Crossroads Cooperative Housing Inc

BY- LAW NO. [24]

HUMAN RIGHTS BY-LAW

FOR CO-OPS IN ONTARIO

Reviewed

Passed by the Board of Directors on 20th April, 2016
Confirmed by the Members on 24th May, 2016

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About this By-law: This By-law states the commitment of Crossroads Cooperative Hosuing Inc. to the human rights of the members of the co-op community and the co-op's rules for fulfilling that commitment.

1. RIGHTS, PRINCIPLES AND OBLIGATIONS

ARTICLE 1.1 Statement of principles and obligations

(a) The co-op community is made up of all members, other residents and staff.
(b) Members of the co-op community must respect the human rights of other members of the co-op community and of people who deal with or visit the co-op.
(c) The co-op expects members of the co-op community to obey the Ontario *Human Rights Code* and not to do anything that would discriminate against or harass others in a way that would breach the *Human Rights Code*.
(d) The co-op itself must follow the requirements stated in paragraphs (b) and (c)
(e) The co-op and members of the co-op community should strive for an environment at the co-op that is fair, inclusive and respectful of people's dignity.

1.2 Background information

Background information on these rights, principles and obligations and on the Ontario *Human Rights Code* is in Attachment C to this By-law.

1.3 Other rights

The rights in this By-law are in addition to any other rights that anyone has. Nothing in this By-law prevents anyone from exercising their legal rights in any way. The co-op encourages people to use the procedures in this By-law to deal with human rights issues, since this can help the co-op address any human rights problems at the co-op.

1.4 No reprisals

Any reprisal for making a good faith complaint under this By-law is a breach of this By-law.

2. CO-OP SERVICES

ARTICLE 2.1 Individual assessment

The co-op will consider the needs of each individual member of the co-op community in conducting its operations. The co-op will take all reasonable steps to adjust its services and operations to meet the individual needs of members of the co-op community that are related to a prohibited ground of discrimination under the *Human Rights Code*.

2.2 Members with disabilities

In providing its services the co-op will take all reasonable steps to accommodate the needs of members of the co-op community with disabilities.

2.3 No indirect discrimination

The co-op will take all reasonable steps to adjust any restriction, qualification or factor in the co-op's operations that results in indirect discrimination contrary to the *Human Rights Code*.

2.4 Limits

The co-op will take the steps referred to in sections 2.1, 2.2, and 2.3 if they can be taken without undue hardship. In deciding what steps to take the co-op will follow the definitions and be bound by the obligations under the *Human Rights Code*.

Indirect discrimination under section 2.3 does not include rules and procedures under government or other special programs to relieve hardship or economic disadvantage, to assist in achieving equal

opportunity or to eliminate infringement of rights.

2.5 Able to live independently

The co-op's obligations do not include providing any form of care or assistance in the activities of daily living. Members of the co-op community who need this kind of assistance must arrange for it without depending on the co-op.

2.6 Requests for accommodation or adjustment

Requests for accommodation or adjustment should initially be directed to the manager and should be in writing, if possible. The request will be dealt with promptly and with full respect for the dignity of the person who made the request.

A request should state what is being requested and why it is needed. The manager will obtain any necessary backup documentation, such as evidence of medical need, if necessary. The manager will obtain advice from the co-op's lawyer if necessary. The request and all material related to it will be kept in confidence and only shown to staff or others who have a need to know.

2.7 Authority to arrange for work

If the manager does not believe any issues are raised that should go to the board, the manager will have authority to grant an accommodation or adjustment by arranging for work that is within the manager's spending authority or would normally be done by co-op staff. In any other case the manager will report to the board, which will make the decision unless a budget change is needed. If a by-law or budget change is needed, the board will make an appropriate proposal to the members. There will be full consultation with the person who made the request to ensure that everyone understands the issues and concerns.

2.8 Relation to *Human Rights Code*

The obligations of the co-op in this By-law are intended to implement its responsibilities under the Ontario *Human Rights Code*. They should not be interpreted in any way that is inconsistent with the *Human*

Rights Code or that would give lesser or greater obligations to the co-op.

3. DEALING WITH PROBLEMS

ARTICLE 3.1 Investigate complaints

The co-op will deal with complaints about a breach of this By-law as stated in this By-law. The board of directors will deal with situations that it becomes aware of whether or not there is a specific complaint, but where there are reasonable grounds to believe a breach of the By-law has occurred.

