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Initial Reviews, Annual Reviews, Mid-Year Changes and Special Reviews

Application of this chapter

This chapter applies to all organizations that are RGI Administrators. This includes

- Non-profit and co-operative housing providers subject to section 78 of the Housing Services Act
- Toronto Community Housing
- Housing Connections, when administering rent supplement programs
- All other housing providers when administering rent supplement programs

In this chapter and throughout the RGI Administration Manual, the word "you" means an RGI Administrator.

Housing Stability Service Planning Framework

A key objective of the City's *Housing Stability Service Planning Framework* is **preventing homelessness**. RGI Administrators have an important role to play in helping RGI households maintain their RGI assistance so they can pay their rent and stay housed.

RGI Administrators should be guided by the Planning Framework objectives when carrying out annual reviews, mid-year reviews, special reviews and reviews of RGI decisions.

Duty to Accommodate under the Ontario Human Rights Code

RGI Administrators must consider their "duty to accommodate" under the <u>Ontario Human Rights Code</u>, s.11 when making decisions about rent geared-to-income eligibility. If the household has difficulty complying with their obligations because of disabilities, there may be a "duty to accommodate". Disabilities include

- mental impairment or developmental disability this could be due to addictions, illness, age or injury
- a learning disability or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language
- a mental disorder

When to Review RGI Assistance

You **must** review the RGI assistance for each household

- before you offer a unit to a household applying for RGI assistance. See Chapter 8 for more information about offering a unit
- annually
- when an RGI household notifies you of a change in income, assets, or household composition
- at other times if the service manager requires it

Local Rule – Reviews for Fixed Income Households

A RGI Administrator may review a household's eligibility for RGI assistance every 24 months instead of annually if

- all members of the household are unemployed, and
- the income is received in fixed amounts, and
- the household has no dependants.

Households eligible under this rule receive their income from one or more of the following sources:

- Ontario Disability Support Program (ODSP)
- Canada Pension Plan for the Disabled (CPP-D)
- Workers Safety and Insurance Board (WSIB) long-term
- Old Age Security Pension (OAS)
- Guaranteed Income for Seniors (GIS)
- Guaranteed Annual Income Support for Seniors GAINS-A
- Annuities either capital investments or insurance settlements
- Government Reparation Payments

An RGI Review

There are several kinds of changes to look for when conducting RGI reviews. These changes may affect a household's RGI rent or eligibility for RGI assistance.

Changes in income, assets, or household composition

These changes may result in

an increase or decrease in RGI Rent

RGI Administrators do not have to increase rent mid-year if the increase would be less than \$10 per month. If an increase to a household's income is less than \$33 a month, the monthly rent would change by less than \$10.

If you do have to change the RGI Rent, make sure that you give the household proper notice.

a household becoming overhoused

If the composition of an RGI household has changed, the household may be overhoused. This means that the unit has more bedrooms than the household is eligible for under Local Occupancy Standards. Chapter 4 tells you how to deal with an overhoused household.

• a household failing an eligibility requirement

See <u>Chapter 3</u> for the full list of eligibility requirements.

Note: An RGI household cannot sublet their unit. All leases and occupancy agreements must include this requirement. If you find that a household sublet their unit, you **must** issue a Notice of Decision that the household is not eligible for RGI assistance.

a household who has paid market rent for 12 months losing eligibility

Households are not eligible for RGI assistance once they have paid RGI rent equal to market rent for 12 months. See <u>Chapter 8</u> for the Local Rule on providing RGI assistance to market rent households.

Types of Reviews

Initial Review

You must review the RGI assistance for each household before you offer a unit to a household applying for RGI assistance.

Annual Income and Asset Review

You **must** review the income, assets, and family composition of every RGI household at least once in every 12 month period (up to 24 months for fixed income households - see page 3). You **must** make sure that the household

- is still eligible for RGI assistance
- is still eligible for their unit (size and any *special needs* modifications or services)
- is receiving the right amount of assistance.

Planning an annual review

Plan the annual review so that RGI rent changes will take place on

- the same day for every household, usually the beginning of the fiscal year, or
- the anniversary of the day that a household took occupancy of a unit, or
- the anniversary of the last annual review.

RGI Administrators can decide to change annual review dates.

If you want the changes in rent to occur on a specific day, allow enough time to complete the work and give proper notice.

<u>Chapter 10</u>, Appendixes 1 to 4 and 6 of the <u>RGI Administration Manual</u> contain template documents to use for annual reviews.

Note: Use the template notices to ensure that you have provided the household with all the information needed for the notice to be valid.

