

Northumberland County Community Housing Directives

Housing Services Division

555 Courthouse Road

Cobourg, Ontario K9A 5J6

Subject: 2021 Rent Freeze Period

Directive Number: 2021-01

Effective Date: Upon issuance, January 1, 2021

Intent

To provide guidance on the impact of the 2021 rent freeze period on community housing providers and rent-geared-to-income (RGI).

Background

Effective October 1, 2020, the Residential Tenancies Act (RTA) was amended to:

- Set the rent increase guideline at zero per cent for 2021.
- Prohibit all rent increases during the rent freeze period of January 1, 2021 to December 31, 2021.
- Prohibit increases in rent-geared-to-income (RGI) during the rent freeze period of January 1, 2021 to December 31, 2021.

Rents cannot be increased during the rent freeze period even if proper notice was given in advance of January 1, 2021. This includes increases to rent, as well as increases to charges for extra services (e.g. parking) that are included in the definition of rent under the RTA.

Ontario Regulation 316/19 under the Housing Services Act (HSA) has been amended to support the rent freeze and prohibit all RGI increases during the 2021 rent freeze period, including in units not covered under the RTA (e.g. co-operative housing providers).

These new provisions apply to most landlords covered under the RTA, including community housing providers and rent supplement landlords. Increases to market rents and RGI are prohibited during the rent freeze period, with the following exceptions:

- Co-operative housing providers may increase their market housing charges as permitted under their by-laws. Co-operative housing providers may not increase RGI charges in 2021.
- Above guideline increases approved by the Landlord and Tenant Board (LTB) prior to October 1, 2020 may be applied to 2021 rents.
- The LTB may still approve new above guideline increases that take effect in 2021 if they are for costs related to eligible capital repairs and security services, but not for extraordinary increases in municipal taxes and charges.
- An agreement between the landlord and tenant for an increase in rent for an extra service or facility (e.g. air conditioning, parking).

Annual RGI Reviews

Community housing providers will continue to conduct annual RGI reviews as required by Northumberland County and per the HSA.

For annual RGI reviews conducted between December 1, 2020 and November 30, 2021:

- RGI decreases as a result of the annual RGI review will be implemented the first day of the month following the review.
- RGI increases as a result of the annual RGI review will be implemented effective January 1, 2022.

Housing providers must notify tenants and members of all RGI changes as a result of an annual RGI review – including assessed RGI increases during the rent freeze period. Notices of RGI increases must specify:

- The amount of the RGI increase
- The RGI increase will be delayed until January 1, 2022 due to the Provincial rent freeze
- The tenant or co-op member has 30 days to request an Internal Review.

Housing providers are encouraged to use the template provided by Northumberland County to notify tenants and co-op members of RGI increases in 2021 that will be delayed until the expiry of the rent freeze period.

To ensure tenants and co-op members pay the correct RGI on January 1, 2022, housing providers are encouraged to provide a second notice closer to this date to remind tenants and co-op members of the increased RGI amount. Northumberland County has provided a template reminder notice for housing providers to consider. This is a best practice only. Housing providers will resume regular annual RGI review practices for reviews conducted on December 1, 2021 or later.

Retroactive Adjustments

Retroactive adjustments to RGI are not permitted during the 2021 rent freeze period.

However, tenants or co-op members who report the following changes in 2021 may have their RGI retroactively adjusted if:

- A new household member with income moved into the unit in 2020.
- A household member ceased to be a full-time student in 2020, and that person also has had ongoing income for at least the previous 6 months, that had previously been excluded from RGI due to their student status.
- A household member had their income taxes reassessed in 2020 and the change in net income was material.

RGI can only be retroactively adjusted from the first day of the month following the change until December 31, 2020. The tenant will continue to pay the same RGI in 2021. For example:

- A tenant/member's spouse moves into the unit in September 2020. The tenant does not declare the change until March 2021. The tenant/member is currently paying RGI of \$300 and the spouse's income increases RGI to \$600.
- The tenant/member's RGI may be retroactively increased to \$600 for October 2020 to December 2020 inclusive. The tenant/member continues to pay \$300 RGI in 2021.
- Given that there are no other changes, the tenant/member's RGI will increase to \$600 effective January 1, 2022.

Housing providers must notify tenants and members of retroactive RGI adjustments. Notices must specify:

- The amount of the RGI increase.
- The amount owing for 2020 and a request for repayment.

- The RGI charge beginning January 1, 2022 due to the Provincial rent freeze.
- The tenant or co-op member has 30 days to request an Internal Review.

Housing providers are encouraged to use the template letter sent by Northumberland County to notify tenants of the retroactive adjustment for 2020 and the increased RGI charge beginning January 1, 2022.

To ensure tenants and co-op members pay the correct RGI on January 1, 2022, housing providers are encouraged to provide a second notice closer to this date to remind tenants and co-op members of the increased RGI amount. This is a best practice only.

Housing providers will resume regular practices for retroactive adjustments beginning January 1, 2022; however, no retroactive adjustments will be permitted for any period of time in 2021.

