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## Clarification of the Housing Services Act, 2011

*The comments outlined in this presentation are of a general nature and are intended for discussion purposes only. These comments should not be construed as legal advice.*

# Thank You

- Thank you for inviting us today!
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  - Jason Mallett, Senior Policy Advisor
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- Overarching intent to streamline and simplify language and to provide flexibility through the *Housing Services Act, 2011*
- Ministry appreciates, and is open to your continued feedback and insights on the Act and associated regulations

# Special Needs Housing Administrators

**Question #1:** Is it possible to designate a housing provider as the Special Needs Housing Administrator with respect to its supportive units only (i.e. not for modified units without support services)?

## Context:

- In 2007, minor changes to terminology were made to section 64 of the SHRA. Regulatory changes permitted housing providers who offered support services to manage their own waiting list, while waiting lists for providers with modified units but no support services were handled by the Service Manager. The regulations treated all of the special needs units of a given housing provider in the same way.
- Housing Services Act, 2011 streamlines and clarifies language, however, there are no substantive changes.
  - Only minor changes were made to the housing provider names in schedule 3.

## Response:

- No substantive changes to the existing SHRA provisions were intended.
- The Ministry is willing to explore possibilities for making the list of special needs housing administrators more specific with Service Manager consensus.

# Waiting Lists for Special Needs Housing

**Question #2:** Can a choice-based system be used for selecting households from the special needs waiting list?

## **Context:**

- Special needs language does not exactly mirror the language used for the selection of RGI applicants.
- Section 76(1) 6 states higher priority households must be offered unit before lower priority households, however the priority rules for special needs housing do not require selection to be chronological.
- Lower priority households may be offered the unit only if higher priority households have not accepted an offer within a reasonable time period.
- The existing wording of the Housing Services Act, 2011 would appear to allow the possibility of a choice-based system for selecting households, provided that the special priority rule is respected.

## **Response:**

- Ministry recognizes the need for new approaches to systems for selecting waiting households.
- While the current parameters allow for the possibility of a choice-based selection system, the Ministry welcomes suggestions to further clarify language or further enhance flexibility.

# Multiple Date Application System

**Question #3:** Can local rules allow the use of multiple dates for a waiting list system?

**Context:**

- Service Managers are required to establish a centralized waiting list for selecting households.
- System for selecting waiting households must consider special priority status and amount of time on centralized waiting list.
- The degree to which chronology on the centralized waiting list must be considered is not specified. Service Managers may consider additional factors.

**Response:**

- Service Manager may establish local priority rules, but a consideration must include time on centralized waiting list and precedence must be given to special priority households.
- It may be feasible for a system that ranks applicants also taking into consideration additional factors, such as the amount of time waiting for a unit of a specific housing provider.

# Effective Date of Ineligibility Decisions

**Question #4:** Will the Ministry allow retroactive decisions of ineligibility to reduce to the 90-day notice period?

## **Context:**

- Section 7 of the Residential Tenancies Act, 2006 allows an exemption from the notice period for rent increases only in relation to changes in rent payable due to changes in a tenant's income.
- Rent increases resulting from other reasons must be given a 90-day notice period (unless household resides in a housing co-operative).
- Households need adequate notice of an impending rent increase to allow them an opportunity to find more affordable alternative accommodations.

## **Response:**

- Tenants no longer eligible for RGI assistance must receive 90-days notice of a rent increase.

# Effective Date of Decision with Internal Review

**Question #5:** Is it possible for a household to delay the effective date of a decision by requesting an internal review?

## Context:

- The Housing Services Act, 2011 has a modification of the previous SHRA wording in relation to the effective date of Service Manager decisions.
- A household does not have control over the timing of an internal review and maintaining the original effective date may unfairly burden a household.

## Response:

- The effective date of a Service Manager decision could be delayed if a household requests an internal review.
- Service Managers control the timeframe for conducting a review of a Service Manager decision.

