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**ON THE SAME PAGE**  
**Ministerial Consents and**  
**Land Transfer Tax Exemptions**  
**April 2014**

# ON THE SAME PAGE

## What is ON THE SAME PAGE?

- To assist Service Managers by providing a greater understanding of ministry policies and procedures related to Risk Management and Program Compliance issues, **On The Same Page** is a series of informative and interactive teleconferences.
- Topics and subject matter will be determined in collaboration with you, the Service Manager and your Municipal Services Office team in order to provide you with the necessary information that will help you out with a variety of tasks.
- We will talk more at the end of this presentation about upcoming **On the Same Page** sessions.
- Today we are starting off with an area of growing interest, ***Ministerial Consents and Provincial Land Transfer Tax Exemptions.***

# Part I – Ministerial Consent Decisions



**The Honourable Bill Mauro**  
**Minister of Municipal Affairs and Housing**

# What is a Ministerial Consent Decision?

- A **Ministerial Consent** is a decision made by the Minister of Municipal Affairs and Housing in response to certain requests from Service Managers.
- These **Ministerial Consent** approvals are required for certain activities/actions that are specifically set out under the *Housing Services Act, 2011*.



# What types of decisions require Ministerial Consent?

## In general, the key activities/actions that still require Ministerial Consent are as follows:

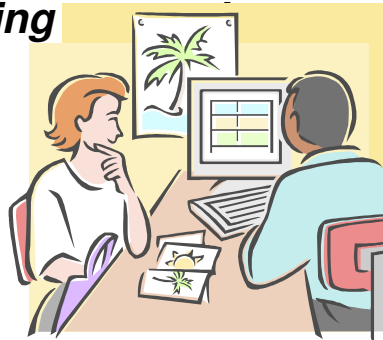
- The transfer of social housing projects, or lands. A transfer includes transferring or granting an “interest” including a leasehold interest;
- The issue, transfer, or encumbrance of a Local Housing Corporation’s (LHC) shares or the amalgamation or dissolution of a LHC;
- The transfer of public housing, unless it is being transferred to the Service Manager or certain other entities that are prescribed;
- A LHC requesting to opt out of the Housing Services Corporation’s (HSC) programs for either:
  - the bulk purchasing of natural gas; or
  - the HSC Insurance program.

# What changed with the Housing Services Act?

- **Amendment or termination of a housing provider's mandate to provide specific types of housing.**
  - No formal consent is required. The SM and housing provider need only to agree.
- **For Part VII (under the Housing Services Act) providers that are projects in difficulty (PID).**
  - Once a s.83 triggering event has occurred and HSA steps are complied with, ministerial consent is no longer required for the SM to exercise certain remedies such as the appointment of a receiver.
- **For Part VII providers, ministerial consent is no longer required for the SM to remove or appoint a board member.**
- **SMs no longer require Ministerial Consent to enter into agreements with certain entities for the collection and disclosure of information.**
- **Mortgages and other encumbrances on social housing projects now require SM consent.**

# How do I apply for Ministerial Consent? What Information Is Required?

- The information required for a Ministerial Consent request will vary somewhat depending on the details of the proposed transaction.
- As an illustration we are going to cover off two of the most common Ministerial Consent request situations:
  1. *The purchase and sale of non-profit housing between non-profit providers while being retained as social housing.*
  2. *A new construction/ regeneration project funded at least partially by the sale of existing public housing*



# How do I apply for Ministerial Consent? What Information Is Required?

## Example 1:

**If a non-profit provider is proposing to sell a Part VII non-profit project to another non-profit provider while being retained as social housing:**

- The name and contact information of the Service Manager(s);
- The name and address of the housing provider and contact information from the board of directors;
- A Council Resolution from the Service Manager approving the consent request or proof of delegated authority for staff;
- A resolution of the outgoing and incoming housing provider boards approving the consent request;
- How the respective Service Managers plan to maintain their Service Level Standards;



# How do I apply for Ministerial Consent? What Information Is Required?

## Example 1 (continued):

**If proposing to sell a Part VII non-profit project to another non-profit provider while being retained as social housing:**

- A plan of action for accommodating current tenants. Show tenant impacts and proposed relocation plans;
- The name of the existing lender and mortgage loan number if applicable;
- Parcel register(s) for each project/property;
- The Canada Mortgage and Housing Corporation (CMHC) account number, if applicable;
- If the lender is CMHC, a draft CMHC mortgage assumption agreement;
- If the lender is a financial institution or insurance company, a copy of the mortgage assumption agreement obtained by the solicitor acting for the purchaser;

# How do I apply for Ministerial Consent? What Information Is Required?

## Example 1 (continued):

If proposing to sell a Part VII non-profit project to another non-profit provider while being retained as social housing:

- The draft Purchase and Sale Agreement;
- Any surveys, reference plans, collateral agreements or shared facilities agreements;
- A copy of any court documents relating to the transaction, especially if this is a receiver driven sale or transfer.

## May also need to consider:

- Procedural Fairness requirements – if the transfer is affecting the rights, privileges, or interests of tenants and/or members of the corporation.
- Land Transfer Tax Exemption request – if the parties wish to request one.
- What are the potential mortgage and contingent liability impacts?

