

Communiqué

Issue

October 15, 2020

2020-09

The Requirements, Recommendations and Guidelines in this Communiqué are applicable to the social housing providers administered by the City of Hamilton.

<input checked="" type="checkbox"/>	Providers Under <i>Housing Services Act, 2011</i>
<input checked="" type="checkbox"/>	Providers Under a Federal Operating Agreement
<input checked="" type="checkbox"/>	Requirement
<input type="checkbox"/>	Recommendation
<input checked="" type="checkbox"/>	Guidelines
<input type="checkbox"/>	For Information Purposes Only

SUBJECT: 2021 RENT FREEZE - HELPING TENANTS AND SMALL BUSINESSES ACT, 2020

Background

The [*Helping Tenants and Small Businesses Act, 2020*](#) received Royal Assent on October 1, 2020. The Act amends the *Residential Tenancies Act, 2006 (RTA)* and Sections of the *Housing Services Act (HSA)* to deliver on the commitment to freeze residential rent increases in 2021 and to give Ontario tenants some relief and financial security as we continue to recover from the pandemic.

Legislative directive

The amendments set the 2021 rent increase guideline to zero per cent and freeze annual rent increases **starting January 1, 2021 and lasting until December 31, 2021.**

The rent freeze applies to most rental units that are covered by the [*Residential Tenancies Act \(RTA\), 2006*](#) including:

- ❖ Newly built units occupied for the first time on or after November 15, 2018;
- ❖ Purpose-built rental apartments, condos, houses and basement apartments;
- ❖ Rented sites in mobile home parks and land lease communities;
- ❖ Care homes, including retirement homes;

- ❖ Affordable housing units created through various federally and/or provincially funded programs;
- ❖ Households living in community housing that receive rent-geared-to-income (RGI) assistance; and
- ❖ Households living in community housing that pay low end of market rent.

Exceptions to the Rent Freeze include:

- Non-Profit Housing Co-operative (co-op) members paying market rates;
- Some above-guideline (AGIs) increases in rent that are approved by the Landlord and Tenant Board; and
- Agreed upon rent increases - where a landlord and tenant agree upon an increase in rent in exchange for an extra service or facility, approved by the Landlord and Tenant Board prior to October 1, 2020.

Managing RGI During the Rent Freeze

The intent of the Provincial Rent Freeze is to stabilize tenancies and provide a predictable rent. This is similar to the process the City of Hamilton took by extending subsidies during the early months of the pandemic.

Under this new legislation, the rent freeze means that current geared-to-income rent **would not increase in 2021** even if the following occurs:

- Increase in the income or earnings of any member of the household;
- An additional person joins the household;
- An additional income earner joins the household;
- A household transitions off rent scales and onto the RGI calculation;
- Changes in rent scale as a result of birth of a new child;
- A household is found to be ineligible for RGI assistance; and
- a household fails to submit the required paperwork for an annual review.

Housing Providers are still obligated to comply with the RGI rules for annual reviews and in-year recalculations of rent, which would continue to be completed in 2021. However, no in-year or annual rent increase will be made until the rent freeze has ended.

Ontario Regulations, 367/11 apply for renewals completed on or before June 30, 2021. After, July 1, 2021 the new Ontario Regulation 316/19 (simplified RGI calculation) will be used to determine RGI.

Starting January 1, 2022, RGI rent could increase to reflect household income calculated *in the most recent annual or in year review*, subject to the HSA regulations on effective dates of rent increases.



Decrease in Income

Tenants and RGI co-op members may request changes to their RGI because of decreased income due to COVID-19 job loss, reduced hours, illness or a household member moves-out at annual reviews and upon request of an in-year recalculation of rent.

Next Steps

MMAH has informed Service Managers they are pursuing amendments to the regulations under the HSA to provide one clear set of rules for RGI households for 2021 that would be structured in a manner consistent with the RTA rent freeze. Further details will be communicated to Community Housing Providers pending approval of any regulatory amendments.

The City of Hamilton welcomes your input and asks you to share your budgets and anticipated revenue for the period January 1, 2021 – December 31, 2021 with your Housing Administration Officer. This will help the City understand the implications of the rent freeze on your budget and operations. Please provide the above documents no later than November 1, 2020.

We would like to extend our thanks for your support in supporting tenants during this challenging time. For further reading please see **Appendix A** attached at the bottom of this Communique.

If you have any questions or require clarifications on this Communique, please contact your Housing Administration Officer. We are look forward to our continued collaboration.

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Appendix A:

Managing RGI During the Rent Freeze Q & A

1. What households living in community housing would be subject to the rent freeze?

The rent freeze applies to households paying geared-to-income rent and low-end of market rent in community housing, as well as households living in affordable rental housing units created through various federally and/or provincially funded housing programs. Non-profit housing Co-operative members who pay market rates are exempt from the rent freeze.

2. What does the rent freeze mean for households that receive RGI assistance? Could geared-to-income rent increase in 2021, following an increase in household income?

No, under Bill 204, the rent freeze (or “cap”) means that geared-to-income rent would not increase in 2021 as household income increases. However, if these households experience a decrease in income, their rent may still decrease as required under provincial regulations.

MMAH intends to pursue amendments to the regulations under the Housing Services Act, 2011 (HSA) to provide one clear set of rules for RGI households for 2021 that would be structured in a manner consistent with the RTA rent freeze. Further details will be communicated to the sector pending approval of any regulatory amendments.