# Reporting Requirements for Service Level Standards

**Question #6:** Will the Ministry reduce the reporting requirements associated with the service level standards?

## **Context:**

- The collection of information is necessary for the Province to fulfill its stewardship role and ensure compliance with the Housing Services Act, 2011 and the terms of the Social Housing Agreement.

## **Response:**

- The Ministry is exploring opportunities to make improvements to information collection and reporting.
- The Ministry has committed to consulting with Service Managers and stakeholders to develop locally relevant performance measures and reporting requirements across the sector.



# Rent-Geared-to-Income: Income & Asset Exclusions

**Question #7:** Will the Ministry restore the list of asset exclusions? How will the treatment of RRIFs be addressed under the new RGI calculation system?

## **Context:**

- Funds received from student loans, compensation programs and payments related to a death or injury were removed from list of asset exclusions due to potential difficulty verifying the source of these funds.
- The Housing Services Act, 2011 provides Service Managers with the authority to establish their own list of asset exclusions.

## **Response:**

- Service Managers may elect to exclude student loans or other funds as assets by establishing their own local rules.
- The treatment of RRIFs will be addressed as part of future discussions on the RGI calculation process.

# Occupancy Standards

**Question #8:** Why was ‘full-time’ wording removed from the occupancy standards?

**Context:**

- Occupancy standards permit a household to have a larger than normal unit if a child is attending a recognized educational institution.
- In some instances, the student may not be able to attend school on a full-time basis due to financial or health reasons.

**Response:**

- The Ministry believes households should not be penalized if they confront barriers to pursuing educational opportunities on a full-time basis.
- Accordingly, the Housing Services Act, 2011 does not require full-time attendance at an educational institution in order to be treated as part of the household for the purpose of the occupancy standards.

# Consent for Information Sharing

**Question #9:** How can Service Managers share or obtain an applicant's personal information?

## **Context:**

- Section 172 of the Housing Services Act, 2011 gives general authority for a Service Manager to enter into agreements with one or more parties to facilitate the collection, use and disclosure of information for the purposes of administering or enforcing the Act.

## **Response:**

- The Ministry recognizes the difficulties associated with information sharing for the purpose of administering and enforcing the Housing Services Act, 2011.
- Service Managers may continue to set their own application requirements and ask for consent to disclose and obtain personal information.

# Rent-Geared-to-Income: Dependants

**Question #10:** Will an age limit be placed on definition of a dependant for the purposes of calculating RGI assistance?

## **Context:**

- The Long-Term Affordable Housing Strategy announced a commitment to simplify the RGI calculation process by moving to a income tax-based method.

## **Response:**

- The Ministry is currently reviewing the RGI calculation process, working towards creating an annual income tax-based calculation.
- Stakeholders will be consulted in the future on the RGI calculation process.

# Service Manager Subsidies

## ***How will the funding formula be amended after a mortgage expires?***

We recognize this is an important issue and the Ministry will continue to dialogue with housing sector partners.

## ***How will subsidies and surpluses be calculated without any reference to an Annual Information Return?***

The practice in the past has been to use the corrected year-end results as the basis for surplus calculations. There is no plan to alter this practice.

## ***Will a revision to the Market Rent Index be allowed without consent?***

The Ministry welcomes the opportunity to work with Service Managers to determine the conditions under which revisions to certain amounts used in the subsidy formula may be considered.

## ***Does the Ministry intend to address the issues with the CMHC survey?***

The Ministry looks forward to the opportunity to collaborate with Service Managers on this matter.

# Deferral of Amounts Payable

**Question #12:** Will amounts owing at the start of a lease and deferred for later payment be considered as rent?

## **Context:**

- The Residential Tenancies Act, 2006 sets out rules for additional fees and deposits that may be collected in addition to rent.
- Service managers/housing providers may wish to obtain legal advice as to whether a given type of payment would be considered “rent”.

## **Response:**

- The Ministry will consider whether wording can be enhanced to provide greater clarification.