# How do I apply for Ministerial Consent? What Information Is Required?

## Example 2: New Housing funded through the sales of existing public housing properties:

- Business Case outlining the reinvestment plans that includes:
  - Rationale for reinvestment;
  - Funding and how the proceeds from the property sales will be spent;
  - Details/addresses of properties to be sold;
  - Impact on rental housing supply in community
  - Anticipated timelines;
  - Relocation plans for existing tenants; and
  - Maintaining Service Level Standards.
  
- Phase I Environmental Site Assessment may be requested for each property to be sold.
- Resolution of approval from the LHC or owner of the public housing properties.
- Details of any registered loans or encumbrances if applicable.

# How do I apply for Ministerial Consent? What Information Is Required?

**Example 2 (continued): New Housing funded through the sales of existing public housing properties:**

**May also need to consider:**

- Does the transfer trigger an obligation to provide CMHC its net share of the gain under the Canada-Ontario Social Housing Agreement (SHA)?
  - CMHC requires a share of the equity gain if certain public housing properties are sold.
  - Whether this applies will depend in part on whether the project is listed in Schedule F of the SHA.

## What is the process and how long does a Ministerial Consent Decision take?

- Service Managers will submit complete Ministerial Consent request packages to the Manager, Risk Management and Program Compliance.
- Documents are reviewed for completeness and accuracy and a request is sent to Legal and other relevant departments for input and review.
- Once the reviews are completed, a staff recommendation is provided to the Minister respecting the Ministerial Consent request. The consent decision may be made by the minister personally or by staff acting under delegated authority.
- The decision of the Minister is then provided in a letter to the SM in response to the request.
- Each review is unique and will vary in terms of complexity – therefore it is difficult to predict how long each approval will take. However, most decisions respecting requests should be made within two months of receipt of complete information.

## Is there someone at MMAH that I can talk to about Ministerial Consent?

You bet! We are here to help you out along the way.

Call us:

Alison Coke (416) 585-6472

David Stone (416) 585-6477

Drew Goursky (416) 585-6478

E-mail us:

first name.last name@ontario.ca

Consult our website:



## I have received my Ministerial Consent, now what?

Ministerial Consents may come with specific terms and conditions.

- It is important that you review and understand them. You may want to consult legal counsel to ensure your full understanding.
- They may have implications for the mortgage.
- There will be an obligation to comply with the terms and conditions and MMAH will monitor the progress.

# Part II – Land Transfer Tax Exemption





# Provincial Land Transfer Tax Exemption

- Normally, a transfer and sale of property is subject to Provincial Land Transfer Tax under the ***Land Transfer Tax Act***.
- This tax can represent a significant financial burden on the purchaser. Non-profits typically rely on annual subsidies to maintain their mortgage financing and provide below market rent to households.
  - **Example: A project with a \$3 million sale price would be required to pay \$56,475.**
- Under Section 167 of the ***Housing Services Act, 2011***, provision has been made to allow providers to be given a Land Transfer Tax Exemption (LTTE) by regulation, prior to closing their transaction.

## What is the Provincial Land Transfer Tax Exemption?

- Historically, MMAH has often supported these Provincial Land Transfer Tax Exemption requests because of the often difficult funding situation facing social housing providers.
- Most purchases of land in Ontario require the payment of the Provincial Land Transfer Tax (PLTT).
- Exemptions to pay the PLTT, under the HSA, may be possible for some transfers involving social housing.

# How Does A Project Get the Provincial Land Transfer Exemption?

- Ministerial Consent for the proposed transfer and sale must be approved before a Land Transfer Tax Exemption (LTTE) will be considered.
- The purchaser requests a Provincial LTTE in writing to MMAH (HFUN Branch), under section 167 of the HSA.
- A LTTE requires an amendment to Section 144 of O.Reg.367/11 (HSA) under which the transfer is to be included as a prescribed transaction under the Act.

## What is the Process to obtain a Provincial Land Transfer Exemption?

- Upon request from the Service Manager which the Ministry determines appropriate, the Ministry works to obtain approval of an amending regulation by Lieutenant Governor in Council (LGIC).
- If approval has been received from LGIC and the regulation is filed by MMAH, the provider may then close their transaction without being subject to that tax.
- The process for considering a Land Transfer Tax Exemption typically takes 90-days or longer, from the time of Ministerial Consent approval, to the making of an exempting regulation, if approved by LGIC.
- LGIC has the ultimate authority to approve an exempting regulation.

## A Case Example: Nipigon Housing Corporation Sale to Thunder Bay District Housing Corporation

### Request:

- Nipigon Housing was seeking to sell its portfolio of 4 non-profit social housing properties to the LHC: Thunder Bay District Housing Corporation.
- Requested Ministerial Consent under section 162 (3) of the *Housing Services Act, 2011* and a corresponding Land Transfer Tax Exemption by amending O.Reg. 367/11.

### Objective:

- To achieve operational efficiencies by eliminating NHC's separate financial audit, reducing its insurance premiums and by consolidating the financial system and reporting operations of the two organizations.
- Also, this was a solution to its immediate property management needs.

# Your Turn: Questions and Answers



# ON THE SAME PAGE

- The next **ON THE SAME PAGE** session will be May/June 2014 – stay tuned for a specific date and time.
- Your questions and ideas are important...**we are listening!**

## Next topic: Program Compliance



- Please contact us with questions or specific points that you wish to be covered.
- Your questions and ideas will be incorporated into the next presentation

**Thank you!**

Your feedback is important.  
A brief survey to gather feedback from this session  
will be e-mailed to you shortly.

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