3.2 Procedure

The procedure for complaints and investigations is stated in Attachment A.

3.3 Complaints about co-op

If a complaint is established about the conduct of the co-op itself, or directors, officers, committees or others acting on behalf of the co-op, the board will take appropriate action to correct the situation and avoid any repetition.

- The action could include such things as one or more of
  - a letter of apology;
  - a performance agreement;
  - mediation or conflict resolution between the parties;
  - a warning or reprimand;
  - removal from a committee;
  - proceedings to remove someone from the board as stated in the Organizational By-law;
  - development and introduction of policy statements and educational initiatives to avoid anything similar in the future;
  - other actions referred to in this By-law.

- If the individual involved is a staff member, the board will consider requirements under any employment or property management contract, and other employment and contractual obligations. This could affect the method of investigation and the action taken. The board will obtain legal advice in all appropriate circumstances. The action taken could include such things as one or more of the items stated in the previous section and/or

    - employee education and training;
    - oral reprimand;
    - written reprimand;
    - suspension;
    - termination of employment.

3.4 Complaints about members of the co-op community

If a complaint is established about the conduct of a member of the co-op community who is not acting on behalf of the co-op, the board will decide what action to take. The board's basic intent will be to resolve the situation amicably if possible. The action taken could involve one or more of the items stated in the preceding sections.

3.5 Eviction

Breach of this By-law can be grounds for eviction under the Occupancy By-law. In determining whether to consider eviction or whether to evict, the board will consider such things as:

- the evidence available as to what happened;
- the appropriateness of eviction as a response, considering the seriousness of the breach and other possible solutions to the underlying situation;
- the appropriateness of a performance agreement or other alternative to address the situation;
- the likely success or failure of legal action to evict;
- the costs involved in evicting someone.

4. RELATION TO OTHER BY-LAWS

ARTICLE 4.1 Applying co-op by-laws

The co-op must comply with the *Human Rights Code* when applying co-op by-laws and other co-op rules and decisions. If any by-law, rule or practice conflicts with the *Human Rights Code*, then it has to be changed. If the manager becomes aware of any need for changes, the manager will report it to the board. The board will make all changes that are needed and are within the board's authority. If a by-law or budget change is needed, the board will make an appropriate proposal to the members.

If any change to comply with the *Human Rights Code* is needed urgently and cannot wait for a members' decision, the board will make any decisions that are needed even if they conflict with the by-laws. The board will only do this after receiving a written opinion from the co-op's lawyer. The issue will be reported at a members' meeting, either specifically or as part of a proposal for a by-law change.

4.2 Procedures under other laws or by-laws

Someone may have a right of appeal or review under another law or by-law, such as if the board decides to evict someone or if a membership application is refused. If the member or applicant feels that the original decision was in breach of the *Human Rights Code*, the member or applicant may file a complaint under this By-law. However, the member or applicant should also file an appeal or request for review (as applicable). The board can decide to deal with the complaint and the appeal or review at the same time or to hold action on one until the other is decided.

4.3 Repeal

Section 6.3 (Able to Live Independently) of the Occupancy By-law is repealed when this By-law is confirmed by the members. *[•••assuming Model Occupancy By-law]*

ATTACHMENT A

Complaint and Investigation Procedure

1. Object: The objective of this procedure is to

   - have a fair, prompt and effective investigation and resolution of complaints;
   - avoid unnecessary cost, inconvenience or hardship on any party;
   - have due regard to the dignity and the rights of persons who may have a complaint or may be complained about.

2. **Complaints officer:** The complaints officer is the person who is dealing with a specific complaint on behalf of the co-op. The complaints officer will be designated by the board after a complaint is reported to it. The complaints officer may or may not be a director or a staff member, but should be someone respected within the co-op community who does not have any conflict of interest relating to the complaint.

3. The complaints officer will take the lead role in dealing with the complaint and making sure that the procedures in this Attachment are followed in a timely way. In some cases the complaints officer will handle the investigation of the complaint. In other situations an outside investigator will be appointed to work with the complaints officer as stated in this Attachment.

