



Submission to the Government of Ontario regarding proposed amendments to O. Reg. 367/11 under the Housing Services Act, 2011

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Purpose

This submission provides Maytree’s insights and analysis to the Ontario Ministry of Municipal Affairs and Housing regarding proposed amendments to O. Reg. 367/11 under the *Housing Services Act*, 2011 (HSA). The proposed amendments are related to service agreements between service managers and housing providers, the required levels of assistance that must be provided by service managers, as well as the creation of a new access system for housing assistance.

Understanding the context behind the proposed changes

How does Ontario’s community housing system work?

Community housing is an umbrella term used by the Ontario government to describe housing that is subsidized (social housing or rent-geared-to-income housing) and housing that is priced at or below the average market rent or home price (affordable housing).

In Ontario, municipal governments are primarily responsible for the funding and delivery of community housing through 47 service managers – Consolidated Municipal Service Managers or CMSMs and District Social Services Administration Boards or DSSABs. Service managers also partner with co-operative, non-profit, and Indigenous community housing providers to provide these services.

Through the HSA, the Ontario government’s role is to set the legislative framework, guidelines, and requirements for operating the community housing system.

What’s the problem?

The community housing system is under immense pressure—the demand for community housing and housing supports outweighs the supply available.

Core housing need is one measure commonly used to quantify the number of Canadians in need of assistance to meet their housing needs. Households are in core housing need if they don’t meet standards related to adequacy, suitability, or affordability and if they spend 30 per cent or more of their before-tax income on housing. In Ontario, about 15.3 per cent of households are in core housing need – the highest rate among the provinces.¹

1 Statistics Canada. “Core housing need, 2016 Census.” Accessed at: <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/chn-biml/index-eng.cfm>

The situation has only worsened in recent years. According to a report from the Financial Accountability Office of Ontario, the number of Ontario households in core housing need grew from 616,900 in 2011 to 735,000 in 2018.² Yet over this same period, the number of households receiving support declined by 4 per cent.³

This growth in households in core housing need, combined with the decline in the number of households receiving support, means that there is unmet demand for social housing in Ontario. According to the Office of the Auditor General in Ontario, the waitlist to access the social housing system is one of the largest in the country, with 185,000 households on the list as of 2016.⁴ Only about 5 per cent of people on the waitlist are housed in a given year, and, based on a sample of service managers, wait times can be over nine years for a social housing subsidy.⁵ Applicants also face affordability challenges while waiting for social housing. According to the Office of the Auditor General of Ontario, about 22 per cent of households on waiting lists that were surveyed could not make their rent or utility payments and owed arrears.⁶

Even when social housing is available, it may not be adequate. For instance, much of Ontario's social housing is 40 to 60 years old, and there is a long-standing backlog for capital repairs. Service managers also continue to face funding challenges in addressing the capital repairs that are needed for these units.⁷ As of December 2016, there were about 6,300 social housing units staying vacant because of poor conditions, and this number is likely to grow as the existing stock of social housing ages.⁸

In addition, the mortgages of many community housing providers are coming to an end. Currently, in determining funding for housing providers, the provincially mandated formula includes subsidies for mortgage costs. When mortgages are paid

2 Financial Accountability Office of Ontario. 2021. *Housing and Homelessness Programs in Ontario*. Accessed at: <https://www.fao-on.org/web/default/files/publications/FA1906%20Affordable%20Housing/Housing%20and%20Homelessness%20Programs-EN.pdf>

3 Ibid

4 Office of the Auditor General of Ontario. 2017. *Annual Report, Volume 1*. "Chapter 3: Reports on Value for Money Audits, Section 3.14: Social and Affordable Housing." Accessed at: https://www.auditor.on.ca/en/content/annualreports/arreports/en17/v1_314en17.pdf

5 Ibid

6 Ibid

7 Association of Municipalities of Ontario. 2019. *Fixing the Housing Affordability Crisis: Municipal Recommendations for Housing in Ontario*. Accessed at: <https://www.amo.on.ca/sites/default/files/assets/DOCUMENTS/Reports/2019/FixingHousingAffordabilityCrisis20190814.pdf>

8 Office of the Auditor General of Ontario. 2017. *Annual Report, Volume 1*. "Chapter 3: Reports on Value for Money Audits, Section 3.14: Social and Affordable Housing." Accessed at: https://www.auditor.on.ca/en/content/annualreports/arreports/en17/v1_314en17.pdf

off, some housing providers and associations are advocating for municipalities to continue to provide these subsidies to meet operational demands (e.g., overdue capital repairs). There are concerns that unless current levels of funding are maintained, some providers will exit the system once their mortgages expire. According to the Ontario government, this issue is expected to put about 41,000 housing units from non-profit and co-operative providers at risk in the short term.⁹

The Ontario government's response

In April 2019, the Ontario government introduced a broad strategy to address challenges in the community housing system called the **Community Housing Renewal Strategy**. The Strategy “puts people first” and outlines how the government will help “sustain, repair, and grow” community housing.

