

Watermark Co-operative Homes Inc.

**A BY-LAW TO COMPLY WITH THE  
ONTARIO *HOUSING SERVICES ACT***

# By-law No. 26

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*HOUSING SERVICES ACT BY-LAW*

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Passed by the Board of Directors on Nov. 27/2014.

Confirmed by the Members on Feb 19, 2015.

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## **By-law No. 26 HSA By-law**

This By-law contains rules which Watermark Co-operative Homes Inc. (the Co-op) is adopting to comply with the Ontario *Housing Services Act*.

It changes the Co-op's existing by-laws in the following areas:

- Required internal transfers (Article 3)
- Guest rules for members who pay a geared-to-income housing charge (Article 4)
- Special needs eligibility and waiting list (Article 5)
- Procedures for decisions, reviews and notices (Article 6)
- Selection of geared-to-income and special needs members (Article 7)
- Forms to be used by the Co-op (Forms A to I)

# 1. ABOUT THIS BY-LAW

## 1.1 Special Meanings

Certain words have special meanings when used in this By-law.

- (a) “*Housing Services Act*” means the Ontario *Housing Services Act*, including all amendments to bring it up to date.
- (b) “*Co-operative Corporations Act*” means the Ontario *Co-operative Corporations Act*, including all amendments to bring it up to date.
- (c) “Regulations” means official Regulations passed by the Ontario government under the *Housing Services Act*, including all amendments to bring them up to date.
- (d) “Local Rules” means rules and standards that are officially set by the Service Manager in compliance with the *Housing Services Act*.
- (e) A “Service Manager” is the municipal body that relates to the Co-op under the *Housing Services Act*. The Service Manager for the Co-op is **Niagara Regional Housing**.
- (f) “Government Requirements” is a term used in this By-law to refer to the rules that apply to co-ops as stated in the *Housing Services Act*, the Regulations, Local Rules or any of them.
- (g) A “Review” is a review of a decision about geared-to-income or special needs housing resulting from an appeal by an applicant or member under Government Requirements. Procedures for reviews by the Co-op are in Attachment 3 – Procedure for Decisions, Reviews and Notices and Attachment 5 – Procedure for a Review of a Refusal of Membership Application.

Words that have special meanings in the *Housing Services Act* and the Regulations have the same meaning when used in this By-law unless another meaning is clearly intended.

Some other words have special meanings in this By-law. These include:

- Applicable occupancy standards (section 3.6)
- Special needs households and special needs units (section 5.5)
- Household (section 6.6).

## **1.2 Applicable Rules**

Many of the rules applicable to co-ops are set out in the *Housing Services Act*, the Regulations and Local Rules. The Co-op must obey these rules even if they conflict with its by-laws. The Co-op must also continue to follow the rules in the *Co-operative Corporations Act*.

If there is a conflict among rules, they will govern in this order:

1. the *Co-operative Corporations Act* and the *Housing Services Act*
2. the Regulations under the *Housing Services Act* and any regulations that are relevant under the *Co-operative Corporations Act*
3. Local Rules
4. this By-law, including the Forms and Attachments
5. the other by-laws of the Co-op.

## **1.3 Relation to Other By-laws**

- (a) This By-law takes the place of or amends all previous by-laws or resolutions that deal with matters covered by this By-law. If there is a conflict, this By-law governs.

The following by-laws, or parts of by-laws, are repealed when this By-law is passed:

- The Housing Charge Assistance By-law (By-law No. 12)
- *Social Housing Reform Act* By-law No. 18

## 2. OCCUPANCY AGREEMENT

### 2.1 Occupancy Agreement

- (a) The Co-op's Occupancy By-law Appendices A, B, C and D will form part of the Co-op's Occupancy Agreement. Appendices A and B will be used for all members. Appendix C, Housing Charge Subsidy Terms, will be used only for members who pay a geared-to-income housing charge. Appendix D, Special Needs Unit Terms, will be used only for members who live in a special needs unit.
- (b) The Co-op and the members must obey this By-law and the Occupancy Agreement and the Appendices to the Occupancy Agreement that apply to them, even if a particular member has not signed an Occupancy Agreement or the Appendices.

### 2.2 Signing Occupancy Agreement

- (a) New members must sign the Occupancy By-law's Appendices A and B when their membership in the Co-op begins and they sign an Occupancy Agreement. If they pay a geared-to-income housing charge, they must also sign Appendix C. If they occupy a special needs unit, they must also sign Appendix D.
- (b) Existing members who pay a market housing charge must sign the Occupancy By-law's Appendices A and B when they would be signing a new Occupancy Agreement.
- (c) Existing members who pay a geared-to-income housing charge must sign the Occupancy By-law's Appendices A, B and C within 12 months of this By-law passing. The Service Manager may require new Appendices to be signed sooner.
- (d) Existing members who occupy a special needs unit must sign the Occupancy By-law's Appendices A, B and D within 12 months of this By-law passing. The Service Manager may require new Appendices to be signed sooner.
- (e) Existing members who pay a market housing charge and start to receive geared-to-income assistance must sign the Occupancy By-law's Appendices A, B and C when they start to receive geared-to-income assistance.

- (f) Existing members must sign the Occupancy By-law's Appendices A and B, and Appendix C if applicable, when there is a change in their household size.
- (g) Members who pay a geared-to-income housing charge must make sure that non-member occupants in their household sign the Appendices as stated in the signature section.

## **3. REQUIRED INTERNAL TRANSFERS**

### **3.1 Purpose of Article 3**

The *Housing Services Act* requires the Service Manager to set up a waiting list system. This includes rules about internal transfers. The Co-op's policies and procedures must comply with Government Requirements. They are different from the Co-op's earlier policies as stated in its by-laws.

### **3.2 Relation to Other By-laws**

The policies and procedures set out in this Article are intended to work with the Co-op's existing by-laws. If there is a conflict, this By-law governs. This By-law covers only required moves for:

- households paying a geared-to-income housing charge who have requested an internal move and been given special priority status under Government Requirements and
- special needs households who have requested an internal move and been given special priority status under Government Requirements and
- households who pay a geared-to-income housing charge and are overhoused under applicable occupancy standards (see section 3.6) and
- households who live in a special needs unit and are no longer eligible for special needs housing.

