

City of Kingston
Community and Family Services
A Department of Community Development Services Group

Housing Programs
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DIRECTIVE

This Directive Replaces Directive H - 07-06

- ☒ **Legislation/Regulation**
- ☒ **Operational (External)**
- ☒ **Operational (Internal)**

DATE: January 4, 2008
NUMBER: H – 08 - 01

The policies and procedures in this Directive are to be implemented under the following programs:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Local Housing Corporation | <input type="checkbox"/> Urban Native Program |
| <input checked="" type="checkbox"/> Non-Profit Program | <input type="checkbox"/> Social Housing Registry Program |
| <input checked="" type="checkbox"/> Co-Op Program | <input type="checkbox"/> Federal Program |
| <input type="checkbox"/> Rent Supplement Programs (Municipal and Provincial) | |

*Please note: If your program is not checked, this Directive doesn't apply to your project.

SUBJECT: CONFLICT OF INTEREST

BACKGROUND:

Under the *Social Housing Reform Act, 2000*, and *O. Reg. 339/01, s. 4*, a Housing Provider is responsible to appropriately address any potential or actual Conflicts of Interest.

O. Reg. 339/01, Section 4 established new standards and definitions for Conflict of Interest. The full text of the relevant sections of the regulation is attached as **Appendix 'A'**. The regulations replace the Ministry of Municipal Affairs and Housing Directive 97-04. The following Directive is not intended to replace *O. Reg. 339/01 s. 4*, but simply to elaborate a recommended approach in terms of compliance with Section 4. The Directive also sets out The City of Kingston's recommendations for a Housing Provider's purchasing policy along with a sample Conflict of Interest Policy or By-Law.

DEFINITION

For the purposes of this Directive the following definition will apply.

The Social Housing Reform Act, 2000 and Ontario Regulation 339/01, Section 4 (2) states:

A Conflict of Interest exists if any of the following situations occur:

1. The personal or business interests of a director, officer, agent or employee of a Housing Provider are in conflict with the interests of the Housing Provider.
2. A personal gain, benefit, advantage or privilege is directly or indirectly given to or received by a director, officer, agent or employee of the Housing Provider or a person related to one of them as a result of a decision by the Housing Provider.

Generally, a Conflict of Interest exists where an actual or potential Conflict of Interest is declared and the Board of Directors and/or the Service Manager has confirmed that an actual pecuniary interest or Conflict of Interest does in fact exist and a plan to resolve or mitigate the Conflict of Interest has been proposed by the Housing Provider and approved by the Service Manager. (It should be noted that even the perception of Conflict of Interest must be avoided and in some cases it may in fact be necessary to declare and appropriately resolve a perceived Conflict of Interest.)

ACTION TO BE TAKEN:

Housing Providers must avoid any situation where an actual or potential Conflict of Interest may arise or exist. This can be accomplished by following the best practices set out in the sample Conflict of Interest By-Law for Non- Profit and Co-operative Housing Providers (see **Appendix 'B'**).

This includes at a minimum:

1. At every board meeting, general members meeting or annual general meeting, the opportunity to declare an actual or potential Conflict of Interest should be a standing item on the agenda.
2. All Board members, officers, employees and agents of the Housing Provider should be made aware of the Housing Provider's Conflict of Interest Policy or By-Law when they join the organization and must sign an acknowledgement form confirming they have received, read and understand the Conflict of Interest Policy\By-Law and Directive H – 08-01
3. Resolving all declarations of a potential, perceived or actual Conflict of Interest in the manner indicated in the Housing Provider's approved Conflict of Interest Policy\By-Law.
4. Where a Conflict of Interest is on-going or not easily resolved, the Housing Corporation will be required to have clear, concise and written procedures detailing how an on-going Conflict of Interest is declared, isolated and resolved which must be approved by both the Board and the Service Manager.
5. Establishing a Purchasing Policy\By-Law which gives clear standards for how goods and services are to be acquired.
5. Including a clause in all contracts and purchase orders of \$14,999.99 (or \$19,999.99) or more, that permits the Housing Provider to terminate the contract if a Conflict of Interest is determined to exist by the Housing Provider or Service Manager.
6. Housing Providers are to maintain a Conflict of Interest file, which should include a copy of the revised Conflict of Interest Policy\By-Law, a copy of all signed Conflict of Interest Acknowledgement Forms, all declarations of an actual or potential Conflict of Interest, along with the process undertaken by the Housing Provider and Service Manager to resolve the declared or actual Conflict of Interest, as well as any other appropriate documentation.
7. Housing Providers are required to pass a revised Conflict of Interest Policy\By-Law and submit a copy to The City of Kingston, Housing Programs, along with a copy of the Board motion to repeal the previous Conflict of Interest By-Law, within 30 days of their AGM in 2008.
8. Once the revised Conflict of Interest Policy\By-Law has been passed, all Board members, officers, employees and agents are to sign the Conflict of Interest Acknowledgement Form confirming that they have received, read and understand the Conflict of Interest Policy\By-Law.

