SUBJECT: System of Review of Decisions

Date: February 2014
Date: February 2015 – Legislation Update **
Housing Services Act 367/11 s.139

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Repealed Rules
This directive replaces Directive 2013-34 System of Review of Decisions which was previously issued March 2013.

Legislation Applicable (√) to the following social housing programs:
- Federal Non-Profit Program
- Private Non-Profit Program
- Co-operative Non-Profit Program
- Municipal Non-Profit Program
- Public Housing Corporation

Purpose
To provide Social Housing Providers, Applicants and Tenants/Members procedures and standards related to notices of decisions, internal reviews of decisions, and a final review body for review of certain specific decisions as identified within the Housing Services Act 2011 (HSA).

Background
The Service Manager must have a system for dealing with internal reviews in which the review body must have procedural rules for reviews of the following decisions:
- Eligibility for Rent-Geared-to-Income assistance
- Rent-Geared-to-Income payable
- Occupancy standards (Size and type of unit for which a household is eligible)
- Priority on Wait List
- Special Needs Housing eligibility

The Service Manager must have rules pertaining to the appointment, removal and remuneration of members of the review body.

The review system may be shared with other Service Managers.

Rules must set out that members of the review body:
- Cannot have participated in original decision
- Cannot have discussed original decision with decision maker prior to review
- Be knowledgeable about HSA as it pertains to decision
The Service Manager must have procedural rules for its internal review system that must include:

- When a review can be requested
- When the decision of the review body must be made
- Decisions re: SPP applicants must be made within ten (10) days of request
- Notice of decision to SPP applicants must be given within five (5) days of the decision
- Notice must be given only to SPP applicant

The Service Manager may set additional procedural rules.

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**Social Housing Policy**

**City of Stratford**

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**Request to Review:**

A member of a household may request an internal review of any of the following decisions:

1. The household is not eligible for Rent-Geared-to-Income assistance.
2. The household is not eligible for Special Needs Housing.
3. The size and type of accommodation in which the household may live.
4. The amount of Geared-to-Income rent the household pays.
5. The deferral of the Geared-to-Income rent that the household pays.
6. A household priority on the Wait List.
7. Other decisions subsequently prescribed by legislation

**Notification of Original Decision:**

Housing providers and HAC must notify households in writing of any decision regarding their RGI assistance or placement on the centralized waiting list within 7 days of the decision.

Where the household is notified of a decision that may be reviewed, the notice must contain the following information:

“If you disagree with this decision, you may request a Final Review of it within ten (10) business days. To request a Final Review, you must write to your housing provider using a Request for Review – Form 201 stating the reasons that you disagree with the decision. If the Original Decision you are appealing was made by the Housing Access Centre you may appeal directly to the Service Manager. You may request a Form 201 from your housing provider, the Housing Access Office or on the City of Stratford website.”

The request must be received, in writing, within ten (10) business days after the household receives a notice of decision.

The request for review can be made through the Housing Provider who immediately informs the Service Manager. If the Original Decision you are appealing was made by the Housing Access Centre you may appeal directly to the Service Manager.
The internal review must be completed within thirty (30) business days once the request is received.

The household and the Housing Provider will be notified in writing of the internal review decision within ten (10) business days of the review.

**For Special Provincial Priority Applicants/Households**

In accordance with the HSA, reviews of decisions related to a Special Priority household must be completed and the decision of the review body made within ten (10) business days after the request for the review is received;

Notice of the decision and reasons of the review body must be given within five (5) business days after the decision was made; and

Notice of the decision of the review body must not be given to any other member of the household other than the member who requested the review. Only the applicant and the Housing Provider, not the household, will be notified in writing of the internal review decision within five (5) business days of the review.

No decision will be made contrary to the Residential Tenancies Act, the Co-operative Corporations Act, and the Housing Services Act.

**Composition of Review Committee:**

The Review Committee will consist of at a quorum of two (2) Service Managers.

