



The
**CO-OPERATIVE
HOUSING
FEDERATION**
of Canada



Human Rights and Accessibility in Housing Co-ops

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Agenda

1. Introductions
2. Setting the context
3. AODA and Customer Service Standards
4. Human Rights and Housing Co-ops 101 (the basics)
5. Duty to Accommodate
6. Questions and answers and wrap up

The Context

- June 2008: Ontario Human Rights System changed
- October 2009: Ontario Human Rights Commission released Policy on Human Rights and Rental Housing
- January 1 2012: Co-ops (and other non-profits) will be subject to the first set of standards under the Accessibility for Ontarians with Disabilities Act (AODA 2005)
- Co-ops have a duty to address and respond to complaints and requests where human rights is a factor.

The AODA (Accessibility for Ontarians with Disabilities Act)

- Proclaimed in 2005
- Applies to every business and organization (public or private) in Ontario
- Sets out accessibility principles
- Provides for accessibility standards
- Aims to make Ontario accessible by 2025

What's a Disability?

- Same definition as in Ontario Human Rights Code
- Includes:
 - Physical disability
 - Mental impairment or developmental disability
 - Learning disability
 - Mental disorder
 - Injury where benefits claimed under WSIB

Accessibility Principles

- *Dignity*: people with disabilities can maintain self-respect and the respect of others
- *Independence*: people with disabilities can do things on their own without unnecessary help or interference from others
- *Integration*: people with disabilities benefit from the same services, in the same place, and in the same or similar way as others
- *Equality of opportunity*: to benefit from co-op services and co-op life

The AODA Standards

- Customer Service Standards
 - Introduced in 2008
 - Apply to all co-ops with one or more employees
 - Co-ops must comply by January 1, 2012
- Integrated standards
 - For Information and Communication, Employment and Transportation
 - In draft form. Will not affect most co-ops
- Built environment
 - Not public – now being reviewed by Minister

Customer Service Requirements (1)

- Have policies and procedures for serving people with disabilities
 - Consistent with four accessibility principles
 - Include policy on use of assistive devices
- Communicate in a way that takes a person's disability into account
- Permit service animals except where prohibited by law
- Permit people to bring a support person to access co-op services

Customer Service Requirements (2)

- Post admission fees policy for support people
- Provide notice of service disruptions
- Train managers, staff, volunteers, third parties who:
 - Offer service to members or the public
 - Are involved in developing policies and procedures
- Let customers with disabilities provide feedback on service

The Details: Policies and Procedures

- Must address measures your co-op takes to ensure people with disabilities have access to services
- Must uphold principles of dignity, independence, integration and equality of opportunity
- Must include policy on use of assistive devices – no requirement for co-op to supply devices
- No prescribed format or contents
- CHF Canada's Resource Centre has sample policy

The Details: Communication

- Communication must take into account a person's disability
- Could include plain language, large print, TTY, email, etc.
- No prescribed way to communicate. ASK the person directly.

The Details: Service Animals

- Service animals include:
 - Guide dogs
 - Any animal where it is readily apparent, or the person provides written confirmation from a doctor or nurse, that the animal is used for reasons related to disability
- Must be permitted in any area open to the public or third parties (lobbies, meeting rooms, co-op office, etc).
- May be excluded in areas where animals are prohibited by law (e.g. where food is prepared). Co-op must find alternate way to allow person to access service

The Details: Support Persons

- Can be a paid worker, volunteer, friend or relative.
Does not need special training
- Co-op must:
 - Allow person with disabilities access to their support person at all times
 - For any events with an admission charge, post the admission fee for support persons
- Co-op may require a person with a disability to be accompanied by a support person **ONLY** if there is a health or safety risk.

