



## BOARD REPORT

REPORT No.: 2023-05  
MEETING DATE: FEBRUARY 16, 2023  
SUBJECT: SERVICE MANAGER CONSENT POLICY

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### RECOMMENDATION

THAT with respect to Report No. 2023-05 (Integrated Social Services Division) we, The District of Thunder Bay Social Services Administration Board, approve the draft Service Manager Consent Policy as attached;

AND THAT the Chief Administrative Officer be authorized to amend the Service Manager Consent Policy with respect to housekeeping items, as may be required from time to time.

### REPORT SUMMARY

To present the Board with a draft Service Manager Consent Policy for approval.

### BACKGROUND

Service Managers across the province oversee the provision of community and affordable housing in their service area. To meet local housing needs, they use federal, provincial, and municipal funds to establish, administer, and fund housing and homelessness programs and services.

Under amendments to the *Housing Services Act, 2011*, Service Managers now have the authority to make specific consent decisions that were formerly the purview of the Minister of Municipal Affairs and Housing. These legislative amendments came into effect on January 1, 2017 and enhance the ability of Service Managers to make decisions to best meet local housing needs in an expedited manner with local considerations guiding decision making.

With these amendments, Service Managers have the authority to make specific consent decisions in the following areas:

- make certain changes to local housing corporations (Sections 32(a), 33(a), 34(a) and 35(a) of the Act)
- transfer some social housing properties (Sections 161(2) and 162(2) of the Act)
- mortgage housing projects (Sections 161 and 162 of the Act)
- redevelop housing projects (Section 161 of the Act)
- make corporate changes (Section 166 of the Act).

A Minister's Consent will continue to be required for:

- local housing corporations to opt out of the bulk natural gas or insurance programs provided through the Housing Services Corporation, and
- for the transfer of certain housing projects where the Service Manager has obtained court appointment of a Receiver for the housing provider or where members of the housing provider's Board of Directors have been replaced by the Service Manager.

## **COMMENTS**

To provide clear direction and facilitate the implementation of Service Manager Consents, the draft Service Manager Consent Policy outlines the requirements and authority for decision making.

Service Managers know best with respect to local housing needs and the appropriate program responses. Decision making authority for certain consents will allow Service Managers to better meet local housing needs in a more timely and efficient manner.

## **STRATEGIC PLAN IMPACT**

There are no direct correlations with the current Strategic Plan with this report.

## **FINANCIAL IMPLICATIONS**



There are no direct financial implications resulting from this report.

## **CONCLUSION**

It is concluded that the draft Service Manager Consent Policy be approved by the Board as presented.

**REFERENCE MATERIALS**

- Attachment #1 [Service Manager Consent Policy - Draft](#)
- Attachment #2 [Service Manager Consent Procedure - Draft](#)
- Attachment #3 [Ministry Guide for Service Manager Consents under the \*Housing Services Act, 2011\*](#)

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**POLICY**

CATEGORY/SECTION

**BOARD - GENERAL**

SUBJECT

**SERVICE MANAGER CONSENTS  
UNDER THE *HOUSING SERVICES ACT,*  
2011**

**AUTHORITY**

*Housing Services Act, 2011*

Governance & Procedural By-law No. 03-2021

TBDSSAB Resolution No. 23/21

**INTENT OF POLICY**

To ensure The District of Thunder Bay Social Services Administration Board (TBDSSAB or the Board) administers the Service Manager decision making rights and responsibilities as they relate to specific consent decisions under the *Housing Services Act, 2011*.

**DEFINITIONS**

Housing Project - means all or part of the residential accommodation, including facilities used for ancillary purposes, located in one or more buildings used in whole or in part for residential accommodation.

Housing Provider - means a person (entity) who operates a housing project.

Local Housing Corporation - means a Local Housing Corporation as defined in Section 24 of the *Housing Services Act, 2011*.

Service Manager – means the entity responsible for overseeing the provision of community and affordable housing in their service area. The Service Manager works with Housing Providers to deliver housing services and supports. Service Managers may also directly provide housing.

**POLICY**

As of January 1, 2017 amendments to the *Housing Services Act, 2011* give Service Managers the authority to make certain consent decisions that were formerly the purview of the Minister of Municipal Affairs and Housing.

CAO APPROVAL DATE:

**February 16, 2023**

REVISION DATE(S):

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<p>CATEGORY/SECTION <b>BOARD - GENERAL</b></p>	<p>SUBJECT <b>SERVICE MANAGER CONSENTS UNDER THE <i>HOUSING SERVICES ACT, 2011</i></b></p>
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Where Service Manager Consent is required, Administration will prepare reports requesting the Board make consent decisions with respect to the following:

- certain changes to Local Housing Corporations (Sections 32(a), 33(a), 34(a), and 35(a) of the Act)
- the transfer of certain social housing projects (Sections 161(2) and 162(2) of the Act)
- the redevelopment of housing projects (Section 161 of the Act)
- to make corporate changes (Section 166 of the Act).

The Chief Administrative Officer is granted the authority by the Board to make Service Manager Consent decisions related to the following:

- the mortgage of housing projects (Sections 161 and 162 of the Act)
- Articles of Incorporation
- Board member changes related to membership or decision-making ability.

The Chief Administrative Officer may defer the consent decision to the Board where it is deemed in the best interest of TBDSSAB to do so.

**STANDARDS OF APPLICATION**

This policy applies to all circumstances where a Service Manager Consent is required/ requested.

Managers and Directors are responsible for receiving consent requests and providing recommendations to the Chief Administrative Officer for approval based on the *Housing Services Act, 2011* guidelines and directives.

**RELATED POLICIES**

None

**RELATED PROCEDURES**

Service Manager Consent Procedure

**FORMS**

None

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**THE DISTRICT OF THUNDER BAY  
SOCIAL SERVICES ADMINISTRATION BOARD**

<b>PROCEDURE</b>	<b>PROCEDURE NAME</b>	Service Manager Consents under the <i>Housing Services Act, 2011</i>
	<b>PROCEDURE NUMBER</b>	BRD-01:155-01
	<b>PROCEDURE SECTION</b>	Board - General
	<b>POLICY REFERENCE</b>	BRD-01:155
	<b>REVISION DATE</b>	n/a
	<b>SUPERSEDES</b>	New
	<b>IMPLEMENTATION DATE</b>	December 1, 2022

**PROCEDURE STATEMENT:**

To ensure a clear process exists by which the Board or Chief Administrative Officer may approve requests for Service Manager Consent for housing projects in the TBDSSAB service area under authority of the *Housing Services Act, 2011*.