Repayment Agreements

Housing providers cannot increase RGI in 2021 to collect retroactive RGI.

Housing providers are encouraged to enter into separate agreements with tenants and co-op members for the repayment of retroactive amounts owing for 2020. These amounts are considered debts owing to the service manager under section 56 of the HSA. Amounts still owing in 2022 may be collected as arrears of rent, including applications to the Landlord and Tenant Board (LTB) for recovery.

Pursuit of Income

Tenants and co-op members may be required to pursue the following sources of income in order to continue to be eligible for RGI:

- Ontario Works.
- Employment Insurance (EI) benefits.
- Old Age Security, Guaranteed Income Supplement, and Ontario Guaranteed Annual Income Supplement (OAS/GIS/GAINS).
- Immigration sponsorship income.

Tenants and co-op members may still be required to pursue this income in 2021; however, any resulting increases to RGI will not be implemented until January 1, 2022. Tenants and co-op members who fail to pursue income as requested will become ineligible for RGI.

Maximum RGI and 12-Month Rule¹

Tenants who are paying maximum RGI (i.e. equivalent to the market rent or housing charge) become ineligible for RGI after 12 months of paying the maximum RGI.

If an RGI review completed between December 1, 2020 and November 30, 2021 results in an increase to maximum RGI, the housing provider will use notify the tenant/member of the increase of rent effective January 1, 2022. Closer to this date, the provider will send the rent increase reminder letter template sent by Northumberland County and notify them of the 12-month rule.

This second reminder notice is mandatory for all tenants or members increased to maximum RGI. If a tenant or co-member was already paying maximum RGI on January 1, 2021 and becomes ineligible in 2021 due to the 12-month rule, housing providers will continue to use the Notice of RGI Ineligibility – 12-Month Rule letter template to notify them of RGI ineligibility. In this case, no rent increase is required. Housing providers will resume regular practices regarding maximum RGI and the 12-month rule beginning December 1, 2021.

RGI Ineligibility

Housing providers will continue to assess eligibility for RGI throughout the rent freeze period. However, if a tenant or co-op member is determined to be ineligible for RGI between September 1, 2020 and August 31, 2021, the rent or housing charge cannot be increased to the market rate until January 1, 2022.

Housing providers will continue to give notice of RGI ineligibility within 7 days of making the decision. The notice must specify:

- The tenant or member is ineligible for RGI effective the first day of the month following the date of the notice.
- The reason for RGI ineligibility.
- The rent or housing charge will increase to the market rate effective January 1, 2022 due to the Provincial rent freeze.
- The tenant or co-op member has 30 days to request an Internal Review.

¹ Please note that as of July 1, 2021, the 12 month rule will become 24 months as per RGI simplification.

Housing providers are encouraged to use the template letter sent by Northumberland County to notify tenants and co-op members of RGI ineligibility.

To ensure tenants and co-op members pay the correct rent or housing charge on January 1, 2022, housing providers are encouraged to provide a second notice closer to this date to remind tenants and co-op members that they are ineligible for RGI and required to pay the full market rent or housing charge beginning January 1, 2022. This is a best practice only.

Housing providers will resume regular practices and notices regarding RGI ineligibility beginning September 1, 2021.

Targets

Tenants or co-op members who are determined ineligible for RGI between September 1, 2020 and August 31, 2021 will continue to be considered as RGI tenants or co-op members until January 1, 2022 for the purpose of:

- Determining the number of units under the housing provider's target plans
- Filling vacancies.

Transfers

RGI tenants or co-op members who transfer to a different unit are required to sign a new lease or occupancy agreement. RGI increases as a result of a transfer to a new unit during the 2021 rent freeze period are implemented at the time of move-in. This may occur as a result of:

- An assessed RGI increase in the previous unit that was not implemented due to the rent freeze.
- An increased utility adjustment at the new unit.
- An increase in other services or facilities for the new unit.

Tenants or co-op members who are requesting a transfer during the rent freeze period should be advised that their rent could increase if they move.

Overhoused Transfers

Overhoused tenants or co-op members are required to follow the same process to move during the rent freeze period even if a move would result in an increase to RGI.

Tracking

Housing providers are required to track:

- RGI increases that have been deferred to January 1, 2022.
- RGI ineligibility, where the increase to the market rent or housing charge has been deferred to January 1, 2022.

Providers will provide the following information pertaining to deferred RGI and RGI ineligibility to the Housing Services Division on at least a monthly basis in the form and manner requested by the Housing Services Division:

- Month of in-year or annual review.
- Current RGI charge at time of review.
- Increase in RGI or rent/housing charge (if ineligible) that is being deferred to January 1, 2022.
- Reason for RGI change or RGI ineligibility.

Tracking this information will also assist the provider when providing reminder notices of rent increases for January 1, 2022.

Effective Date

This directive comes into effect on the day it is issued.

Legislative Authority

Residential Tenancies Act, s.120, 136.1

Ontario Regulation 316/19