

Rules of Practice

Housing Services Review Committee Windsor Essex

Effective July 1, 2020

A copy of the Rules of Practice, a General Information sheet and a Housing Services Request for Review Form for the Housing Services Review Committee is available on the City of Windsor website at www.citywindsor.ca or by emailing sshousing@citywindsor.ca or by calling 519-255-5200 Ext 6240.

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INTRODUCTION & DEFINITIONS

Role of the Housing Services Review Committee

The *Housing Services Act, 2011* (HSA) requires that The Corporation of the City of Windsor (“City of Windsor”) as Service Manager for Windsor Essex have a system in place to review certain decisions. The system must have a provision for a review body to review certain decisions. An excerpt from the Act and related regulations regarding reviews is attached at Schedule “A”. Any decision by a review body is final.

There are two review bodies in the Windsor Essex Service Area – the Windsor Essex Community Housing Corporation Review Committee and the Housing Services Review Committee. The role of the Windsor Essex Community Housing Corporation Review Committee is to conduct an administrative review of decisions eligible for review under the Housing Services Act and related Regulations for tenants in receipt of a rent subsidy from the Windsor Essex Community Housing Corporation.

The role of the Housing Services Review Committee is to conduct an administrative review of decisions eligible for review under the Housing Services Act and related Regulations for applicants of the Central Housing Registry and for tenants in receipt of a rent subsidy from other social housing providers and certain rent supplement programs in the Windsor Essex Service Area.

The Rules of Practice described herein applies to the Housing Services Review Committee.

For purposes of these Rules,

“Decision-Maker” means the organization that made the original decision that is the subject of a Request for Review.

“Executive Director” means the Executive Director of Housing and Children’s Services of the City of Windsor or its authorized designate.

“Household” means one or more persons that intend to reside in or resides together in the same rental unit and forms one tenancy and has applied for or is a tenant of subsidized housing where a review of certain decisions is governed by the HSA.

“HSA” means the *Housing Services Act, 2011*, S.O. 2011, c.6, Schedule 1.

“Member” means any individual who is authorized to be part of the Review Committee;

“Quorum” means two (2) Members of the Review Committee;

“Resource Person” means persons that are knowledgeable in the subject matter and who are available and invited to provide information on legislation and other policies relevant to the subject matter and to facilitate an informed decision by the Review Committee;

“Review Committee” means all Members, or a majority of a Quorum thereof of the Housing Services Review Committee;

“Review Committee Lead” means the Housing Services Program Coordinator that is responsible for the portfolio in which the organization that made the original decision is included or its authorized designate.

“Rules” means these Rules of Practice.

“Service Manager” means the City of Windsor Housing Services Department.

RULE 1 – GENERAL RULES

- 1.1 These Rules will be interpreted broadly to produce the fairest and most expeditious resolution of the review.
- 1.2 Where a provision of the HSA or the Regulations applies directly to a particular issue, that provision will determine the issue, regardless of any Rule to the contrary.
- 1.3 Where something is not provided for in these Rules, the practice may be decided by referring to a similar provision in these Rules.
- 1.4 No defect in a Request for Review, a document created after the Request for Review was filed, or in a step taken in the proceedings after the Request for Review was filed, will make the Request for Review invalid unless the rights of another party are substantially prejudiced by the defect, and the prejudice cannot be remedied.
- 1.5 The Review Committee may waive a Rule where appropriate, provided that the Rule does not have a non-waiver provision. Rules that have a non-waiver provision, may not be waived.
- 1.6 The Review Committee may exercise any of their powers under these Rules or under the HSA on their own initiative or at the request of a party.
- 1.7 The Review Committee may decide the procedure to be followed for a Request for Review and may make specific procedural directions at any time and may impose such conditions as are appropriate and fair.
- 1.8 The Review Committee may direct a party or representative communicating with the Review Committee to provide a copy or notice of the communication to each other party.