**PROCEDURE:**

Administration will prepare a briefing for the Chief Administrative Officer (CAO) for approval on proceeding with Service Manager Consent requests related to:

- certain changes to local housing corporations (Sections 32(a), 33(a), 34(a) and 35(a) of the Act
- the transfer some social housing properties (Sections 161(2) and 162(2) of the Act)
- mortgage of housing projects (Sections 161 and 162 of the Act)
- Articles of Incorporation
- board member changes related to membership or decision-making ability.

Upon review, and following the Service Manager Consent Policy, the CAO will determine if the consent request is to be presented to the Board, be approved by the CAO, or rejected.

Service Managers are still required to submit a request for consent to the Minister of Municipal Affairs and Housing for requests to opt out of the bulk natural gas or insurance programs of the Housing Services Corporation.

Ministry consent is also required to transfer certain housing projects when:

- a Service Manager has obtained court appointment of a receiver for the housing provider
- a Service Manager replaces members of the housing provider's Board of Directors with new members
- redeveloping housing projects (Section 161 of the Act)
- there are corporate changes (Section 166 of the Act).

Once a Service Manager Consent is approved, Administration will provide the consent as appropriate.

#### **AUTHORITY AND RESPONSIBILITY:**

TBDSSAB Managers and Directors will ensure requests for Service Manager Consents are provided to the Chief Administrative Officer for approval as required.

#### **EMPLOYEE TRAINING**

All Housing Programs leadership will review the Service Manager Consent Policy and Procedure on a yearly basis. New staff will be trained as required.

# **Guide for Service Manager Consents under the *Housing Services Act, 2011***

**Ministry of Housing**

**January 1, 2017**



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## **1.0 BACKGROUND**

Through recent amendments to the *Housing Services Act, 2011 (HSA)*, Service Managers (SMs) now have the authority to make specific consent decisions that were formerly the purview of the Minister. These decisions include:

- certain changes to Local Housing Corporations (LHCs), under s. 32 (a), 33 (a), 34 (a) and 35 (a); and
- transfers of certain housing projects, under s. 161 (2) and 162 (2).

These legislative amendments will come into effect on January 1, 2017 and will support and enhance the ability of SMs to make decisions to better meet local housing needs in a more timely and efficient manner.

The Minister has issued a Ministerial Directive for Service Manager when considering whether to grant consent for a transfer of social housing properties.

A Minister's Consent will continue to be required for the following:

- for LHCs to opt out of the bulk natural gas or insurance programs of the Housing Services Corporation; and
- for the transfer of certain housing projects where the Service Manager has obtained court appointment of a Receiver for the housing provider or where members of the housing provider's Board of Directors have been replaced by the Service Manager.

These new consent authorities are in addition to existing Service Manager consent authorities that include:

- mortgaging of housing projects under s.161 and 162 of the Act;
- redevelopment of housing projects under s.161 of the Act; and
- corporate changes under s.166 of the Act.

This Guide is intended to support Service Managers' adoption and implementation of their new consent authorities and to apprise them of specific issues and requirements that may need to be addressed as part of their consent process.

## **2.0 SERVICE MANAGER CONSENT FOR THE TRANSFER OF SOCIAL HOUSING**

### **2.1 Roles and Responsibilities**

### 2.1.1 Ministry of Housing

Although most former Ministerial Consent requirements will now become requirements for Service Manager Consent, the Ministry of Housing will continue to be involved in a number of social housing operational matters that are summarized as follows:

- I. On behalf of Service Managers and social housing providers, the ministry will continue to facilitate most mortgage arrangements in respect of Canada Mortgage Housing Corporation (CMHC) mortgages and pooled mortgages from institutional lenders.
- II. The ministry will liaise and confirm with Canada Mortgage and Housing Corporation, as necessary, in respect of the removal of housing projects from the application of section 9(d) of the Canada-Ontario Social Housing Agreement (SHA).
- III. Where it has been determined, following confirmation from the Service Manager, that a project should no longer be included in the regulations under the *Housing Services Act, 2011*, the ministry will seek amendments to the regulations to secure the removal of the project from the application of the Act.
- IV. The ministry will facilitate the prorated repayment by Service Managers of previous and current social housing renovation funding programs (SHRRP, SHEEP, SHARP or SHIP), where projects that received funding are sold or transferred prior to completing their affordability requirement. The financial obligation in this respect is in accordance with the specific program funding agreement.
- V. Where a transfer of a designated housing project may be eligible for a Land Transfer Tax exemption, the ministry will process requests as submitted to the ministry at least six months in advance of the proposed transfer date, to obtain exemptions under the *Housing Services Act, 2011* from the application of the *Land Transfer Tax Act*. Such exemptions are currently achieved through a regulation amendment that requires the approval of the Lieutenant Governor in Council.
- VI. Net Share of Gain – for properties that had Canada Mortgage and Housing Corporation loans at social housing devolution and were listed in Schedule F of the Canada-Ontario Social Housing Agreement, the ministry will advise Service Managers of requirements to pay the Net Share of Gain to CMHC, if applicable, once the remittance amount has been confirmed to the ministry by CMHC at the time of a 9(d) waiver request.
- VII. Consent of the Minister would still be required for the transfer of certain housing projects, where the Service Manager has obtained court appointment of a receiver for the housing provider, or where members of the housing provider's Board of Directors have been replaced by the Service Manager.

VIII. Ministerial Consent will continue to be required for Local Housing Corporation requests to opt-out of the mandated Housing Services Corporation's bulk natural gas or insurance programs.

### **2.1.2 Service Managers**

These expanded consent authorities for both project transfers and changes to Local Housing Corporations are in keeping with the evolving role of Service Managers in social housing matters.