The Details: Service Disruptions

- The co-op must provide public notice if services used by people with disabilities are disrupted (e.g. elevator under repair, entry blocked)
- Notice must include:
 - Reason for disruption
 - Duration of disruption
 - Alternative facilities or services (if any)
- Notice must be posted in an obvious place, in advance where possible

The Details: Training (1)

Before January 1, 2012, the co-op must:

- Identify who needs training
- Decide on approach and provide training
- Set up training records
- Set up system for confirming contractors are trained
- Set up system to train new staff, board or committee members

The Details: Training (2)

These people must receive training:

- Anyone who deals with members or the public
 - Co-op managers and other staff
 - Members or volunteers
 - Contractors with more than one employee
- Anyone who participates in developing customer service policies or procedures:
 - Co-op managers or other staff
 - Board and committee members

The Details: Training (3)

Training must cover:

- The AODA's purposes and customer service requirements
- How to interact and communicate with people with various disabilities
- How to interact with people who use an assistive device, or are assisted by a service animal or support person
- How to use any assistive devices provided by the co-op

The Details: Training (4)

Training must cover:

- What to do if a person with a disability is having difficulty accessing co-op services
- The co-op's own policies, practices and procedures relating to the customer service standard

The Details: Training (5)

Training approaches can include:

- On-line training
- Written guides
- In-person workshops

CHF Canada's Resource Centre offers:

- Accessible Customer Service – a 90-page guide adapted for co-op housing
- Links to on-line training
- Sample forms to maintain training records

The Details: Feedback Process

The co-op must:

- Have a process to receive and respond to feedback about service to people with disabilities
- Make the process public
- Permit feedback by phone, in person, in writing, by email, online or on disk
- Specify the action it will take if a complaint is received

Getting Started

- Alert your board
- Identify who needs training
- Choose a training approach. Maintain records
- Review your co-op policies and practices. Create new policies to meet the customer service standard
- Remember the spirit of the law!

When is accessible customer service to be considered?

- Member application and unit showing
- Move in process
- Member notices
- Unit repairs process
- Board or members' meetings
- Visit to the co-op office
- Other?

AODA Resources: CHF Canada

- CHF Canada web site Resource Centre:
www.chfcanada.coop
 - Accessible Customer Service Guide
 - Checklist: Putting the AODA into Action
 - Sample Customer Service Policy
 - Sample forms
 - Links to free on-line training and resources

Ontario's Human Rights Code

- Recognizes the dignity and worth of every person
- Provides for equal rights and opportunities without discrimination
- Promotes a climate of mutual respect, where each person feels a part of the community and able to contribute
- Supersedes other laws (and Co-op By-Laws)
- Cannot contract out of rights.

Where Does the Code Apply?

- Accommodation
- Goods, services and facilities
- Employment
- Contracts
- Membership in unions or professional associations

Prohibited Grounds

- Race, colour
- Ancestry
- Place of origin
- Citizenship
- Ethnic origin
- Creed (religion)
- Receipt of public assistance (housing only)
- Age
- Sexual orientation
- Marital status
- Family status
- Record of offenses (employment only)
- Disability
- Sex (gender identity, pregnancy, breastfeeding)

Forms of Discrimination

- Direct Discrimination:
 - Most obvious form of discrimination.
 - E.g. “No kids.”
- “Adverse Effect” Discrimination:
 - Seemingly neutral policies, practices, rules that have a discriminatory **effect**.
 - Same treatment ≠ equality.
 - E.g. requiring applicants to have a Canadian credit history and previous housing references.

Discriminatory Harassment

- The *Code* prohibits harassment from a housing provider, agent of the provider or another occupant of the same building based on a prohibited ground
- Co-ops have an obligation to take action to stop discriminatory harassment

Reprisal

- Every person has a right to claim and enforce his/her rights under the *Code*
- Also have the right not to infringe the rights of others
- Any retaliatory action taken against someone for claiming, enforcing or refusing to infringe rights under the *Code* would be contrary to the *Code*

The Code and Co-ops: When Could Human Rights Issues Arise?

- Between members
- Between management and members
- Activities of Board of Directors
- Committee activities
 - Grievance Committee
 - Membership (Member selection) Committee
- Co-op By-Laws (content and authority)
- Participation requirements
- Requests for accommodation (on human rights grounds)

Use of Income Information

- “Income information should be limited to confirming that the person has enough income to cover the rent.”
- “[Landlords] must not assess whether the balance of an applicant’s remaining income is adequate for non-housing related purposes.”