RESOURCES

The City of Kingston has reviewed the sample Conflict of Interest By-Laws developed by the Ontario Non-Profit Housing Association (ONPHA) and the Co-operative Housing Federation – Ontario Region. The ONPHA and Co-op sample Conflict of Interest By-Laws have been modified by the Service Manager in order to address local priorities. The modified Conflict of Interest By-Law is enclosed as **Appendix 'B'**. Housing Providers have the option to pass a revised Conflict of Interest By-Law or to implement a Board approved Conflict of Interest Policy.

Where a Housing Provider chooses to pass a Conflict of Interest By-Law based on the sample provided, the Housing Provider is simply required to provide a copy of the approved By-Law to the Service Manager within 30 days following their Annual General Meeting in 2008.

Where a Housing Provider decides to develop their own Conflict of Interest By-Law or to use either the sample Conflict of Interest By-Laws developed by Ontario Non-Profit Housing Association (ONPHA) or the Co-operative Housing Federation, the By-Law should substantially comply with the Service Manager's sample By-Law and include local priorities, a purchasing policy along with the requirements of Section 4 and 6 of O. Reg. 339/01. A copy of the amended By-Law must be provided to the Service Manager for review prior to being approved by the Board.

Where a Housing Provider chooses to implement a Conflict of Interest Policy, the policy should be based on the wording contained in the sample Conflict of Interest By-Law and include local priorities, a purchasing policy along with the requirements of Section 4 and 6 of O. Reg. 339/01. A copy of the Board approved Conflict of Interest Policy must be provided to the Service Manager within 30 days following approval and no later than 30 days following their Annual General Meeting in 2008.

Further, all Housing Providers with a current Conflict of Interest By-Law based on Directive 97-04 must repeal the current Conflict of Interest By-Law in the manner set out in the General By-Law (By-Law No. 1). A copy of the Board motion to repeal the Conflict of Interest By-Law must be provided to the Service Manager within 30 days following their Annual General Meeting in 2008.

PROCESS

As required in Section 4 (6), O. Reg. 339/01, the Chair of the Board of Directors is required to notify the Service Manager in writing of every declared actual or potential Conflict of Interest.

When a declared Conflict of Interest (which is not of a routine nature) is reported to The City of Kingston, Housing Programs, the following steps will take place:

1. The Director of Community and Family Services or his/her delegate will review the material provided from the Housing Provider including:
 - Description of the potential or perceived Conflict of Interest;
 - The Housing Provider's recommendation on how the Conflict of Interest should be handled;
 - The Director of Community and Family Services or his delegate may require additional information on the steps taken or not taken by the Housing Provider to avoid the potential or perceived Conflict of Interest.
2. The Director of Community and Family Services or his/her delegate will make the final decision regarding how the Housing Provider has addressed the declared Conflict of Interest or on any actions required by the Housing Provider in order to resolve the Conflict of Interest to the satisfaction of the Service Manager.
3. The decision of the Director of Community and Family Services or his/her delegate will be provided in writing to the Chair of the Board of Directors of the Housing Corporation.
4. The decision of the Director of Community and Family Services or his/her delegate is final.

NOTE: For the purposes of this Directive the Service Manager need not be notified of any declared Conflict of Interest which is routine in nature and/or easily resolved. As an example, a routine Conflict of Interest declaration would include an agenda item discussed at a Board meeting where an actual or potential Conflict of Interest is declared based on a specific agenda item and is then resolved by the director or member removing themselves from the discussion (and from the meeting room) and any vote on the matter. In this case, the declaration of a Conflict of Interest and the action of the director or member must be clearly recorded in the board minutes and a copy of the approved minutes retained on the Conflict of Interest file. A copy of every declared Conflict of Interest (both resolved and unresolved) must be kept on the Housing Provider's Conflict of Interest file for later reference by the Service Manager.

SOCIAL HOUSING REFORM ACT, 2000 – REFERENCE:

Social Housing Reform Act, 2000

O. Reg. 339/01 s. 4, Conflict of Interest

If you have any questions please contact Mary McIntyre, Housing Programs Administrator, Housing Programs, Community and Family Services Department, 613-546-2695 ext 4948

Cheryl Hitchen

Manager, Community Programs Administration Unit

- c Lance Thurston, Commissioner, Community Development Services Group
- Greg Grange, Director, Community and Family Services Department
- Liz Savill/Marian VanBruinessen/Susan Beckel, County of Frontenac
- Alan McLeod, Senior Legal Counsel, Legal Division
- Supervisors, Housing Programs

APPENDIX 'A'**Excerpt O. Reg. 339/01****Conflict of Interest**

4. (1) This section applies to a Housing Provider in addition to the provisions of the Act listed in subsection 3 (1) to which the Housing Provider is subject. O. Reg. 339/01, s. 4 (1).