The appendices include the following sample documents:

Appendix 1 - a sample annual review package. This includes all the forms required for a review. It contains

- a covering letter
- an income and assets review form including consent to share information
- a list of income sources, with descriptions of proper income and asset documents

Appendix 2 - a sample reminder notice that you can send to a household that has not sent in a completed review form by the deadline

Appendix 3 - a sample reminder notice that you can send to a household that has not included all the required documents

Appendix 4 - a sample letter that you can send to a household when you make a decision about RGI rent or who lives in the household

Appendix 5 - a **mandatory** template form that RGI Administrators must use when removing eligibility for RGI assistance.

Appendix 6 - a sample worksheet for calculating RGI rent

Note: Appendix 5 is a **mandatory template form** that RGI Administrators must use when removing eligibility for RGI assistance.

The Steps in an Annual Review

See the <u>Business Process for Annual Income and Asset Reviews</u>. This includes recommended timelines and a spreadsheet for scheduling and tracking reviews.

- 1. Send out covering letters and income and asset review forms to every RGI household. The covering letter must include:
 - a. the name of each resident of the household who is 16 years of age or older
 - b. the date
 - c. the address
 - d. the deadline for returning the signed and completed review form. See Chapter 10, Appendix 1.
- 2. When you receive the review form, check that it is complete and signed by every member of the household 16 years of age or older. Make sure income and asset documents are included.
- 3. Date stamp annual review documents received and record their receipt. Provide a receipt to household members upon request.
- 4. Send a follow-up request to households who have not submitted their annual review package. See Chapter 10, Appendix 2.
 - Send a follow-up request to households who have submitted their annual review package but have not provided all the documents needed. Specify which documents are missing and request that households provide them. See <u>Chapter 10</u>, Appendix 3. **Do not** send back incomplete packages.
- 5. Review the size of the household to determine if it is still eligible for the unit under local occupancy standards.
- 6. Determine if a special needs household continues to be eligible for any special needs modifications or services provided with the unit.
- 7. Determine monthly income. Recalculate the rent if necessary. See <u>Chapter 10</u>, Appendix 6.
- 8. Issue a Notice of Decision addressed to each member of the household whose income is taken into consideration when calculating RGI rent. Inform the household of their right to a review of the decision. Make sure that you give them the amount of notice as set out in the HSA. See Chapter 10, Appendix 4.

9. If a household did not respond to your requests to submit an annual review package, you can issue a *Notice of Decision – Loss of Eligibility for RGI Assistance* addressed to each member of the household 16 years of age or older.

You **must** use the City of Toronto's template *Notice of Decision – Loss of Eligibility for RGI Assistance* form.

Before taking this step, you must try to contact the household in person to see if they can provide the documents. See also Not Issuing or Reversing a Loss of Eligibility Notice later in this chapter for more information.

You **must** attach a *Request for Review* form. Community non-profits and co-ops must attach the City's <u>Request for Review</u> form. Toronto Community Housing/Housing Connections must attach their *Request for Review* form.

Mid-Year Review - Change in Income and Assets

The HSA requires a review when a household notifies you that they have had a change in income, assets, or family composition (for exceptions see the Local Rule on Reporting a Change in Income, Assets or household composition below). If one member of the household tells you that they have had a change in income or assets, ask for new income verification from the other members of the household as well. Have all household members sign a new declaration of income, assets and household composition.

You can use the sample letters listed in <u>Chapter 10</u>, Appendix 2, 3 and 4.

If you make a decision to remove eligibility for RGI assistance, you **must** use the *Notice* of *Decision- Loss of Eligibility for RGI Assistance* template form. All forms are available for download from the RGI Administration Manual webpage, listed under "RGI Forms".

Special Review

The Social Housing Unit can require an RGI Administrator to review an RGI household's assistance at any time.

Local Rule - Reporting a Change in Income, Assets or Household Composition

Households must report changes in income, assets or household composition in the time frames specified below. Households who do not report changes **may** lose their eligibility for RGI assistance.

Housing providers/RGI Administrators must inform households about

- reporting rules now in effect
- changes in reporting rules, as soon as possible after they occur

Reporting Rule for Increase in Income or Assets

A household receiving RGI assistance must report and provide documents of any **increase** in income or assets, within **30 calendar days of the change.** The reporting rules for households with fluctuating income are different. See **Reporting Rules for Fluctuating Income** below.

Reporting Rule for Decrease in Income or Assets

If a household is reporting a decrease in income or assets, the household can report the change and submit documents showing the decrease at any time up to the time of the next annual review.

Reporting Rule for Changes in Household Composition

A household receiving RGI assistance must report and provide documents for a **change** in household size within 30 calendar days.

Reporting Rules for Fluctuating Income

If a household member has fluctuating income, the household member must report income within **30 calendar days** of the end of each 3-month period. The RGI Administrator establishes the reporting periods.

Once the household has reported 4 times, the household must report annually. The household must provide the Notice of Assessment from the Canada Revenue Agency personal income tax return from the prior year. If the fluctuating income is from self-employment, the household must also provide the Statement of Business and Professional Activities.