RULE 2 – REQUEST FOR A REVIEW

2.1 Reasons to Request a Review

A person of a household may request the review by the Review Committee of a determination or decision under the following subsections of the HSA:

- (a) that the household is not eligible for rent-geared-to-income assistance;
- (b) of the size and type of unit that would be permissible if the household received rent-geared-to-income assistance;
- (c) that the household is not included in a category given priority over other categories;
- (d) of the amount of rent payable by the household;
- (e) that the household is not eligible for special needs housing;

This Rule 2.1 cannot be waived.

2.2 Submitting the Request for Review

The Request for Review must be in writing on the form required by the Review Committee. The household may attach additional relevant written material to the form.

A Request for Review of a decision must be received by the Housing Services Department within 10 business days after the household has received the decision from the organization that made the decision. The Review Committee may, in its sole discretion and on a case by case basis, extend the time to submit a Request for Review.

2.3 Amending the Request for Review

The Review Committee may, in its sole discretion, accept an amended Request for Review provided the Review Committee has not completed the review.

2.4 Withdrawing a Request for Review

A household who withdraws a Request for Review, shall promptly notify the Review Committee. A request to withdraw is not effective and will not be approved if it is received after the review by the Review Committee is completed.

RULE 3 – COMPUTATION OF TIME

3.1 The time between two events is computed by excluding the day on which the first event occurs and including the day on which the second event occurs.

3.2 **“Non-Business Days”**

The following days are referred to as “non-business days” in these Rules:

- (a) Saturday or Sunday;
- (b) a day proclaimed by the Governor General or Lieutenant Governor as a public Holiday;
- (c) New Year’s Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Civic Holiday (August), Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day and Boxing Day;
- (d) if New Year’s Day, Canada Day or Remembrance Day fall on a Saturday or Sunday, the following Monday;
- (e) if Christmas Day falls on a Saturday or Sunday, then the following Monday and Tuesday, and if on a Friday, then the following Monday; and
- (f) any other day when Windsor City Hall is closed to the public.

3.3 If the time limit for filing a Request for Review or a notice or document falls on a non-business day, the notice or document may be filed on the next business day.

3.4 A notice or document may be given to another person on a non-business day and, in the case of a notice, it may become effective on a non-business day.

3.5 Rules 3.1 to 3.4 may not be waived.

RULE 4 – SERVICE

4.1 Methods of Service

A completed Housing Services Request for Review of Decision form and supporting documentation may be submitted **addressed to the Housing Services Review Committee** in any one of the following ways:

- (a) by mail to 400 City Hall Square East, P.O. Box 428, Windsor Ontario N9A 6L7;
- (b) in person at the Business Office on the Third Floor of 400 City Hall Square East Windsor Ontario.
- (c) by fax to 519-256-7107;
- (d) by email to sshousing@citywindsor.ca;
- (e) by any other method directed or permitted by the Housing Services Review Committee.

4.2 Delivery of Request for Review to Decision-Maker

The Review Committee Lead will acknowledge receipt of the Request for Review to the household and send a copy of the Request for Review to the Decision-Maker within three (3) business days after receipt of the Request not including the day of receipt of the Request.

4.3 Review Committee directed Service

The Review Committee Lead or the Review Committee may give written directions to a party regarding who shall be given any document or information and the manner in which it shall be given.

4.4 Earlier Receipt

If the person who gave a notice or document to another person can prove that the person received it on an earlier date than the date deemed by these Rules, the Review Committee will find that it was given on the earlier date.

4.5 Certificates of Service at Review Committee's Direction

The Review Committee may direct any party to file a Certificate of Service with respect to any document or information which was given.

RULE 5 – REVIEW COMMITTEE MEETINGS

5.1 Review Committee Meeting Schedule

The Review Committee shall meet as frequently as required to comply with the timelines of legislation, policies and guidelines governing reviews and in a frequency that provides for prompt decisions for applicants that request a review.