(2) A Conflict of Interest exists if any of the following situations occur:

1. The personal or business interests of a director, officer, agent or employee of a Housing Provider are in conflict with the interests of the Housing Provider.
2. A personal gain, benefit, advantage or privilege is directly or indirectly given to or received by a director, officer, agent or employee of the Housing Provider or a person related to one of them as a result of a decision by the Housing Provider. O. Reg. 339/01, s. 4 (2).

(3) A director, officer, agent or employee of the Housing Provider shall not enter into any situation, arrangement or agreement which results in a Conflict of Interest. O. Reg. 339/01, s. 4 (3).

(4) Directors, officers, agents and employees of the Housing Provider must notify the chair of the Board of Directors of the Housing Provider of every potential or actual Conflict of Interest no later than the first meeting of the board after the director, officer, agent or employee becomes aware that he or she has entered into a situation, arrangement or agreement that results in or may result in a Conflict of Interest. O. Reg. 339/01, s. 4 (4).

(5) The Board of Directors shall consider the notice given under subsection (4) no later than the second meeting of the board after the notice is given and consideration of the notice must be reflected in the minutes of the meeting. O. Reg. 339/01, s. 4 (5).

(6) The chair of the board shall notify the Service Manager in writing of the receipt of every notice under subsection (4) and the Board of Directors shall resolve every Conflict of Interest or potential Conflict of Interest to the satisfaction of the Service Manager. O. Reg. 339/01, s. 4 (6).

(7) Despite subsection (3), a director, officer, agent or employee or a person related to one of them may directly or indirectly receive a gain, benefit, advantage, privilege or remuneration from the Housing Provider if all of the following conditions are satisfied:

1. A notice of the Conflict of Interest or potential Conflict of Interest is given in accordance with subsection (4).
2. The Service Manager agrees that there is no reasonable alternative for the Housing Provider other than entering into the situation, arrangement or agreement that results in or may result in the Conflict of Interest. O. Reg. 339/01, s. 4 (7).

(8) For the purposes of this section, a person related to a director, officer, agent or employee includes a parent, spouse, same-sex partner, child, household member, sibling, uncle, aunt, nephew, niece, mother-in-law, father-in-law, sister-in-law, brother-in-law or grandparent, or a person with whom the director, officer, agent or employee has a business relationship. O. Reg. 339/01, s. 4 (8).

(9) In this section,

“child”, in relation to an individual, means a child of the individual born within or outside marriage (unless that child has been adopted by one or more other individuals in Ontario or according to the law of another jurisdiction), a child adopted by the individual in Ontario or according to the law of another jurisdiction, and a child whom the individual has demonstrated a settled intention to treat as a child of his or her family, but does not include a child placed in the individual's home as a foster child for consideration by another person having lawful custody;

“parent”, in relation to an individual, means a natural parent of the individual (unless the individual has been adopted by one or more other persons in Ontario or according to the law of another jurisdiction), an adoptive parent of the individual who has adopted the individual in Ontario or according to the law of another jurisdiction, and a person who has demonstrated a settled intention to treat the individual as a child of his or her family, but does not include a person in whose home the individual has been placed as a foster child for consideration by another person having lawful custody;

“same-sex partner”, in relation to a person, means,

(a) an individual of the same sex as the person, if the individual and the person have together advised the Housing Provider that they are same-sex partners, or

(b) an individual of the same sex as the person who resides in the same dwelling place as the person, if the social and familial aspects of the relationship between the individual and the person amount to cohabitation and,

- (i) the individual is providing financial support to the person,
- (ii) the person is providing financial support to the individual, or
- (iii) the individual and the person have a mutual agreement or arrangement regarding their financial affairs;

“spouse”, in relation to a person, means,

(a) an individual of the opposite sex to the person, if the individual and the person have together advised the Housing Provider that they are spouses, or

(b) an individual of the opposite sex to the person who is residing in the same dwelling place as the person, if the social and familial aspects of the relationship between the individual and the person amount to cohabitation and,

- (i) the individual is providing financial support to the person,
- (ii) the person is providing financial support to the individual, or
- (iii) the individual and the person have a mutual agreement or arrangement regarding their financial affairs. O. Reg. 339/01, s. 4 (9).

Replacement of Conflict of Interest rules

5. The Conflict of Interest provisions set out in section 4 may be replaced for a Housing Provider by rules agreed to by the Housing Provider and the Service Managers for all areas in which its housing projects are located, in accordance with subsection 93 (3) of the Act. O. Reg. 339/01, s. 5.

Expenses and remuneration, directors

6. (1) A Housing Provider shall not pay remuneration to a director other than amounts to reimburse the director for reasonable expenses incurred in the performance of the director's duties as a director. O. Reg. 339/01, s. 6 (1).