Note: RGI Administrators must inform household members with fluctuating income that they must file income tax returns annually to maintain their eligibility.

RGI Administrators may wish to change their annual review date for households with fluctuating income so that households can submit the most recent Notice of Assessment. Choose a date after April 30th (the due date for filing income tax returns) that gives households time to file their income tax returns and receive the Assessment from Canada Revenue Agency.

If the household has fluctuating income and other sources of income, the 30 day rule applies to changes in other sources of income.

If a household member's income fluctuates in an identical or similar pattern each year, calculate their RGI rent using the annual income of the prior year shown on the Notice of Assessment from Canada Revenue Agency. Examples include individuals who are regularly laid off and rehired in the same type of employment with the same or a different employer, such as landscapers, crossing guards and contract teachers.

Mid-Year Changes in Fluctuating Income

Households may provide new income documents and RGI Administrators **must** recalculate RGI rent of households with fluctuating income between annual reviews if:

- Based on year-to-date income, there is a significant and ongoing change in the amount or type of fluctuating income received by a household member, and
- the change in fluctuating income would result in a significant reduction in annual income.

Households must provide the Notice of Assessment for the year in which the RGI Administrator had recalculated RGI rent. If the actual annual income was higher than the reported income, the RGI Administrator **must** recover the difference in RGI rent from the household.

Example: A teacher is employed on contract. His contracts vary from very short-term to the full school year (10 months). During the summer, he receives Employment Insurance.

In the first year, the RGI Administrator calculated his RGI rent every three months based on income for the previous three months. After the first year, the RGI Administrator calculated his RGI rent using the annual income of the prior year shown on the Notice of Assessment from Canada Revenue Agency.

In September of this year, the teacher received a short term contract ending in October. On October 31, he asks for his RGI rent to be recalculated.

The RGI Administrator determines that, based on his year-to-date income, his income for the current year will not be significantly lower than it was the previous year. So the RGI Administrator decides not to adjust the RGI rent and notifies the household of this decision.

Reporting Rules for Households with Self-Employment Income

If a household member is self-employed, they **must** report income within 30 days of the end of each 3-month period for the first year. The report will be an unaudited financial statement. A household must report annual self-employment income either through an audited financial statement or a Statement of Business and Professional Activities filed with a personal income tax return. Once a household member has reported a full year of self-employment income, do not require the household member to report changes in self-employment income between annual reviews.

Exceptions to Reporting Rules

- 1. If a household member gives birth to a child in Canada, the household can report the addition to the household at the next annual review.
- 2. If a household member is 65 years of age or older and has income from pensions or investments only, the household can report changes at the next annual review.
- 3. If a household member under 65 years of age receives benefit income from the federal or provincial government and the benefit increases by a cost-of living adjustment, the household can report this increase at any time up to the next annual review.
- 4. If an alternative RGI Administrator believes that their households cannot comply with the 30-day rule, they may choose not to apply it. The RGI Administrator **must** apply this discretion consistently to all households.
- 5. If a household is absent from their unit
 - for medical care, or
 - because the sole resident is in jail awaiting trial, or
 - a bail condition prevents the sole resident's return to the unit,

then the household must report the mid-year change and provide documents within 30 calendar days of returning to the unit.

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This exception applies if the household informs the RGI Administrator of their absence, provides acceptable documentation of the reasons for the absence and provides proof of their return date. See Chapter 3 for more information about medical absences.

- 6. If a household has an increase in income up to \$33 per month, they may report it at the next annual review. If they have more than one increase and these increases result together in an increase of more than \$33 per month, the 30-day rule applies.
- 7. For special needs units, the provider may set a time period greater than 30 days for the receipt of information and documents.

When RGI Households do not Provide Annual Review Documents

The penalties for not following all the legislative requirements and local rules can be severe. Households may lose their RGI assistance and, if they get into arrears, their housing.

A RGI Administrator can decide to remove a household's eligibility for RGI assistance if the household does not submit complete documents within the time frame stated in the notice. However, the City expects a flexible approach, working with the household to get all the necessary documents.

Make sure households know that they should submit the documents on time. You can get the message out to RGI households through

- leasing interviews or other in-person meetings
- emails and letters
- newsletters and
- bulletin boards.

Whenever possible and useful, have households sign consent forms that allow RGI Administrators to contact a community agency, family members, or friends, etc. This would allow you to contact their chosen alternate if it would be helpful in completing a review.

A RGI Administrator may extend the time frame for providing documents. This can occur either before or after the due date stated in the original notice. This means that RGI Administrators can issue new notices requiring that households submit documents, rather than removing eligibility for RGI assistance.