5.2 Review Committee meetings under subsection 48(1) or 63(1) of the HSA

With respect to a Review Committee meeting to review a decision that a household is not included in the special priority household category (under subsection 48(1) or 63(1) of the HSA), the Review Committee shall make a decision within 10 business days after the request for the review is received. This Rule 5.2 cannot be waived.

5.3 Disclosure

The Review Committee Lead or the Review Committee may, at any stage of the process, before the Review Committee meeting has been completed, direct a party to disclose and exchange documents or any other material relevant to the process or to the reason for the Request for Review, within the time and according to the method that the Review Committee Lead or the Review Committee directs.

5.4 Privileged Information

The Review Committee Lead or the Review Committee shall not direct the disclosure of privileged information.

5.5 Failure to Disclose

A party who breaches a direction for disclosure may not rely on the document or information that was not disclosed as directed, unless the Review Committee determines otherwise.

5.6 Pre-Review Committee Meeting Conference

The Review Committee Lead may, in its sole discretion, direct a pre-Review Committee meeting to be held to consider any or all of the following:

- (a) which issues will be dealt with at the Review Committee meeting and whether these can be clarified or simplified;
- (b) whether any facts or evidence may be agreed upon by the parties;
- (c) the dates by which any steps in the process are to be taken or begun; and
- (e) any other matter that may assist in the just and most expeditious disposition of the Request for Review.

5.7 **Privacy and Confidentiality**

Review Committee meetings require review of personal information and Review Committee meetings are therefore not open to the public or other persons.

5.8 **Recording of Proceedings**

No person shall make a visual or audio recording of any part of the Review Committee meeting unless authorized by the Review Committee before or at the beginning of the Review Committee meeting.

5.9 **Resources**

Any Member of the Review Committee may request information from any or all Resource Persons in order to make a fair and just decision.

5.10 **Bias**

No individual who participated in the making of the decision being reviewed may participate in the review as a voting member of the Review Committee and no individual who previously discussed the decision being reviewed with the Decision-Maker may participate in the review as a voting member of the Review Committee and that, during such participation, no voting member of the Review Committee shall discuss the decision with the Decision-Maker except in the course of the review.

5.11 **Presentation**

Resource Persons may attend the Review Committee meeting to present the Request for Review information to the Review Committee and summarize the legislation and policies applicable to the subject matter of the review.

RULE 6 – DECISIONS OF REVIEW COMMITTEE

6.1 Review Committee's Authority

In making its decision, the Review Committee may:

- (a) uphold the decision being reviewed;
- (b) substitute its decision for the decision being reviewed; or
- (c) return the matter to the Decision-Maker to be reconsidered; and in such case the reconsidered decision is subject to a further review upon request.

6.2 Decisions to Comply

All decisions are to comply with the provision of the Housing Services Act, related Regulations and successor or replacement legislation and with Service Manager policies and guidelines, if any. Where Service Manager policies and guidelines conflict with governing legislation, the governing legislation will prevail.

6.3 Effective Date of Decision

The decision of the Review Committee is effective on the day specified by the Review Committee, which may precede the day the Review Committee made a decision. If the decision does not state an effective date, the effective date shall be the day the Review Committee made its decision. Should this Rule 6.3 conflict with section 52 and 53 of O.Reg 316/19 (Determination of Geared-To-Income Rent Under Section 50 of the Act) under the Act, sections 52 and 53 prevail. This Rule 6.3 cannot be waived.

6.4 Manner of Deciding

The Review Committee must make a decision based on a majority of the Members present at the review.

6.5 Time for Decisions under subsection 48(1) or 63(1) of the HSA

If the review is with respect to the special priority household category, the Review Committee will:

- (a) make a decision within 10 business days after the request for the review is received; and
- (b) provide notice of the decision and reasons for the decision within 5 business days after the decision was made, and the notice of the decision shall not be given to any other member of the household other than the member who requested the review.

This Rule 6.5 cannot be waived.