(2) A Housing Provider may employ a director if,

(a) the director resides in the Housing Provider's housing project and is employed by the Housing Provider on a part-time or temporary basis; or

(b) the director does not reside in the Housing Provider's housing project and is employed by the Housing Provider to carry out functions of a non-supervisory and non-managerial nature and the Housing Provider has,

(i) five or fewer directors and no other director is employed by the Housing Provider to carry out the same functions, or

(ii) more than five directors and not more than one-fifth of the directors are employed by the Housing Provider to carry out the same functions. O. Reg. 339/01, s. 6 (2).

(3) Despite subsection (1), a Housing Provider may pay reasonable remuneration to a director employed in accordance with subsection (2) in respect of his or her employment functions. O. Reg. 339/01, s. 6 (3).

APPENDIX 'B'**Sample Conflict of Interest Policy or By-Law**

The *Social Housing Reform Act, 2000* and provincial regulations contain rules about Conflict of Interest which all non-profits and co-ops, governed by the Act, must follow.

Many Housing Providers already have a Conflict of Interest By-Law as this was a Ministry requirement for all projects funded under provincially administered non-profit housing programs. Housing Providers with a current Conflict of Interest By-Law based on Directive 97-04 must repeal the current Conflict of Interest By-Law in the manner set out in the General By-Law (By-Law No. 1) and replace it with either a revised Conflict of Interest By-Law or with a Conflict of Interest Policy. Housing Providers may want to consult with their Solicitors prior to undertaking the process of revising By-Law No. 1 or implementing a new Conflict of Interest By-Law. A copy of the Board motion to repeal the previous Conflict of Interest By-Law must be provided to the Service Manager within 30 days following their Annual General Meeting in 2008.

Where a Housing Provider chooses to pass a Conflict of Interest By-Law based on the sample provided, the Housing Provider is simply required to provide a copy of the approved By-Law to the Service Manager within 30 days following their Annual General Meeting in 2008.

Where a Housing Provider decides to develop their own Conflict of Interest By-Law or to use either the sample Conflict of Interest By-Laws developed by Ontario Non-Profit Housing Association (ONPHA) or the Co-operative Housing Federation, the By-Law should substantially comply with the Service Manager's sample By-Law and include local priorities, a purchasing policy along with the requirements of Section 4 and 6 of O. Reg. 339/01. A copy of the amended By-Law must be provided to the Service Manager for review prior to being approved by the Board.

Where a Housing Provider chooses to implement a Conflict of Interest Policy, the policy should be based on the wording contained in the sample Conflict of Interest By-Law and include local priorities, a purchasing policy along with the requirements of Section 4 and 6 of O. Reg. 339/01. A copy of the Board approved Conflict of Interest Policy must be provided to the Service Manager within 30 days following approval and no later than 30 days following their Annual General Meeting in 2008.

NOTE: All references in the sample Conflict of Policy\By-Law to “Housing Provider” or “Non-Profit” apply equally to “Non-Profit Housing Providers” and “Co-operative Housing Providers”.

SAMPLE**Conflict of Interest Policy or By-Law****BY-LAW No. xx or Policy No. xx****OF**

* _____ [insert name of Non-Profit] (the “Non-Profit”)

CONFLICT OF INTEREST POLICY or BY-LAW

BE IT ENACTED as a By-Law of the Non-Profit to repeal and replace By-law No. _____, Conflict of Interest, as follows:

1. BACKGROUND

- a) The Non-Profit recognizes it is good business practice to avoid Conflicts of Interest.
- b) The Government of Ontario, pursuant to the *Social Housing Reform Act 2000*, has issued Ontario Regulation 339/01, which includes the Government’s rules relating to Conflict of Interest and other business practices. Schedule “A” contains a summary of these rules.
- c) This By-law sets out how the Non-Profit addresses Conflicts of Interest, including implementing the requirements of Ontario Regulation 339/01.

2. DEFINITIONS – In this By-law:**2.1 “Conflict of Interest” means a situation where:**

- i. the personal or business interests of a director, officer, agent, or employee of a Non-Profit are in conflict with the interests of the Non-Profit; or
- ii. a personal gain, benefit, advantage or privilege is directly or indirectly given to or received by a director, officer, agent or employee or a person related to any one of them as a result of a decision by the Non-Profit;

and includes

- a) the Non-Profit giving a direct or indirect gain, benefit, advantage or privilege to a director, officer, agent or employee or a person related to any one of them;
- b) a director, officer, agent or employee or a person related to any one of them receiving a direct gain, benefit, advantage or privilege from the Non-Profit as a result of the person’s position within the Non-Profit;
- c) the Non-Profit, in offering housing accommodation or in setting rents or other occupancy charges, giving any advantage or privilege to directors who are tenants that is not available to tenants who are not directors.