3. What does the rent freeze mean for RGI households who pay rent scales?

For RGI households who pay rent scales, rent would not increase in 2021 and would be capped at the rent scale amount payable as of December 31, 2020. As a result, households who earn additional income and would otherwise transition off rent scales and onto the RGI calculation would remain temporarily at the rent scale rate.

4. Would there be exemptions to the rent cap for RGI households? For instance, could geared-to-income rent increase if an additional income earner joins the household? Could rent increase if a household is no longer eligible for an RGI subsidy?

There would be *no exemptions* to the rent cap for RGI households. Rent for RGI households would be capped at the amount payable as at December 31, 2020, until the freeze period has ended.

5. Would Housing Providers still need to do annual or in-year reviews in 2021?

Yes, Housing Providers continue to be obligated to comply with the RGI rules as set out in Ontario Regulation 316/19 under the HSA. This includes rules for annual reviews and in-year recalculations of rent, which would continue to be completed in 2021.

During the rent freeze period, any calculated rent increase resulting from an annual or in-year review would not take effect in 2021. However, if a household experiences a decrease in income, their rent may decrease as required under provincial regulations.

6. What happens at the end of the rent freeze period?

Bill 204 would freeze rent increases that would have occurred in the 2021 calendar year. After the rent freeze period has ended, starting January 1, 2022, geared-to-income rent could increase to reflect household income calculated in the most recent annual or in year review, subject to the HSA regulations on effective dates of rent increases.

For example, an RGI household paying \$300 per month in rent reports an income increase through their scheduled annual review in 2021. While their rent would be recalculated, the household would continue to pay \$300 month for the remainder of the 2021 calendar year. The rent increase would come into effect January 1, 2022.

7. If an RGI household fails to submit the required paperwork for an annual review, could the household be moved to market rent until the required forms are submitted?

Rent for RGI households could NOT increase in 2021, as households paying geared-to-income rents are captured in the rent freeze.

If a household fails to submit the required paperwork for an annual review and is found to be ineligible for RGI assistance, that household may be deemed ineligible for assistance, but rent could not increase from the December 2020 amount. After the rent freeze period has ended, rent could increase to the market rate.

8. Does the rent freeze apply to the market rent/maximum rent for RGI units?

Yes, both geared-to-income rents and market rents are included in the rent freeze. Under Bill 204, an increase in the notional “market rents” for RGI units (the rent payable if an RGI household were found ineligible for assistance and transitioned to market rent) would be irrelevant, as the rent charged to a tenant cannot increase in 2021.

9. What do I do if I had already issued Notices to Tenants for Rent Increase Effective January 2021?

Following the legislative directive to freeze rent increase for the period January 1, 2021 to December 31, 2021, all Notices issued to Tenants for Rent Increase that takes effect during the 'cap' period should be rescinded and reissued in time for an increase on January 1, 2022 inclusive of the annual review and the RTA requirements on rent increase.

10. How do the amendments to the Residential Tenancies Act, 2006 (RTA) freeze rent for RGI households? Do changes need to be made to the Housing Services Act, 2011 (HSA)?

Bill 204 (which can be found [here](#)) gives the new rent freeze provisions made under the RTA precedence over regulations made under section 50 of the HSA.

However, MMAH would still need to pursue amendments to the regulations under the HSA to allow for the rent freeze to apply to tenants paying geared-to-income rents in non-profit housing co-operatives (as housing co-operatives are not covered by the RTA).

As part of this work, MMAH also intends to pursue amendments to the regulations under the HSA to provide one clear set of rules for RGI households for 2021 that would be structured in a manner consistent with the RTA rent freeze.

11. Can Affordable Housing units created under federal and/or provincial programs be excluded from the rent freeze?

The rent freeze applies to households living in affordable rental housing units created through various federally and/or provincially funded housing programs. This will help protect the City's vast majority of tenants and would be consistent with the treatment of market rent tenants living in the private rental market and community housing.

12. What is the 2021 Market Rent Index? Will the ministry release an updated Market Rent Index for 2021 and notify the sector?

Yes, MMAH will provide an update on any changes to the market rent index.

13. What about the impact to Service Managers and community housing providers of freezing rents increases for 2021?

The provincial government recognizes that the rent freeze will have a financial impact on the community housing sector. MMAH plans to engage with Service Managers and community housing providers to understand the scope and scale of the financial impacts.

The City of Hamilton, as Service Manager, requires Community Housing Providers to share their budgets and anticipated revenue for the period January 1, 2021 - December 31, 2021 to their Housing Administration Officers to help the City understand the implications of the rent freeze. Please provide these documents no later than November 1, 2020.

We also recognize that there are additional administrative impacts to the rent freeze and Community Housing Providers are encouraged to discuss these with their Housing Administration Officer. i.e. dates of annual renewals and changes to Notice Letters or N2's.

14. Does the Rent Freeze affect the implementation of regulatory changes to the Housing Services Act 2011, [O.Reg. 316/19](#), [O.Reg 318/19](#) (amendment to O.Reg 367/11)?

No. All regulatory changes on the *Housing Services Act, 2011* will continue.

15. Calculating a Rent-Geared-to-Income and Housing Charges

As a reminder, effective July 1, 2021 any Household members whose income is to be included in the rent calculation will be **required to file their income tax returns annually** as a condition of eligibility. Community Housing Providers are encouraged to inform Tenants/members of this future requirement.