



Questions and Answers End of Your ILM (FCHP) Operating Agreement in Ontario/PEI



THE AGENCY
FOR CO-OPERATIVE
HOUSING

L'AGENCE
DES COOPÉRATIVES
D'HABITATION

What is the ILM operating agreement?

The ILM operating agreement is the legal contract between Canada Mortgage and Housing Corporation (CMHC) and housing co-operatives funded under the Federal Co-operative Housing Program between 1986 and 1991. (Because the loan is an interest-linked mortgage, which the program pioneered in Canada, people normally speak of the ILM Program.)

Why did our co-op sign this agreement?

Your co-op signed an operating agreement as a condition of receiving assistance under the ILM Program. This included mortgage insurance for up to 100 per cent of the initial cost of the housing, annual operating assistance and access to rent supplements for a fixed number of resident households. (How many households depends on which province your co-op is in.) The operating agreement sets out the terms of your co-operative's relationship with CMHC.

What did our co-op and CMHC agree to?

The agreement spells out the key features of the ILM Program. These include how much money CMHC gives your co-op and your responsibility to manage well, keep up your property and fund a capital-replacement reserve and a security-of-tenure fund.

You can find detailed plain-language program guidelines for the ILM Program on the [Agency's public website](#).

How long does the ILM operating agreement run?

The ILM agreements are not all the same, so you'll want to read yours carefully. You can find your co-op's own agreement on the Agency's client website. (You'll need your Agency username and password. If you've misplaced them, your relationship manager can help.)

Some of the ILM operating agreements end on the **earlier** of the date your mortgage is fully repaid or 35

years after you started paying back your loan. Others end on the **later** of the date the mortgage is fully repaid or 35 years after the operating agreement was signed. Ask your relationship manager if you are unsure when your agreement ends.

What will happen to our rent supplements?

In ILM-program co-ops in Ontario and PEI, assistance for low-income households comes in the form of monthly rent supplements from CMHC. This arrangement is confirmed in an agreement that runs for 35 years and is separate from your operating agreement. Until your rent-supplement agreement ends, your co-operative will continue to file AIRs and receive rent supplements. After that, CMHC has a program that will allow you to continue the subsidies for your lower-income members.

Is this subsidy program like the ILM Program?

The Rental Assistance Program has some different requirements but fewer rules than the ILM program, although you will still need to file an Annual Information Return. The Agency has developed three online tools that make those rules easier to follow. Your relationship manager can explain what you should expect once you've joined the program. Information is also available on the [Agency's website](#).

Do all ILM co-ops have the chance to join the Rental Assistance Program?

Yes. Six months before the expiry of your rent-supplement agreement, CMHC will invite your co-op to join the Rental Assistance Program in time for a seamless transition. If you sign up, households currently receiving a rent supplement will get rental assistance when their rent supplement ends. Your co-op will also be able to provide subsidies for qualified households that were not receiving a rent supplement before.

Some co-ops will get two chances to join the program. If you are due to pay off your mortgage before your operating agreement and rent-supplement agreement expire, your co-op will receive an invitation to join the Rental Assistance Program. If you sign up and are approved, you'll switch to rental assistance right away, without waiting for the expiry date of your old agreements.

You will get a second offer six months before the expiry of your rent-supplement agreement. If you sign up, households currently receiving a rent supplement will get rental assistance when their rent supplement ends. However, if you did not accept the earlier offer, your co-op will not be able to add new units to those already receiving rent supplements.

When our mortgage ends, what will change?

Your monthly Federal Assistance will end when you pay off your mortgage, which may happen before your operating agreement ends. Some co-ops may want to take out a new loan to renew their buildings or buy new property. They will need to do so on terms they can afford without government assistance.

When our operating agreement ends, what will change?

When your operating agreement ends, your co-op will no longer be bound by the pledges you made to CMHC when you started out.

If your co-op hasn't yet signed up for the Rental Assistance Program and your rent-supplement agreement is due to end, we recommend that you subscribe for an Annual Health Check. This is a fee-based Agency program that provides your co-op with a Basic or Premium package of Agency reports.

We know it sounds self-serving, but we recommend that you sign up for an Annual Health Check. These low-cost reports deliver an outside opinion on the health of your co-op's operations and how they



compare with those of other co-ops, based on information available nowhere else. Of course your board and management will have a general feeling about how well you're doing, but without access to at least the basic version of these reports, your governance and management will be flying blind. Details about the Annual Health Check are available on the [Agency's website](#). If you're not sure, please ask your relationship manager how this program can help your co-operative.

