

# MIMICO CO-OPERATIVE HOMES INCORPORATED

## By-law No. 40

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Housing charge payments and arrears control

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**Passed by the Board of Directors on: April 17, 2013**

**Confirmed by the Members on: May 15, 2013**

## **Article 1: Purpose of this by-law**

This by-law sets out the co-op's rules about

- how members pay their housing charges, and
- how the co-op collects arrears.

## **Article 2: Priority of this by-law**

This by-law takes the place of or amends all previous by-laws or decisions that deal with housing charge payment and arrears collection. The co-op is not required to follow the procedures stated in this by-law before taking proceedings under the Occupancy By-law, such as issuing a Notice to Appear, going to court for eviction proceedings or suing for arrears.

## **Article 3: Housing charge payments**

- 3.1 In accordance with the *Co-operative Corporations Act* and the co-op's Occupancy By-law, housing charges include all amounts that the co-op charges to members.
- 3.2 Housing charges are due each month by end of business (**when office closes**) day on the first day of the month. If the first day of the month is a Saturday, Sunday or statutory holiday, housing charges are due by end of business day on the first working day of the month.
- 3.3 Members can pay by
  - cheque
  - money order
  - *interac*, or
  - *credit card ( a \$12 fee apply to each credit card transaction)*

**Members who pay by cheque are encouraged to submit post-dated cheques.**

**The co-op is not set up to handle cash payments**

3.4 Members must deliver their housing charge payment to the co-op office.  
Payments may be:

- deposited in the co-op office mail box ( no cash)
- delivered to the co-op's manager in person, or
- made by *interac* or *credit card* in the co-op office.

#### **Article 4: Late payments and late charges**

- 4.1 Payments not received by end of business (**when the office closes**) day on the first day of the month will be considered late.
- 4.2 The manager will send a late payment letter to each member who did not pay his or her housing charge or arrange an arrears payment agreement acceptable to the co-op by end of business day on the first day of the month. The manager will send the late payment letter before the end of day on the second business day of the month.
- 4.3 The manager will send a Notice to Appear at a co-op board meeting to each member who still has not paid their housing charge in full or has not arranged an arrears payment agreement acceptable to the co-op by noon on the fifth day of the month. Persons authorized to sign a Notice to Appear are the manager and any director.
- 4.4 Members who do not pay their housing charge by end of business day on the first day of the month and have not arranged an arrears payment agreement that is acceptable to the co-op will be charged \$20
- 4.5 Members who do not pay their late payment charges will be considered in arrears.
- 4.6 Late payment of housing charges of three (3) consecutive months will be considered to be **chronic late payment**. The manager will send a Notice to Appear at a Co-op Board meeting to members who make **chronic late payments**. Persons authorized to sign a Notice to Appear are the manager and any director.

- 4.7 If for legitimate reasons of financial hardship, a member cannot pay their housing charge by end of business day on the first day of the month, the member must let the manager know *before* the first day of the month. The manager will decide if the reasons are legitimate. In that case, an arrears payment agreement that sets out how the member will pay the arrears may be approved as set out in Article 5 of this by-law.

#### **Article 5: Arrears payment agreements**

- 5.1 The manager has the authority to approve the first request from a member for an arrears payment agreement made within a year as long as the agreement provides for full payment within 60 days.
- 5.2 Approval by the board of directors is required for any additional requests from a member for an arrears payment agreement made within a year and for an arrears payment agreement where full payment will not be made within 60 days.
- 5.3 Generally, the co-op will not approve more than one arrears payment agreement for a member in a year.
- 5.4 If the member does not make the payments set out in their arrears payment agreement, the manager will send them a Notice to Appear at a co-op board meeting. Persons authorized to sign a Notice to Appear are the manager and any director.

#### **Article 6: Returned cheques**

- 6.1 If the co-op's credit union returns a member's housing charge cheque to the co-op marked NSF (not sufficient funds), Stop Payment or Account Closed, the member must replace it within two days of being notified by the co-op.
- 6.2 The member will be charged \$25 for returned cheques. Members who do not pay the fee will be considered in arrears.
- 6.3 If the member does not replace the returned cheque within two days of being notified, the manager may send them a Notice to Appear at a co-op board meeting.

- 6.4 If a member has two cheques returned within a year, they must pay future housing charges by certified cheque or money order or *interac*. This will apply for a period of one year. The co-op will not accept payment in any other form.

### **Article 7: Reporting**

- 7.1 Each month, the manager will prepare an arrears report for review by the board of directors. The manager will also report generally about compliance with this By-law.
- 7.2 The form of the reports will be approved by the board of directors.

### **Article 8: Members who move out in arrears**

- 8.1 The co-op will take all reasonable steps to collect arrears from members who have moved out of the co-op.
- 8.2 These steps may include
- sending a registered letter with a summary of the amount owing to the former member's last known address
  - placing the account with a collection agency
  - informing the municipality's centralized waiting list of the arrears
  - taking legal action through the courts to collect the arrears.
- 8.3 When a member moves out of a unit in the co-op owing arrears (including any legal costs), until the arrears are paid the member
- is not eligible to be considered for membership in the co-op
  - may not occupy or reside in another unit in the co-op as part of another member's household
  - may not stay in any other unit in the co-op as a long-term guest.

