The Agency for Co-operative Housing
L'Agence des coopératives d'habitation

Q&A

Questions and Answers about the End of Your ILM (Index-Linked Mortgage) CMHC Operating Agreement

What is the ILM operating agreement?

The ILM operating agreement is the legal contract between CMHC and housing co-operatives funded under the Federal Co-operative Housing Program between 1986 and 1991. (Because the funding mechanism 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 and access to rent supplements for as many as half of resident households. The operating agreement sets out the terms of your co-operative's relationship with CMHC, which includes financial assistance to help your co-op meet its monthly mortgage payment.

What did our co-op and CMHC agree to?

The agreement spells out the key features of the ILM program. These included how much money CMHC gives the 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 will find a brief summary of the ILM Program on the Agency's public website, as well as detailed plain-language program guidelines.

How long does the ILM operating agreement run?

The ILM agreements are not all the same, so you'll need to read yours carefully. You will find it on the Agency's client website.

The agreements were written in one of two ways. Some end either when your mortgage is fully repaid or up to 35 years after you started paying back your loan, **whichever is earlier**. Others end either when the mortgage is fully repaid or 35 years from the date the operating agreement was signed, **whichever is later**. So the end of your operating agreement does not necessarily coincide with your final mortgage payment. Ask your relationship manager if you are unsure of the date your agreement ends.

What will happen to our rent supplements?

In ILM co-ops, assistance for lower-income households comes in the form of monthly rent supplements from CMHC (or BC Housing, in that province). This arrangement runs for 35 years and is separate from your operating agreement. If your operating agreement ends earlier than that and your co-op is not in B.C., you will continue to file AIRs and receive rent supplements until the rent-supplement arrangement ends.

Once our agreement has ended, what will change?

When the agreement ends, your co-op will no longer be bound by the pledges you made to CMHC when it started out. For instance, income limits for new members will no longer be mandatory, as they are under some Operating Agreements. Nor will surcharges for higher-income members.

You will no longer be getting Federal Assistance every month. 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.

Your last Annual Information Return (AIR) to the Agency will normally be for the year in which your operating agreement ends. If your rent-supplement arrangement ends later and you are not in B.C., you will file your last AIR after the end of that year. 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 runs no longer than your operating agreement.

These changes will mean that capital planning and prudent financial management will be more important than ever before.

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.

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 co-ops review their rules or by-laws, perhaps with help from their local federation, to see what needs to change. Your co-op may have rules about rent supplement, for example, that no longer apply.

So will we still need a capital replacement reserve?

Absolutely. 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 growing older. Having a sound capital plan or asset-management plan that tells you how much to save and spend will be more important than ever.

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 the co-op, which will continue to rent units to the members. The responsibility for running the co-op will lie with a board of directors elected by the members. This structure will not change.

Can some of us buy our units, once the agreement ends and the mortgage has been paid off?

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 affordable housing that is still needed. 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. Can we 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 Secondary Financing has some general advice to offer on 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 on by new building problems.

Lenders will use this and other information to assess your application. Both CHF Canada and CHF BC offer their members assistance 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 underused 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 carefully and prepare to qualify for a new mortgage.

Our co-op is built 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 or 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.

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

The Agency has developed an introductory presentation on the end of operating agreements for co-ops under your program. Your relationship manager can deliver it to your board or membership. They can also get you started on long-term financial planning.

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

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