commit to carry out a comprehensive review of the *Social Housing Reform Act* and make changes to address the concerns set out in this brief**

- **set explicit goals to guide the work on reform**
- **establish a process and a timetable to work with CHF Ontario Region and other stakeholders on reform of the Act and regulations.**

7. List of Recommendations

- **Recommendation 1**

Eliminate the requirement for co-ops to invest their capital reserves in the Social Housing Investment Funds.

- **Recommendation 2**

The Act and regulations should be amended to allow co-ops to adopt by-laws that provide for reasonable additional charges and deposits beyond those permitted in the *Tenant Protection Act.*

- **Recommendation 3**

The regulations to the *Social Housing Reform Act* should be changed to recognize the legislated requirement for co-op boards to admit members. We recommend that the following wording be used [*Reg. 339/01 S. 20(2)3*]:

> ***An individual who participated in the making of the decision to refuse to offer the unit to the household shall not participate in an internal review of that decision. This will not apply to an individual who is a director of a non-profit housing co-operative and whose sole involvement in the decision being reviewed was as a director in connection with a board meeting to consider approving the decision.***

- **Recommendation 4**

The *Social Housing Reform Act* and its regulations should be comprehensively reviewed to identify and eliminate unnecessary administrative requirements and put in place a clear and simple accountability framework that protects the public investment but is workable in the context of community-based housing.

- **Recommendation 5**

Except where a co-op has already been identified as being a project in difficulty, a service manager's right to request additional reports, documents and information should be limited to circumstances where the service manager has reasonable grounds to believe that the co-op may be a project in difficulty, as defined in Section 18 of the Act. When requesting additional reports, documents or information in these circumstances, the service manager should be required to inform the co-op, in writing, of the grounds for the request.

- **Recommendation 6**

The reporting requirements in the annual information return should be simplified and standard reporting formats should be adopted for audited financial statements and the subsidy request form.

- **Recommendation 7**

Sections 115 (Triggering Events) and 116 (Remedies) of the Act should be reviewed and rewritten to define more clearly and reasonably what constitutes a breach of the Act by housing providers and to place more appropriate and reasonable limits on the remedies that service managers can exercise if they judge a breach has occurred.

- **Recommendation 8**

The Act should be amended to give co-ops the right and ability to challenge actions of the service manager through an appeal to the Ministry of Municipal Affairs and Housing leading to an internal administrative review, fairly conducted by the Ministry.

- **Recommendation 9**

The Act should be amended to define more clearly when a project that has received notice from a service manager, under Section 115 that a triggering event has occurred, is considered to be a project in difficulty under Section 18, requiring notification of the Minister.

- **Recommendation 10**

The Minster should immediately set new funding benchmarks that give co-ops adequate funding to maintain their housing and communities. The benchmarks should be released simultaneously to service managers, housing providers and CHF Ontario Region and the Ontario Non-Profit Housing Association.

In the event that providers find their benchmarks unacceptable, an appeal to the Minister is allowed under the Act. The process for making such an appeal should be specified. When funding levels are reduced, the phase-in period for the reduction must be reasonable.

- **Recommendation 11**

The regulations should set the Market Rent Index at the lower of the rent control guideline or local (CMHC) index, or else treat all projects as if they

are in flat and declining markets and apply the funding formula used in those circumstances.

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