6.6 **Time for Decisions**

If the review is not with respect to the special priority household category, the Review Committee will:

- (a) make a decision within 20 business days after the request for the review is received; and
- (b) provide notice of the decision and reasons for the decision within 10 business days after the decision was made, and the notice of the decision shall not be given to any other member of the household other than the member who requested the review.

6.7 **Decision Content**

The Review Committee shall provide written notice of the decision and reasons to:

- (a) the person who requested the review;
- (b) the organization who made the decision that was reviewed; and
- (c) any organization that was given notice under subsection 53(2) or 66(2) of the HSA.

This Rule 6.7 cannot be waived.

6.8 **Delivery**

The Review Committee shall send correspondence confirming the Committee's decision and reasons to each party to the Request for Review:

- (a) by ordinary mail to the address of each party provided on the Request for Review Form;
- (b) by ordinary mail to the representative of the party; or
- (c) by email or any other method directed or permitted by the Review Committee.

6.9 **Amending a Decision – Error**

A party to a decision or any person directly affected by it may request that a decision be amended to correct a clerical or other similar type of error on or before the date that is 30 calendar days after the decision is issued. Alternatively, a Review Committee member may, on his or her own initiative, request to amend a decision to correct a clerical or other similar type of error.

6.10 **Considering the Request to Amend**

In considering the request for an amendment, the Review Committee Lead may:

- (a) amend the order without requesting submissions or holding a Review Committee meeting, based solely upon the request to amend;
- (b) deny the amendment requested, based solely upon the request to amend;
- (c) issue a letter to invite written submissions and amend the decision or deny the request to amend after considering those submissions; or
- (d) hold a Review Committee meeting to determine if the decision should be amended or the request to amend denied.

6.11 **Costs**

The Review Committee does not have the authority to award costs. This Rule 6.11 may not be waived.

RULE 7 – THE REVIEW COMMITTEE

7.1 Composition

The Review Committee will be composed of two (2) or more staff members of the Housing Services Department of the City of Windsor and may include one (1) or more non-voting Resource persons. The number of Review Committee Members and Resource Person(s) may change from review to review.

7.2 Knowledge

No individual shall participate as a member of the Review Committee unless the individual is knowledgeable about the provisions of the HSA and the Regulations that are relevant to the decision being reviewed. An individual may obtain such knowledge from Resource persons. This Rule 7.2 cannot be waived.

7.3 Removal of Members

The Executive Director, in its sole discretion, may remove a member:

- a) if the Executive Director believes the Member has breached a material Rule of Practice;
- b) if the Executive Director believes the Member has breached the legislation, regulation, policy, guideline or directive governing the requirements of the Review Committee;
- (c) if a majority of Members requests a Member be removed.

7.4 Review Committee Lead

The Review Committee Lead is responsible to ensure all necessary activities to comply with the legislated and other related requirements of a Review of Certain Decisions are initiated and completed.

RULE 8 – AMENDMENT OF THE RULES

8.1 Automatic Amendment

These Rules shall be automatically amended to the extent of such conflict or necessity when amendments to existing or introduction of new, legislation or regulations or Service Manager policies occur that necessarily affect these Rules.

8.2 Discretionary Amendment

The Rules may be amended by The Corporation of the City of Windsor in its sole discretion which it may exercise from time to time.

Schedule A

LEGISLATION Review of Certain Decisions

Reference: Housing Services Act (“HSA”) and Regulation 367/11 (May 20, 2015 Regulations)

Housing Services Act, 2011, S.O. 2011, c.6

155 (1) A service manager shall have a system for dealing with reviews requested under section 156 or 157.

(2) The system may be shared with one or more other service managers.

(3) The system must include,
(a) provision for a review body, including rules for the appointment and removal of members and their remuneration; and
(b) procedural rules for reviews.

