



The CO-OPERATIVE HOUSING FEDERATION *of Canada*

# Having a problem with your housing co-op?

Advice from CHF Canada on how to settle co-op housing disputes



**CHF Canada often gets questions from co-op members having problems with their housing co-ops. CHF Canada is not an advocacy organization for co-op members. But we can offer co-op members some advice on how to settle disputes with their co-ops. Here is some information for members about how to deal with a problem they are having with their co-op.**

### **What to expect from your co-op**

When you moved into your co-op unit you signed an occupancy agreement or lease. That's a contract that says

- what you agree to in exchange for the right to live in your unit
- what the co-op agrees to do for you as a resident.

For example, your occupancy agreement will say that you have to pay your housing charges on time and follow the rules of the co-op. In return you can expect that the co-op will look after the property and supply basic services such as heat, hot water, and electricity. Your occupancy agreement may say you will pay for these services. But always check your occupancy agreement. If you think you are not getting the services you have been promised, you need to take the matter up with your co-op's staff or the board.

### **The law and your co-op**

There are laws and agreements that affect your housing co-op. Co-ops are organized under the legislation for co-ops in your province or territory. That legislation is usually known as the co-op act, or a name close to that. Your co-op must follow this act. It must follow other laws too, like the human rights code that applies to you, and municipal by-laws and regulations.

There are also contracts that affect your co-op. Some co-ops have contracts with the government called operating agreements (for Ontario municipal co-ops the operating agreement has been replaced by the *Housing Services Act*). These agreements say how your co-op gets assistance from the government and what the rules of the program are. Your co-op must follow its operating agreement. Some co-ops have other agreements with the government that provide rent supplements or extra help for co-ops in financial trouble. Co-ops must follow these agreements too.

If you think your co-op is not following the law or its own rules, then ask about it. If necessary you can use the process for handling a dispute with your co-op (see below).

### **Disagreeing with what your co-op decides**

Co-ops decide things democratically—by the majority vote of the board or the members, depending on the issue. Some members may not agree with what has been decided. Part of living in a co-op is accepting the decision of the majority—even if you don't agree with it. That's how a democracy works.

So, to make sure your ideas are heard you need to work within the democratic structure of your co-op. Before deciding whether you should raise an issue with the board or at a members' meeting you'll need to be clear about which group has the legal right to make a decision on your issue. Find out how to get something on the agenda for a meeting of the board or of the members. Learn to present your ideas positively so the board or the members will understand them and react favourably. And as we said: accept the decision, even if it's not the one you hoped for. If you aren't happy with your board, remember—elections are never that far away.

### **Having a dispute with your co-op**

Sometimes members have disputes with their co-ops because they think the co-op is doing something it doesn't have the right to do. First, let's be clear about roles. Your co-op's board of directors is responsible for the governance of the co-op and is legally accountable for the co-op's affairs; the members are not. The board is charged with the job of making decisions in accordance with the co-op's by-laws or rules and policies, and must act in the best interests of the co-op.

The board is accountable to the members, but that doesn't mean that the members have the same level of authority that the board has to direct the co-op's affairs. Most provincial co-op acts oblige the board to manage the business of the co-op. This means that the board has

the authority to make all decisions except those explicitly reserved to the members in the act and the rules, and in turn the directors are liable for the consequences of those decisions. Members shouldn't try to do the board's work in general meetings. In fact, the members do not have the authority to make or overturn decisions that are the board's right to make.

Members are responsible for some key governance decisions such as making rules, appointing the auditor and, most importantly, choosing directors who will act ethically and in the best interests of the co-op. For more information about the board's governance and leadership roles, have a look at CHF Canada's publication *Getting Governance Right*.

If a member has a dispute with the co-op then there are two ways to solve the dispute:

- democratically, using the co-op's rules and procedures, or
- legally, using laws that govern co-ops.

If you have a concern, tell your co-op's manager or your board. You should put your concerns in writing. Ask someone to help you if necessary. Your letter should describe your problem and ways you think your issues can be resolved. Keep a copy of your letter.

You may wish to have an issue considered by the members of your co-op. You can do this by writing to the board and asking them to put an item on the agenda of the next members' meeting. But remember, only bring issues to the members that are within their authority to decide. Sometimes, a board may choose to consult the members on an issue that falls within their authority. And it is the board's decision to follow or not follow the members' advice or feedback. Remember, your board is responsible to act in the best interests of your co-op. This means that sometimes the board may make decisions that some members may not agree with. It's the board's right to do that.