- I. Service Managers are strongly encouraged to consult at an early stage with the ministry in respect of potential issues to the following factors which are addressed in section 2.3:
  - 1) Restrictions Related to Mortgages and Charges on Title
  - 2) Repayment of current and past social housing renovation programs (SHRRP, SHEEP, SHARP and SHIP)
  - 3) Land Transfer Tax Exemptions
  - 4) CMHC Net Share of Gain
  - 5) 9(d) Waivers/Delisting of Projects from HSA (O. Reg. 368/11)
  - 6) Environmental Remediation Risk
  
- II. Where the housing provider is requesting a Land Transfer Tax Exemption under the *Housing Services Act, 2011*, the Service Manager must seek the ministry's advice on potential eligibility.

**NOTE:** *Where a request for a tax exemption is made, the Service Manager must provide a written request to the ministry no less than six months prior to the consent decision. Such exemptions are made by regulation and require the approval of Lieutenant Governor in Council. These regulations cannot be made retroactively and are subject to scheduling of items for consideration which can take several months.*

- III. Ministerial Directive – As noted in Section 2.2, the Minister has issued a Ministerial Directive for Service Managers when considering whether to grant consent for a transfer. This Ministerial Directive reflects a provincial interest in these matters, and Service Managers are obligated to exercise their consent authority consistent with the Ministerial Directive.

## **2.2 Ministerial Directive**

### **2.2.1 Background and Context**

The Province recognizes that Service Managers know best concerning their local housing needs and the appropriate program responses. Decision making for the transfer of social housing will allow Service Managers to better meet local housing needs in a more timely and efficient manner.

The social housing stock was built and maintained through significant public expenditures by all levels of government. It is a resource and a valuable asset that meets some of the housing needs of lower income Ontarians now and can continue to do so in the future.

Social housing is also a “home” to many thousands of Ontario residents. These families and individuals have established roots in their neighborhood and are part of the local community and any disruption to their lives can be challenging.

The key considerations for the Province when assessing proposed Ministerial Consents for the transfer of social housing have been two-fold:

- i. ensuring tenants/residents are well informed of the process and adverse effects are mitigated; and,
- ii. ensuring that the revenue from the sale or disposition of social housing was only utilized for housing purposes.

The Province maintains a strong interest that these elements of a proposed transfer are adhered to in the context of Service Manager Consents.

As provided in s.19(1) of the HSA, the Minister may issue policies and directives in writing to Service Managers with respect to consents given by Service Managers under this Act. Further, s.19(2) notes that “a *Service Manager shall ensure that a policy or directive issued under subsection (1) is followed.*”

## **2.2.2 Ministerial Directive to Service Managers**

On December 20, 2016, the Minister of Housing issued the following Ministerial Directive and is in effect for January 1, 2017:

### ***MINISTERIAL DIRECTIVE TO SERVICE MANAGERS UNDER S. 19(1) OF THE HOUSING SERVICES ACT, 2011***

*Pursuant to s. 19(1) of the Housing Services Act, 2011 (the “Act”), the Minister of Housing hereby directs that, in considering whether to grant consent under s. 161(2) or 162(2) of the Act for the transfer of a housing project or land where it is located:*

- 1. The Service Manager shall ensure that:  
(a) residents of the housing project are advised of, and consulted on, the proposed transfer, and  
(b) any identified adverse impacts on residents are appropriately mitigated.*
- 2. The Service Manager shall ensure that net financial proceeds generated from the transfer will be used to support the delivery of a transferred housing program or in furtherance of another housing-related purpose contemplated in the Service Manager’s housing and homelessness plan.*

*This directive shall not be interpreted to limit what other criteria a Service Manager may assess in considering whether to grant consent.*

Recognizing the Provincial interest in Service Manager consent for the transfer of social housing, a comprehensive notification process has been established (Section 3.2). Specifically, Service Managers will be required to describe how the Ministerial Directive has been satisfied as part of the notification to the Ministry of Housing. In addition, the Minister will retain the authority, by regulation, to remove a Service Manager's consent authority for the transfer of social housing properties if the Service Manager makes consent decisions that are not in accordance with the Ministerial Directive.

**Examples of Resident Consultation and Use of Sales Proceeds:**

The Ministry of Housing encourages housing providers and Service Managers to strategically assess their social housing portfolios to ensure this legacy supply of housing meets current and future community housing needs. Through these assessments it may be evident some elements of a provider's social housing portfolio are no longer meeting community housing needs and/or are financially unsustainable and/or are physically obsolete. Potential disposition or redevelopment of these elements can enhance the long-term viability of a housing provider and at the same time secure a source of funding for new affordable housing developments.

The sale or transfer of social housing can be challenging and difficult for the affected residents. The experience of the ministry in these matters is that constructive dialogue and consultation with the affected residents is essential to allay their concerns and the uncertainty about their home. Across Ontario, many Service Managers have been actively involved in Ministerial Consents involving the transfer of social housing and broader social housing portfolio renewal strategies.

For illustrative purposes, the table below highlights a few social housing unit disposition and renewal activities/processes that have been followed and the use of the proceeds generated by those transfers. Other Service Managers that have been involved in social housing unit disposition and renewal strategies include the City of Toronto, City of Hamilton, City of Ottawa, Region of Durham and the District of Thunder Bay Social Services Administration Board.

<b>Service Manager</b>	<b>Resident Consultation</b>	<b>Use of Sales Proceeds</b>
<b>City of Kawartha Lakes</b>	Numerous scattered single units within a particular neighborhood were only sold after they were voluntarily vacated by the tenants.	To help finance the construction of a new multi-unit rental building that includes replacing the units that were sold.
<b>Kenora District Services Board</b>	Undertook to sell several scattered single units in three small communities where social housing demand was low. All existing tenants were consulted and offered three choices that included remaining in their unit until they chose to vacate it. In those cases, if their units were sold, it would be a condition of sale that they be allowed to remain as tenants in their units.	The proceeds from these sales were used to redevelop or replace these units in other Kenora District communities of high demand as identified in Kenora's Housing and Homelessness Plan.
<b>Region of Niagara</b>	<p>Niagara Regional Housing (NRH) wanted to dispose of ten of its scattered single-family houses within its portfolio of 70 single-family houses. As an initial step, the current residents were offered the opportunity to participate in the Welcome Home Niagara affordable home ownership program to assist with the down payment to purchase their unit.</p> <p>If the current residents were not interested or did not qualify, the sale of the ten houses took place only as vacancies occurred voluntarily within the portfolio of 70 scattered houses.</p>	The proceeds of these sales were used by NRC to help fund a new affordable rental building where at least 10 of the new units of would be replace the 10 units previously sold.

