



# Notice No: 21-03

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**APPLICABLE TO:****DATE: February 17, 2021**

<input checked="" type="checkbox"/>	<b>Municipal &amp; Private Non Profit</b>
<input checked="" type="checkbox"/>	<b>Co-operative</b>
<input type="checkbox"/>	<b>Federal Non Profit</b>
<input checked="" type="checkbox"/>	<b>OCHAP/CSHP</b>
<input checked="" type="checkbox"/>	<b>Rent Supplement</b>

<input checked="" type="checkbox"/>	<b>Mandatory</b>
<input type="checkbox"/>	<b>For Information</b>

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**SUBJECT: Refusal to Offer Based on a Previous Eviction for Serious Illegal Activity (Community Safety).**

## BACKGROUND

The Community Housing Renewal Initiative was introduced by the Province of Ontario in April 2019. As part of this initiative, there were a number of regulatory amendments to the Housing Services Act, 2011 that were announced on September 23, 2019. Certain amendments were introduced to support community safety within prescribed social housing projects, with the aim to reduce gang-related violence and improve the safety of residents and others within the community.

All prescribed social housing providers that are a designated housing project under the Housing Services Act, 2011 are required to adhere to the legislative and regulatory requirements and comply with the Service Manager's local rules pertaining to the Centralized Waiting List and access to rent-geared-to-income assistance in social housing.

Ontario Regulation 367/11 sets out rules for filling vacant rent-geared-to-income units and special needs housing units. In general, the housing provider must offer the unit to the highest priority household. For housing projects under Program 1(a) or (b) (public housing) or Program 6(a) or (b) (provincial reformed), a housing provider may refuse to offer a unit to a household only in certain limited circumstances.

## AMENDMENT AND REFUSAL PROCESS

Effective September 23, 2019, Ontario Regulation 318/19 was introduced, and s. 50 and s. 77 of Ontario Regulation 367/11 under the Housing Services Act, 2011 (HSA) were amended to set out an additional ground upon which a housing provider may refuse to offer a unit to a household. The rule provides a new tool that housing providers can utilize to address safety concerns.

## Criteria for Refusal

A prescribed social housing provider **may** refuse to offer a unit to a household if:

1. a member of the household was previously evicted from a housing project listed in the Housing Services Act, 2011; through an order of the Landlord and Tenant Board based on an illegal act (commonly referred to as an “N6”) for serious illegal activity within the past five years; **and**
2. the housing provider has reasonable grounds to believe the household will pose a risk to the safety of one or more other people in the housing project.

The ability of the housing provider to refuse applies regardless of whether the household was evicted from a designated housing project in the same service area or in a different service area within Ontario.

## N6 - Notice to End a Tenancy for Illegal Acts

An N6 notice is a Landlord and Tenant Board form that is given by a housing provider to a tenant to end a tenancy for illegal acts or for misrepresenting income in rent-geared-to-income (RGI) housing. After providing an N6 notice to a tenant, a housing provider may apply to the Landlord and Tenant Board for an eviction order. The new ground of refusal only applies where the Landlord and Tenant Board ordered an eviction based on an N6 notice for an illegal act. The new ground of refusal does not apply where the Board ordered an eviction based on an N6 for misrepresentation of income. In addition, it does not apply if the eviction order has been overturned by a final decision on an appeal.

The N6 upon which a housing provider may refuse to offer a unit must be issued based on one or more of the following types of illegal acts:

- Production, trafficking, or possession for the purpose of trafficking an illegal drug;
- Illegal production, distribution or sale of cannabis;
- Physical violence or attempted physical violence against another person;
- Physical harm, attempted physical harm, or a risk of physical harm to another person;
- Human trafficking; or
- Use of threats to, intimidation of, and harassment of another person.

The housing provider must have reasonable grounds to believe the household will pose a risk to the safety of one or more individuals at the housing project including residents and housing provider staff. A person who, as a tenant, was named in an eviction order based on an illegal act could potentially be refused, even if the person was not directly involved in the illegal act.

## Process to Refuse to Offer a Rent-Geared-to-Income Unit

Housing providers shall complete the following steps prior to exercising their option to refuse to offer an RGI unit to a household based on an N6 Eviction:

1. Confirm that within the past 5 years the tenancy of a member of the household was ordered terminated by the Landlord and Tenant Board based on a N6 or N6C (notice

- for non-profit housing co-operatives) notice for one or more illegal acts, trade, business or occupation as listed above;
2. Confirm the N6 Order terminating the tenancy/occupancy has not been cancelled or overturned since it was issued;
  3. Confirm the terminated tenancy/occupancy was in an HSA prescribed housing project within Ontario; **and then**
  4. Determine if there are reasonable grounds to believe the household will pose a risk to the safety of others in the housing project.

Once all steps have been completed and if the housing provider chooses to refuse to offer the unit:

1. The housing provider shall notify the household of the refusal and include the following details in the notification:
  - the date the decision was made;
  - the reasons for the decision; and
  - information about how to request a review of the decision and the deadline for doing so.
2. If the household so requests, the housing provider shall review the decision to refuse to make the offer.

Housing providers must have a written policy clearly outlining the internal policies and procedures in place to review 'refusal to offer' decisions. The refusal to offer appeal process is the responsibility of the housing provider.

Housing providers are to advise Housing Access, by way of the "Add Comment" throughout the process of the offer of housing and the result of the offer of housing.

### **Legislative Authority**

Housing Services Act, 2011 section 76.  
HSA Ontario Regulation 367/11 sections 50 & 77.  
HSA Ontario Regulation 318/19

### **Housing Provider's Role**

Housing Providers that choose to implement the Refusal to Offer rules as set out in the HSA pertaining to community safety are to follow the process outlined in this Notice.

### **Service Manager's Role**

NRH will monitor compliance with this Notice through the Operational Reviews.

If you have any questions or concerns regarding this notice, please contact your Housing Administrator at (905) 682-9201.