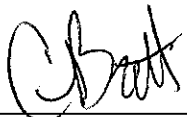
## Article 9: Directors in arrears

- 9.1 If directors are in arrears, it
- undermines the co-op's governance
  - weakens the co-op's financial management, and
  - sends the wrong message to members of the co-op and government.
- 9.2 Directors must not owe any money to the co-op other than future payments for their member deposit. A director must have a signed payment agreement for these payments.
- 9.3 If a director owes any money to the co-op other than as permitted under Article 9.2 that person automatically cease to be a director using the following procedure:
- (a) At each meeting, as the first item of business after reporting any conflicts of interest, the manager will report to the board on any newly-elected or existing directors who at the time owe money to the co-op (other than as permitted under Article 9.2) The name of the director and details of the amounts owing will be given. This part of the meeting will be confidential.
- (b) If the manager is not present at a board meeting, the manager will arrange for the president or another to give the report or will submit a written report in advance.
- (c) If a newly-elected or existing director owes any money to the co-op (other than as permitted under Article 9.2), then that person will cease to be a director immediately after the report is given, unless
- The amount owed is paid immediately after the report is given; or
  - The director states that nothing is owing. In that case the board will decide. If the board decides anything is owing, that person will cease to be a director effective immediately unless the total amount owing is paid as soon as the board makes its decision.

- 9.4 When someone cease to be a director under Article 9.3 (c) their position will automatically be vacant immediately after the directors' arrears is given or, if applicable, immediately after the board decides that money is owing. The director does not have to sign a resignation or do anything else. The director must leave the board meeting, unless he or she wishes to stay as an ordinary member for any non-confidential part of the meeting.
- 9.5 When someone ceases to be a director, the board may fill the vacancy as stated in the Organizational Bylaw. Someone may not be appointed to fill the vacancy that was created when that person ceased to be a director under Article 9.3 (c).

#### **Housing charge payment and arrears control by-law**

**CERTIFIED to be a true copy of By-law No. 40 of Mimico Co-operative Homes Incorporated passed by the Board of Directors at a meeting held on April 17, 2013 and confirmed by a two-thirds vote at a meeting of members held on May 15, 2013**

  
\_\_\_\_\_  
Secretary c/s

# Schedule A

## Arrears report

Date:

### Current member arrears

|          | Code | 90 days ago | 60 days ago | 30 days ago | Jan. 25 | Arrears payment agreement | Comments                     |
|----------|------|-------------|-------------|-------------|---------|---------------------------|------------------------------|
| 1        | J    | \$2,367     | \$2,367     | \$3,117     | \$2,367 | yes                       | Notice to appear/default     |
| 2        | B    | \$1,920     | \$1,920     | \$1,920     | \$1,720 | yes                       | following agreement          |
| 3        | S    | \$500       | \$400       | \$300       | \$300   | yes                       | following agreement          |
| 4        | N    | \$230       | \$0         | \$95        | \$0     | no                        | paid in full                 |
| 5        | V    | \$0         | \$0         | \$0         | \$15    | no                        | underpayment                 |
| 6        | P    | \$0         | \$0         | \$705       | \$0     | no                        | paid in full                 |
| 7        | O    | \$0         | \$0         | \$0         | \$1,022 | yes                       | first payment due February 1 |
| 8        | X    | \$0         | \$0         | \$0         | \$97    | no                        | no response to letter        |
| Subtotal |      | \$5,017     | \$4,687     | \$6,137     | \$5,521 |                           |                              |

### Moved out members arrears

|          | Unit | 90 days ago | 60 days ago | 30 days ago | Sept. 5 | Arrears payment agreement | Comments                     |
|----------|------|-------------|-------------|-------------|---------|---------------------------|------------------------------|
| 1        | 202  | \$245       | \$245       | \$245       | \$245   | yes                       | first payment due February 1 |
| 2        | 424  | \$523       | \$423       | \$323       | \$223   | yes                       | paying \$100 each month      |
| 3        | 300  | \$4,297     | \$4,297     | \$4,297     | \$4,297 | no                        | sent to collections          |
| Subtotal |      | \$5,065     | \$4,965     | \$4,865     | \$4,765 |                           |                              |

**Total arrears**      \$10,082      \$9,652      \$11,002      \$10,286



The financial section of the manager's report to the board will include

- the number of late payments made during the reporting period
- the number of cheques returned to the co-op marked NSF during the reporting period
- the number of cash payments made during the reporting period
- the number of Notices to Appear issued to members during the reporting period who had not paid their housing charge in full or made arrangements by the fifth day of the month
- the number of Notices to Appear issued to members during the reporting period because they make chronic late payments
- the number of payment agreements the manager approved in accordance with this By-law during the reporting period
- the number of members the manager had to advise during the reporting period to make all future payments by certified cheque or money order or *interac* because they have had two cheques returned to the co-op marked NSF within a year.