- 2.2 **“Declaration”** means a declaration in the form attached as Schedule “B” to this By Law.
- 2.3 **“Director”** means a member of the Board of Directors of the Non-Profit.
- 2.4 **“Officer”** means the president, chair, vice-president, secretary, treasurer, manager and anyone else designated as an officer in the By-Laws of the Non-Profit.
- 2.5 **“Person related to any one of them”** means a parent, spouse, same-sex partner, child, household member, sibling, uncle, aunt, nephew, niece, mother-in-law, father-in-law, sister-in-law, brother-in-law, grandparent of the director, officer, agent, employee, a person with whom the director, officer, agent, or employee has a business relationship.
- 2.6 **“Service Manager”** means a Service Manager as defined in Section 2 of *The Social Housing Reform Act, 2000*, and includes any person exercising the powers of the Service Manager under Section 16 of *The Social Housing Reform Act, 2000*.
- 2.7 **“Threshold”** means more than an amount, accepted as such by the Service Manager, which is lesser of:

The appropriate monetary level is determined by the number of units under administration. Under 250 units, the thresholds are \$2,000 and \$14,999. Where there are 250 units or more, the thresholds are \$5,000 and \$19,999, as indicated below.

Housing Provider – No. of Units	Minimum Threshold	Maximum Threshold
< 250 units	\$2,000	\$14,999.99
>250 units	\$5,000	\$19,999.99

3. AVOIDING CONFLICT OF INTEREST

- 3.1 Exceptions – The Non-Profit shall not enter into a relationship, arrangement, contract or agreement with any person in a way that creates a Conflict of Interest, except that:
- provided that a notice of potential, perceived or actual or Conflict of Interest has been delivered to the Service Manager and the Service Manager agrees there is no reasonable alternative, the Non-Profit may enter into a relationship, arrangement, contract or agreement that normally would be the Conflict of Interest, given specific conditions to limit the Conflict of Interest as set out by the Non-Profit and approved by the Service Manager;
 - a Director who lives in the Non-Profit may be employed by the Non-Profit on a part-time basis to perform routine tasks such as administrative, maintenance or operational tasks with respect to the Non-Profit's project/portfolio **[Delete this paragraph if the Non-Profit is a charity. The *Charitable Corporations Act* states that any Non-Profit incorporated as charity may not employ any of its Directors in any capacity.];**
 - a Director may be employed by the Non-Profit in a non-managerial or non-supervisory position **[provided that where the Board of Directors consists of not more than five Directors, there shall not be more than one Director so employed at any one time. If there are more than five Directors, the total number of Directors so employed may not exceed one-fifth of the board] [Delete this paragraph if the Non-Profit is a charity. The *Charitable Corporations Act* states that any Non-Profit incorporated as charity may**

not employ any of its Directors in any capacity.];

- d. some or all of the Directors may also sit as Directors of an organization that supplies essential support services for special-needs clients residing in the Non-Profit's project/portfolio, where the project/portfolio exists specifically so that residents can live in the community with the support services provided; and
- e. the Directors may be paid a modest *per diem* or an honorarium if a provision allowing such remuneration is contained in the Letters Patent or Articles of Incorporation for the Non-Profit. **[Delete this paragraph if the Non-Profit is a charity. The *Charitable Corporations Act* states that any Non-Profit incorporated as a charity may not employ pay any money, even a modest *per diem* or honorarium to its Directors.]**

3.2 Duty to Monitor and Avoid Conflict of Interest – The Non-Profit shall closely monitor its relationships, arrangements, contracts and agreements, and not engage in any that may result in a Conflict of Interest. The Directors, individually and collectively, shall ensure compliance with this requirement.

3.3 Termination – Subject to employment law in force in Ontario and any collective-bargaining agreements to which the Non-Profit is party, all relationships, arrangements, contracts or agreements of the Non-Profit, which exceed the Threshold in any one fiscal year of the Non-Profit, shall include a clause permitting the Non-Profit to terminate the relationship, arrangement, contract or agreement if the Non-Profit or Service Manager requires such termination in order to resolve a Conflict of Interest.

3.4 Directors Must Resign – Except as set out in subsection 3.1, a Director shall resign from her/his position before the Non-Profit's Board of Directors deliberates, issues a tender, or votes on a contract or employment position for which the Director intends to compete.

3.5 Former Directors and Officer – Except in the circumstances set out in subsection 3.1, no former director or officer may apply for employment with the Non-Profit or seek to enter into a contract to supply services to the Non-Profit directly or indirectly for a period of one (1) year following the date she/he ceases to be a Director or Officer.

3.6 Purchase or Lease of Land – Where the Non-Profit purchases or leases land, it shall not purchase or lease such land from:

- a. an individual; or
- b. a corporation which has a shareholder, director or officer;

who is a director, officer, agent, employee, development consultant/resource group, architect or other technical consultant, real estate agent, or environmental consultant of the Non-Profit or any person related to one of them.