4. **Mediation:** If the parties to the complaint are prepared to mediate their differences, the co-op will arrange for mediation. This can happen at any time during the investigation process and the process will be suspended until the mediation is complete. The complaints officer can suggest mediation to the parties. The cost of the mediator will be paid by the co-op.

MAKING COMPLAINTS

5. **Making a complaint:** Members, residents, staff of the co-op, applicants for membership and persons who visit the co-op property can make a complaint about a violation of the Human Rights By-law.

6. A complaint can be about something that happened to the complainant or another person or that calls the co-op's attention to a situation or problem.

7. **In writing:** A complaint must be in writing and signed by the person making the complaint. It should be delivered to the co-op manager. If the

complaint is about the manager, it can be delivered to the President. If it is about both the manager and the President, it can be delivered to any director.

8. If someone has difficulty putting their complaint in writing, the person who receives the complaint should help them to do this. In doing this they should make sure to write out the person's complaint and not to change the complaint or put words in the person's mouth.

9. **Complaint Form:** Attachment B is a Form that can be used for complaints.

10. **Confidentiality and disclosure:** The person who receives the complaint will explain the confidentiality and disclosure provisions in Attachment B to the person who submits it.

11. A complaint will be accepted if not on Attachment B, but the person who submits it will be asked to sign a document stating they understand the confidentiality and disclosure rules. The document may use the relevant wording from Attachment B.

12. **Time Limit:** Unless there are special circumstances, a complaint should be filed within six months from the time when the violation took place, or if it took place over a period of time, six months from the last incident.

DEALING WITH COMPLAINTS

13. **Informal resolution:** Depending on the nature of the complaint, the person who receives it may try to resolve the situation informally, such as by consulting with the parties involved and assisting them to come to agreement on the issue.

14. **Initial report to board:** Whoever receives a complaint will report the complaint to the board. In sensitive situations the initial report to the board may leave out the names and identifying features of one or more of the parties involved, unless the board decides that it needs to know that information. If the complaint is about a director, the director will be told only that there has been a complaint and told not to be present at the board meeting when it is discussed. This rule will not apply if it would prevent the board from having a quorum. The director will be given more information about the complaint later, as part of the investigation process.

15. **Board action:** When a complaint is reported to the board, the board will decide what steps to take. In most cases the board will appoint a complaints officer or decide that the manager should be the complaints officer.

16. Depending on the nature and urgency of the complaint the board may also do such things as:

    - seek legal advice;
    - ask the local co-operative housing federation or another sector body to advise the board on how to deal with the situation;

- take emergency steps to protect members, residents or staff;
- take action under an employment or other contract if appropriate.

17. **Outside investigator:** In some cases, such as specialized or exceedingly serious complaints, the board may decide to appoint an investigator from outside the co-op with expertise in that type of investigation. The investigator will work with the complaints officer to try to establish what happened and evaluate the situation and report to the board.

18. **Lawyer:** The complaints officer may be authorized to consult the co-op lawyer or the lawyer may be instructed to be the outside investigator or be present at interviews conducted by the complaints officer or outside investigator. Where there is a possible legal liability on the part of the co-op, the co-op lawyer will be consulted before proceeding further.

19. **Employment matters:** The procedure in this Attachment may not be appropriate for some employment-related complaints. The board will decide on the procedure for employment-related complaints. The board will consult the co-op's lawyer. The board will consider any procedure stated in a staff contract.

20. Provisions in this Attachment and the Human Rights By-law relating to staff will apply to co-op staff employed by a management company with any adjustments that may be necessary.

21. **Insurance company:** The board may refer any complaint to the co-op's insurance company before or at the same time as the investigation of the complaint.

22. **No admission of liability:** The complaints officer and outside investigator are not authorized to make any admission of liability on the part of the co-op. The co-op lawyer and the insurance company will be consulted in advance in cases where an admission of liability by the co-op may result from the investigation.

23. **Other procedures:** The board can decide to follow a procedure other than the one stated in this Attachment.

24. **When board can refuse to consider a complaint:** The board can decide not to consider a complaint or take any action on a complaint. This could be because it is clear that the complaint is without merit, trivial, frivolous, made in bad faith or it could be for other reasons. The decision must be made by motion appearing in the confidential minutes of a board meeting.