## 2.3 Technical Consent Requirements

The following is a detailed description of the operational matters that may require provincial assistance in support of the Service Manager's consent for the transfer or sale of social housing property.

- 1) Restrictions Related to Mortgages and Charges on Title
- 2) Repayment of current and past social housing renovation programs: (SHRRP, SHEEP, SHARP and SHIP)
- 3) Land Transfer Tax Exemptions
- 4) CMHC Net Share of Gain
- 5) 9(d) Waivers/Delisting of Projects from HSA (O. Reg. 368/11)
- 6) Environmental Remediation Risk

### 2.3.1 Restrictions Related to Mortgages and Charges on Title

Prior to approving the transfer of a designated housing project, Service Managers should review the title of a particular property to determine whether any legacy title restrictions exist that could impact or restrict the Service Manager's scope of action.

There may be restrictions on the title of the properties involved (i.e. “No Dealings” indicators) which could inhibit the transfer of the properties.

Any restrictions registered under s. 43 or 96 of the *Social Housing Reform Act, 2000* (SHRA) are deemed to refer instead to the new restrictions set out in the HSA (s. 161(5) and 162(5)). Although those title restrictions appear to require Ministerial Consent, in most cases those restrictions are satisfied by Service Manager consent under the HSA.

It should be noted that, under the HSA as amended, the s. 161 and 162 consent requirements apply to certain “designated housing projects” and the land where they are located. As such, if a project is delisted from the HSA regulations and ceases to be a “designated housing project”, the consent requirements imposed by the HSA cease to apply.

In addition, as clarified by s. 161(6) and s. 162(6) of the HSA, the legacy title restrictions registered under the SHRA also cease to be of any effect if a project ceases to be a designated housing project. Landowners may wish to refer to these provisions, as appropriate, when applying to the Land Registrar to remove legacy restrictions from title. In some circumstances, such as where historic operating agreements are registered on title, ministry assistance may still be needed to address or remove title restrictions.

In addition to any title restrictions, Service Managers and social housing providers should carefully review the terms of any mortgages and consult with ministry staff where necessary. For each transfer request involving an existing mortgage, SMs should determine whether a mortgage pre-payment or assumption would be permitted and whether penalties or other fees will be incurred as a result of the disposition of the properties. Lender approval will have to be secured together with any calculations of mortgage penalties and prepayment costs going forward.

Pre-payment of social housing mortgages held within Mortgage Backed Securities (MBS) pooling arrangements may not be an option. This could limit a Service Manager’s ability to conclude the transfer of mortgaged properties and the ability of prospective buyers to secure new financing arrangements in respect of those properties.

### **2.3.2 Repayment of Current and Past Social Housing Renovation Programs:**

- 1) Social Housing Renovation and Retrofit Funding (SHRRP)
- 2) Social Housing Electricity Efficiency Program (SHEEP)
- 3) Social Housing Apartment Renovation Program (SHARP)
- 4) Social Housing Improvement Program (SHIP)

Since 2009, Service Managers have participated in four social housing renovation programs where the funding conditions in each case have included the requirement to



proportionately repay that funding when those projects are no longer able to meet their affordability requirements. In the event that properties to be sold or transferred were funding recipients under any of these four programs, there may be an obligation to reimburse the ministry and/or CMHC.

If any such repayments are required, Service Managers will need to notify the ministry, prior to the sale or transfer of the properties, to confirm that the terms of the original funding program will not be met and make arrangements to appropriately repay the original funding on a prorated basis.

### **2.3.3 Land Transfer Tax Exemptions**

The Lieutenant Governor in Council has authority to make a regulation under s.167 of the *Housing Services Act, 2011* to exempt certain transfers from the application of the *Land Transfer Tax Act*.

Typically, the ministry has requested exemptions related to transfers of properties that remain as social housing which assists housing providers with the ongoing financial viability of the units as they continue to be used for social housing purposes. In contrast, Land Transfer Tax Exemptions are typically not supported by the ministry that involve the sale or transfer of properties which will no longer be providing social housing.

In the event that a Service Manager would like to request an exemption from the *Land Transfer Tax Act* for a proposed transfer of a designated housing project, it will need to give the ministry an advance notice of at least 180 days. In part, this is due to the time it takes, from three to six months, to schedule Cabinet consideration of such a request. Also, as a regulation cannot apply retroactively, the property transfer cannot occur until an exempting regulation has been filed.

There is a further timing consideration, arising from the Twice Annual Effective Date (TAED) limitations where new regulations may come into force on one of two days in each calendar year: January 1, or July 1. If an exempting regulation is approved by the Lieutenant Governor in Council and filed by the ministry with the Registrar of Regulations, it will normally come into force on one of these two days.

### **2.3.4 CMHC Net Share of Gain**

Once it is notified of transfers of any Federal/Provincial (F/P) public housing properties, CMHC may request that remittance of a “net share of gain” amount as per section 8(g) of the Canada-Ontario Social Housing Agreement (SHA) in the event that a CMHC loan is still in place. Most of those loans, as listed in Schedule F of the SHA, have already matured and the outstanding balances for those that remain are greatly reduced.

As such, according to the calculation formula set out in the SHA, CMHC’s “net share of gain” entitlement tends to be modest. Although the Ministry is liable to CMHC for any

“net share of gain” under the SHA, the Ministry is entitled to recover this amount from the Service Manager under the HSA. The Service Manager should be prepared for a possible “net share of gain” remittance request from CMHC at the time that a F/P public housing project is sold and removed from the social housing portfolio.

### **2.3.5 9(d) Waivers/Delisting of Projects from HSA (O. Reg. 368/11)**

Where a National Housing Act (NHA) insured mortgage on a property subject to the Canada-Ontario Social Housing Agreement goes into default, the ministry has an obligation to reimburse Canada Mortgage and Housing Corporation (CMHC) for any losses that it may incur. This liability may also extend to any future mortgages that may be arranged on these properties to the extent that they may also be CMHC insured.