<u>Regulation 367</u> specifies that RGI Administrators will not remove eligibility for RGI assistance in the following situations:

- A member of a special priority household who believes that they may be at risk of being abused by the abusing individual if they attempt to obtain information or documents **must** be exempt from providing income documents. Note: the RGI Administrator should review the exemption periodically.
- An RGI Administrator for an *alternative housing provider* (those who provide housing for the homeless or hard-to-house) **may** decide that their residents cannot comply with a time limit for providing documents.

Note: RGI Administrators should exercise the utmost care in making a decision to remove RGI eligibility for not providing documents. **Make sure that you have met face to face with members of a household**, or have discussed getting the documents with family members or support agency staff (with the household's consent). If all efforts to get the documents fail, then proceed to issue a notice that the household is losing eligibility for RGI assistance. Remember that housing providers may withdraw this notice or reissue it with a new due date.

When a Household asks to be removed from RGI assistance

If a household decides not to provide documents for annual or mid-review, and the household asks the RGI Administrator to charge market rent, the RGI Administrator must issue a Notice of Decision, Loss of Eligibility for RGI Assistance. The reason will be not providing documents for annual review or mid-year change. This ensures that the household does not evade annual or mid-year review and later get RGI assistance under the market renters policy.

Duty to Accommodate under the Ontario Human Rights Code

RGI Administrators must consider their "duty to accommodate" under the Ontario Human Rights Code, s.11 when making decisions to issue, not issue or reverse a loss of eligibility notice. If the household has difficulty complying with their obligations because of disabilities, there may be a "duty to accommodate". See the beginning of this chapter for more information about disabilities.

The "duty to accommodate" may require an RGI Administrator to

- accept alternative documents (e.g. the RGI Administrator has required the CRA Notice of Assessment - accept an alternative document instead)
- give a household more time to provide documents and delay issuing a decision to remove eligibility for RGI Assistance
- contact the person's alternate contact
- refer the household to a housing help centre for assistance managing its obligations
- reverse a notice that you issued.

When an RGI Household's Rent Increases to Maximum Rent (market rent)

The *Act* recognizes that households receiving RGI assistance may have difficulty establishing stable incomes. If an RGI household has an increase in income that results in their paying maximum rent, they keep their status as an RGI household for 12 months. This means that, for 12 months, RGI assistance is available to them if their income declines and they need RGI assistance again. The RGI Administrator **must** provide this assistance. The household does not have to apply to Housing Connections.

If the household's income does not decrease during the 12 months, you **must** issue a *Notice of Decision - Loss of Eligibility for RGI Assistance*, using the mandatory template form. Issue the notice 12 months after you issued the Notice of Decision increasing the RGI rent to maximum rent. If the household needs RGI assistance again, they must apply to Housing Connections.

RGI administrators must inform households in the Notice of Decision advising them of the increase to maximum rent that they will lose their RGI status after 12 months of paying maximum rent, and advise them to contact the housing provider if their income decreases during the 12 month period.

RGI Administrators can alert households that they will lose their RGI status after 12 months by sending them a letter 9 months after the original Notice of Decision. The household will then have 3 months to notify you if they have had or will have a reduction in income before the end of the 12 month period.

Example 1: a household has an increase in income effective November 15, 2013. The household informs you of the increase and you give them a notice on December 1 (first day of second month after the increase in income) that their RGI rent will increase to the maximum RGI rent (*market* rent) as of January 1, 2014 (1st day of the second month after the increase in income). In mid-October 2014, the household has a reduction in income. They provide new income verification and their RGI rent decreases. The new RGI rent takes effect on November 1, 2014.

Example 2: a household has an increase in income effective November 1, 2013. The household tells you of the increase and you give them a notice that their RGI rent will increase to the market rent as of January 1, 2014.

On January 1, 2015, you issue a *Notice of Decision – Loss of Eligibility for RGI Assistance*, effective January 1, 2015 (first day of the month after the end of the 12 month period).

In June 2015, the household has a reduction in income which makes them again eligible for RGI assistance. They must apply to Housing Connections using the date that they signed the original lease or the date they applied to the co-op or non-profit, if this date is available.

Issuing a Notice of Decision

You **must** notify the household about an RGI decision by sending them a Notice of Decision within 7 business days after making the decision.

Whenever you issue a Notice of Decision, include the following information:

- The date of the decision
- The decision
- The effective date of the decision
- The reasons why you made the decision
- Information about how to request a review of the decision (if it is eligible for review) and the deadline for requesting it
- The name and phone number of a RGI Administrator representative that the household can contact to get more information.

Note: a decision that a household is overhoused is an RGI decision and subject to the above requirements.

Local Rule - Issuing a Notice of Decision that a Household is not Eligible for RGI Assistance - Mandatory Use of Form

RGI Administrators **must** use the *Notice of Decision - Loss of Eligibility for Rent Geared-to-Income Assistance* form when issuing a decision to remove eligibility for RGI assistance.