In July 2020, through the *Protecting Tenants and Strengthening Community Housing Act, 2020*, the government amended the HSA to put some of these commitments into practice. The proposed amendments to O. Reg. 367/11 are intended to provide guidance on implementing changes made to three main areas of the Act:

1. **Service Agreements** – new operating agreements between service managers and housing providers.
2. **Service Level Requirements** – the required number of households that service managers must provide housing assistance to in their service areas.
3. **Access System** – a new system containing the forms of housing assistance that service managers can provide to those who are eligible.

What do these changes mean and why do they matter?

1. Service Agreements

The regulations under the HSA describe the operating rules and funding formulas for different housing types and supports under the Act.

In 2020, the Ontario government amended the HSA to create a new, single framework that would guide the operating relationship between municipal service managers and housing. These agreements would apply to existing housing providers with matured mortgages that wish to remain in the community housing system as well as new providers.

⁹ Government of Ontario. 2019. “Community Housing Renewal Strategy.” Accessed at: <https://www.ontario.ca/page/community-housing-renewal-strategy>

The regulations under the HSA are now being amended to put the Service Agreement framework into force. The Ontario government has noted that it is considering including baseline provisions for administration, funding arrangements, and requirements intended to protect tenants and public dollars when existing community housing assets are sold and repurposed. The regulations under the HSA would also implement other aspects of the new Service Agreement framework, including the establishment of exit agreements between service managers and housing providers when a housing project is no longer part of the community housing system.

Although the new Service Agreement framework will help to set operating rules going forward, the Province's summary of the proposed regulatory amendments suggests that this change is because of an inefficient and complex system. Framing the issue in this way ignores the key challenge raised by service managers and housing providers – that many mortgages will be expiring soon, and that clarity is required on which entity determines how funding for mortgages can be used going forward. The proposal only mentions the potential for “baseline provisions” for funding arrangements and does not directly address – let alone resolve – concerns that the funding formula needs to be updated.

As many housing providers are near the end of their mortgages, direction on the funding dynamics between housing providers and municipalities is needed. Otherwise, it seems that the Ontario government could transfer responsibility for the governing framework between housing providers to municipalities. This would mean that CMSMs and DSSABs across the province could have their own governing frameworks, and though these frameworks would reflect local contexts, housing providers in similar circumstances could be treated differently depending on their municipality.

This creates challenges for both housing providers and service managers. Ideally, these baseline provisions will set out foundational elements of governing frameworks between service managers and housing providers, so that housing providers across the province have predictability and sustainability in funding, regardless of where they are in the province. At the same time, the baseline provisions for governing frameworks will create space for municipalities to also respond to local contexts.

If the Ontario government chooses to delegate its responsibility to CMSMs and DSAABs, then funding authorities should also be in place to ensure that municipalities have the requisite fiscal resources and powers to improve the community housing system.

While housing service providers and municipalities are working with the government to develop regulations that would assuage concerns from both parties, it is important to centralize the well-being and housing security of tenants in the process. In this regard, consideration should be given to including foundational principles that support housing security within the Service Agreement framework. This would help to ensure that decisions are made with the interest of tenants in mind.

Summary of recommendations to strengthen the Service Agreement provisions

Maytree recommends that the Ontario government:

- Work closely with service managers and housing providers to understand their positions and ensure that their views are reflected in baseline provisions included in Service Agreements.
- Keep the well-being and housing security of tenants centralized in its decisions.

2. Service Level Requirements

Currently, the regulations under the HSA set out the minimum number of households that service managers must provide assistance to based on their service area. This minimum number, referred to as service level requirements, applies to RGI or monthly financial assistance related to housing that meets criteria specified in the regulations and is based on income (i.e., portable housing benefits).

Service level requirements were set over 20 years ago and have not been changed since that time. In practice, this means that:

- Service levels have not kept pace with population growth. For example, from 2000 to 2021, the number of people living in Ontario grew by about 27 per cent.¹⁰
- Since service levels were created with only RGI housing in mind, they don't contain rules governing other housing assistance beyond certain portable housing benefits.

