



Questions and Answers about the End of Your ILM (FCHP) Operating Agreement

What is the ILM operating agreement?

The Index Linked Mortgage (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 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 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 need to read yours carefully. You can find your co-op's own agreement on the Agency's client website.

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. So your operating agreement does not necessarily end when you make your last mortgage payment. Ask your relationship manager if you are unsure of when your agreement ends.

What will happen to our rent supplements?

In ILM-Program co-ops, assistance for low-income households comes in the form of monthly rent supplements from CMHC (or BC Housing or the Province of Alberta, in those provinces). This arrangement runs for 35 years and is separate from your operating agreement. If your Rent Supplement Agreement is with CMHC, your co-operative will continue to file AIRs and receive rent supplements until the agreement ends.

Once our Operating 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 you 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 or you have signed a new one, and you are not in BC or Alberta, you will file your last AIR after the end of the year your rent-supplement 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 and A on Workouts. If you have a workout agreement, it normally, but not always, ends when your operating agreement does.

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 applicants' income levels, for example, that no longer apply.

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 aging. 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 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 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 and A on Private 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 Co-operative Housing Federation Canada (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 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.

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 to you as you plan for this next stage in your co-op's life.

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