### **3.3 Internal Waiting List**

The Co-op will have a waiting list for internal transfers. The Internal Waiting List will include transfers required under this By-law and all other transfers.

### **3.4 Existing Waiting List**

The Co-op's internal waiting list at the time this By-law is confirmed will be continued as the Internal Waiting List referred to in this By-law. It will be adjusted as necessary to fit the categories and rules stated in this By-law.

### **3.5 Priority**

- (a) This section states the order of priority for allocating a unit when it becomes vacant. It is subject to all Government Requirements and the specific provisions set out in this By-law.
- (b) The board of directors will offer the unit in the following order:
- first, to geared-to-income or special needs members who have requested an internal transfer and been given special priority status under Government Requirements
  - second, to members who have to make a required transfer under this By-law. They will be ranked in the following order:
    - section 3.9 (Overhoused Geared-to-Income)
    - section 3.10 (Special Needs – Modified Units)
    - section 3.11 (Special Needs – Support Services)
  - third, to members on the Internal Waiting List who are required to transfer under the Co-op's by-laws
  - fourth, to members who have requested an internal transfer
  - fifth, to external applicants.

### **3.6 Applicable Occupancy Standards**

In this By-law "applicable occupancy standards" means the occupancy standards, if any, set out in the Co-op's Occupancy By-law and the occupancy standards set by the service manager for geared-to-income households.

### **3.7 Special Priority Status for Members Requesting an Internal Transfer**

- (a) This category is made up of geared-to-income or special needs households who have been given special priority status on the Internal Waiting List due to abuse by another member of the household or immigration sponsor. Geared-to-income households are included if the Co-op has at least one unit where the household would not be overhoused.



- (b) Households paying a geared-to-income housing charge who have been given special priority status under Government Requirements and have requested an internal transfer will be offered units of a size and type for which they are eligible under applicable occupancy standards.
- (c) Within this category, priority will be as stated in Government Requirements.
- (d) If the household is removed from the special priority category under Government Requirements, the household will be removed from the Internal Waiting List.

### **3.8 Required Transfers**

Sections 3.8 to 3.15 state rules for priority in offering units to households that must move to another unit according to Government Requirements. In this By-law these moves are called required transfers.

### **3.9 Overhoused – Geared-to-Income Households**

- (a) This category is made up of households paying a geared-to-income housing charge who have received a notice that they are overhoused from the Service Manager (or the Co-op on behalf of the Service Manager) if the Co-op has at least one unit where the household would not be overhoused. If the Co-op is giving the notice that a household is overhoused, the Co-op can use Form B, Notice of Geared-to-Income or Special Needs Decision with the Right to Review.
- (b) Within this category, priority will be as stated in Government Requirements .

### **3.10 Special Needs – Modified Units**

- (a) This category is made up of households who occupy modified units and who are no longer eligible for this type of special needs housing. The board can give them a Notice to Transfer.

These households are no longer considered special needs households so applicable occupancy standards apply to them.

- (b) Within this category, priority will be based on the date of delivery of the Notice to Transfer.

### **3.11 Special Needs – Support Services**

- (a) This category is made up of households who occupy special needs units that are not modified and who are no longer eligible for special needs housing. A household will not lose eligibility for special needs housing only because its relationship with a support services agency has ended.

If households are no longer eligible, the board can give them a Notice to Transfer under clause (b) or clause (c), if applicable.

- (b) These households are no longer considered special needs households, so applicable occupancy standards apply to them. The board can give them a Notice to Transfer if they do not meet applicable occupancy standards.
- (c) Even if a household that is no longer a special needs household meets applicable occupancy standards in the special needs unit, the board can give them a Notice to Transfer if:
- the specific unit that they occupy is part of an arrangement with a support services agency, and
  - another unit cannot be substituted in the arrangement with the support services agency without breaking the Co-op's agreement with it or causing significant trouble for it.
- (d) A household will not be given a Notice to Transfer only because its relationship with a support services agency has ended.
- (e) Within this category priority will be based on the date of delivery of the Notice to Transfer.

### **3.12 Procedure for Required Transfer**

This section applies to Notices to Transfer under sections 3.9 to 3.11. It replaces any notice requirements or other procedures relating to these notices in the Co-op's other by-laws.

### **3.13 Effect of Refusals – Overhoused Geared-to-Income Households**

Households within section 3.9 may refuse the units according to Local Rules without losing their geared-to-income assistance and being removed from the Internal Waiting List. There may be a Local Rule when a refusal is not counted.

### **3.14 Effect of Refusals – Special Priority Households**

Households within section 3.7 may refuse units according to Local Rules without being removed from the Internal Waiting List. There may be a Local Rule when a refusal is not counted.

### **3.15 Effect of Refusals – Special Needs Households**

Households within sections 3.10 and 3.11 may refuse the first **two** appropriate units that are offered to them. If they refuse to transfer to the **third** appropriate unit that is offered to them, they may be evicted. Procedures for eviction are stated in the Occupancy By-law.

### **3.16 Role of Staff in Making Offers**

- (a) Co-op staff are authorized to make offers to households that are required to transfer under this By-law without referring them to the board.
- (b) Co-op staff and directors will keep the board up to date on information they may have regarding potential move-outs and internal transfers. This is to permit offers to be made quickly.

### **3.17 Making and Accepting Offers**

The rules about offering units and how members accept the offer are in sections 5.11, 5.12 and 5.14 of the Membership Approval and Unit Allocation By-law.

### **3.18 Notification of Acceptance**

- (a) Members must notify the Co-op office within 48 hours of being offered a unit whether they wish to accept the unit. If they fail to do so, they will be considered to have refused the unit.
- (b) Once a member on the Internal Waiting List has accepted a unit, the member must vacate his or her existing unit and move into the new unit on the date specified when the unit was offered. Acceptance of the unit may not be withdrawn without the consent of the board. Members of the household cannot appeal the board's decision.
- (c) When a member accepts a unit, they must come into the office and sign a form provided by the Co-op accepting the unit and agreeing to move and/or a new Occupancy Agreement. This should be done within the 48 hours, but can be postponed by Co-op staff if it is a weekend or is inconvenient for other legitimate reasons.