While the Ontario government acknowledges that current service level standards do not reflect the broader system of housing assistance, the way that the summary of the proposal is written suggests that **the government is not looking to change service levels but wants to count other types of housing assistance towards current**

¹⁰ Authors' calculations based on Statistics Canada Table 17-10-0005-01, "Population estimates on July 1st, by age and sex." Accessed at: <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1710000501>

service levels. The Ontario government appears to be framing the challenge as an inflexibility in the type of assistance that can be offered by service managers to meet required service levels, rather than the growing demand for social housing and a lack of adequate units available to meet demand.

In addition, the other types of housing supports provided typically do not provide the same depth of support as RGI or the financial assistance prescribed in the regulations (e.g., monthly benefits of \$200 per month). They also can vary depending on the service area. This means that maintaining the same service levels, while counting non-RGI forms of housing support as equal to RGI, could enable municipalities to replace RGI housing with other types of housing support that are less robust.

Summary of recommendations to preserve RGI housing in service level requirements

Maytree recommends that the Ontario government:

- Maintain current requirements for RGI housing and portable housing benefits and set separate service level standards for other housing-related financial assistance.
- Increase required service levels to reflect population growth and other factors and prescribe how service managers track and report on other forms of housing assistance beyond RGI assistance.

3. Access System

In addition to minimum service levels, the regulations under the HSA describe a number of rules related to RGI, such as rules for determining eligibility (e.g., age and citizenship status), rules for selecting households from a centralized waitlist, and rules to determine priority access for those in greatest need (e.g., survivors of domestic violence and human trafficking). Service managers can also tailor rules to fit their local needs, such as those related to income and assets.

In 2020, the Ontario government added a legislative requirement under the HSA that service managers create an access system for housing assistance in their service areas. Forms of assistance in the access system would include any form of assistance prescribed in the regulations.

The Ontario government is now looking for feedback on what types of assistance could be included in this system, as well as potential requirements for eligibility and priority access.

While it would be beneficial for service managers to have one system showing the housing assistance offered in each service area, the rationale behind this change seems to be to reduce pressure on the demand for RGI housing by making it easier for service managers to offer other types of housing assistance to those on the waitlist.

Although in theory, encouraging other forms of assistance could reduce wait times for RGI housing in the short term, the new access system could leave some worse off if they accept a lower level of housing assistance only because it is offered sooner than an RGI unit. This could put pressure on other government supports to meet tenants' needs if the housing assistance provided falls short, and may not reduce overall wait times in the longer term if tenants return to the RGI waitlist.

In addition, without clear rules for priority over the types of housing assistance in the access system, the system could create inequities between municipalities. This could increase complexity and potentially leave some tenants with lower levels of assistance depending on where they live.

Summary of recommendations for the creation of an access system

Maytree recommends that the Ontario government:

- Develop criteria to determine how, and the order in which, housing assistance within the access system is offered.
- Consider how these regulatory amendments, in addition to other changes being made through the Community Housing Renewal Strategy, align with the recommendations made in the Housing Affordability Taskforce Report.
- Examine how housing supports interact with social assistance and the broader system of supports provided to lower-income individuals and families.

Maytree's recommended approach

Guiding principles

The right to adequate housing is a fundamental human right that is recognized by the federal government in the *National Housing Strategy Act, 2019*, and has been increasingly made explicit by municipal governments across Canada.

Maytree recommends that the Ontario government take into consideration the following rights-based principles in the development of its regulatory amendments under the HSA:

Principle ¹¹	From a policy perspective, this means...
<i>Equity and Inclusivity</i> : defined as housing that takes into account the specific needs of disadvantaged and marginalized groups.	Creating programs and rules that ensure that those with specific needs (e.g., persons with disabilities) have access to housing that meets their needs.
<i>Affordability</i> : defined as housing for which the cost doesn't compromise a person's enjoyment of other human rights.	Protecting and expanding the supply of deeply affordable housing.
<i>Adequacy</i> : defined as housing that ensures safety, adequate space, and protection against structural hazards.	Providing tenants with housing that meets health and safety requirements and also meets the needs of their households.

Recommendations

1. Work closely with service managers and housing providers in the implementation of Service Agreements, keeping the needs of tenants at the forefront
 - 1.1. Maytree recommends that the Ontario government work closely with service managers and housing providers to understand their positions and ensure that their views are reflected in baseline provisions included in Service Agreements. In these consultations, the Ontario government should maintain its role in setting the framework for the delivery of community housing. If the Ontario government chooses to delegate its responsibility to CMSMs and DSAABs, then funding authorities should also be in place to ensure that municipalities have the requisite fiscal resources and powers to improve the community housing system. This is especially necessary to ensure that housing providers, and tenants, have

11 These principles are based on the Office of the Human Rights Commissioner's conditions for adequate housing. Accessed at: https://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf

predictability and sustainability in funding to improve and maintain housing units.