The *Notice of Decision - Loss of Eligibility for Rent Geared-to-Income Assistance* form is available for download from the <u>RGI Administration Manual</u> webpage, listed under "RGI Forms". It is also listed in <u>Chapter 10</u> of the RGI Administration Manual as Appendix 5.

Use of the *Notice of Decision - Loss of Eligibility for Rent Geared-to-Income Assistance* form will help to ensure that:

- the notice contents required under the *Housing Services Act* are met
- all RGI Administrator decisions are backed up with appropriate documentation, and
- households have what they need to request a review of a decision.

The *Notice of Decision* includes instructions on how it should be filled in. RGI Administrators should insert their own letterhead on the form. Remove the numbered lines that do not apply. **Do not remove or modify any of the non-numbered lines, as this could invalidate the notice.**

Before sending a *Notice of Decision, Loss of Eligibility for Rent Geared to Income Assistance*, ensure that you have fully completed the form, including

- the dates and outcomes of your personal contact with a member of the household or
- the dates and methods by which you tried to make personal contact.

All RGI Administrators **must** send the City of Toronto's *Request for Review* form along with the *Notice of Decision, Loss of Eligibility for Rent Geared to Income Assistance*.

If, on a review, the City's review body finds that the RGI Administrator did not complete all relevant sections of the decision form, the review body will send it back to the housing provider.

Reversing a Loss of Eligibility Notice - Overhoused household

After an overhoused household has received a Notice of a Decision that they will be losing their eligibility for RGI assistance, a RGI Administrator **must** continue to offer suitable units until the effective date of the Notice. If the household accepts an offer

before the effective date of the Notice, the RGI Administrator **must** reverse the Notice of Decision once the household has moved to a suitably sized unit.

Not Issuing or Reversing a Loss of Eligibility Notice - Other Reasons

RGI Administrators can decide

- not to issue a notice of loss of eligibility for RGI in extenuating circumstances
- to reverse a notice of loss of eligibility for RGI in extenuating circumstances

RGI Administrators must consider their "duty to accommodate" under the Ontario Human Rights Code, s.11 when making decisions to not issue or reverse a loss of eligibility notice. See pages 3 and 15. A duty to accommodate would be an extenuating circumstance.

Note: RGI Administrators must not issue a notice of loss of eligibility to

- households whose income decreased and who did not report the decrease, or
- households whose composition changed, if
 - the change had no effect on their eligibility for the unit and
 - the change would not result in an increase in the household's RGI rent

RGI Administrators can decide **not** to issue a notice of loss of eligibility due to failure to report mid-year changes in income in some circumstances. As an alternative, a RGI Administrator could enter into a repayment plan to recover a retroactive increase in RGI rent that occurred because of late reporting.

Reversing a Loss of Eligibility Decision Before the Effective Date

The following are examples of situations in which a RGI Administrator **must** decide to reverse a notice of loss of eligibility for RGI assistance before the effective date:

a) Household loses eligibility because a person in the household is not legally resident in Canada. If the RGI Administrator is satisfied that the person has left the household, or, the household provides documents to show that the person is now legally resident in Canada, the RGI Administrator must reverse the notice.

- b) Household loses eligibility because they did not submit annual review documents on time. The RGI Administrator must reverse the notice when they receive the documents.
- c) Household loses eligibility because they did not report a mid-year increase in income within 30 calendar days. The RGI Administrator must reverse the notice when they receive the documents and must implement a mid-year change in RGI rent.
- d) **Household loses eligibility because they did not try to obtain income**. The RGI Administrator **must** reverse this notice if the household
 - a. provides documents for income received or
 - b. within the time frame specified by the RGI Administrator (should be at least 60 days), provides evidence that they applied for the income but their application was denied.

Reversing a Loss of Eligibility Decision After the Effective Date

If you have determined that there are extenuating circumstances, reverse the notice. Extenuating circumstances may be because of a "duty to accommodate" but they could could be for other reasons. Ensure that you keep written documentation that clearly shows the extenuating circumstances.

Note: If an RGI household has paid market rent for 12 months because their income increased, RGI Administrators **must** issue a *Notice of Decision - Loss of Eligibility for Rent Geared-to-Income Assistance*. RGI Administrators may not reverse this notice. To get RGI assistance again, the household must apply to Housing Connections. Their application would be backdated to the date they originally applied to the housing provider. See Chapter 8.

If an RGI Administrator decides to reverse a notice of loss of eligibility for RGI assistance, a retroactive rent adjustment may be necessary. Use the table on page 24 to help you determine the effective date.

Notice Periods after a Review

Notice after an Annual Review

Notice of an increase because of an increase in income or assets (Reg. 298, s.52)

If an RGI household has an **increase** in assets or income, the increase in rent is effective on the first day of the **second** month after the household is given **notice**.

For example,

- if a household is given a notice of an increase on October 1, the increase will take effect on December 1
- if a household is given the notice on October 23, the increase will take effect on December 1.