### **3.19 No Liability**

Anything in the Co-op's by-laws, or any commitment made by anyone that is not authorized by the board, will not create liability for the Co-op. The Co-op will not be liable to anyone for:

- any error, omission, or mistake concerning the Internal Waiting List
- the allocation of units or geared-to-income assistance
- the failure to allocate units or geared-to-income assistance to persons on the Internal Waiting List.

### **3.20 Things Not Stated in By-laws**

The board will decide anything relating to the Internal Waiting List not stated in this By-law or in the Co-op's other by-laws or in Government Requirements.

## 4. GUEST RULES

### 4.1 Purpose of Article 4

The Regulations require the Co-op to set rules for the temporary accommodation of guests in geared-to-income units. This Article only applies to households who pay a geared-to-income housing charge.

### 4.2 Relation to Other By-laws

The policies and procedures stated in this Article are intended to work with the Co-op's existing by-laws. If there is a conflict, this By-law governs.

### 4.3 Guest Rules

The Co-op's guest rules for members who pay a geared-to-income housing charge will be as stated in Article 8 of the Occupancy By-law, especially sections 8.4 (Long-Term Guests) and 8.5 (Casual Guests), except as changed by this By-law.

### 4.4 Income of Guests

Despite anything in the Occupancy By-law or the Co-op's other by-laws, if anyone is accommodated in a unit for more than **three** months for any number of visits during any twelve-month period, the income of that person must be included when calculating a geared-to-income housing charge. The board can choose the twelve-month period.

If Government Requirements are changed to establish a time limit for including income of guests, or a maximum time limit for co-ops to use, that time limit or maximum time limit will apply instead of what is stated in this By-law.

### 4.5 Signing Appendices

If a guest's income is included under section 4.4, the household must submit new Appendices A, B and C to the Occupancy Agreement including the guest's signature.

## **5. SPECIAL NEEDS ELIGIBILITY AND WAITING LIST**

### **5.1 Purpose of Article 5**

The Regulations require the Co-op to deal with eligibility for special needs housing. The Regulations include modified units within the definition of special needs units. The Regulations and this Article only apply to special needs units in the Co-op's targeting plan.

### **5.2 Relation to Other By-laws**

The policies and procedures stated in this Article are intended to work with the Co-op's existing by-laws. If there is a conflict, this By-law governs.

### **5.3 Delegation**

The board may delegate all or some of the functions stated in this Article to another party, such as a support services agency or the Service Manager. This could include related functions stated in Article 6 (Procedures for Decisions, Reviews and Notices). There should be an agreement signed with that party. Any such agreement will allow for confidential information to be shared between the Co-op and the other party. There must be appropriate safeguards.

When functions have been delegated, the parts of this Article that apply to those functions will not apply.

### **5.4 Existing Arrangements**

If there is an existing lease or agreement with a support services agency or other party, the board is authorized to renegotiate that arrangement as necessary to comply with Government Requirements and to sign a new lease or agreement with that party or any other party.

## **5.5 Special Needs Households and Special Needs Units**

- (a) In this By-law “special needs household” means a household that has applied for and been determined to be eligible for special needs housing as stated in section 5.9 (Eligibility Review) and has not ceased to be eligible.
- (b) There could be other people living in the Co-op who qualify for special needs housing, but they are not considered special needs households unless they occupy a unit described in clause (c).
- (c) In this By-law “special needs units” are:
  - modified units in the Co-op’s targeting plan
  - specific non-modified units that are part of an arrangement with a support services agency and are in the Co-op’s targeting plan
- (d) The board can substitute a different non-modified unit for a non-modified special needs unit when:
  - a non-modified special needs unit is vacant or
  - a special needs household occupying a non-modified special needs unit wants to transfer to another non-modified unit.

The original unit will no longer be a non-modified special needs unit.

The board does not have to do this. The board can only do this if it would not be breaking the Co-op’s targeting plan. The board must consider the requirements of any arrangement with a support services agency.

- (e) A special needs household occupying a special needs unit can only transfer to another special needs unit and still be considered a special needs household.

## **5.6 Waiting List**

The Co-op will use the centralized waiting list for households that have applied for and are eligible for special needs housing.

## **5.7 Previous Waiting List**

Before this By-law was passed there may have been waiting lists for special needs housing kept by the Co-op, by the Service Manager or by a support services agency under a lease or agreement with the Co-op. At the time this By-law is confirmed those lists will be continued as the list referred to in this By-law. It will be adjusted as necessary to fit the categories and rules stated in this By-law.

For an agency or Service Manager list to be continued as the list under this By-law the agency or Service Manager must give the Co-op a copy of its list and the application and other relevant materials for each applicant.

## **5.8 Policies and Procedures**

- (a) The Co-op will follow the procedures stated in Government Requirements.
- (b) The board will adopt all necessary additional detailed procedures.
- (c) Units will be offered to households whether or not they have applied for, or are eligible to pay, a geared-to-income housing charge. If they are eligible, they will pay a geared-to-income housing charge if that is stated in Government Requirements.
- (d) Being placed on the waiting list does not guarantee that a household will receive a unit. The Co-op's membership approval process must still be followed. A unit will not be offered to a household until the household has been approved for membership. The Co-op can also make an offer before approval, but it can be withdrawn if the household is not approved (even if the household has accepted the offer).

## **5.9 Eligibility Review**

- (a) If the Co-op has been designated a special needs housing administrator under the HSA, the Co-op will review the eligibility of each household that applies for special needs housing.

If the Co-op has been designated a special needs housing administrator under the HSA or if responsibility has been delegated to the Co-op by the Service Manager, the Co-op will review the eligibility of each household occupying a special needs unit each year.



- (b) Eligibility criteria will be determined under Government Requirements. If these are not complete enough, the board will make any other required decisions regarding eligibility criteria. The board can consult others as stated in clause (f).
- (c) The board will adopt all necessary additional detailed procedures.
- (d) Members and applicants must co-operate and provide any information requested by the Co-op in connection with the review. The Co-op will not require an applicant to provide information or documents if the co-op is satisfied that the applicant is unable to do so.

If the Co-op is satisfied that the information and documents previously provided by a household occupying a special needs unit are adequate to determine that the household continues to be eligible for special needs housing, the Co-op will not require the household to provide further information or documents.

