



**Comments on Proposed Amendments to
O. Reg. 367/11 under the Housing Services Act, 2011
Related to Required Local Eligibility Rules, set out in Bill 184,
Protecting Tenants and Strengthening Community Housing Act, 2020**

to the Housing Division
Ministry of Municipal Affairs and Housing

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Community Legal Services of Ottawa

1. Community Legal Services of Ottawa (CLSO) is a not-for-profit legal clinic governed by an independent, community-based Board of Directors. CLSO provides legal services to low-income and vulnerable individuals in the City of Ottawa in the areas of public benefits, tenant rights, and immigration.
2. We provide assistance to thousands of tenants each year by way of summary advice, full representation, and tenant duty counsel services. We regularly assist with tenants matters that fall under the rules of the *Housing Services Act*.

Recommendations

3. Based on our understanding of the needs of low-income and vulnerable tenants in Ottawa, we make the following recommendations for the Proposed Amendments to O. Reg. 367/11 under the *Housing Services Act*, 2011 related to required local eligibility rules.
 - **Recommendation #1: We recommend that assets should not be a prescribed matter for eligibility under s. 42(2), but rather, assets should be a discretionary matter under s. 42(2.1).**
 - **Recommendation #2: We recommend that if assets are adopted as prescribed matter for eligibility in accordance with s. 42(2) of the HSA, that**
 - **asset limits are individualized to municipalities to reflect the differences in communities across our province, and**
 - **asset limits are not lower than those established under the *Ontario Disability Support Program Act*.**

Background

4. The *Housing Services Act, 2011* (“the HSA”) sets out the rules for community housing in Ontario.¹ The HSA was recently amended by Bill 184, *Protecting Tenants and Strengthening Community Housing Act*, which received Royal Assent on July 21, 2020.
5. Bill 184 amended section 42(2) of the HSA to require that “A service manager shall make local eligibility rules with respect to the prescribed matters” [emphasis added].² This is a change from the previous language of the HSA, which stated that a service manager “may” make such rules. Accordingly, service managers are now required to make local eligibility criteria about any prescribed matters.
6. Bill 184 further amended section 42(2) of the HSA to also allow that “A service manager may make local eligibility rules other than those made under subsection (2) with respect to the prescribed matters.”³ Accordingly, service managers are now empowered to make local eligibility criteria beyond those that are prescribed.
7. At present, the prescribed matters for local eligibility include the following: maximum household income, maximum household assets, certain convictions, maximum absence from unit, and ceasing to meet occupancy standards.⁴
8. The Ministry of Municipal Affairs and Housing is proposing amendments to O. Reg. 367/11 of the *Housing Services Act* to ensure maximum household income and maximum asset limits are prescribed matters that local service managers must implement. The Ministry has indicated that its objectives are as follows:

¹ *Housing Services Act, 2011*, S.O. 2011, c. 6, Sched. 1

² *Protecting Tenants and Strengthening Community Housing Act, 2020*, S.O. 2020, c. 16 - Bill 184

³ *Ibid.*

⁴ O. Reg. 367/11: GENERAL under *Housing Services Act, 2011*, S.O. 2011, c. 6, Sched. 1

- a. Create greater consistency across the province in the local administration of rent-geared-to-income housing eligibility rules;
 - b. Create greater consistency across the province in how housing need is identified and prioritized and to help ensure RGI assistance goes to those who need it most; and,
 - c. Address a recommendation made by the Auditor General’s 2017 audit of social housing.⁵
9. CLSO agrees with the Ministry that ensuring that RGI assistance goes to those who need it most is a top priority. We also believe that the best way to meet this objective is to ensure that local community conditions are well-reflected in any eligibility guidelines under the HSA. To that end, we make the following recommendations with respect to the proposed amendments to O. Reg. 367/11.

Recommendation #1: No Prescribed Asset Limit

10. The Auditor General’s 2017 report comprehensively reviews the state of rental housing in this province and it found that “Ontario has a shortage of affordable housing, and the gap between the number of low-income households needing affordable accommodation and the number of homes available is steadily widening.”⁶ The report affirms that this need is in part attributable to rent increases that have outpaced incomes, extremely low vacancy rates, and an overall increase in the number of low-income Ontarians.⁷
11. The report also recognizes that there are regional variances in these problems, and region-specific data reveals these variances can be quite pronounced. For example, the Canada Mortgage and Housing Corporation’s Rental Market Survey for 2019 confirmed that in Ottawa, the average rent for a 2-bedroom apartment was \$1,410 and the vacancy rate was

⁵ Proposed Amendments to O. Reg. 367/11 under the Housing Services Act, 2011 Related to Required Local Eligibility Rules, set out in Bill 184, Protecting Tenants and Strengthening Community Housing Act, 2020, Ministry of Municipal Affairs and Housing, <<https://www.ontariocanada.com/registry/view.do?postingId=36367&language=en>>.

⁶2017 Annual Report, Office of the Auditor General, Chapter 3.14: Social and Affordable Housing, at pg. 715, <https://www.auditor.on.ca/en/content/annualreports/arreports/en17/v1_314en17.pdf>

⁷ Ibid. at pgs. 716-717.

1.8 percent.⁸ In nearby Hawkesbury (a region of Prescott-Russell), these figures were approximately half of those in Ottawa; average rent for a 2-bedroom apartment was \$751.00 and the vacancy rate was 3.2 percent.⁹ Notably, the Auditor General's report also determined that in 2017 in Ottawa, 43 percent of those on the social housing waitlists were seniors, whereas in Prescott-Russell, only 23 percent of those on the waiting list were seniors.¹⁰

12. It is because of these regional variances that Community Legal Services of Ottawa recommends that no asset limits be prescribed by the HSA for local eligibility; rather, the decision about whether to establish asset limits, and what those asset limits should be, should fall under the discretion of the local service manager in accordance with s. 42(2.1) of the HSA.

