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Refusal to Offer Unit by Housing Provider

Directive Number: 2020-05

Date Approved: July 13, 2020

Date Effective: September 23, 2019

Replaces:

2013-18 Refusal to Offer Unit by Housing Provider

2013-26 Refusal to Offer Unit – Special Needs Housing

Legislative Authority:

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

HSA O.Reg. 367/11, s. 50 & s. 77

HSA O.Reg. 318/19, s. 9

This Directive applies to the following community housing programs:

- Public Housing
- Provincial Reformed (Provincial, Federal/Provincial Non-Profit)
- Provincial Reformed (Provincial Co-operative)
- Federal Non-Profit
- Federal (Municipal Non-Profit)
- Rent Supplement

1. Purpose

- To clarify the instances in which a housing provider may refuse to offer a unit to a household on the Centralized Waiting List.
- To outline the process housing providers must follow to operationalize this directive.
- To communicate amendments to Ontario Regulation 367/11 under the *Housing Services Act, 2011 (HSA)* related to community safety.

2. Background

The Ontario Regulation 367/11 under the *Housing Services Act* sets out rules for filling vacant rent-geared-to-income (RGI) units. In general, a housing provider must offer the

unit to the highest priority household based on local priorities and application dates. In certain limited circumstances, however, a housing provider may refuse to offer a unit.

Effective September 23, 2019, an additional ground upon which a housing provider may refuse to offer a unit to a household was introduced through an amendment to O.Reg. 367/11 (as laid out in O.Reg. 318/19). This added rule is intended to support community safety within prescribed housing projects, with the aim of improving the safety of residents and others within the community. The rule does not require housing providers to refuse a unit to anyone but rather provides a new tool they may use to address safety.

All housing providers that are a designated housing project under the *Housing Services Act, 2011* are required to adhere to legislative and regulatory requirements and comply with the Service Manager's local rules and processes outlined in this directive.

3. Directive

Housing providers may refuse to offer a unit to an applicant on the Centralized Waiting List (CWL) for the following reasons:

- 3.1.** Based on rental payment history, the housing provider reasonably believes that the applicant may not pay the rent/housing charge on time or in full.
- 3.2.** The applicant has been denied membership by the co-operative housing provider as the household does not agree to accept its responsibilities (e.g. a specified minimum hours of participation by members per month) or the housing provider has reasonable grounds to believe that the household will not accept or will be unable to accept those responsibilities.
- 3.3.** The vacancy is for shared accommodation and the housing provider believes that it is unreasonable for the applicant to reside in that type of living situation.
- 3.4.** The modifications or level of support services required by the household do not match (are significantly greater or less than) what the housing project is able to provide (special needs housing only).
- 3.5.** In the previous 5 years, the applicant was evicted from a housing provider's residential complex under an order of the Landlord and Tenant Board for a serious illegal act (commonly referred to as an N6), **and** the housing provider reasonably believes that they pose a risk to the health or safety of others living at the residential complex. This applies regardless of whether the applicant was evicted from an HSA prescribed housing project within the Service Manager area or elsewhere in the province of Ontario. Serious illegal acts include:
 - Production, trafficking, or possession for the purpose of trafficking an illegal drug
 - Illegal production, distribution or sale of cannabis

- Physical violence or attempted physical violence against another person
- Physical harm, attempted physical harm, or a risk of physical harm to another person
- Human trafficking
- Use of threats to, intimidation of, and harassment of another person

4. Procedure

When refusing to offer a unit to an applicant for any of the above reasons:

4.1. A housing provider must notify the applicant in writing of the refusal within ten (10) business days and include the following details in the notification:

- The date the decision was made;
- The reasons for the decision; and
- Information about how to request a review of the decision and the deadline for doing so.

*Housing Providers may use the *Notice of Refusal to Offer Unit* template developed by the Service Manager if they so choose.

4.2. If requested by the applicant, a housing provider must review the decision to refuse to make the offer and:

- Complete the review within thirty (30) days of the applicant's request date.
- Notify the applicant within ten (10) business days of the review decision.

The review decision by the housing provider is final.

These requirements only apply to the first refusal by a housing provider and not to subsequent refusals by the housing provider with respect to the same applicant.

4.3. Housing providers must register the refusal and the reason for it in Rent Café.

5. Additional Procedures for Community Safety (3.5.)

Housing Providers are expected to apply the rule consistently and fairly to all households. To this end, the Service Manager requires that **before** applying this rule;

5.1. A housing provider must pass a Board of Director Resolution approving the practice of refusing to offer a unit based on an N6 Eviction, confirming that all legislative, regulatory and Service Manager requirements will be followed when refusing an offer of housing.

*Housing Providers may use the *Board of Director Resolution* template developed by the Service Manager if they so choose.

Every time a housing provider wishes to exercise their option to refuse to offer an RGI unit to a household based on an N6 Eviction, they must first:

- 5.2.** Confirm that within the past 5 years the tenancy of a member of the household was ordered terminated by the Landlord and Tenant Board based on a N6 or N6C (notice for non-profit housing co-operatives) notice for one or more illegal acts, trade, business or occupation **only as listed above in 3.5.;**
- 5.3.** Confirm the N6 Order terminating the tenancy/occupancy has not been cancelled or overturned since it was issued;
- 5.4.** Confirm the terminated tenancy/occupancy was in an HSA prescribed housing project within Ontario; and then
- 5.5.** Determine if there are reasonable grounds to believe the household will pose a risk to the safety of others in the housing project.

Once all steps have been completed the housing provider must:

- 5.6.** Follow the procedures outlined in 4.1. - 4.3.;
- 5.7.** Notify the Service Manager in writing of the refusal within ten (10) business days by using the *Decision to Refuse to Offer a RGI Unit based on a N6/N6C Eviction Form*.

6. Accompanying Forms

The following standardized forms are related to the implementation of this directive and can be accessed by contacting the Service Manager.

- Template - Board of Director Resolution
- Template - Notice of Refusal to Offer Unit
- Decision to Refuse to Offer a RGI Unit based on a N6/N6C Eviction