The Service Managers will enter into an agreement to participate on the Review Committee.

The Review Committee will receive training where necessary.

A Service Manager can withdraw from the Review Committee with sixty (60) days written notice corresponding to the beginning of the calendar month.

The Service Managers will be compensated for mileage when required to meet in person.

**Review Process:**

The Review Committee will consider all requests for review submitted in accordance with the requirements of the Housing Services Act.

A review of decision will be undertaken by a quorum of two (2) Review Committee members.

The participating Review Committee members:

- Cannot include the original decision maker (for example, cannot include the City of Stratford’s Manager of Housing, if he/she participated in a Local
Housing Corporation decision that is being appealed
• Cannot have discussed the original decision with the decision-maker prior to review

The Review Committee will operate by majority consensus.

The Review Committee will solicit necessary documentation from both the applicant and Housing Provider.

The Review Committee will make decisions based on submitted written documentation unless the local Service Manager finds that there is extenuating circumstances that requires the Review Committee to meet with the applicant and the Housing Provider.

If the Review Committee meets with the applicant, the applicant may bring a translator, family members, friends, or other advocates of their choice.

The Review Committee will have access to legal opinion if necessary. Payment of expenses is the responsibility of the Housing provider whose decision is under review.

Decisions of the Review Committee are final.

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Housing Services Act 367/11 s.138 & s.139

138. The following are prescribed, for the purposes of subsection 155 (4) of the Act, as requirements for a Service Manager’s system for dealing with reviews:

1. The rules included in the system must:
   i. Provide for when a review may be requested;
   ii. Provide for when the decision made by the review body must be made;
   iii. Require that no individual who participated in the making of the decision being reviewed may participate in the review as a member of the review body;
   iv. Require that an individual may only participate in a review as a member of the review body if the individual is knowledgeable about the provisions of the Act and the regulations that are relevant to the decision being reviewed; and
   v. Require that no individual who previously discussed the decision being reviewed with the decision-maker participate in the review as a member of the review body and that, during such participation, no member of the review body discuss the decision with the decision-maker except in the course of the review.

2. With respect to a determination under subsection 48 (1) or 63 (1) of the Act that a household is not included in the Special Priority household category, the rules included in the system must require that:
   i. A review must be completed and the decision of the review body made within ten (10) business days after the request for the review is received;
   ii. Notice of the decision and reasons of the review body must be given within five (5) business days after the decision was made; and
   iii. Notice of the decision of the review body must not be given to any other member of the household other than the member who requested the review.
*Legislation Update* s.139; February 2015

139. (1) For the purposes of section 159 of the Act, the date on which a decision is effective shall be determined in accordance with the following:

1. Subject to subparagraph 3 ii, a decision for which a review may be requested under section 156 or 157 of the Act is effective on the later of the day specified by the decision-maker and the day immediately after the last day for requesting a review.

2. Despite paragraph 1 or subparagraph 3 ii, the determination, under subsection 50 (1) of the Act, by a service manager of the amount of rent payable by a household when the household begins to receive rent-geared-to-income assistance for a unit is effective on the day specified by the service manager.

3. If a review is requested under section 156 or 157 of the Act on or after July 1, 2014,
   
i. the decision made by the review body is effective on the later of the day determined under paragraph 1 and the day specified by the review body, whether that day is before, on or after the day the review body made its decision, and
   
ii. the decision being reviewed is effective only if the review body provides for it to be effective and, if the review body so provides, the decision being reviewed is effective on the day the decision of the review body is effective. O. Reg. 367/11, s. 139 (1); O. Reg. 101/14, s. 2.

(2) In the event of a conflict between this section and sections 52 and 53 of Ontario Regulation 298/01 (Determination of Geared-To-Income Rent Under Section 50 of the Act) under the Act, sections 52 and 53 prevail. O. Reg. 367/11, s. 139 (2).

Council: March 2014
Committee: March 2014

Appendix: Request for Review of a Decision – Form 201