25. **Interim Action:** While a complaint is being considered, the board can decide to take immediate action until the investigation is complete. Depending on the circumstances this could include such things as:
    - try to limit contact between the complainant and the person complained of;

- provide extra security, if appropriate;
- arrange for counselling or other help, if appropriate;
- consider giving staff a leave of absence;
- removal of someone from the On-call or other committees.

INVESTIGATION PROCESS

26. **Investigation and report:** After the initial report to the board, then unless the board has decided something else, the complaint will be investigated and a report prepared for the board. The investigation will be conducted by the complaints officer or an outside investigator with the involvement of the complaints officer. This part of the Attachment refers to the complaints officer, but the duties and activities could be performed partly by an outside investigator.

27. **Disclosure of Complaint:** The complaints officer will show the complaint to the party complained about. The complaints officer may decide to give that person a copy. This is subject to the next paragraph.

28. **Reprisals:** Where reprisals are an issue, the board may decide to withhold the name or identifying details of the person who complained. The other party may only be provided with a summary of the complaint in order to prevent identification. This should only be done in the most extreme circumstances.

29. **Representation:** The party who complained and the party complained about can have a lawyer or other representative present at any interview or to represent that party generally.

30. **Interviews and review of files:** The complaints officer will be entitled to interview persons and review co-op files and inspect parts of the co-op property, as necessary for the investigation. This will be subject to applicable laws.

31. **Comments in response to complaint:** The complaints officer will ask the party complained about for comments. These should be in writing, but the complaints officer may accept oral comments.

32. **Written record of interviews:** The complaints officer may prepare a written statement based on interviews and ask the person interviewed to sign the statement, with or without changes, to verify the contents.

33. **Information on investigation progress:** The complaints officer will keep the party who complained and the party complained about informed of the status of the investigation.

34. **Failure to co-operate:** The party complained about may refuse to co-operate with the complaints officer and may refuse to answer questions, whether oral or in writing. Failure to co-operate or answer questions may result in an adverse inference by the complaints officer.

35. **Right of response to go to board:** The party complained about will have the right to respond to any complaint in writing and to have the written response form part of the report to the board.

36. **Complaints officer's report:** The complaints officer, investigator or co-op lawyer will give a written report to the board. This will be confidential and will not be shown to either the party who complained or the party complained about unless the board decides to show it to them. The report should summarize the position of the party who complained and the party complained about, the steps in the investigation process, the conclusions of the complaints officer and any recommendations.

37. **Timing:** The investigation will be completed as quickly as possible. It should not normally take more than 21 days and sometimes much less. The delivery of the report should be timed in relation to a board meeting so that the board can take action as soon as possible.

BOARD DECISION

38. The board will evaluate the complaint and the report. If the board determines that the complaint has merit, the board can take action as it considers appropriate, including the actions stated in the Human Rights By-law.

RECORDS OF COMPLAINTS

39. **Member's file:** If the board determines that a complaint against a member has merit, the complaint, any report and a record of the board's decision on it, and the supporting papers, will be placed in the member's file, unless the board decides not to do this. This record will be removed from the file by the manager two years after insertion, if no further meritorious complaints have been made within the two-year period.

40. **Staff file:** If the board determines that a complaint against staff has merit, the complaint, any report and a record of the board's decision on it and the supporting papers will be placed in the individual staff member's file, unless the board decides not to do this. This record will be removed from the file by the President two years after insertion, if no further meritorious complaints have been made within the two-year period. If the board decided that progressive discipline at the level of written reprimand and/or warning or greater was not warranted, the two-year period will be reduced to one year.

41. **When no action on complaint:** If the board refuses to consider a complaint or determines that a complaint does not have merit or decides not to take action on a complaint, the complaint, any report and other papers relating to it will not be placed in the employee's or member's file, unless the board decides to place them in the file. They will be retained in a separate file dealing with complaints and will not be used for ordinary matters, such as letters of reference.

42. **After removal:** After a complaint, report and any other papers relating to it have been removed from the employee's or member's file, or if they are not placed in one of these files, they will be retained in the separate

file dealing with complaints and will not be used for ordinary matters, such as letters of reference.

CONFIDENTIALITY

43. **General:** All persons involved should at all times be conscious of the sensitivity of complaints and their subject matter and should only collect information that is relevant to the complaint and should maintain strict confidentiality about that information and avoid disclosure except to persons who have a need to know. This includes information about the fact that there was a complaint and about the investigation.