- 1.2. The well-being and housing security of tenants should be centralized in decisions surrounding Service Agreements. For example, the Ontario government should specify how it will protect tenants in cases where housing providers exit the system, or when housing assets are sold or repurposed. Although the government recognizes the importance of protecting tenants in the proposed amendments, key details are needed on the rules governing the transition of tenants to other adequate housing, as well as how assistance will be provided to them. Communication about important policy changes, especially as they pertain to tenants, should be transparent, accessible, and frequent.

2. Protect the supply of deeply affordable housing provided through RGI and maintain priority systems to ensure that those with the greatest housing needs are served

- 2.1. Maytree recommends that in changing service level requirements, at a minimum, the Ontario government maintain current requirements for RGI housing and set separate service level standards for financial assistance other than portable housing benefits. This would preserve the affordability of the system and protect RGI housing from being replaced by other assistance that may not suit those most in need.
- 2.2. Should the government change overall service level standards, it should increase levels to reflect population growth, taking into account changes in income levels, regional affordability, and socioeconomic characteristics (e.g., family composition, ethnicity, and immigrant status).

The Ontario government should also prescribe how service managers track and report on other forms of housing assistance to understand which types would be adequate and affordable enough to be counted towards service levels.

- 2.3. Maytree recommends that the Ontario government develop criteria to determine how, and the order in which, housing assistance within the access system is offered. This would help to ensure that those in deepest need continue to be provided the opportunity to access an RGI unit and aren't made worse off by accessing another form of assistance.

This would further:

- Preserve equity in the system so that those in deepest need continue to be prioritized; and
- Protect the affordability of housing by allowing tenants to access other types of housing assistance without being removed from the RGI waitlist.

3. Take a more holistic approach to government programs and services related to housing affordability and income security

The current approach to addressing community housing separately could increase complexity and inefficiency if interactions between programs, as well as factors that impact housing and lower-income individuals and families more broadly, are not considered together.

- 3.1. In this regard, the Ontario government should consider how these regulatory amendments, in addition to other changes being made through the Community Housing Renewal Strategy, align with the recommendations made in the Housing Affordability Taskforce Report. This would recognize that housing affects all Ontarians and policy changes that impact the supply or demand side of market housing also impact community housing, and vice versa.
- 3.2. Maytree also recommends that the Ontario government examine how changes to the community housing system could impact social assistance recipients. This is because recipients who live in RGI housing pay rent based on rent scales established by the Ontario government, which results in a lower level of rent.¹² Should social assistance recipients start to rely more on other types of housing assistance due to the new access system, it would be important to consider ways to ensure that recipients receive an adequate amount of rental support.

In addition, to better address affordability, the Ontario government should consider what other income supports beyond RGI could be reviewed to better meet the broader needs of lower-income individuals and families.

12 Francis Lankin and Munir A. Sheikh. 2012. *Brighter Prospects: Transforming Social Assistance in Ontario*. Commission for the Review of Social Assistance in Ontario. Accessed at: https://www.mcass.gov.on.ca/documents/en/mcass/social/publications/social_assistance_review_final_report.pdf

Conclusion

The proposed regulatory amendments under the HSA are intended to operationalize legislative changes focused on establishing a new Service Agreement framework between service managers and housing providers, changing service level requirements to include other types of housing assistance beyond RGI and portable housing benefits, and creating an access system that would act as an inventory of housing assistance.

On the surface, these changes would appear to make the community housing system more streamlined. But in practice, they fail to address supply and affordability challenges. Moreover, the proposed regulatory framework could exacerbate these challenges.

To improve the community housing system, Maytree encourages the Ontario government to consider the following recommendations in its development of the regulatory amendments:

1. Work closely with service managers and housing providers in the implementation of Service Agreements, keeping the needs of tenants at the forefront of decisions.
2. Protect the supply of deeply affordable housing provided through RGI and maintain priority systems to ensure that those with the greatest housing needs are served.
3. Take a more holistic approach to government programs and services related to housing affordability and income security.

We also recommend that the Ontario government uses rights-based principles to develop its approach, recognizing that the human right to adequate housing is a fundamental human right affirmed in Canada's *National Housing Strategy Act*. The progressive realization of this right will depend on coordinated responses by all levels of government. The use of rights-based principles in informing policy and regulatory changes ensures that the dignity of people is at the centre of decision-making. This aligns with the purported spirit of the HSA legislation — it is now time that proposed regulatory amendments match this spirit.



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