

MINISTRY OF HOUSING

Guide for Service Manager Consents under the *Housing Services Act, 2011*

January 1, 2017

Questions and Answers

Why are these consent authorities now being transferred to Service Managers?

Since the introduction of the *Housing Services Act, 2011*, the capacity and responsibility of Service Managers has increased with respect to social housing matters. The requirement for Ministerial Consents for the transfer of social housing property is inconsistent with the concept of local decision-making to meet local housing needs. This expanded authority transferred to the Service Managers will provide greater flexibility for the Service Managers in meeting local housing needs and streamline the approval process.

What exactly are the new authorities being transferred to Service Managers?

Through recent amendments to the *Housing Services Act, 2011 (HSA)*, Service Managers have the authority to make specific consent decisions that were formerly the purview of the Minister. These include:

- certain changes to Local Housing Corporations (LHCs), under s. 32 (a), 33 (1)(a), 34 (a) and 35 (a); and,
- transfers of most social housing projects, under s. 161 (2) and 162 (2).

Why did the ministry release a Ministerial Directive?

The Ministerial Directive focuses on two key areas of Provincial interest that the Service Manager must address as part of their review and assessment of a proposed transfer of social housing:

1. Ensure residents are advised of, and consulted on, the proposed transfer and that adverse effects on residents are appropriately mitigated; and,
2. Ensure that the net proceeds from the transfer of social housing is only utilized for certain specified housing purposes.

A Service Manager may also assess other criteria as appropriate.

Service Managers now have consent authorities for the transfer of social housing. How will this impact previous Ministerial Consents for past transfers or LHC changes and what happens to past Ministerial Consents where the conditions as set by the ministry have yet to be fulfilled?

Where a consent was given by the Minister before the changes came into effect, that consent is still valid and is now deemed to be a consent of the Service Manager for the purpose of completing the transaction. The Service Manager is responsible for overseeing the satisfaction of any conditions attached to the consent, and has the power to waive or modify such conditions. Service Managers are encouraged to refer to the specific transition rules set out in Ontario Regulation 367/11. Ministry staff will follow up with affected Service Managers that have ministerial consents with outstanding conditions.

What consents are still approved by the Minister?

Consent of the Minister is still required for the transfer of certain housing projects, where the Service Manager has obtained court appointment of a receiver for the housing provider, or where members of the housing provider's Board of Directors have been replaced by the Service Manager.

Ministerial Consent also continues to be required for Local Housing Corporation requests to opt-out of the mandated Housing Services Corporation's bulk natural gas or insurance programs.

Will Ministerial Consent be required for easements after January 1, 2017

In most cases, there is no requirement for Ministerial Consent for a transfer or mortgage of a social housing project and therefore no requirement for consent for an easement. In rare cases where a Part VII housing provider is in receivership or has had its directors replaced by the Service Manager, the Service Manager should confirm with the Ministry whether Ministerial Consent is required.

How will the ministry monitor Service Managers to ensure they are fulfilling the Ministerial Directive?

Recognizing the Provincial interest in Service Manager consent for the transfer of social housing, a comprehensive notification process has been established (Section 3.2). Specifically, Service Managers are required to describe how the Ministerial Directive has been followed as part of the notification to the Ministry of Housing.

Why would the Province “take back” the consent authority for transfers of social housing from Service Managers?

The Minister of Housing retains the authority, by regulation, to remove a Service Manager’s consent authority for the transfer of social housing properties. This power could be used if the Service Manager makes consent decisions that are not in accordance with the Ministerial Directive. Service Managers are required to describe how the Ministerial Directive has been followed as part of the notification to the Ministry of Housing.

Why do we need to provide “pre-notification” to the Minister for some types of consents?

The purpose of this pre-notification is to ensure that the Service Manager and the ministry have time to deal with any potential mortgage-related issues. This pre-notification will allow sufficient time to address mortgage-related issues prior to the transfer date. The pre-notification must be submitted to the ministry by the Service Manager and must outline the mortgage circumstances involved and how the Ministerial Directive is to be satisfied.

I received a Ministerial Consent, but none of the conditions have yet to be satisfied; who oversees this now?

With previous approved Ministerial Consents with conditions still outstanding or have yet to be fulfilled, the Service Manager is now responsible for overseeing that these conditions are satisfied. Ministry staff will follow up with affected Service Managers that have Ministerial Consents with outstanding conditions.

Who will deal with the Canada-Mortgage and Housing Corporation (CMHC) on mortgage-related issues?

On behalf of Service Managers and social housing providers, the ministry will continue to facilitate most mortgage arrangements in respect of Canada Mortgage Housing Corporation (CMHC) mortgages and pooled mortgages from institutional lenders.

All mortgage-related issues should be directed to Erich Freiler, Manager, Infrastructure and Asset Management Unit at erich.freiler@ontario.ca, or (416) 585-6193.

Will Service Managers still be able to arrange for related services through the province such as Land Transfer Tax Exemptions, SHA section 9(d) waivers or the elimination of “no dealings” indicators on title where appropriate?

Yes.

Although the authority to approve transfers will now rest with Service Managers, the ministry will always be available and “on call” to assist Service Managers as appropriate.

Note that, for title restrictions that appear to require Ministerial Consent, in most cases those restrictions are now satisfied by Service Manager consent under the HSA (see s. 161(5) and s. 162(5) of the Act).