Under Sections 102 and 103 of the *Housing Services Act, 2011*, the Minister has the authority to “deduct” from transfer payments “housing costs” relating to losses incurred on social housing mortgages subject to, or formerly subject to, a transferred program, even if the mortgage is not related to a transferred housing program.

As long as such properties remain listed in the Canada-Ontario Social Housing Agreement (SHA), the ministry may continue to be liable to CMHC in the event of a mortgage default related to such properties. Correspondingly, Service Managers may be required to reimburse the ministry for associated losses incurred in reimbursing CMHC.

To remove this liability, where a project is being removed from the social housing portfolio, Service Managers will need to notify the ministry of a proposed transfer and request that the ministry confirm with CMHC a 9(d) waiver in respect of the property.

Once confirmed by CMHC, the ministry will be notified and the ministry will confirm this approval with Service Managers. Once removed from the SHA, the potential obligation to reimburse (CMHC) in the event of a default on a future NHA mortgage on the properties in question will no longer apply. Similarly, even where a project is transferred, it may continue to be subject to the requirements of the HSA so long as it is listed in O. Reg. 368/11 as a “designated housing project”. If a project is being transferred such that it is no longer intended to be operated as social housing (for example, scattered single units being sold to private homeowners), the Service Manager may request to the Ministry that the project be de-listed from O. Reg. 368/11.

### **2.3.6 Environmental Remediation Risk**

In the event that environmental contamination is discovered on any transferred public housing property, there is a risk of potential environmental liability on the part of former owners. Service Managers are strongly encouraged to consult the “*Service Manager*

*Technical Bulletin – Reporting Environmental Contamination on Former OMHC Properties*” as put out by the OMHC (see Appendix A) on required next steps.

### 3.0 MINISTRY NOTIFICATION REQUIREMENTS AND TIMING

These new Service Manager consent authorities are accompanied by some additional Service Manager reporting requirements to the Ministry. Under Sections 35.1 and 163, there are requirements for Service Managers to keep the Ministry informed concerning consent decisions. An outline of these requirements, their timing and corresponding reporting submission templates is shown below:

3.1 – Service Manager Consent Local Housing Corporation Changes

3.2 – Service Manager Consent for Social Housing Transfer

#### 3.1 Service Manager Consent for Local Housing Corporation Changes

Template Number:	New Service Manager Consent Authority	Minimum Time for Notifying the Ministry - Business Days -
1.	Consent – Local Housing Corporation (LHC) changes under s. 32(a), 33(a), 34(a) and 35(a).	30 Business Days Following SM Consent

#### 1. Service Manager Notification - Local Housing Corporation Changes (Template 1)

Under s. 35.1 of the Act, Service Managers are required to notify the ministry in writing, within 30 business days of granting consent for corporate change(s) to its Local Housing Corporation.

These changes may include:

Service Manager consent for Local Housing Corporation (LHC) activities under s. 32(a), 33(a), 34(a) or 35(a):

- 32(a) – LHC issuing shares
- 33(a) – a shareholder of an LHC issuing shares
- 34(a) – amalgamation of an LHC with another corporation
- 35(a) – voluntary windup or dissolution of an LHC

This Notification should be submitted to the Assistant Deputy Minister, Housing Division in the form attached as *Template 1: Service Manager Notification - Local Housing Corporation Changes*

The ministry will acknowledge receipt of the Service Manager’s Notification.

## Template 1 - Service Manager Notification - Local Housing Corporation Changes

	Required Information	Service Manager Reporting
1.	Service Manager Contact Information	
2.	Local Housing Corporation Name	
3.	Action Undertaken/Rationale	
4.	How will the LHC be affected?	
5.	Timing	

### Notes:

To be provided to the ministry by the Service Manager within 30 business days following the approval of a consent for corporate change(s) of a Local Housing Corporation.

The notification should be submitted by regular mail or e-mail to:

- Assistant Deputy Minister  
Ministry of Housing  
777 Bay Street, 14<sup>th</sup> Floor,  
Toronto ON M5G 2E5

### 3.2 Service Manager Consents for Social Housing Transfers

Template Number:	Service Manager Consent Authority	Minimum Time for Notifying the Ministry - Business Days -
2.	Consent – Social Housing transfer with no mortgage under s. 161 (2) or 162 (2).	10 Business Days Following SM Consent
3.	Consent – Social Housing transfer Involving a Provincially-Guaranteed Mortgage under s. 161 (2) or 162 (2)	45 Business Days Before SM Consent is to be given

### 3.2.1 Service Manager Notification - Sale or Transfer of Designated Housing Projects, Previously Transferred By Transfer Order and/or Prescribed under the Act with no Provincially-Guaranteed Mortgage (Template 2)

Under s.163 (1) of the Act, the Service Manager must notify the ministry in writing, within 10 business days of the consent decision under s. 161 (2) or 162 (2) to transfer a designated housing project, transferred by transfer order and/or prescribed under the Act.

This Notification by the Service Manager will also outline how the Ministerial Directive has been satisfied and is to be submitted to the Assistant Deputy Minister, Housing Division in the form attached as *Template 2 - Service Manager Transfer Notification– No Provincially-Guaranteed Mortgage*.

A “provincially-guaranteed mortgage” is guaranteed by the Province of Ontario or the Ontario Mortgage and Housing Corporation and, by virtue of the SHA, includes any mortgage on a prescribed social housing property that involves CMHC either as the lender or as the mortgage insurer.

When the transfer is from one non-profit social housing provider to another, the Service Manager may also wish to seek a Land Transfer Tax Exemption. If so, the Service Manager is urged to provide a written request to the ministry no less than six months prior to the consent decision.

The ministry will acknowledge receipt of the Service Manager’s Notification.

#### **Template 2 - Service Manager Transfer Notification – No Provincially-Guaranteed Mortgage**

	<b>Required Information</b>	<b>Service Manager Reporting</b>
1.	Service Manager Contact Information	
2.	Provider’s Name	
3.	Project Name and Address	
4.	Item #: (From O.Reg.368/11)	
5.	Transferee Name	
6.	Transfer Circumstances (i.e. fee simple sale, lease, receivership sale)	
7.	Transfer Closing Date	
8.	Are you requesting a 9(d) waiver and removal from the HSA?	
9.	Were there any SHRRP/SHEEP/SHARP/SHIP repayment requirements? If yes, please summarize status.	