44. **Information to representatives:** The party who filed the complaint and the party complained about are not authorized to provide their lawyer (or anyone else) with confidential or personal information about the co-op or any employee, member or occupant. The complaints officer will provide the lawyer or other representative with all necessary information, but only if the complaints officer is satisfied that there are adequate safeguards in place. These safeguards could include such things as deleting the names of persons, deleting irrelevant information and obtaining a confidentiality agreement from the lawyer or other representative. The confidentiality agreement could include such things as keeping the information confidential, limiting copying of the information and returning the information when the matter is completed.

45. **Report of investigation:** The report of the complaints officer and any outside investigator should not reveal more than is necessary to report on the investigation. It should include a record of all relevant information.

46. Unless the board decides something else, all other information gathered in connection with an investigation that is not in the report should be retained in a confidential location in the co-op office for thirty months after the board has received the report and then destroyed.

47. **Board action:** The board should limit what is disclosed about the report and the board's action for the protection of both the complainant and the party complained about. This is true even when a complaint has been substantiated.

48. Part of the board's decision will be what information about the action taken by the board will be given to the party who complained. That party should be given a reasonable explanation of what the board has done. However, it may not be possible to give that person all the information, such as if it involves personal health information about the other party.

49. **Confidentiality of records of complaints:** The materials placed in a member's or employee's file under this Attachment will be in a confidential part of the file and will not be available to the member or employee unless the board decides something else. The separate file dealing with complaints referred to in this Attachment will be confidential and will not be available except to staff and directors with a need to know.

ATTACHMENT B

[NAME OF CO-OP]

Human Rights By-law Complaint Form

Please print or type. Add additional pages if needed.

Name of member or
person making complaint: _____

Address: _____

_____

The undersigned is making a complaint to the co-op about a violation of the co-op's Human Rights By-law.

1. Person or persons complained about _____
2. Date or approximate date of incidents _____
3. What was done that broke the Human Rights By-law?

4. I am enclosing the following documents or papers, if any:

This form is continued on the next page. Add additional pages if needed.

5. The following are people who know something about this. I understand the co-op may wish to contact them:

6. I understand that this complaint may be shown to the person complained about and that person may be given a copy.

7. I understand that where reprisals are an issue, the board of directors may decide to withhold my name or identifying details and only give the other party a summary of the complaint in order to prevent identification. I understand that the board does this only in the most extreme circumstances.

8. I request the board to withhold my name or identifying details and only give the person complained about a summary of the complaint as stated above.

   Note: Complainant must initial here if making this request: Initials _____

   Note: The board will only consider a request if the complainant's initials are above. The board may decide not to agree to the request.

9. The reasons for this request are:

10. I understand that the Human Rights By-law contains other rules about confidentiality of information, including that

    - My file may be reviewed as part of the investigation.
    - I may not provide confidential information about the co-op or anyone else to my lawyer or representative except through a complaints officer chosen by the board of directors.
    - The report of the investigation will be confidential and the board may decide that it will not be shown to me.
    - The action taken by the board may be confidential and I may be given only limited information about it.

    I acknowledge that I have received a copy of the Human Rights By-law and I have had an opportunity to read it before signing this complaint. I consent to the confidentiality and other rules in the Human Rights By-law.

    The information in this complaint is accurate and complete to the best of my knowledge.

Date: _____ Signature: _____

Print Name:

ATTACHMENT C

Background Information for Human Rights By-law

This Attachment contains background information relating to the Model Human Rights By-law. It does not form part of the By-law itself.

This Attachment may be updated from time to time. The CHF Canada website should be checked for the most recent version.

GENERAL INFORMATION

1. Why have a Human Rights By-law?

The Model Human Rights By-law does two things.

- First, it states the co-op's commitment to the Ontario *Human Rights Code*.
- Second, it states a procedure for dealing with human rights problems at the co-op.

2. What is the Ontario *Human Rights Code*?

The Ontario *Human Rights Code* is a basic law of the Province of Ontario. It states detailed rules and definitions on the human rights that are protected in Ontario. It states procedures on how those rights can be enforced.