Notice of decrease because of a decrease in income or assets (Reg. 298, s.53)

If an RGI household has a **decrease** in assets or income, the decrease in rent is effective on the first day of the **first** month after the household is given notice.

For example,

- if a household receives a notice of decrease on October 1, the decrease will take effect on November 1.
- if a household receives a notice of decrease on October 23, the decrease will take effect on November 1.

Notice when a household is no longer eligible for RGI assistance (not an increase or decrease in RGI rent)

If a household is no longer eligible for RGI assistance, the notice is effective on the first day of the month **90 days** after you issue the notice.

For example,

• during the annual review, you find that one of the household members is not legally residing in Canada. You give the RGI household a notice on November 1 that they are no longer eligible for RGI assistance. The household's rent will increase to market rent on February 1.

• You gave an RGI household notice on November 23 that they are no longer eligible for RGI assistance because they did not provide proper documents for the annual review. Their rent will increase to market rent on March 1.

Note: When you decide that a household is no longer eligible for RGI, you **must** give the household notice of the decision within seven business days. [Reg. 367 s.61 (2)]

Notice after a Mid-Year Change

The notice periods for an annual review and a mid-year review are not the same. For annual review changes, the effective date depends on the date the notice of decision is given to the household. For mid-year changes in income, the effective date depends on the date of the change in income.

If, on an annual review, you discover that the household did not tell you about a mid-year change in income (more than \$33 per month), make a retroactive adjustment.

Notice of an increase

An increase is effective on the first day of the **second** month following the **change**.

Notice of a decrease

A decrease is effective on the first day of the **first** month following the **change**. For example, if a household has a change in income on October 15, the decrease takes effect on November 1. A decrease in rent can be retroactive.

Notice when a household is no longer eligible for RGI (not an increase or decrease in RGI rent)

If a household is no longer eligible for RGI assistance, the RGI Administrator **must** issue a *Notice of Decision - Loss of Eligibility for Rent Geared-to-Income Assistance*. The increase takes effect on the first day of the month 90 days after the notice of the decision is given.

For example,

• You give an RGI household a notice on November 1 that they are no longer eligible for RGI assistance because of a five month absence. Their rent will increase to market rent on February 1st.

Notice after a Change in Policy

An RGI Administrator for a co-op must give a household at least **60 days notice** if the rent increases because of a change in

- 1. parking fees, sector support, cable or other charges, or
- 2. the policy of the housing provider, the City of Toronto, or the province.

The household pays the increased rent on the first day of the month following the 60-day notice. For example, if the co-op increases the amount of sector support payable and you send notices to every household in the co-op (RGI and market) on December 1st. The increase would begin on February 1st.

All RGI Administrators other than co-ops must give household at least **90 days notice** if the rent increases because of a change in

- 3. parking fees, cable or other charges, or
- 4. the policy of the RGI Administrator, the City of Toronto, or the province.

The household pays the increased rent on the first day of the month following the 90-day notice. For example, if the province increases the amount of a utility charge, you send notices to all RGI households on December 1st; the increase would begin on March 1st.

Summary of Notice Periods after an RGI Review Reg. 298, s. 52 and 53

	Annual Review Effective Date	Mid-Year Change Effective Date	At Anytime Effective Date
Increase because of an increase in income or assets	1 st day of 2nd month after notice given [Reg.298, s.52 (8)]	1st day of the 2nd month after change occurred [Reg. 298, s.53 (3)]	
Decrease because of a decrease in income or assets	1 st day of the month after notice given [Reg.298, s.52 (7)]	1st day of the month after change occurred [Reg.298, s.53 (2)]	
Household no longer eligible for RGI assistance			1 st day of the month following 90 days after the decision is issued
Increase due to change in policy			1st day of the month following 90 days (60 days for co-ops) notice of decision [Residential Tenancies Act/Co-operative Corporations Act]

When you are issuing a decision about an increase or decrease in RGI rent, it is good practice to include a form that households can complete to request a review of the decision. If you receive a verbal request for a review, either provide the household member making the request with the review request form or complete the form on their behalf.

When making a decision to remove eligibility for RGI assistance, RGI Administrators

must always use the City of Toronto's form entitled *Notice of Decision - Loss of Eligibility for RGI Assistance*. The *Notice of Decision - Loss of Eligibility for Rent Geared-to-Income Assistance* form is available for download from the RGI
Administration Manual webpage, listed under "RGI Forms". It is also listed in Chapter 10
of the RGI Administration Manual as Appendix 5.

When a Household is no Longer Eligible for Special Needs Housing

A household is no longer eligible for special needs housing if

- 1. The household is overhoused:
 - the special needs unit has more bedrooms than the household qualifies for under local occupancy standards and
 - the housing provider notified the household in writing at least 12 months ago that the household is overhoused and
 - the household has refused 3 offers to move to a special needs unit of the right size for the household

In this case, use the same process and documents as you would for a non-special needs household.