10.	Part 1: Ministerial Directive  <i>Summarize consultations with tenants/residents and how impacts are being mitigated or indicate if property is vacant</i>	
11.	Part 2: Ministerial Directive  <i>Proceeds to be used for what housing purposes?</i>	

**Notes:**

To be provided to the ministry by the Service Manager within 10 business days following the approval of a consent for a transfer of a designated housing project. The notification should be submitted by regular mail or e-mail to:

- Assistant Deputy Minister  
Ministry of Housing  
777 Bay Street, 14<sup>th</sup> Floor,  
Toronto ON M5G 2E5

**9(d) Waiver** – If the property is being transferred out of the social housing portfolio, the provider’s name and the affected project’s name and address as well as its item # from O. Reg. 368/11 are required for the ministry to confirm the property status under the Canada-Ontario Social Housing Agreement (SHA). This will ensure that with the Service Manager’s confirmation, the property can be removed from the SHA, via 9(d) waiver, and from the *Housing Services Act, 2011 (HSA)* via regulation amendments to the HSA.

**SHRRP/SHEEP/SHARP/SHIP Repayment** - If the project received funding under any of these programs, the Service Manager must confirm, in accordance with the respective program specific affordability requirement that the funds involved will be repaid on a prorated basis by the Service Manager. The repayment will be sent, no later than 30 days following the conclusion of the transfer, by mail to:

- Assistant Deputy Minister  
Ministry of Housing  
777 Bay Street, 14<sup>th</sup> Floor,  
Toronto ON M5G 2E5

Any repayment must be made out to the Minister of Finance of Ontario.

**Net Share of Gain** - In the event the Service Manager has been later notified by the ministry of the need to pay the Net Share of Gain as required under Schedule F of the Canada-Ontario Social Housing Agreement to Canada Mortgage and Housing Corporation, such payments will be collected from the Service Manager at the time of

the 9(d) waiver confirmation and remitted by the ministry to CMHC in accordance with CMHC's formula calculation.

**Land Transfer Tax Exemption Requests** - Where a request for a Land Transfer Tax Exemption is made, the Service Manager is strongly encouraged to provide a written request to the ministry no less than 6 months prior to the consent decision. Such exemptions are made by regulation and require the approval of Lieutenant Governor in Council. These regulations cannot be made retroactively to the transaction closing date and are subject to scheduling of items for consideration which can take several months.

### **3.2.2 Service Manager Pre-Notification – With a Provincially-Guaranteed Mortgage (Template 3)**

Under s.163 (2) where a provincially-guaranteed mortgage is involved, the Service Manager must notify the ministry in writing, no less than 45 business days prior to granting consent under s. 161 (2) or 162 (2) to the transfer of a designated housing project, previously transferred by transfer order and/or prescribed under the Act.

A “provincially-guaranteed” mortgage is any mortgage guaranteed by the Province of Ontario or the Ontario Mortgage and Housing Corporation and, by virtue of the SHA, includes any mortgage on a prescribed social housing property that involves CMHC either as the lender or as the mortgage insurer.

The purpose of this pre-notification is to ensure that the Service Manager and the ministry have time to deal with any potential mortgage-related issues which may impact the proposed transfer.

This Notification should be provided in the form attached as *Template 3 – Service Manager Notification – With a Provincially-Guaranteed Mortgage*.

This advance Notification by the Service Manager outlining the mortgage circumstances involved and how the Ministerial Directive is to be satisfied is to be submitted to the Assistant Deputy Minister, Housing Division in the form attached as *Template 3 - Service Manager Transfer Notification– With a Provincially-Guaranteed Mortgage*.

The ministry will acknowledge the Service Manager's Notification, within 10 business days of the receipt of this 45 day pre-Notification of a proposed transfer for a property with a provincially-guaranteed mortgage.

### Template 3 - Service Manager Transfer Notification – With a Provincially-Guaranteed Mortgage

	Required Information	Service Manager Reporting
1.	Service Manager Contact Information	
2.	Provider's Name	
3.	Project Name and Address	
4.	Item #: (From O.Reg.368/11)	
5.	Purchaser's Name/Type of Corporation	
7.	Transaction Closing Date	
8.	Sale Price or Consideration	
9.	Mortgage	
	Lender	
	Outstanding Balance	
	Next Renewal Date	
10.	Were there any SHRRP/SHEEP/SHARP/SHIP repayment requirements?  If yes, please summarize status.	
11.	Part 1: Ministerial Directive  <i>Summarize consultations with tenants/residents and how impacts are being mitigated or indicate if property is vacant.</i>	
12.	Part 2: Ministerial Directive  <i>Proceeds to be used for what housing purposes?</i>	
13.	Have you requested a Land Transfer Tax Exemption for this transaction?	



**Notes:**

To be provided in writing to the ministry by the Service Manager, at least 45 days prior to providing approval of a consent for the transfer of a designated housing project. The notification should be submitted by regular mail or e-mail to:

- Assistant Deputy Minister  
Ministry of Housing  
777 Bay Street, 14<sup>th</sup> Floor,  
Toronto ON M5G 2E5

**9(d) Waiver** – If the property is being transferred out of the social housing portfolio, the provider's name and the affected project's name and address as well as its item # from O. Reg. 368/11 are required for the ministry to confirm the property status under the Canada-Ontario Social Housing Agreement (SHA). This will ensure that with the Service Manager's confirmation, the property can be removed from the SHA, via 9(d) waiver, and from the *Housing Services Act, 2011 (HSA)* via regulation amendments to the HSA.

**SHRRP/SHEEP/SHARP/SHIP Repayment** - If the project received funding under any of these programs, the Service Manager must confirm, in accordance with the respective program specific affordability requirement that the funds involved will be repaid on a prorated basis by the Service Manager. The repayment will be sent, no later than 30 days following the conclusion of the transfer, by mail to:

- Assistant Deputy Minister  
Ministry of Housing  
777 Bay Street, 14<sup>th</sup> Floor,  
Toronto ON M5G 2E5

Any repayment must be made out to the Minister of Finance of Ontario.