# Procedural Fairness Rules

**Question #13:** Will the Province consider expanding the list of exceptions for giving notice of a triggering event?

## **Context:**

- The enforcement provisions of Bill 140 were extensively amended at the request of stakeholders during committee consideration of the legislation.
- The revised provisions of section 90 of the Housing Services Act, 2011 were developed after extensive consultations with stakeholders.

## **Response:**

- The Ministry will review the enforcement provisions of the Housing Services Act, 2011, as required by section 100 of the Act, by January 1, 2017.

# Land Transfer Tax

**Question #14:** Are transfers of housing projects exempt from the Land Transfer Tax if a Receiver or Receiver and Manager have been appointed?

**Context:**

- Section 167 of the Housing Services Act, 2011 allows for an exemption from the Land Transfer Tax for certain transfers. However, it does not create a blanket exemption for transfers by a receiver or a receiver and manager.

**Response:**

- On a case by case basis, the Ministry will consider requests for exemptions from the Land Transfer Tax for instances where a receiver or a receiver and manager are in place.



# Review of Continued Eligibility

**Question #15:** Why is the annual review of eligibility based on an anniversary date?

**Context:**

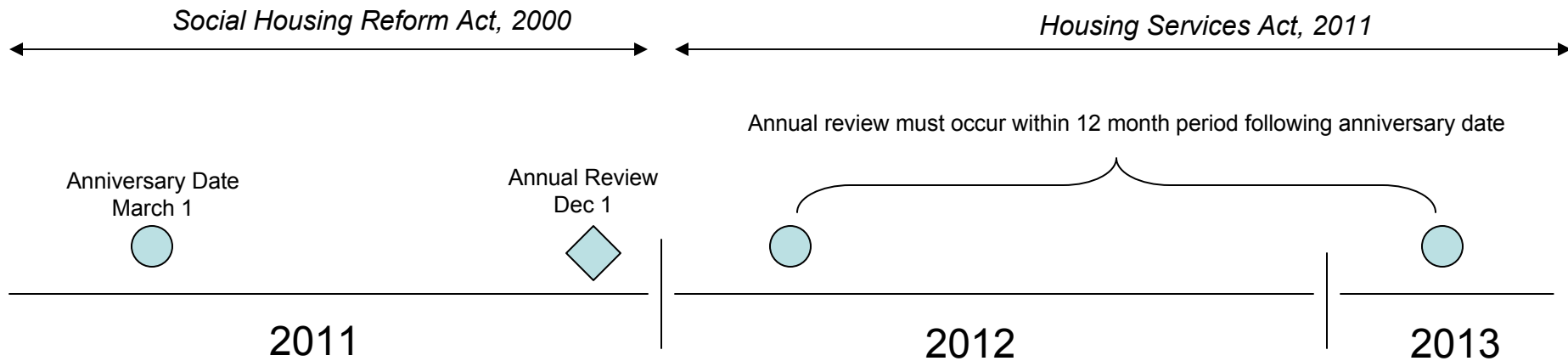
- The Housing Services Act, 2011 requires a household receiving RGI assistance to be reviewed for continued eligibility for RGI assistance on an annual basis.