4. BOARD PROCEDURES

4.1 Conflict of Interest – The board shall have Conflict of Interest as a regular agenda item at the beginning of each meeting of the Directors, general members meeting or annual general meeting. Any director, officer, agent, member or employee who has a Conflict of

Interest must submit their Declaration (or declare their conflict) at that time.

- 4.2 Declaration of Conflict of Interest – Directors, officers, agents and employees of the Non-Profit must notify the Chair of the Board of Directors of the Non-Profit of every potential, perceived or actual Conflict of Interest no later than the first meeting of the Board after the director, officer, agent or employee becomes aware that he or she has entered into a situation, arrangement or agreement that results in or may result in a Conflict of Interest. The form of such declaration is attached as **Schedule “B”**.
- 4.3 Potential or Perceived Conflict of Interest – When an actual or potential Conflict of Interest is raised before or during a board meeting, then:
- a. the party to the conflict must leave the meeting; and
 - b. the board shall decide if there is a Conflict of Interest and how best to resolve the conflict.
- 4.4 Consideration of Notice – The Board of Directors shall consider any declaration given under subsection 4.2 no later than the second meeting of the Board after the notice is given. The consideration of the notice must be reflected in the minutes of the meeting.
- 4.5 Resolution of a Conflict of Interest – The board shall notify the Service Manager of any declaration received under subsection 4.2. The notification to the Service Manager shall include one of the following:
- a. if a person filed a declaration of an actual or potential Conflict of Interest and the Board decided there was in fact no such Conflict, a declaration to that effect and a request that the Service Manager ratify this decision; or
 - b. if a Conflict of Interest exists which may be resolved in accordance with this Policy\By-Law and Ontario Regulation 339/01, notification of how the Non-Profit has resolved the Conflict of Interest and a request that the Service Manager ratify such resolution, or
 - c. if a Conflict of Interest exists which the Board is unable to resolve in accordance with this Policy\By-Law and Ontario Regulation 339/01, or the Conflict of Interest is of “on-going” nature, a request that the Service Manager issue instructions for resolving the Conflict of Interest.
- These requests are part of the attached **Schedule “B”**.
- 4.6 Conflict to be Resolved to the Service Manager’s Satisfaction – If the Service Manager issues instructions regarding an alternative to a decision made by the Board under subsection 4.5 a) or b) or a resolution under subsection 4.5 c) the Non-Profit will act in accordance with the Service Manager’s instructions.
- 4.7 On-Going Conflict of Interest – Where the Conflict of Interest is on-going or not easily resolved, the Non-Profit is required to have clear, concise and written procedures detailing how an on-going Conflict of Interest is declared, isolated and resolved which is approved by the Board and the Service Manager.
- 4.8 Record-keeping – The Non-Profit shall maintain a Conflict of Interest file containing all declarations, reports and minutes pertaining to Conflict of Interest and any actual or potential conflict situations.

- 4.9 Requirement to Confirm Receipt and Knowledge of the Conflict of Interest By-Law – The Non-Profit is required to have all directors, officers, agents and employees sign a form acknowledging that the individual has been provided with a copy of the Conflict of Interest Policy\By-Law, has read it and fully understands their responsibility to declare a potential or actual Conflict of Interest in accordance with the approved Policy\By-Law. The declaration should be signed when a director, officer, agent or employee first takes a position with the Non-Profit or begins their employment with the Non-Profit or when the revised Conflict of Interest Policy\By-Law comes into force. A copy the declaration must be retained on the Conflict of Interest file for the full period of the director, officer, agent or employee's involvement or employment with the Non-Profit. A copy of the declaration is attached as **Schedule "C"**.

5. PROMOTING FAIR AND OBJECTIVE BUSINESS PRACTICES (Purchasing Policy)

- 5.1 Tenders – The Non-Profit shall invite responses from at least three qualification bidders, or publicly tender all contracts costing over \$14,999.99. **[For Non-Profits with 250 units or more, the tender limit may be increased from \$14,999.99 to \$19,999.99]**
- 5.2 Considering Tenders – In considering tenders, the Non-Profit shall:
- a. consider the quality of goods and services to be provided; and
 - b. base its decision on written specifications outlining resources, timing, cost and fees.
- 5.3 Not Choosing Low Bid – Where the lowest bid is not chosen by the Board of Directors (or the person ordinarily responsible for making this decision), the Non-Profit shall ensure that the reasons are documented and approved by the Board in the form of a Board resolution.
- 5.4 Contracts Under \$15,000 – The Non-Profit shall obtain a minimum of three written quotes for any single or on-going contract costing between \$2,000.00 and \$14,999.99 in any fiscal year, and adopt clear, fair and written procedures for the awarding of contracts under \$2,000.00. **[For Non-Profits with 250 units or more, the limit to obtain a minimum of three written quotes may be increased from \$2,000.00 to \$5,000.00].**
- 5.5 Participation in Cooperative Purchasing Programs – Where the Non-Profit participates in a cooperative purchasing program, the procedures of the cooperative purchasing program shall replace the Non-Profit's internal procedures for competitive acquisition of goods and services for the duration of the Non-Profit's participation in the cooperative purchasing program. The Non-Profit shall confirm its participation in such programs to the Service Manager, if requested.
- 5.6 Recommended Purchasing/Tendering Processes – A Non-Profit will follow the recommended Purchasing and Tendering processes as outlined in the Policy\By-Law, including:
- a) For contracts with an estimated value of between \$2,000.00 (or \$5,000.00) and \$14,999.99 (or \$19,999.99) related to a specific project with a limited time-frame and which can be clearly defined, the Non-Profit shall seek an appropriate supplier by:

- (i) preparing terms of reference for the work,
 - (ii) seeking three competitive bids with associated fixed-price quotations, and
 - (iii) awarding the contract based on an assessment of the qualifications of the supplier, the information provided in the proposal, and the price.
 - b) For contracts with an estimated value exceeding \$15,000.00 (or \$20,000.00) which require ongoing provision of professional advice or specified goods and services to the Non-Profit, requiring knowledge of matters specific to the Non-Profit (such as legal advice, audit services or specialized technical advice), the Non-Profit shall seek an appropriate supplier by:
 - (i) preparing terms of reference for the work,
 - (ii) inviting offers of service by:
 - 1. giving notice by public advertisement of the requirement to engage the services (Public Tender); and/or
 - 2. inviting submissions from those individuals or firms who appear best qualified to meet the requirement of the engagement or to pre-qualified firms (Invitational Tender);
 - (iii) rating the offers of service against the terms of reference to identify the offer of service which represents the best value for money based on the qualifications of the supplier, the information provided in the proposal, and the price; and
 - (iv) selecting the firm offering the best value for money.
 - c) The Non-Profit shall keep records of all contracts and tenders, the list of bidders, their submissions and fees, the decisions of the Non-Profit, and any other related materials in a Purchasing/Tender file for later reference by the Housing Provider's Auditor or the Service Manager.
- 5.7 Purchase of Professional Services – Where the Corporation is purchasing professional or consulting services the same monetary limitations identified under Section 5.1, 5.4 and 5.7 will apply to all professional fee for service contracts or consulting contracts.
- 5.8 Emergencies – Where an emergency prevents the Non-Profit from following other provisions of this Policy\By-law, the Non-Profit shall:
- a. employ without a call for proposals the individual or firm in whom the Non-Profit has the greatest confidence in regard to a particular requirement of the Non-Profit in dealing with this emergency;
 - b. ensure the employment of the individual or firm lasts no longer than necessary to deal with the emergency; and
 - c. keep records of the appointment of the employment and remuneration of the individual or firm.

- 5.9 Employment Contracts – The Non-Profit shall implement documented, open and competitive practices for employment opportunities which are not inconsistent with:
- a. any collective bargaining agreement of the Non-Profit; and
 - b. other fair labour practices as set out in the Personnel Policy of the Non-Profit.
- 6.0 Management Contracts – The property manager/management or operational services company/development consultant of the Non-Profit shall not have a direct or indirect interest in any other business that provides advice, goods or services to the Non-Profit.
- 6.1 Housing Provider Staff – As a general rule, any Housing Provider staff person who is responsible to assign contracted work, approve contracted work, authorize payment for contracted work and who may also be a payment authority for the Housing Provider, should not use these same contractors for personal purposes or engage the services of these same contractors for work of a personal nature, if the value of personal work is material in nature (e.g. over \$1000.00 per transaction). This should include any contractor on an approved standing list of contractors or regularly working for the Housing Provider. Where this occurs, staff must declare the nature of the Conflict of Interest and the Conflict must be resolved to the satisfaction of the Board of Directors and the Service Manager in accordance with Section 4 of O. Reg. 339/01 and the Housing Providers Conflict of Interest Policy or By-Law.

PASSED by the Board of Directors and sealed with the corporate seal of the Corporation on the

_____ day of _____, 2007. c/s

PRESIDENT

SECRETARY

CONFIRMED at a general meeting of the Members on the _____ day _____, 2007. c/s

PRESIDENT

SECRETARY

SCHEDULE “A”
to the Conflict of Interest Policy or By-Law No. xx

Summary of Obligations

This is a summary of the Conflict-of-Interest rules set out in Ontario Regulation 339/01, for all non--profit Housing Providers subject to the *Social Housing Reform Act, 2000*.