If you do not get a response from the co-op or if you believe that the board has not followed the co-op's rules then as a last resort you may decide to request a special members' meeting. To request a special meeting, members must *requisition* a meeting of the members and this should not be used lightly. You must follow your co-op's rules and the co-op act. A requisition must receive the support of a set percentage of the co-op's members in order to be effective.

Before you decide to request a members' meeting, consider if your problem involves a decision that is within the board's authority to make. If your problem is about your co-op's rules and you want to change them then requesting a members' meeting is one way you may be able to make a change. If you want the members to decide something at the meeting you may need to propose a resolution to the meeting. In some provinces, like BC, a resolution is required as part of the meeting requisition process. Under BC rules any requisition for a meeting that does not propose a specific resolution is invalid. Even if your provincial or territorial co-op act does not require a resolution, without one you may find that at the members' meeting nothing is decided, even though you have won the support of the members.

You must accept the decision of the members even if you don't agree with it, because co-ops are democracies. If you think your co-op is not following the law you need to get legal advice.

**Important note:**

*Don't request a members' meeting to overturn a legitimate decision of the board. You must make sure that the business of the meeting does not lie outside the power of the members to decide.*

## Evictions and expulsions

If your co-op is trying to evict or expel you, the co-op must

1. follow proper legal procedures
2. have grounds for eviction or expulsion.

Landlord and tenant legislation applies to housing co-ops in the following provinces:

- Nova Scotia
- Quebec
- Ontario (only the rules for evictions)

In all other provinces or territories landlord and tenant legislation does not apply to housing co-ops. There are different rules for co-op evictions.

Check your co-op's by-laws/rules and the provincial or territorial co-op act to see if your co-op has followed the correct procedure for evictions. These documents also say if you can appeal the board's decision to the members, and tell you how.

You can get legal advice if you don't understand these rules or you think you were not treated fairly.



## Where to get information

You will need to check your own co-op's by-laws or rules, policies and, possibly, minutes of previous members' meetings before you do anything about your problem. Get copies from the co-op if you don't have them. Members have a right to these documents.

You may need to check the co-op act that governs your co-op to see what it says about your problem. You can find it through this website ([www.chfcanada.coop](http://www.chfcanada.coop)). Your provincial human rights code may say something about your problem, if it has to do with human rights.

If you need legal advice, you can get this from

- community legal services
- a lawyer.

A lawyer or legal advisor will need to see your co-op's by-laws or rules and policies as well as any letters between you and the co-op.

## The co-op housing sector's role

CHF Canada and regional federations provide advice and support to their members. Our members are housing co-ops, not the residents of housing co-ops. CHF Canada and your regional federation help co-ops with problems but only if the co-op's board asks us.

Federations help their member co-ops through

- advice and information
- training for boards and members
- chairing meetings
- publications for co-ops.

You might want to suggest that your board get help from the co-op housing sector for a difficult problem. And your co-op might have publications put out by the co-op sector that could help resolve problems. But CHF Canada and regional federations of housing co-ops cannot take the side of any individual member. And they have no legal or administrative control over the housing co-op.

## Glossary

**Agenda** – A list of business a meeting will deal with.

**Appeal** – To make a request for a decision to be reconsidered. For example sometimes a member can appeal a board decision to the co-op members. The members at a members' meeting will consider the appeal and the board's decision and make a decision. This is only the case if the members have the legal authority to hear the appeal and make the decision.

**Evict** – A legal process to take away a co-op member's membership and right to live in a unit in the co-op. Some provinces or territories use the word *expulsion*. Each province or territory has its own rules for *eviction* or *expulsion*. Check your province or territory's co-op act and the by-laws/rules and policies of your co-op.

**Expel** – A legal process to take away a co-op member's membership and right to live in a unit in the co-op. Some provinces or territories use the word *eviction*. Each province or territory has its own rules for *expulsion* or *eviction*. Check your province or territory's co-op act and the by-laws/rules and policies of your co-op.

**Human rights code** – A provincial or territorial law that ensures everyone has equal rights and opportunities without discrimination in specific areas such as jobs, housing and services. Human rights codes prohibit discrimination on grounds that are outlined in each code.

**Members' meeting** – Members come together to discuss and make decisions on co-op issues. Each member has one vote.

**Policies** – This word has different meanings in different co-ops. In general, policies set rules for co-op members. Usually they cover areas such as parking, arrears, and pets. Some co-ops pass by-laws/rules instead of policies.

**Procedures** – The steps to carry out by-laws/rules and policies. By-laws/rules and policies say what must be done. Procedures say how it is to be done. Usually the board of directors approves procedures.



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