**Response:**

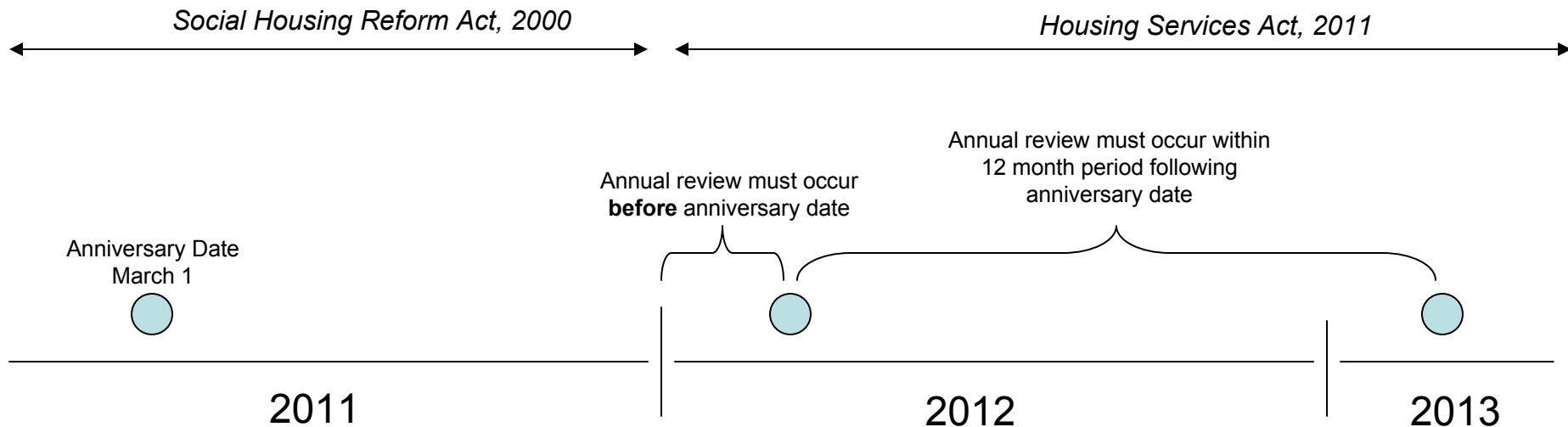
- Service Managers are not required to conduct an annual review on a household's anniversary date, but instead have a 12 month window within which to conduct an annual review.
- For current RGI recipients, O.Reg 367/11 sets out transitional rules:
  1. If, as of January 1, 2012, a household has already had an annual RGI eligibility review under the SHRA since their last anniversary date, then the first eligibility review under the HSA does not need to be conducted until sometime during the 12 months after their next anniversary date.
  2. If, as of January 1, 2012, a household's most recent annual RGI eligibility review was conducted prior to their last anniversary date, then the first eligibility review under the HSA must occur before their next anniversary date. Subsequently, eligibility reviews can occur any time during the 12 months after each anniversary date.

*Note: The anniversary date refers to the day the household started to receive RGI assistance.*

# Scenario 1: Pre-existing RGI recipient where an eligibility review has already been held since the most recent anniversary date



# Scenario 2: Pre-existing RGI recipient where, as of January 1, 2012, no eligibility review has been conducted since the last anniversary date



# Performance Measures and Reporting

- Service Managers will be required to report to their local community annually on progress in housing, including on provincially-established metrics, as well as other metrics that reflect local priorities/needs
- Province to report annually on provincial outcomes and progress
- Four common measures of progress reporting:
  - Ontario Housing Measure (existing measure)
  - Rental Affordability Index (existing measure)
  - Service Manager metrics along the housing continuum (to be developed)
  - Social Housing Tenant Satisfaction Survey (to be developed)

## Next Steps:

- Conducting analysis regarding performance measurement, and rationalizing current data collection and reporting requirements
- Consultations with key stakeholders, including developing new measures in consultation with Service Managers and stakeholders. Timing to be determined

# Simplifying Rent-Geared-To-Income

- Commitment to develop a simplified annual income-tax-based Rent-Geared-to-Income (RGI) calculation
- MMAH and Ministry of Finance conducting comprehensive analysis of new calculation options and impacts
- Existing Rent-Geared-to-Income calculation rules under the *Social Housing Reform Act, 2000* are carried forward under the *Housing Services Act, 2011* to be replaced by new Rent-Geared-to-Income regulations once they are ready

## Next Steps

- Complete analysis of new calculation options
- Conduct consultation with key partners and stakeholders

## Updates on MMAH Initiatives

- In the near future, expect to receive updates on the following initiatives:
  - Local Housing and Homelessness Plans
  - Transition to Housing Services Act, 2011
  - Program Consolidation