The Co-op will not require a household that occupies a special needs unit that was in the special priority category on the waiting list to provide information or documents if the household believes that they would be at risk if they tried to get the information or documents.

- (e) Members must give the Co-op notice of:
  - any change in any information relating to a household's eligibility for special needs housing
  - any change in a document previously given to the Co-op, the Service Manager or a support services agency relating to a household's eligibility for special needs housing.
- (f) The board will not make determinations of eligibility itself (except on a review). Determination of eligibility will be made, in whole or in part by:
  - a staff person or
  - a support services agency.

Who makes the decision may be different depending on the type of special needs housing. The board will decide who will make the decision. The board will ask the decision maker to sign a confidentiality agreement, if the confidentiality provisions of the Co-op's by-laws do not apply to them, unless they are bound by professional or other adequate confidentiality obligations.

- (g) Article 6 (Procedures for Decisions, Reviews and Notices) will apply with respect to decisions relating to eligibility.
- (h) Households could cease to be eligible because of a change in the medical condition of a member of the household or the death of a member of a household or for other reasons.
- (i) If a household on the waiting list is not eligible, or is no longer eligible, for a unit, then it will be removed from the waiting list.
- (j) If a household occupying a unit at the Co-op ceases to be eligible, Article 3 (Internal Transfers) will apply.

#### **5.10 No Liability**

Anything in the Co-op's by-laws, or any commitment made by anyone that is not authorized by the board, will not create liability for the Co-op. The Co-op will not be liable to anyone for:

- any error, omission, or mistake concerning special needs waiting lists
- the allocation of units or geared-to-income assistance
- the failure to allocate units or geared-to-income assistance to persons on special needs waiting lists.

#### **5.11 Things Not Stated in By-laws**

The board will decide anything relating to the special needs waiting lists not stated in this By-law or in the Co-op's other by-laws or in Government Requirements.

## **6. PROCEDURES FOR DECISIONS, REVIEWS AND NOTICES**

### **6.1 Purpose of Article 6**

Under Government Requirements the Co-op must use specific procedures when making certain kinds of decisions about special needs housing, geared-to-income assistance and refusing applicants. These procedures are different from the Co-op's earlier procedures as stated in its by-laws.

The procedures for refusing geared-to-income and special needs applicants are set out in Article 7 (Selection of Geared-to-Income and Special Needs Members).

### **6.2 Relation to Other By-laws**

The policies and procedures stated in this Article are intended to work with the Co-op's existing by-laws, but some of them may be different from existing by-laws. If there is a conflict, this By-law governs. The procedures stated in this Article replace the procedures in the Co-op's other by-laws that deal with the decisions listed in section 6.4 (Kinds of Decisions under Government Requirements).

### **6.3 Decisions by Co-op**

Some of the decisions that are dealt with in this Article must always be made by the Co-op under Government Requirements. Other decisions are the responsibility of the Service Manager, but can be delegated to the Co-op. Some decisions are the responsibility of the Co-op, but can be delegated to another party, such as a support services agency or the Service Manager.

The arrangement can be that the decision is made by the Co-op, but the review of that decision is made by the other party, or that both the decision and the review are made by the Co-op.

This Article only applies to decisions that are being made by the Co-op and reviews that are being done by the Co-op.

#### **6.4 Kinds of Decisions under Government Requirements**

The kinds of decisions that are referred to in sections 6.7 (Request for Review) and 6.8 (Procedure for Review) are:

- a decision that a household is not eligible or is no longer eligible for geared-to-income assistance
- a decision that a household is not included in a category within the internal waiting list or special needs waiting list that is given priority over other categories
- a decision that a household is not eligible or is no longer eligible for special needs housing
- a decision about the type and size of unit for which a household is eligible, if the household pays or will pay a geared-to-income housing charge
- a decision about the amount of a geared-to-income housing charge payable by a household

#### **6.5 Making Decisions**

- (a) Under Government Requirements no one who discussed a decision with the decision-maker or who took part in making a decision mentioned in section 6.4 (Kinds of Decisions under Government Requirements) can take part in the review of that decision.

Under Government Requirements, anyone taking part in reviewing the decision must be knowledgeable about the relevant Government Requirements and Local Rules.

When the Co-op is responsible for the reviews of any of the decisions mentioned in section 6.4, the original decisions will be made, in whole or in part, by:

- a staff person
  - a support services agency (if applicable) or
  - another party.
- (b) Who makes the decision may be different depending on the type of decision. The board will decide who will make the decision. The board will ask the

decision-maker to sign a confidentiality agreement, if the confidentiality provisions of the Co-op's by-laws do not apply to them, unless they are bound by professional or other adequate confidentiality obligations.

## **6.6 Meaning of "Household"**

"Household" has a special meaning in this Article and other parts of this By-law when referring to a geared-to-income household or a special needs household. "Household" means all members and all non-member occupants of the unit, including:

- anyone who is a member of the household 16 years of age or older, and
- anyone whose income is considered in setting the amount of a geared-to-income housing charge, such as long-term guests.

This may include people who are not considered part of a household under other parts of the Co-op's by-laws, such as a guest whose income is considered in setting a geared-to-income housing charge under section 4.4 (Income of Guests).

## **6.7 Request for Review**

If any member of a household disagrees with a decision mentioned in section 6.4 (Kinds of Decisions under Government Requirements), they have the right to a review of the decision. They must follow the Government Requirements for requesting a review. The requirements are set out in Attachment 2 – Request for a Review of a Geared-to-Income or Special Needs Decision. The Board will update Attachment 2 from time to time if Government Requirement change. If there is a conflict between Attachment 2 and Government Requirements, Government Requirements will apply.

## **6.8 Procedure for Review**

If the Co-op is responsible for doing the review of a decision, the Co-op must follow the Government Requirements for reviews. These requirements are set out in Attachment 3 – Procedure for Review of Geared-to-Income or Special Needs Decision. The Board will update Attachment 3 from time to time if

Government Requirements change. If there is a conflict between Attachment 3 and Government Requirements, Government Requirements will apply.

#### **6.9 Role of Board Members**

In making decisions under this By-law individual directors must be very careful to avoid any bias or conflict of interest. Directors must observe all rules relating to this in the Co-op by-laws and the *Co-operative Corporations Act* and Government Requirements.