13. It is our view that where income limits may be insufficient for ensuring that the most vulnerable members of our community are prioritized for social housing, it should be up to local service managers to determine whether an asset limit is appropriate to address these inequities. We think that local service managers are in the best position to assess the need for asset limits for the following reasons:

- the service managers understand the composition of their regional waiting lists, including how many applicants have noteworthy assets;
- the service managers understand types of assets local families have (for example, seniors with Registered Retirement Savings Plans) and whether those should preclude access to social housing in their regions;
- the service managers can set in place precautionary exemptions from asset limits to ensure the most vulnerable are not precluded from social housing due to certain types

⁸ Canada Mortgage and Housing Corporation, Housing Market Information Portal, Ottawa, <<https://www03.cmhc-schl.gc.ca/hmip-pimh/en#Profile/1265/3/Ottawa>>

⁹ Canada Mortgage and Housing Corporation, Housing Market Information Portal, Hawkesbury, <<https://www03.cmhc-schl.gc.ca/hmip-pimh/en#Profile/7330/3/Hawkesbury>>

¹⁰ 2017 Annual Report, Office of the Auditor General, Chapter 3.14: Social and Affordable Housing, at pg. 746, <https://www.auditor.on.ca/en/content/annualreports/arreports/en17/v1_314en17.pdf>

of assets (for example, a disabled individual on ODSP who has a Registered Disability Savings Plan administered by a family member);

- the service managers can best determine if other local social housing requirements (for example, rent geared-to-income calculations that consider a client’s assets, requirements to divest of residential property, etc.) are sufficient to preserve social housing for the most in need in their regions;
- the service managers can best consult with local housing providers, service agencies, sector organizations, and the waitlist administrators to determine the best rules for the regional context; and
- the service managers can best weigh the administrative cost of enforcing an asset limit against the benefit of an asset limit for their communities.

14. We believe that leaving asset limits to the discretion of local service managers will ensure social housing is preserved for those most in need, without excluding certain vulnerable groups who may be precluded by an asset limit, such as seniors with some RRSP savings.

15. The HSA’s stated purpose includes “community based planning” and “flexibility for service managers”.¹¹ CLSO believes that imposing a requirement to enforce an asset limit on local service managers interferes with the discretion necessary to ensure that community housing in Ontario is delivered in a way that is responsive to community needs.

Recommendation #2: In the Alternative: Region-Specific Prescribed Asset Limits & Asset Limits that Align with Ontario Disability Support Program Asset Limits

16. In the alternative, if asset limits are prescribed in O. Reg. 367/11 as a required eligibility rule in accordance with s. 42(2) of the HSA, we recommend that these asset-limits be both region-specific and aligned with the asset limits under the *Ontario Disability Support Program Act*.

¹¹ Housing Services Act, 2011, S.O. 2011, c. 6, Sched. 1, section 1.

17. The need for region-specific asset limits is outlined above. The rental market picture, composition of the waiting list, and demographic characteristics of low-income populations all vary across the province. There cannot be one asset limit that is appropriate for all regions.
18. The need for an asset limit that is aligned with the *Ontario Disability Support Program Act* is clear: disabled individuals with assets who are not barred from receiving provincial disability income support should not be barred from community housing.
19. Currently, O. Reg. 367/11 requires that where there is an asset limit implemented by a local eligibility rule, “The maximum value specified in the local eligibility rule must be at least \$20,000.”¹² This is half of what is allowed to single recipients of Ontario Disability Support Program (“ODSP”) benefits, where the asset limit for a single individual household is \$40,000.¹³
20. Given that disabled social assistance recipients are among the most vulnerable and in need of affordable housing, it would be entirely unreasonable to set minimum asset limits that are inconsistent with the asset limits of their corresponding income support program. Doing so would be contrary to the purposes of the goals and objectives of the *Housing Services Act*.
21. Recipients of ODSP benefits in Ottawa are already struggling to make ends meet. Market housing is completely unaffordable. In 2020, the average bachelor unit was renting for \$1,000, while the maximum shelter allowance for a single person on ODSP is \$497.00.¹⁴ Grocery prices are rapidly increasing, but basic needs allowances have not increased since 2017.¹⁵ Imposing further restrictions on their ability to subsist under the poverty line, by setting the maximum asset limit at \$20,000, would negatively impact the well-being of persons with disabilities in this province.

¹² O. Reg. 367/11: GENERAL under *Housing Services Act*, 2011, S.O. 2011, c. 6, Sched. 1, section 35(4).

¹³ O. Reg. 222/98: GENERAL under *Ontario Disability Support Program Act*, 1997, S.O. 1997, c. 25, Sched. B, section 27(1)

¹⁴ Ibid. at section 31 (2).

¹⁵ “Food banks a critical source of help for ODSP recipients”, CBC News Ottawa, December 11, 2020, <<https://www.cbc.ca/news/canada/ottawa/food-banks-odsp-1.5836514>>

Conclusion

22. Community Legal Services of Ottawa recommends that the discretion to established locally-appropriate guidelines for community housing should remain with regional service managers. This will ensure that the most in need are prioritized for community housing, but also that the rules do not result in vulnerable people being left behind. We recommend that O. Reg. 367/11 of the *Housing Services Act* is amended such that assets are not prescribed matters in accordance with s. 42(2), but rather discretionary in accordance with s. 42(2.1). In the alternate, we would strongly recommend that asset limits are tailored to regional circumstance and that they align with ODSP asset limits.

23. The dearth of affordable housing in Ontario is a significant problem that is exacerbating poverty across the province, but locally-appropriate solutions are required to ensure that no one who desperately needs housing assistance finds themselves left behind.