2. The household fails to provide documentation for annual review or documentation for a mid-year change in income, assets or household composition.

In this case, use the same process and documents as you would do for a non-special needs household.

- 3. The household no longer includes at least one household member who
 - needs the special needs modifications of the unit, or
 - needs the support services that are provided with the unit (if they are unit specific)

This most commonly occurs when a household member who needed unit modifications no longer resides in the unit (due to move-out or death).

The *Housing Services Act* does not specify consequences for a household who no longer needs special needs housing. However, under the *Residential Tenancies Act*, s.58.(1)2, a household may be evicted if they have "ceased to meet the qualifications required for occupancy of the rental unit".

The housing provider will need to encourage the household to move to a non-special needs unit. You can facilitate this process by making households leaving a special needs unit a priority in your internal transfer policy.

If encouraging the household to move is not sufficient to resolve the situation, the housing provider should inform the household that they may be evicted.

Review of Decisions

The *Housing Services Act*, s. 155-156, requires the City of Toronto, as service manager, to have a system under which households can request reviews of decisions about the RGI program.

Under the City's review system

- the Social Housing Unit carries out the review of decisions to remove eligibility for RGI assistance, and
- Housing Connections' review body carries out the review of waiting list decisions.

All RGI Administrators/housing providers carry out their own reviews of all other decisions about RGI households through their "review body".

In addition to the formal decision making process of a "review body", RGI Administrators can review decisions informally when a household requests it. Being able to solve problems informally could improve both efficiency and outcomes.

A household can ask for a review of these types of RGI Administrator decisions:

- a) eligibility for RGI assistance (initial eligibility issues or those applying to resident households see <u>Chapter 3</u>
- b) size and type of unit that a household is eligible for (most common is the household eligible for unit they occupy or are they overhoused under local occupancy standards see Chapter 4
- c) priority category (for internal transfer) see Chapter 8
- d) amount of RGI rent payable see Chapter 6, and
- e) eligibility for special needs housing see <u>Chapter 3</u>.

Regulation 367, s. 138 requires that:

- no one who participated in the decision may participate in the review as a member of the review body
- members of the review body must be knowledgeable about the relevant provisions of the Act and regulations
- no one who discussed the decision with the decision maker may participate in the review as a member of the review body, and

• no member of the review body may discuss the decision with the decision maker except during the course of the review.

For reviews of all decisions except eligibility, RGI Administrators may designate staff, board, committee or broader community members as members of a review body. Housing providers may also enter into agreements to carry out reviews on each other's behalf or to have another organization carry out the reviews. Housing providers must not pay individuals for their membership on their review body.

Housing providers **must** carry out "procedurally fair" reviews. Housing providers must establish board approved procedural rules for reviews, which must include the following:

- The review body will ensure that each household who requests a review has received a full explanation of the reasons why the RGI Administrator made the decision;
- As part of a review, the household who requested the review must be given an opportunity to attend a hearing in person;
- As part of a review, the household who requested the review must be given an opportunity to bring a translator to the hearing;
- As part of a review, the household who requested the review must be given an opportunity to bring another person to the hearing. That person could be a family member, friend, advocate or support worker; and,
- A household must receive a full explanation of the reasons why the review body made their decision.

RGI Administrators **must** accept review requests received up to 30 calendar days after the day the RGI Administrator issues the notice of decision. They may accept review requests after the 30 day period.

RGI Administrators **must** schedule and complete a review within 30 calendar days of receiving the request. If a household requests that the hearing be delayed, the RGI Administrator will reschedule the hearing within the original 30 day period.

If the RGI Administrator is satisfied that extenuating circumstances make it impossible for the RGI household to attend a hearing within this timeframe, the date for hearing and completing the review may be extended.

The housing provider/RGI Administrator **must** give written notice of the review decision within 10 calendar days after the review is completed.

Section 158 of the HSA requires the review body to issue the review decision to the person who requested the review and to the person who made the decision that was reviewed.

The decision of the review body is final.

Effective Dates after a Review Body Decision about RGI Rent

If the Original Decision was to	Review Decision is	Effective Date is
Decrease RGI rent	No change of rent from the rent that was charged prior to the mid-year or annual review	Prior rent applies – last notice of decision is rescinded through review decision
Decrease RGI rent	Decrease RGI rent by the same amount as original decision or a different amount	Date given in original decision
Decrease RGI rent	Increase RGI rent	First day of the month after the review body issues its decision
Increase RGI rent	No change of rent from the rent that was charged prior to the mid-year or annual review	Prior rent applies - last notice of decision is rescinded through review decision
Increase RGI rent	Increase RGI rent by the same amount as original decision or by a lesser amount	Date given in original decision
Increase RGI rent	Increase RGI rent by a greater amount, where the original	The later of: -first day of the month after the
	decision was the result of	review body issues its decision; or
	administrative error	-the date given in the original decision (first day of the second month after the decision is issued)
Increase RGI rent	Increase RGI rent by a greater amount, where the original decision was not the result of administrative error	Date given in the original decision (first day of the second month after the decision is issued)
Increase RGI rent	Decrease RGI rent	For annual reviews:
		First day of the month after the RGI Administrator issues the annual review decision
		For mid-year reviews:
		First day of the month after the decrease in income