**Net Share of Gain** - In the event the Service Manager has been later notified by the ministry of the need to pay the Net Share of Gain as required under Schedule F of the Canada-Ontario Social Housing Agreement to Canada Mortgage and Housing Corporation, such payments will be collected from the Service Manager at the time of the 9(d) waiver confirmation and remitted by the ministry to CMHC in accordance with CMHC's formula calculation.

**Land Transfer Tax Exemption Requests** - Where a request for a Land Transfer Tax Exemption is made, the Service Manager is strongly encouraged to provide a written request to the ministry no less than 6 months prior to the consent decision. Such exemptions are made by regulation and require the approval of Lieutenant Governor in Council. These regulations cannot be made retroactively to the transaction closing date and are subject to scheduling of items for consideration which can take several months.

**Appendix A: Service Manager Technical Bulletin –  
Reporting Environmental Contamination on  
Former OMHC Properties**

# Service Manager Technical Bulletin



## **REPORTING ENVIRONMENTAL CONTAMINATION ON FORMER ONTARIO MORTGAGE AND HOUSING CORPORATION PROPERTIES**

November 2016

# SERVICE MANAGER TECHNICAL BULLETIN

## How to Address Environmental Contamination and Potential Liability on Former Ontario Mortgage and Housing Corporation Owned Properties

This technical bulletin will update the previous environmental guidelines from August 2001 to reflect changes to housing and environmental legislation in the Province of Ontario, and provide guidance on how to report issues of potential environmental liability to the Ontario Mortgage and Housing Corporation (OMHC).

### General Background Information

The *Housing Services Act, 2011* (HSA) and the now repealed *Social Housing Reform Act, 2000* (SHRA), did not extinguish the Ontario Housing Corporation's (OHC) potential liability under the *Environmental Protection Act* (EPA). As a consequence, OHC now renamed the Ontario Mortgage and Housing Corporation (OMHC), as a former owner of the lands, retains *potential* liability for environmental contamination that is identified on public housing properties that were transferred by the OMHC to Local Housing Corporations (LHCs) and/or Service Managers (SMs).

The transfer of these former OMHC properties in 2001 was done on an "as is, where is" basis. Although environmental issues are expected to be rare, they may arise in situations where LHCs and SMs seek to redevelop or dispose of transferred properties and where environmental site assessments uncover previously unknown contaminants. Contamination may also be the result of contaminants originating on adjacent properties and migrating onto former OMHC properties.

As any potential environmental issues are identified and brought to the attention of OMHC, these will be reviewed on a case by case basis to determine the extent, if any, of the OMHC's potential environmental liability.

### How to Deal with Potential Environmental Issues on Former Public Housing Properties

As the legal owners of public housing properties, it is the responsibility of LHCs, SMs, or their successor organizations to initiate the appropriate environmental activities pertaining to these properties. The following steps will help maintain clear communications for everyone involved throughout the review process and, if required, the remediation process as well.

### How Do I Report an Environmental Issue?

When an LHC or Service Manager becomes aware of an environmental issue on a former public housing site the matter should be *simultaneously* brought forward to the local office of the Ministry of the Environment (MOE), and to the Chief Executive Officer of OMHC:

Chief Executive Officer, Ontario Mortgage and Housing Corporation  
Tel: 416-585-7524 Email: [keith.extance@ontario.ca](mailto:keith.extance@ontario.ca)

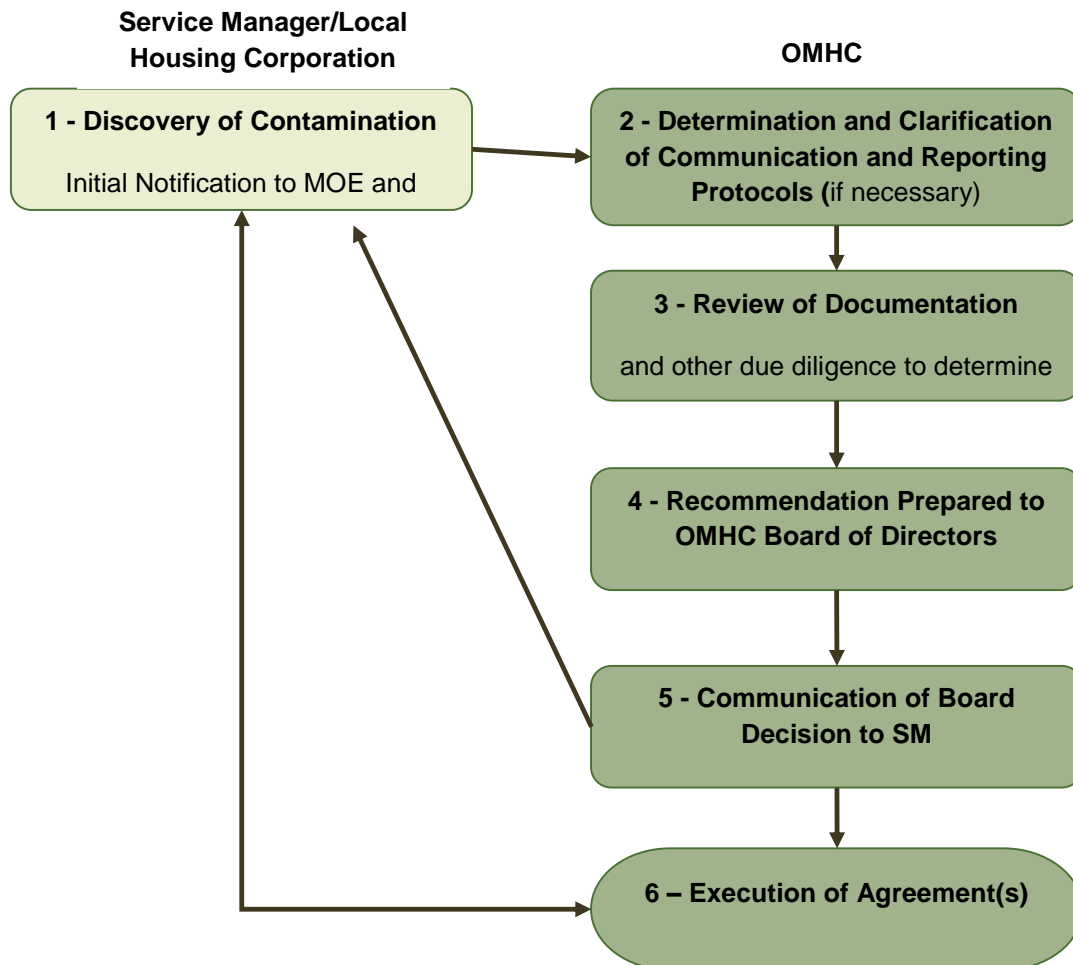
The following link provides a list of Ministry of the Environmental Regional Offices:

[http://www.ene.gov.on.ca/environment/en/about/regional\\_district\\_offices/index.htm](http://www.ene.gov.on.ca/environment/en/about/regional_district_offices/index.htm)

The Corporation recognizes that in certain extenuating circumstances, quick action and decisions may be required for remediation work. In such cases, every effort must still be made to notify the OMHC of the situation and any subsequent developments.

### How are Potential Environmental Issues Reviewed?

As a former owner having *potential* environmental liability under the EPA, the OMHC must be involved in any decision making with respect to environmental matters where liability and/or any remedial costs will be borne by the Corporation. The review process involves the following broad steps:



### ***What Course of Action Might Follow the Review?***

Should it be determined the OMHC bears potential liability, the Corporation may negotiate an agreement with the respective party which could include, but is not limited to, the following elements:

- The roles and responsibilities of OMHC and the Service Manager/LHC;
- The procurement process for further qualified environmental consultants and required services;
- The reporting relationship between all parties;
- The details of any financial arrangements; and
- A communications plan for any affected tenants.

The signed agreement will guide any further actions required to mitigate the issue including final reporting. Under no circumstances will OMHC contribute funds without having a signed agreement in place.

Any questions regarding this bulletin can be directed to the CEO, Keith Extance (416-585-7524 / [keith.extance@ontario.ca](mailto:keith.extance@ontario.ca)), or to Erich Freiler, Manager of the Infrastructure and Asset Management Unit at the Ministry of Municipal Affairs and Housing (416-585-6193 / [erich.freiler@ontario.ca](mailto:erich.freiler@ontario.ca)).

***This bulletin is designed as a guide only and is provided for educational use. This bulletin is not a complete or exact reproduction of the legislation, and in no way represents an authoritative resource on reviewing potential environmental liability claims. This bulletin is not intended, or to be used, as advice, legal or otherwise, about the requirements for environmental assessments and remediation or the obligations of those submitting them. Such advice should be obtained from competent experts, including lawyers and environmental engineers. Where there is a discrepancy between anything in this bulletin and a legislative provision the legislation prevails.***

Photo : Dumelow, 2007, Creative Commons

#### **Links to additional information:**

[Environmental Protection Act \(e-Laws\)](#)

[Ministry of the Environment - List of Regional Offices](#)

[Ontario Environment Business Directory](#)

[A Practical Guide to Brownfield Redevelopment in Ontario \(MAH\)](#)

## Appendix B: Ministry Contacts

### **Municipal Services Office – Central**

777 Bay Street 13<sup>th</sup> Floor  
Toronto, ON, M5G 2E5  
General Inquiry: 416-585-6226  
Toll Free: 1-800-668-0230  
Fax: 416-585-6882

Contact: Ian Russell, Team Lead, Regional Housing Services  
Tel: 416-585-6965  
Email: [ian.russell@ontario.ca](mailto:ian.russell@ontario.ca)

Serving: Durham, Halton, Muskoka, Peel, Simcoe, York

### **Municipal Services Office – Eastern**

8 Estate Lane, Rockwood House  
Kingston, ON, K7M 9A8  
General Inquiry: 613-545-2100  
Toll Free: 1-800-267-9438  
Fax: 613-548-6822

Contact: Mila Kolokolnikova, Team Lead, Regional Housing Services  
Tel: 613-545-2123  
Email: [mila.kolokolnikova@ontario.ca](mailto:mila.kolokolnikova@ontario.ca)

Serving: Cornwall, Hastings, Kawartha Lakes, Kingston, Lanark, Leeds and Grenville, Lennox and Addington, Northumberland, Ottawa, Peterborough, Prescott and Russell, Renfrew

### **Municipal Services Office – Western**

659 Exeter Road, 2<sup>nd</sup> Floor  
London, ON, N6E 1L3  
General Inquiry: 519-873-4020  
Toll Free: 1-800-265-4736  
Fax: 519-873-4018

Contact: Tony Brutto, Team Lead, Regional Housing Services  
Tel: 519-873-4032  
Email: [tony.brutto@ontario.ca](mailto:tony.brutto@ontario.ca)

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**Municipal Services Office – Northeastern**

159 Cedar Street, Suite 401  
Sudbury, ON, P3E 6A5  
General Inquiry: 705-564-0120  
Toll Free: 1-800-461-1193  
Fax: 705-564-6863

Contact: Cindy Couillard, Team Lead, Regional Housing Services  
Tel: 705-564-6808  
Email: [cindy.couillard@ontario.ca](mailto:cindy.couillard@ontario.ca)

Serving: Algoma, Cochrane, Greater Sudbury, Manitoulin-Sudbury, Nipissing, Parry Sound, Sault Ste. Marie, Timiskaming

**Municipal Services Office – Northwestern**

435 James Street, Suite 223  
Thunder Bay, ON, P7E 6S7  
General Inquiry: 807-475-1651  
Toll Free: 1-800-465-5027  
Fax: 807-475-1196

Contact: Peter Boban, Team Lead, Regional Housing Services  
Tel: 807-473-3017  
Email: [peter.boban@ontario.ca](mailto:peter.boban@ontario.ca)

Serving: Kenora, Rainy River, Thunder Bay

**Housing Programs Branch - Toronto**

777 Bay Street, 14<sup>th</sup> Floor  
Toronto, ON, M5G 2E5  
Fax: 416-585-7003

Contact: Walter Battello, Account Manager, Regional Services Delivery Unit  
Tel: 416-585-6480  
Email: [walter.battello@ontario.ca](mailto:walter.battello@ontario.ca)

Serving: Toronto