#### **6.10 No Appeal to Members**

Decisions under this By-law cannot be appealed to the members.

#### **6.11 Confidentiality Agreement**

When the board decides to ask someone to sign a confidentiality agreement under this By-law, it can use the attached Form F, Confidentiality Agreement.

#### **6.12 Things Not Stated in By-laws**

The board will decide anything relating to the procedures for decisions dealt with in this Article that are not stated in this By-law or in the Co-op's other by-laws or in Government Requirements.

## **7 SELECTION OF GEARED-TO-INCOME AND SPECIAL NEEDS MEMBERS**

### **7.1 Purpose of Article**

Government Requirements contain rules and procedures about rejecting applications for membership from applicants who will pay a geared-to-income housing charge or occupy special needs units. This Article applies to them. It does not apply to applications for market units that are not special needs units.

### **7.2 Relation to Other By-laws**

The policies and procedures stated in this Article are intended to work with the Co-op's existing by-laws, but some of them may be different from existing by-laws. If there is a conflict, this By-law governs. Rights to information, review and other things dealt with in this Article will replace information, appeal and similar rights in the Co-op's other by-laws for applicants who will pay a geared-to-income housing charge or occupy special needs units.

### **7.3 Making Decisions**

- (a) The board will pass a motion to create a membership committee. The Organizational By-law sections will apply to it.
- (b) The board will decide how many members are on the committee. The committee could be a committee with only one member.
- (c) The board will decide who makes up the committee. The board can decide to include directors, non-directors, staff or any combination. Any volunteers must be approved by board motion.
- (d) The board will decide the duties of the committee.
- (e) The committee will report to the board on each application and will normally include a recommendation to accept or refuse the application.
- (f) The board can decide to accept or refuse the application.

If a review is requested, it will be conducted by the board.

Directors who were on the Membership Committee that made the original report to the board cannot participate in the review as directors.

#### **7.4 Refusal of Geared-to-Income and Special Needs Applicants**

The Co-op may refuse to offer a unit to a household applying for special needs housing or geared-to-income assistance only for the following reasons (or any other reasons that may be stated in Government Requirements in the future):

- (a) selection of the household would be contrary to the Co-op's mandate
- (b) the Co-op has reasonable grounds to believe, based on the household's rental history, that the household may fail to fulfill the obligation to pay housing charges for the unit in the amount and at the times they are due
- (c) members of the household do not agree to accept their responsibilities as members of the Co-op, or the Co-op has reasonable grounds to believe that members of the household will not accept or will be unable to accept those responsibilities
- (d) the unit is one in which individuals will reside in a shared living situation and the Co-op has reasonable grounds to believe that it is unreasonable for the household to reside in the shared accommodation
- (e) the unit is special needs housing and the level of service required by the household is significantly greater or significantly less than the level of service provided in the unit
- (f) the unit is special needs housing and the household is not eligible for special needs housing.

#### **7.5 Notice of Refusal**

The first time an application from a household is refused, the Co-op will give notice of the refusal by following the procedures in Government Requirements. If Government Requirements change, the Co-op will use any new Government Requirements.



## **7.6 Request for Review**

If any member of a household disagrees with the refusal of their membership application, they have the right to a review of the decision. There is only a right to review the first time an application from a household is refused.

Applicants must follow the procedure in Government Requirements for requesting a review. The procedure is set out in Attachment 4 - Request for a Review of a Refusal of Membership Application. The Board will update Attachment 4 from time to time if Government Requirements change. If there is a conflict between Attachment 4 and Government Requirements, Government Requirements will apply.

## **7.7 Procedure for Review**

Co-ops must follow the Government Requirements for procedures for a review. These requirements are set out in Attachment 5 - Procedure for Review of a Refusal of Membership Application. The Board will update Attachment 5 from time to time if Government Requirements change. If there is a conflict between Attachment 5 and Government Requirements, Government Requirements will apply.

## **7.8 No Liability**

Anything in the Co-op's by-laws, or any commitment made by anyone that is not authorized by the board, will not create liability for the Co-op. The Co-op will not be liable to anyone for:


- any error, omission, or mistake concerning an application for membership or occupancy or external waiting lists
- the allocation of units or geared-to-income assistance
- the failure to allocate units or geared-to-income assistance.

**7.9 Things Not Stated in By-laws**

The board will decide anything relating to selection of geared-to-income and special needs members that are not stated in this By-law or in the Co-op's other by-laws or in Government Requirements.

CERTIFIED to be a true copy of By-law No. 26 of Watermark Co-operative Homes Inc., passed by the Board of Directors at a meeting held on NOV. 27, 2014 and confirmed by a two-thirds vote at a meeting of members held on FEB. 19, 2015.

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Secretary

c/s

# FORM A

## Notice to Transfer

Watermark Co-operative Homes Inc.

---

**To:** Include names of all persons who are part of the household.

**Address:** \_\_\_\_\_

This is your notice that the Co-op requires you to move to a different unit in the Co-op. Your name has been put on the Internal Waiting List.

If you refuse **three** appropriate units that are offered to you, you may be evicted. The Co-op may take other steps because of the situation described in this Notice. These steps may be taken before or after you have been offered any units.

### Review

You are entitled to a review of the decision to issue this Notice. To receive a review you must make a written request to the Co-op.

This request must be received by the Co-op on or before \_\_\_\_\_.

Articles 3 and 6 of the HSA By-law, as well as other parts of the Co-op's by-laws, state rights and obligations that apply to you in this situation.

### Reason

The following is the reason why this Notice has been given to you (*check one or more and fill in details below*):

- Your household occupies a modified unit for which you are not eligible. See section 3.9 of the HSA By-law.
- Your household occupies a special needs unit which is not a modified unit and you are not eligible for a special needs unit. See section 3.10 of the HSA By-law.

### Details:

The facts on which the Co-op relied in making its decision to issue this Notice are (*fill in details*):

### **Signature for the Co-op:**

\_\_\_\_\_  
Write and sign name of signing authority for co-op  
Watermark Co-operative Homes Inc.

\_\_\_\_\_  
Date

# FORM B

## Notice of Geared-to-Income or Special Needs Decision with Right to Review

Watermark Co-operative Homes Inc.