Examples after a Review of an Annual Review Decision to Change RGI Rent

Increase to greater increase

An RGI household is given a notice on September 1 that their rent will increase as of November 1. They request a review. The review body decides on a greater increase. The review body gives the notice of this final decision to the household on September 21. The greater increase would be effective November 1 (the first day of the second month after the annual review decision).

Increase to decrease

An RGI household is given a notice on September 1 that their rent will increase as of November 1. They request a review. The review body decides on a decrease to the rent. The review body gives the notice of this final decision to the household on September 21. The decrease would be effective on October 1 (first day of the month after the annual review decision).

Decrease to increase

An RGI household is given a notice on September 1 that their rent will decrease as of October 1. They disagree with the amount of the decrease and request a review. The review body decides on an increase to the household's rent. The review body gives the notice of this final decision to the household on September 21. The increase would be effective on October 1(first day of the month after the review body issues its decision).

Decrease to greater decrease

An RGI household is given a notice on September 1 that their rent will decrease as of October 1. They request a review. The review body decides on a greater decrease. The review body gives the notice of this final decision to the household on September 21. The greater decrease would be effective on October 1 (the date given in the original decision).

Examples after a Review of a Mid-Year Decision to Change RGI Rent

Increase to a greater increase

An RGI household informed you that they had an increase in income on November 1st. The household provided documents on November 10. You gave them a notice on November 21st that informed them of an increase in their rent effective January 1st. They requested a review on November 22nd. The review body decided on a higher increase. You gave the notice of this final decision to the household on November 28th. The

greater increase would be effective on January 1st (1st day of the second month after the change in income occurred).

Increase to decrease

An RGI household informed you that they had an increase in income on November 1st. You gave them a notice on December 5th that informed them of an increase in their rent effective February 1st. They requested a review on December 10th. The review body decided to decrease the rent. You gave the notice of this final decision to the household on December 21st. The decrease would be effective on December 1st (first day of the month after the decrease in income occurred).

Decrease to increase

An RGI household informed you that they had a decrease in income as of November 1st. They provided documents on November 10th. You gave them a notice on November 20th that told them of a decrease in their rent effective December 1st. They requested a review on November 30th. The review body decided on an increase. You gave the notice of this final decision to the household on December 15th. The increase would be effective on January 1st (first day of the month after the review body issues its decision).

Decrease to greater decrease

An RGI household informed you that they had a decrease in income on November 1st. They provided documents on November 10th. You gave them a notice on November 20th that told them of a decrease in their rent effective December 1st. They request a review on December 10th. The review body decided on a greater decrease. You gave the notice of this final decision to the household on December 21st. The greater decrease would be effective on December 1st (1st day of the month after the change in income occurred).

Reviews of Decisions to Remove Eligibility for RGI Assistance

Housing providers **must** direct requests for review of decisions to remove eligibility for RGI assistance to the Social Housing Unit. When the RGI Administrator issues a decision that a household is no longer eligible for RGI assistance, you **must** use the City's *Notice of Decision - Loss of Eligibility for RGI Assistance* form. You **must** attach the City's *Request for Review* form.

The *Notice of Decision - Loss of Eligibility for Rent Geared-to-Income Assistance* form is available for download from the <u>RGI Administration Manual</u> webpage, listed under "RGI Forms". It is also listed in <u>Chapter 10</u> of the RGI Administration Manual as Appendix 5.

The <u>Request for Review Form</u> is listed as an attachment to Chapter 7 of the RGI Administration Manual.

If the Social Housing Unit receives a review request (regarding loss of eligibility for RGI assistance), the City will require the RGI Administrator to send all documents relevant to decision to the Social Housing Unit.

Effective Dates after review of decisions about removing eligibility for RGI assistance

The review body decides on the effective date of a review decision to remove eligibility for RGI assistance. The effective date cannot be earlier than the date on which the review body made its decision.

Example after a review of a decision to remove eligibility for RGI assistance

Using the example provided on page 12, here is the outcome for a review decision that is upheld:

An RGI household gets a notice on November 1 that they are no longer eligible for RGI assistance because of a five month absence. Their rent will increase to market rent on February 1. They have up to 30 calendar days to request a review. They request a review on November 28, and the review is completed on December 20. The review body upholds the original decision and the household loses eligibility for RGI on February 1.