OHRC Policy on Human Rights and Rental Housing

Credit/Reference Requirements

- “A lack of rental or credit history should not be viewed negatively.”
- “Even with a bad credit rating, there may be extenuating circumstances relating to *Code* grounds that should be examined before rejecting the person.”

OHRC Policy on Human Rights and Rental Housing

Co-signors/Guarantors

- “While the use of co-signors may be appropriate where a tenant has poor references, a poor credit history or a history of default, landlords are not allowed to require guarantors simply because the prospective tenant is a member of a *Code*-protected group...”

OHRC Policy on Human Rights and Rental Housing

Occupancy Policies

- “...restrictions on the maximum number of occupants in rental accommodation must relate to legitimate health and safety requirements.”

OHRC Policy on Human Rights and Rental Housing

- “...landlords should not deny apartments to families on the basis of arbitrary rules regarding the sharing of bedrooms by children of the opposite sex.”

*OHRC Policy and Guidelines on Discrimination
Because of Family Status*

Children's Noise

- “The normal noise associated with children should not be a reason for denial of housing, eviction, or harassment of families.”
- “Landlords should take steps to ensure that families with children are not harassed by neighbours because of the normal noise associated with children...”

*OHRC Policy and Guidelines on Discrimination
Because of Family Status*

Subsidy Policies

- Social housing providers should not manage subsidy in a manner that disadvantages residents receiving social assistance
 - E.g. by setting housing charges so high that people are unable to pay for their utilities out of the shelter component of their social assistance
 - *Inness v. Caroline Co-op Homes*: the Tribunal found the co-op treated the member differently from households not receiving social assistance

The Duty to Accommodate

- Co-ops may have to change rules, policies and structures to accommodate *Code*-related needs of a member (e.g. disability, family status)
- Principles of accommodation:
 - Respect for dignity
 - Individualization
 - Integration and full participation
- Arises at all stages – member screening, during occupancy, eviction, decision-making

Role of Accommodation Seeker

- Inform accommodation provider (co-op in this case) of his/her needs
- Co-operate in obtaining necessary information
- Participate in discussions about solutions

Role of Accommodation Provider (Co-op)

- Accept accommodation requests in good faith
- Request only information required to make accommodation
- Obtain expert advice where necessary
- Maintain confidentiality of persons seeking accommodation
- Take an active role in ensuring possible solutions are examined
- Deal with requests in a timely way

Limits of Accommodation

- Accommodation need not be provided if it causes “undue hardship”
- Standard for undue hardship is a high one
- Proving undue hardship is the responsibility of the accommodation provider (Co-op)

Undue Hardship: a high test to meet

FACTORS CONSIDERED

- Costs
- Outside sources of funding
- Health and Safety

FACTORS NOT CONSIDERED

- Inconvenience
- Resentment or hostility from others
- Other members' "preferences"

Organizational Responsibility

Organizations, including co-ops:

- are obliged to provide an environment free from discrimination and harassment.
 - are liable for discriminatory acts of employees or agents undertaken in the normal course of business
 - can be held liable if they condone, ignore or do not respond appropriately to acts of discrimination
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- Strong policies that prevent and address human rights violations make good business sense

CHF Canada's Human Rights By-law for Co-ops

- Sets out rights, principles and obligations:
 - promotes fairness, inclusiveness and respect for people's dignity
 - summarises obligations in the Code
- Includes :
 - consideration of requests for accommodation (under Code grounds)
 - different language on ability to live independently than in model Occupancy By-law
 - complaints procedure (and form)

Related Resources

- Ontario Human Rights Commission: www.ohrc.ca
- Human Rights Tribunal of Ontario: www.hrto.ca
- Centre for Equality Rights in Accommodation: www.equalityrights.org/cera
- Directory for Accessibility: www.accessibilitydirectory.ca
- Information on the AODA: www.accessON.ca