---

To: Include names of all persons who are part of the household.

Address: \_\_\_\_\_

This is your notice that the Co-op has made a decision about your household. The decision was made on \_\_\_\_\_.

### Review

You are entitled to a review of this decision. To receive a review you must follow the Government Requirements in Attachment 2 - Request for Review of a Geared-to-Income or Special Needs Decision. A Copy of Attachment 2 is attached.

The procedures for the review are in Attachment 3 - Procedure for a Review of a Geared-to-Income or Special Needs Decision. A copy of Attachment 3 is attached.

### Decision

The decision was:

*(check one or more and fill in information below)*

- that your household is not eligible for geared-to-income assistance.
- that your household is not eligible for special needs housing.
- about the type and size of unit for which your household is eligible, if your household pays or will pay a geared-to-income housing charge or is a special needs household. The specific decision was *(fill in specific decision)*:

- This is the notice referred to in section 3.9 (Overhoused – Geared-to-Income) of this By-law.

- about the category into which your household has been placed on the internal waiting list or special needs waiting list (*fill in specific decision*);
  
- about the amount of a geared-to-income housing charge payable by your household. The specific decision was (*fill in specific decision*);

Reasons

The reasons for the Co-op's decision are (*fill in details*):

**Signature for the Co-op:**

\_\_\_\_\_  
Write and sign name of signing authority for co-op  
Watermark Co-operative Homes Inc.

\_\_\_\_\_  
Date

# FORM C

## Notice of Final Geared-to-Income or Special Needs Decision

Watermark Co-operative Homes Inc.

---

To: Include names of all persons who are part of the household.

Address: \_\_\_\_\_

This is your notice that the Co-op has made a decision about your household. The decision was made on \_\_\_\_\_. The decision is final. You may not request a review.

### Decision

The decision was:  
(check one or more and fill in information below)

- that your household is eligible for geared-to-income assistance.
- that your household is eligible for special needs housing.
- that your household **[has or has not]**\* been included on a special needs waiting list and what category the household is listed in. The specific decision:

### Inclusions

If the decision was a decision that your household is eligible for geared-to-income assistance, the following Notices accompany this Notice, if applicable (check one if applicable)

- a Notice about the type and size of unit for which your household is eligible (Form B).
- a Notice about a decision that your household is not eligible for special needs housing, if you applied for special needs housing at the same time as you applied for geared-to-income assistance (Form B).

### **Signature for the Co-op:**

\_\_\_\_\_  
Write and sign name of signing authority for co-op  
Watermark Co-operative Homes Inc.

\_\_\_\_\_  
Date

# FORM D

## Notice of Board Meeting to Conduct Review of Geared-to-Income or Special Needs Decision

Watermark Co-operative Homes Inc.

---

To: Include names of all persons who are part of the household.

Address: \_\_\_\_\_

The Co-op gave you a Notice dated \_\_\_\_\_, about a decision or decisions described in the Notice. You requested a review.

### Meeting to Conduct the Review

The board of directors is going to conduct the review at a board meeting. This meeting will be on \_\_\_\_\_, in the [location]\* at the Co-op, [street address]\*, [municipality]\*, Ontario. The board meeting will start at \_\_\_\_\_, but you do not have to arrive before \_\_\_\_\_. Because of the time frames set by Government Requirements, the board cannot change this time.

*Fill in the date of the meeting, the room or location, the street address and the municipality, the start time and the time that the member must arrive.*

You may appear and speak at the meeting. You may present written material. You may have a lawyer or other representative speak for you.

You may withdraw your request for a review by giving written notice to the Co-op.

### Information

The information used to make the decision is [fill in details and/or attach copies of information]

### **Signature for the Co-op:**

\_\_\_\_\_  
Write and sign name of signing authority for co-op  
Watermark Co-operative Homes Inc.

\_\_\_\_\_  
Date

# FORM E

## Notice of Decision after Review of Geared-to-Income or Special Needs Decision

Watermark Co-operative Homes Inc.

---

To: Include names of all persons who are part of the household.

Address: \_\_\_\_\_

The Co-op gave you a Notice dated \_\_\_\_\_ about a decision or decisions described in the Notice. You requested a review.

This is your notice that the Co-op has conducted a review of the decision. The following is the result of the review:

- There is no change in the decision. The original decision has been confirmed.
- The original decision has been changed. The new decision is (fill in specific decision):

The decision stated above is final.

### Signature for the Co-op:

\_\_\_\_\_  
Write and sign name of signing authority for co-op  
Watermark Co-operative Homes Inc.

\_\_\_\_\_  
Date



# FORM F

## Confidentiality Agreement

Watermark Co-operative Homes Inc.

---

I have agreed to assist the Co-op in performing a review of one or more decisions under the Co-op's *Housing Services Act By-law*.

Confidential information is any personal, financial, medical or other information about any individuals.

I agree that I will keep secret any confidential information that I learn in connection with a review unless required by law to reveal it or unless it is revealed to the Co-op board or staff in relation to the review process.

\_\_\_\_\_  
Write and sign name.

\_\_\_\_\_  
Date

# FORM G

## Notice of Refusal of Membership Application

Watermark Co-operative Homes Inc.

---

To: Include names of all persons who are part of the household.

Address: \_\_\_\_\_

This is your notice that the Co-op refuses to offer you membership and a unit of housing in the Co-op.

You are entitled to a review of this refusal. To receive a review you must follow the rules in Attachment 4 - Request for Review of Refusal of Membership Application. A copy of Attachment 4 is attached to this notice.

This request must be received by the Co-op on or before (see note at end about what date to insert) \_\_\_\_\_.

The procedures for the review are stated in Attachment 5 - Procedure for Review of Refusal of Membership Application. A copy of Attachment 5 is attached to this notice.

### Reasons

The reasons for the Co-op's refusal to offer the unit to you are:

*Check one or more and fill in details below.*

- selection of your household would be contrary to the Co-op's mandate
- the Co-op has reasonable grounds to believe, based on your household's rental history, that your household may fail to fulfill the obligation to pay housing charges for the unit in the amount and at the times they are due
- members of your household did not agree to accept their responsibilities as members of the Co-op, or the Co-op has reasonable grounds to believe that members of your household will not accept or will be unable to accept those responsibilities

- the unit is one in which individuals will reside in a shared living situation and the Co-op has reasonable grounds to believe that it is unreasonable for your household to reside in the shared accommodation
- the unit is special needs housing and the level of service required by your household is significantly greater or significantly less than the level of service provided by the Co-op in the unit
- the unit is special needs housing and your household is not eligible for special needs housing.