If your co-op isn't receiving rent supplements, joining the Rental Assistance Program or signing up for an Annual Health Check, your last Annual Information Return (AIR) will normally be for the year when your operating agreement ends. If your rent-supplement agreement ends later, you will file your last AIR after the end of the year when this agreement expires. The Agency will confirm this with you. After you file your last AIR, you will receive a final package of Agency reports.

Your co-operative may have been developed over several phases and under more than one program. That means you have two or more operating agreements that end on different dates. If one of your agreements has ended, your year-end return to the Agency will change. Please check with your relationship manager for more information.

Some co-operatives also have a financial workout agreement with CMHC. Workout agreements impose new rules beyond those in the operating agreement. You can learn more by reading the Agency's [Q&A on Workouts](#). If you have a workout agreement, it normally, but not always, ends when your operating agreement ends.

What will stay the same?

Your co-op will still come under your provincial co-operative act. The act's rules about board elections, members meetings and so on will still apply. Any reporting you do to the province now—about changes in your board of directors, for example—will continue. Your provincial human-rights code and employment

law will still apply, as will municipal and provincial building by-laws and codes.

If your co-op joins the Rental Assistance Program, you will be able to apply to CMHC for grant and loan programs, just as you can now. [These program](#) are available from time to time to help pay for building condition assessments and other studies, and sometimes for capital projects.

Much of your co-op's life is defined by its own policies and by-laws or rules. After your operating agreement ends, these will still govern the actions of your board and membership, just as they do now. Assuming your co-op is running well, your watchword should be "business as usual." However, we recommend that you review your by-laws, perhaps with help from your local federation, to see what needs to change.

Will we still need a capital replacement reserve?

Absolutely. The expiry of your operating agreement will mean that capital planning and prudent financial management become more important than ever.

Keeping a capital-replacement reserve will remain a vital part of taking care of your property. Your co-op will need to continue setting aside money in the reserve each year. In fact, you will want to put more aside, since your buildings will keep aging. Having a sound capital plan or asset-management plan that tells you how much to save and spend will be essential.

Will we own our co-op?

The members will own the co-op in just the same way they do now, together. The legal owner of the property will still be your co-op, which will continue to rent units to the members. The responsibility for running your business will lie with the board of directors elected by the members. This structure will not change.



Can some of us buy our units after our agreement ends and we no longer have a mortgage?

No. Provincial law varies, but, in every case, there are rules to keep non-profit housing co-operatives non-profit. It's easy to see why.

Canada's housing co-operatives were developed with public money raised from the taxes of millions of Canadians. They are a source of much-needed affordable housing. Many members who have since moved on contributed to their co-op's successful operation. It would not be fair if a windfall benefit went to a household that just happened to be living in the co-op when the agreement ended.

Our buildings need major work. Did you say we could get another mortgage?

Your co-op should be able to get another mortgage without difficulty. But you will need some time, and likely some help, to assess your financial needs and prepare a package of information to support your loan request. The Agency's [Q&A on Private Financing](#) has some general advice about this process.

The first step is to make sure you have a current capital-replacement plan based on a recent building condition assessment. This will show you and the lender you hope to borrow from how much money you need. It will also show that your ability to repay won't be interrupted later by new building problems.

Lenders will use this and other information to assess your application. Both CHF Canada and CHF BC offer their members help in finding new financing. Talk to them or your relationship manager about what else lenders look for and what you can do to qualify for a loan.

Can we add new units to our co-op or change unit sizes?

Yes. You will need to be clear about what the work will involve. Your co-op may have space that has been under-used or overlooked. You may also find that the needs of your members have changed. Perhaps your co-op is filling one-bedroom units more readily than the larger sizes. If so, it may make sense for you to divide up some of your bigger units. You may even want to replace an existing structure with a new building. Before undertaking a project like this, you'll want to look at all the pros and cons and understand what it will mean for your co-op. You will need expert help to plan and prepare to qualify for a new mortgage.

Our co-op is on leased land. Can we extend our land lease?

This will depend on who owns the land. If your city or another public authority is the owner, you should work with CHF Canada and your federation to make your case for a new lease. If you have a lease from a private company, you may be able to buy the owner out, but you should expect to pay the market value for the land. Ask your federation or CHF Canada to help negotiate.

Where can we get more information about the end of our operating agreement?

Talk to CHF Canada or your local federation about the range of resources available as you plan for this next stage in your co-op's life.



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