

## Subject: Leases/Occupancy Agreements

Date: **October 1, 2013**  
Replaces: **Lease/Occupancy Agreement Signing HIP P&P 2006-06**

**Applicable to** The information contained in this document applies to the following:

- Municipal & Private Non-Profit       Federal Non-Profit  
 Co-operatives       Rent Supplement\*  
 Peel Access to Housing (PATH)      \*incl. former OCHAP/CSHP

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**Purpose** The purpose of this document is to provide housing providers in Peel with Peel's policy and standards pertaining to Leases/Occupancy Agreements under the *Housing Services Act, 2011*.

**Background** **Social Housing Reform Act, 2000 (SHRA)**

Before January 1, 2012 requirements pertaining to leases/occupancy agreements for housing providers subject to the SHRA were prescribed under O. Reg. 339/01, with Service Manager discretion to determine who is required to sign.

### Peel's Policy under SHRA

In Peel, all household members 16 years of age and older were required to sign the lease/occupancy agreement **unless** the

#### Human Services

10 Peel Centre Drive, Suite B, 5<sup>th</sup> Floor,  
P.O. Box 2800, STN B, Brampton, Ontario, L6T 0E7  
Telephone: 905-453-1300 [www.peelregion.ca](http://www.peelregion.ca)

household member was attending full time school. The intent was to minimize the difficulty RGI households experienced during the move in process when a household member was a student attending school away from home and not readily available to sign the lease/occupancy agreement.

### ***Housing Services Act, 2011 (HSA)***

Effective January 1, 2012, lease/occupancy agreement requirements under the HSA (O. Reg. 367/11 s. 96) are less prescribed.

Requirements are as follows:

- RGI assistance cannot be issued to a household until a
  - lease/occupancy agreement has been signed, and
  - household has been informed of the market rent (ie. amount of rent household would have to pay if not eligible to receive RGI assistance).
- Housing providers cannot refuse to rent a unit to a household eligible to receive RGI because the household is unable to pay part or all of an amount (other than rent) that is required to be paid when a lease/occupancy agreement is entered into provided household agrees to a reasonable payment schedule.
- Housing providers must have a guest policy and provide a copy to households and the Service Manager.

### **Discretion for Local Rule**

Service Managers also have discretion to implement a local rule regarding content of the lease (O. Reg. 367/11, s. 100).

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#### **Peel's Policy**

Under the HSA Peel will maintain the SHRA's lease/occupancy agreement requirements but will allow housing providers to determine who signs the document. As such, each housing provider must decide whether household members 16 years of age or older that do not have income that contributes to the RGI calculation sign the lease/occupancy agreement. The housing provider's decision must be documented and consistently applied to all households in the project.

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#### **Lease/ Occupancy Agreement Requirements**

This section outlines the requirements for leases/occupancy agreements as per the HSA and the Service Manager's local rule.

##### **Before Rent-Geared-to-Income (RGI) Assistance Is Issued**

- RGI assistance cannot be issued until a household has:

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- signed a lease/occupancy agreement, and
- been informed of the market rent (i.e. the amount of rent household would have to pay if not eligible to receive RGI assistance).

### Requirements for the Lease/Occupancy Agreement

- The lease/occupancy agreement must
  - Not exceed a term of one year.
  - Specify the amount of
    - rent the household would pay if the unit was a market unit
    - geared-to-income rent the household will pay for a month as per the RGI calculation prescribed by regulation, and
    - all other charges that the housing provider may impose under the HSA or *Residential Tenancies Act, 2006* (RTA).
  - State that the geared-to-income rent the household pays for the unit is subject to change if the household's financial circumstances change, as prescribed by regulation, and may result in the household no longer being eligible for RGI assistance.
  - Require households to advise the housing provider of any changes to unit occupancy after the lease/occupancy agreement is entered into (e.g. household member moves out, household member has a baby).
  - Restrict unit occupancy to household members occupying the unit at time lease/occupancy agreement entered into, unless the household requests an additional person(s)' occupancy in the unit and the housing provider agrees to that additional person(s)' occupation of the unit.
  - Prohibit the household from
    - assigning the lease/occupancy agreement to another person, and
    - renting or subletting the unit to any other person.

### Determining Who Signs the Lease/Occupancy Agreement

In Peel, housing providers must decide whether household members that are 16 years of age or older and do not have income that contributes to the RGI calculation are required to sign the lease/occupancy agreement.

The housing provider's decision must be documented and consistently applied to all households in the project.

## Additional Requirements

Housing providers also...

- Cannot refuse to rent a unit to a household eligible to receive RGI because the household is unable to pay part or all of an amount (other than rent) that is required to be paid when a lease/occupancy agreement is entered into provided household agrees to a reasonable payment schedule.
- Should not include provisions in the lease/occupancy agreement if they are inconsistent with the RTA as they are not enforceable.
- Are responsible for ensuring compliance with the conditions in the lease/occupancy agreement.
- Must have a guest policy and provide a copy to each household and the Service Manager (required under the HSA).

Reminder: Housing providers are still required to adhere to applicable legislation including the HSA, the RTA and the Human Rights Code.

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### **Policy Rationale**

During Peel's facilitated HSA local rules consultation sessions stakeholders indicated they were satisfied with the prescribed requirements under the SHRA, but had concerns with Peel's policy for who must sign the lease/occupancy agreement including

- confusion about whether all students were exempt from signing the lease, or only those attending school away from home, and
  - inconsistency with the policy in other service areas and with its application in Peel (i.e. despite the policy not all housing providers were obtaining signatures from household members whose income was not used in the RGI calculation).
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### **Monitoring Compliance**

The Service Manager will monitor compliance with the HSA requirements and Peel's policy for leases/occupancy agreements through operational reviews.

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### **Legislation**

[Housing Services Act, 2011](#), s. 75(2)  
[O. Reg. 367/11](#) s.100

(For reference):

- *Social Housing Reform Act, 2000*
  - O. Reg. 339/01, s. 21
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### **Human Services**

**Additional Resources** Housing providers are always encouraged to contact their sector organizations for additional resources:

- [Ontario Non-Profit Housing Association](#)
  - [Co-operative Housing Federation of Canada](#)
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**Questions** If you have any questions, please contact your Housing Programs Specialist at the Region of Peel.

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