Details

The facts on which the Co-op relied in making its decision not to offer the unit to you are:

**Signature for the Co-op:**

\_\_\_\_\_  
Write and sign name of signing authority for co-op  
Watermark Co-operative Homes Inc.

\_\_\_\_\_  
Date

# FORM H

## Notice of Board Meeting to Conduct Review of Refusal of Membership Application

Watermark Co-operative Homes Inc.

---

To: Include names of all persons who are part of the household.

Address: \_\_\_\_\_

The Co-op refused to offer you a unit of housing in the Co-op. You requested a review of this refusal.

### Meeting to Conduct the Review

The board of directors is going to conduct the review at a board meeting. This meeting will be on \_\_\_\_\_, in the [location]\* at the Co-op, [street address]\*, [municipality]\*, Ontario. The board meeting will start at \_\_\_\_\_, but you do not have to arrive before \_\_\_\_\_. Because of the time frames set by Government Requirements, the board cannot alter this time.

*Fill in the date of the meeting, the room or location, the street address and the municipality, the start time and the time that the member must arrive.*

You may appear and speak at the meeting. You may present written material. You may have a lawyer or other representative speak for you.

You may withdraw your request for review by giving written notice to the Co-op.

### Information

The information used to make the decision is [fill in details and/or attach copies of information].

### **Signature for the Co-op:**

\_\_\_\_\_  
Write and sign name of signing authority for co-op  
Watermark Co-operative Homes Inc.

\_\_\_\_\_  
Date

# FORM I

## Notice of Result of Review of Refusal of Membership Application

Watermark Co-operative Homes Inc.

---

**To:** Include names of all persons who are part of the household.

**Address:** \_\_\_\_\_

The Co-op refused to offer you a unit of housing in the Co-op. You requested a review of this refusal.

This is your notice that the Co-op has conducted a review of the refusal.

*Check one or more*

- The original refusal has been confirmed. The Co-op still refuses to offer you membership and a unit of housing in the Co-op.
- The original refusal has been reversed. The Co-op has accepted your household for membership. You will become a member when a unit is allocated to you and you sign all necessary papers. You will be contacted when a unit is available.
- The original decision has been changed. The Co-op is prepared to accept your household for membership, if the conditions stated below are fulfilled. You will become a member when the conditions are fulfilled, a unit is allocated to you and you sign all necessary papers. You will be contacted when a unit is available. If the conditions are not fulfilled, your application is refused.

*Note: Insert any conditions such as having a specific person sign a guarantee document satisfactory to the Co-op. Conditions should state when they must be fulfilled. You should be careful about timing. For instance, if a guarantor is suggested you would ordinarily not be able to complete a credit check on them within 48 hours of when a unit is available.*

The decision stated above is final.

**Signature for the Co-op:**

\_\_\_\_\_  
Write and sign name of signing authority for co-op  
Watermark Co-operative Homes Inc.

\_\_\_\_\_  
Date

# ATTACHMENT 1

## Notices

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**This Attachment does not form part of the By-law itself. The board of directors may update it from time to time.**

- (a) Government Requirements have special rules for notices of decisions relating to geared-to-income households and special needs households. These are different depending on:
  - the kind of decisions
  - whether the household has a right to a review or does not have a right to a review
  - whether the decision is that the household is eligible or not eligible.
- (b) When the Co-op gives notices about things dealt with in this By-law, it must follow the procedure in Government Requirements. If Government Requirements change, the Co-op will use any new Government Requirements.
- (c) The Co-op will give each member of the household notice of these decisions if they are made by the Co-op. The notice must be given according to Government Requirements. If the decision is about special priority status or a household that has special priority status, only the member who made the request for special priority status will be given notice of these decisions.
- (d) Notices can be signed for the Co-op by a staff person or any director. The person signing a notice is authorized to fill in all the blanks.
- (e) A person who signs a notice about a decision cannot be involved in the review of that decision.
- (f) A notice is received
  - the date the notice was actually handed to a member of the household
  - the next business day after it was left at the household's last known address
  - the fifth business day after mailing.
- (g) When this By-law refers to "business days" it means days from Monday to Friday, other than public holidays.
- (h) When giving notice that a special needs household that is no longer eligible for special needs housing and the co-op requires them to move and their name has been added to the Internal waiting List, the Co-op can use Form A, Notice to Transfer. A Notice to transfer is given after the household has already received notice that they are no longer eligible for special needs housing.

- (i) When giving notice of decisions about eligibility for geared-to-income assistance or special needs housing, the Co-op can use:
- **Form B**, Notice of Geared-to-Income or Special Needs Decision with Right to Review if the decision is that the household is not eligible
  - **Form C**, Notice of Final Geared-to-Income or Special Needs Decision if the decision is that the household is eligible.
- (j) When giving notice of other decisions mentioned in section 6.4 (Kinds of Decisions under Government Requirements), the Co-op can use **Form B**.
- (k) When giving notice of decisions about whether or not a household has been included on a special needs waiting list, and what category the household is listed in, the Co-op can use **Form C**.
- (l) If a decision is made that a household is eligible for both geared-to-income assistance and special needs housing, both **Form B** and **Form C** have to be used.
- Form C** is given to state that the household is eligible for geared-to-income assistance. If applicable, it will also state that:
- a decision has been made that the household is eligible for special needs housing.
  - a decision has been made that the household has or has not been included on a special needs waiting list and what category the household is listed in.
- Form B** is given about the type and size of unit for which the household is eligible. If applicable, it will also state that a decision has been made that the household is not eligible for special needs housing.
- (m) If a written request has been received from a member of a household for a review of a geared-to-income or special needs decision, the Co-op can use **Form D**, Notice of Board Meeting to Conduct Review of Geared-to-Income and Special Needs Decision.
- (n) When the review of a geared-to-income or special needs decision has been conducted, the Co-op can use **Form E**, Notice of Decision after Review.
- (o) If the confidentiality provisions of the Co-op's by-laws do not apply or any professional or other adequate confidentiality obligations, the Co-op can ask someone to sign **Form F**, Confidentiality Agreement.
- (p) If a decision has been made to refuse a membership application, the Co-op can use the attached **Form G**, Notice of Refusal of Membership Application for Geared-to-Income or Special Needs Household.
- (q) If a written request has been received from a member of a household for a review of a refusal of membership application, the Co-op can use **Form H**, Notice of Board Meeting to Conduct Review of Refusal of Membership Application.
- (r) When the review of a refusal of a membership application has been conducted, the Co-op can use **Form I**, Notice of Result of Review of Refusal of Membership Application.