(4) The system must comply with prescribed requirements

156. A member of a household may, on behalf of the household, request a review of the following decisions:

1. A determination, under subsection 45(1), that the household is not eligible for rent-geared-to-income assistance.
2. A determination, under subsection 46(1), of the size and type of unit that would be permissible if the household received rent-geared-to-income assistance.
3. A determination, under subsection 48(1), that the household is not included in a category given priority over other categories.
4. A determination, under subsection 50(1), of the amount of rent payable by the household.
5. A determination, under subsection 52(1), that the household is no longer eligible for rent-geared-to-income assistance.
6. A determination, under subsection 61(1), that the household is not eligible for special needs housing.
7. A determination, under subsection 63(1), that the household is not included in a category given priority over other categories.
8. A determination, under subsection 65(1), that the household is no longer eligible for special needs housing.
9. A decision prescribed for the purposes of this paragraph.

157. A housing provider may request a review of a decision of a service manager if the decision is prescribed for the purposes of this section.

158. The following rules apply to a review requested under section 156 or 157:

1. The review body may substitute its decision for the decision that was reviewed.
2. The review body shall give its decision in writing and shall give reasons in writing.
3. The review body shall give notice of its decisions and reasons to,
 - i. the person who requested the review,
 - ii. the person who made the decision that was reviewed, and
 - iii. any housing provider that was given notice, under subsection 53(2) or 66(2), of the decision that was reviewed.
4. The *Statutory Powers Procedure Act* does not apply.

159(1) The date on which the following are effective shall be determined in accordance with the regulations:

1. A decision for which a review may be requested under section 156 or 157.
2. A decision made by the review body conducting a review requested under section 156 or 157.

(2) Without limiting what else the regulations may provide, the regulations may provide for a decision to be effective,
(a) on a date specified by the person or body making the decision; or
(b) as of a date before the decision is made.

Regulation 367/11

- 138.** The following are prescribed, for the purposes of subsection 155(4) of the Act, as requirements for a service manager's system for dealing with reviews:
1. The rules included in the system must,
 - i. provide for when a review may be requested,
 - ii. provide for when the decision made by the review body must be made,
 - iii. require that no individual who participated in the making of the decision being reviewed may participate in the review as a member of the review body.
 - iv. require that an individual may only participate in a review as a member of the review body if the individual is knowledgeable about the provisions of the Act and the regulations that are relevant to the decision being reviewed, and
 - v. require that no individual who previously discussed the decision being reviewed with the decision-maker participate in the review as a member of the review body and that, during such participation, no member of the review body discuss the decision with the decision-maker except in the course of the review.
 2. With respect to a determination under subsection 48(1) or 63(1) of the Act that a household is not included in the special priority household category, the rules included in the system must require that,
 - i. a review must be completed and the decision of the review body made within 10 business days after the request for the review is received,
 - ii. notice of the decision and reasons of the review body must be given within five business days after the decision was made, and
 - iii. notice of the decision of the review body must not be given to any other member of the household other than the member who requested the review.
- 139(1)** For the purposes of section 159 of the Act, the date on which a decision is effective shall be determined in accordance with the following:
1. Subject to subparagraph 3ii, a decision for which a review may be requested under section 156 or 157 of the Act is effective on the later of the day specified by the decision-maker and the day immediately after the last day for requesting a review.
 2. Despite paragraph 1 or subparagraph 3ii, the determination, under subsection 50(1) of the Act, by a service manager of the amount of rent payable by a household when the household begins to receive rent-gear-to-income assistance for a unit is effective on the day specified by the service manager.
 3. If a review is requested under section 156 or 157 of the Act,
 - i. the decision made by the review body is effective on the later of the day specified by the review body and the day the review body made its decision, and
 - ii. the decision being reviewed is effective only if the review body provides for it to be effective and, if the review body so provides, the decision being reviewed is effective on the later day specified by the review body and the day the review body made its decision.
- (2)** In the event of a conflict between this section and sections 52 and 53 of Ontario Regulation 316/19 (Determination of Geared-To-Income Rent Under Section 50 of the Act) under the Act, section 52 and 53 prevail.