The rules in the *Human Rights Code* are explained by decisions of courts and tribunals on what the Code means and by policy statements and other materials issued by the Ontario Human Rights Commission.

3. Does the *Human Rights By-law* state the human rights that are protected?

No. People's human rights are part of the law of the Province, not things that the co-op adopts in a by-law.

The basic commitment to human rights is a simple and straightforward principle, but working it out according to law is complicated. Therefore, the basic commitment is in the By-law, but not the detailed legal rules.

4. What are the human rights guaranteed by the *Human Rights Code*?

The *Human Rights Code* states that people have a right not be discriminated against or harassed on certain specific grounds. It is only discrimination on those grounds that is illegal.

5. What are the prohibited grounds of discrimination in housing?

The prohibited grounds of discrimination in housing are:

- race,
- ancestry,
- place of origin,
- colour,
- ethnic origin,
- citizenship,
- creed,
- sex,
- sexual orientation,
- age,
- marital status,
- family status,
- disability,
- the receipt of public assistance,
- gender identity,
- gender expression.

6. What are the prohibited grounds of discrimination in employment?

Co-ops are employers as well as housing providers. The prohibited grounds of discrimination in employment are the same as in housing except:

- An employer cannot discriminate based on record of offences. A housing provider can take record of offences into consideration.

- A housing provider cannot discriminate based on receipt of public assistance. This is not in the list of prohibited grounds for employment.

7. Should we change the list for our co-op?

This is not recommended.

- The list in the *Code* is accompanied by definitions and other sections which explain and qualify the obligations. It is important that these apply.

- Experience shows that when co-ops adjust the list, they are basically covering the same things in different words. But there may be a slightly different meaning that is hard to predict.

- Co-op by-laws are legally operative documents. It is important to be accurate and consistent so that co-ops do not have unexpected liabilities.

HARASSMENT

8. What is harassment?

Harassment is inappropriate comment or conduct that is known or should be known to be unwelcome. It is illegal if it is on a ground stated in the *Human Rights Code*. The prohibited grounds of harassment are substantially similar to the prohibited grounds of discrimination.

Some examples of harassment when based on a prohibited ground are:

- epithets, slurs or jokes;
- name calling or nicknames;
- jokes, cartoons or graffiti;
- verbal abuse;
- displaying offensive or derogatory images;
- practical jokes causing awkwardness or embarrassment;
- condescending or patronizing behaviour undermining a person's self-respect.

9. What is sexual harassment?

Sexual harassment is harassment because of sex, sexual orientation, gender identity or gender expression. Some examples are:

- gender-related comments about an individual's physical characteristics or mannerisms;
- unwelcome physical contact, patting or pinching;
- suggestive or offensive remarks or innuendoes about members of a specific gender;
- propositions of physical intimacy;
- gender-related verbal abuse, threats, or taunting;
- leering or inappropriate staring;
- bragging about sexual prowess;
- demands for dates or sexual favours;
- offensive jokes or comments of a sexual nature about a person;
- display of sexually offensive pictures, graffiti, or other materials;
- questions or discussions about sexual activities;
- paternalism based on gender which a person feels undermines his or her self-respect or position of responsibility;
- rough and vulgar humour or language related to gender.

10. Are there other kinds of sexual harassment?

Yes. In addition, sexual harassment is any kind of sexual advance made by someone who is in a position to grant or deny a benefit or advancement such as someone's employer or superior. It is also any reprisal by such a person for rejection of a sexual advance.

11. Does the victim have to object for it to be sexual harassment?

No. It is not necessary for someone to object to behaviour for it to be contrary to the *Human Rights Code*.

RESPONSIBILITIES OF CO-OPS

12. What are the co-op's legal responsibilities?

As a housing provider the co-op has to follow the *Human Rights Code* in all areas of its operations. This includes its role as housing provider and as employer.

The co-op is responsible for the acts of the co-op as a corporation. It also can have responsibility for the acts of its staff and anyone acting on its behalf. This can include directors, officers, committee members and others.

13. Is the co-op responsible for the acts of individual members?

If the co-op is a place where discriminatory or harassing language or acts are common, it is said to have a "poisoned environment" or "poisoned atmosphere". Under the *Human Rights Code* the co-op could be responsible.