## ATTACHMENT 2

### Request for a Review of a Geared-to-Income or Special Needs Decision

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**This Attachment does not form part of the By-law itself. The board of directors may update it from time to time.**

- (a) To request a review of a geared-to-income or special needs decision, a member of the household must give a written request to the Co-op.
- (b) The request must be received within the time frame in Government Requirements.
- (c) The Co-op can extend the time for giving a request for a review if the Co-op is satisfied that the member of the household acted in good faith and was unable to comply with clause (b) because of absence, accident, illness or some other reason beyond their control.
- (d) An individual may withdraw their request for a review by giving written notice to the Co-op. The withdrawal is not effective if it is received after the review is completed.



# ATTACHMENT 3

## Procedure for a Review of a Geared-to-Income or Special Needs Decision

---

**This Attachment does not form part of the By-law itself. The board of directors may update it from time to time.**

- (a) If the Co-op is responsible for doing the review of a decision, the Board will conduct the review.
- (b) The review must be completed within the time frame in Government Requirements after the request for the review is received.
- (c) Because of the time frames in Government Requirements, the board cannot extend the time for doing the review of a decision mentioned in section 6.4 (Kinds of Decisions under Government Requirements).
- (d) Each member of the household that requested the review will be given five days written notice of the board meeting at which the review will be conducted. The board can use the attached Form D, Notice of Board Meeting to Conduct Review.
- (e) Members of the household involved can attend and speak at the board meeting, or have a representative speak. The representative can be a lawyer or another person.
- (f) Directors, staff members and others who discussed the decision with the decision-maker or who took part in making the decision cannot take part in the review of a decision mentioned in section 6.4 (Kinds of Decisions under Government Requirements).
- (g) Anyone who is not knowledgeable about the relevant Government Requirements and Local Rules cannot take part in the review of a decision mentioned in section 6.4 (Kinds of Decisions under Government Requirements). See clause (a) of section 6.5 (Making Decisions).
- (h) The board can get help from someone with special knowledge, such as a representative of a support services agency (if applicable), their local federation or the manager of another Co-op.
- (i) That party can review the file before the meeting, but must give their advice to the board at the meeting so that the household involved can hear it and make any comments on it. The board will ask that party to sign a confidentiality agreement, if the confidentiality provisions of the Co-op's by-laws do not apply to them, unless they are bound by professional or other adequate confidentiality obligations.

- (j) In the case of medical or similar evidence, the board can rely on a letter from a doctor or other professional, but it must give a copy of the letter to the household with the notice of the meeting or within two business days of receiving it, if it is received after the notice of the meeting was sent.
- (k) The board can make any decision that could have been made originally. This decision could be more favourable to the household, or less favourable.
- (l) The board must give written notice of its decision to the individuals who requested the review within the time frame in Government Requirements after the board meeting. The board can use the attached Form G, Notice of Decision after Review.
- (m) The board can delegate responsibility for all reviews, or specific kinds of reviews, or a specific review to a committee made up of directors. The committee will perform the duties of the board under this section and all rights and responsibilities of the board will be exercised by the committee. The decision of the committee will be considered the decision on the review and cannot be appealed to the board.

## ATTACHMENT 4

### Request for a Review of a Refusal of a Membership Application

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**This Attachment does not form part of the By-law itself. The board of directors may update it from time to time.**

- (a) To request a review of a refusal of a membership application, a member of the household must give a written request to the Co-op.
- (b) The request must be received within the time frame in Government Requirements.

*Note: Your Service Manager will set a local rule about the time frame.*

- (c) The Co-op can extend the time for giving a request for a review if the Co-op is satisfied that the member of the household acted in good faith and was unable to comply with clause (b) because of absence, accident, illness or some other reason beyond their control.
- (d) An individual may withdraw their request for a review by giving written notice to the Co-op. The withdrawal is not effective if it is received after the review is completed.

# ATTACHMENT 5

## Procedure for a Review of a Refusal for Membership Application

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**This Attachment does not form part of the By-law itself. The board of directors may update it from time to time.**

- (a) The Board will conduct the review.
- (b) The review must be completed within the time frame in Government Requirements after the request for the review is received.
- (c) Each member of the household that requested the review will be given five days written notice of the board meeting at which the review will be conducted. The board can use the attached Form H, Notice of Board Meeting to Conduct Review of Refusal of Membership Application.
- (d) Members of the household involved can attend and speak at the board meeting, or have a representative speak. The representative can be a lawyer or another person.
- (e) Directors, staff members and others who discussed the decision with the decision-maker or who took part in making the decision cannot take part in the review.
- (f) The board can get help from someone with special knowledge, such as a representative of a support services agency (if applicable), their local federation or the manager of another Co-op.
- (g) That party can review the file before the meeting, but must give their advice to the board at the meeting so that the household involved can hear it and make any comments on it. The board will ask that party to sign a confidentiality agreement, if the confidentiality provisions of the Co-op's by-laws do not apply to them, unless they are bound by professional or other adequate confidentiality obligations.
- (h) In the case of medical or similar evidence, the board can rely on a letter from a doctor or other professional, but it must give a copy of the letter to the household with the notice of the meeting or within two business days of receiving it, if it is received after the notice of the meeting was sent.
- (i) The board can make any decision that could have been made originally. This decision could be more favourable to the household, or less favourable.
- (j) The board must give written notice of its decision to the individuals who requested the review within the time frame in Government Requirements after the board meeting. The board can use the attached Form I, Notice of Result of Review of Refusal of Membership Application.