1. A Conflict of Interest is defined as a situation where:
 - (i) the personal or business interests of a director, officer, agent or employee of a Housing Provider are in conflict with the interests of the Housing Provider; or
 - (ii) a personal gain, benefit, advantage or privilege is directly or indirectly given to or received by a director, officer, agent, employee, or a person related to them as a result of a decision by the Housing Provider.
2. “A person related to a director, officer, agent, employee” includes a parent, spouse, same-sex partner, child, household member, sibling, uncle, aunt, nephew, niece mother-in-law, father-in-law, sister-in-law, brother-in-law, grandparent, a person with whom the director, officer, agent or employees has a business relationship.
3. A director, officer, agent or employee of the Housing Provider shall not enter into any situation, arrangement or agreement that results in a Conflict of Interest.
4. Directors, officers, agents and employees of the Housing Provider must notify the Chair of the Board of Directors of the Housing Provider of every potential or actual Conflict of Interest no later than the first meeting of the Board after the director, officer, agent or employee becomes aware that he or she has entered into a situation, arrangement or agreement that results in or may result in a Conflict of Interest.
5. The Board of Directors shall consider any notice given under paragraph 4 no later than the second meeting of the Board after the notice is given. The consideration of the notice must be reflected in the minutes of the meeting.
6. The Chair of the Board of Directors shall notify the Service Manager in writing of the receipt of every notice under paragraph 4, and the Board of Directors shall resolve every Conflict of Interest or potential Conflict of Interest to the satisfaction of the Service Manager.
7. Despite paragraph 3, a director, officer, agent, employee or a person related to one of them may directly or indirectly receive a gain, benefit, advantage, privilege or remuneration from the Housing Provider if both the following conditions are satisfied:
 - a) a notice of the Conflict of Interest or potential Conflict of Interest is given in accordance with paragraph 4; and
 - b) the Service Manager agrees that there is no reasonable alternative for the Housing Provider other than entering into the situation, arrangement or agreement that results in or may result in the Conflict of Interest.
8. The Conflict of Interest provisions set out above may be replaced for a Housing Provider by rules agreed to by the Housing Provider and the Service Managers for all areas in which its housing projects that are subject to the *Social Housing Reform Act, 2000* are located.

**SCHEDULE “B”
to Conflict of Interest Policy or By-Law No. xx**

Notification of a Potential, Perceived or Actual Conflict of Interest

Part 1: Name of Non-Profit

Contact Person:

Address:

Part 2: To be completed by the director, officer, agent, or employee with the conflict

Name:

Address:

Briefly describe the potential, perceived or actual conflict (add any relevant supporting documentation)

Signature

Date

Part 3: To be completed by the Chair of the Board or designate

Date of Receipt of Notice

Date of Meeting at which the conflict was considered

Did the Board decide a Conflict of Interest existed as set out in Part 2 above? No Yes
(go to part a) (go to part b)

a) If no, complete the following declaration:

“I certify that the Board of Directors of [insert name of non-profit], after considering the declared Conflict of Interest described above, decided that in fact no Conflict of Interest exists. I request ratification by the Service Manager (The City of Kingston) of this decision of the Non-Profit.”

Signature

Date

b) Was the conflict resolved in accordance with the Non-Profit's Policy\By-Laws and O. Reg 339/01.

Complete only one of the two boxes below

Yes Briefly describe the resolution of the conflict (add any relevant supporting documentation)

"I certify this is a true record of the Conflict of Interest and its resolution. I request ratification by the City of Kingston, as Service Manager, of the decision of the Non-Profit."

Signature

Date

No Briefly describe why the conflict could not be resolved (add any relevant supporting documentation)

"I certify this is a true record of the Conflict of Interest and that the Non-Profit was unable to bring about a resolution. I hereby request instruction from the City of Kingston, as Service Manager, regarding resolution of this Conflict of Interest.

Signature

Date

**SCHEDULE “C”
to Conflict of Interest Policy or By-Law No. xx**

Acknowledgement of Receipt/Review of the Conflict of Interest Policy or By-Law

Part 1: Non-Profit Information

Name of Non-Profit:

Contact Person:

Address/Phone Number:

Part 2: To be completed by the director, officer, agent, or employee

Name:

Position:

This will acknowledge and confirm that I have received, read and understand the Non-Profit Conflict of Interest Policy\By-Law and Directive H- 08-01 and acknowledge that as a board member, officer, agent, employee, [choose one] I am required to comply with all terms and conditions of the Conflict of Interest Policy\By-Law and of O. Reg. 330/01, s 4, of *the Social Housing Reform Act, 2000* and Directive H - 08-01

I further acknowledge my responsibility to disclose to the Non-Profit and Service Manager all potential or actual Conflicts of Interest, which, may arise or exist while acting in my role with the Non-Profit, in accordance with the approved Conflict of Interest Policy or By-Law.

Signature

Date

NOTE: This declaration should be signed when a director, officer, agent or employee first takes a position with the Non-Profit or begins their employment with the Non-Profit or when the Policy\By-Law comes into effect. A copy the declaration must be retained on Conflict of Interest file for the full period of the director, officer, agent, employee’s involvement or employment with the Non-Profit.