The co-op has to do what is reasonable to ensure that the general atmosphere at the co-op is free of discrimination or harassment on human rights grounds. It cannot just ignore such conduct.

ACCOMMODATION OF DISABILITIES

14. Does someone who is disabled have to obey the same rules as other co-op members?

Yes. But those rules have to be adjusted to allow for the person's disability if it can be done without undue hardship.

15. Does the co-op have to go to special expense to fill the needs of someone who is disabled?

Yes. The co-op has to provide equal housing to everyone, including any members who are disabled. In order to permit the disabled members to have equal housing, special measures may be needed, such as automatic door openers.

The co-op and anyone else providing accommodation has to take such measures if it can be done without undue hardship.

16. What is undue hardship?

Undue hardship is not defined in any exact way. However, it would include cost, outside sources of funding, if any, and health and safety requirements.

17. Doesn't it cost a lot to accommodate people with disabilities?

No. The Human Rights Commission says that a great many examples of accommodation can be done very inexpensively.

For instance, some people are highly sensitive to certain chemicals such as cleaning fluids. Pricing out alternatives that are less offensive (and maybe better for the environment) shows that they only cost a co-op slightly more. The same is true of a great many other accommodations.

18. Is there a hard and fast dollar limit for an accommodation?

No. The *Human Rights Code* does not state a specific limit and the explanations given in court and tribunal cases do not lead to any specific limit. You should consult your local federation or lawyer when this issue comes up.

INDIRECT DISCRIMINATION

19. What is indirect discrimination?

Indirect discrimination is also called "constructive" discrimination. It exists if there is a requirement or factor that is not discrimination on a prohibited ground but that results in the exclusion, restriction or preference of a group of persons identified by a prohibited ground.

An example might be religious beliefs. Co-ops might be scheduling meeting times for good reasons that have nothing to do with any human rights issues. But if a members' meeting falls on a holiday that affects a lot of the members, that could be indirect discrimination.

20. Does the co-op have to go to expense or change its rules to avoid indirect discrimination?

Yes. But the co-op's obligations are subject to the same test of undue hardship as for accommodating disabilities.

EQUAL TREATMENT FOR ALL MEMBERS

21. Does accommodating disabilities and avoiding indirect discrimination involve treating some members better than others?

No. This is the biggest issue that bothers co-op members. Co-ops are founded on the basis that all members have equal worth. This is not like other kinds of corporations where worth depends on the number of shares or the amount of investment.

But sometimes people have to be treated differently in order to receive equal service. For instance, no one would suggest that there is anything wrong with giving a household of five a larger unit than a household of one. It is accepted that this better fits their needs.

In the same way co-op services need to be adjusted in a sensitive way to meet other specific needs of co-op members if it will not cause undue hardship.

22. Is the co-op entitled to proof of the needs?

Yes. The co-op is entitled to reasonable evidence if there is any need for accommodation.

However, the most important thing to remember is that the member involved is entitled to be treated with dignity. People should get away from the mindset that there is any kind of "special privilege". Instead recognize that whatever is being done is being done to give service that is effectively equal to others.

Therefore, any request should be treated with respect and dignity, and, of course, complete confidentiality on a need-to-know basis.

OTHER ISSUES

23. Are there other legal issues related to the *Human Rights Code* and human rights at co-ops?

Yes. A lot of them. This paper only skims the surface. It is important to get legal advice when issues come up.

24. If a complaint is made against the co-op to the Human Rights Tribunal, what should the co-op do?

First, the co-op should report it to the co-op's insurance company. The complaint might be covered by the co-op's insurance.

It is important to do this whether or not the co-op thinks there is any merit in the claim. That is because the legal or other costs can be very high, whether or not the co-op defeats any complaint. The insurance company may not provide coverage unless it is consulted from the beginning. It is a requirement of the insurance that the co-op consult it from the beginning.

Second, the co-op should not discuss the matter with the person involved or their lawyer and no one acting on the co-op's behalf should do so.

Third, the co-op's own lawyer should be notified in the case the insurance company lawyer does not take over.

25. Will following the Human Rights By-Law mean that no claim can be made against the co-op?

No. The By-law is intended to be a way to enhance human rights at the co-op and to resolve problems. However, anyone who is dissatisfied or does not want to use the By-law can complain to the Human Rights Tribunal.