

Ontario Disability Support Program - Income Support Directives

4.2 - Real Property

Summary of Legislation

A number of assets are exempt including a person's interest in a principal residence or the portion of a building that is used as a principal residence, as well as an interest in one other property that the Director deems necessary for the health or well-being of the benefit unit.

Any interest in property owned by a member of the benefit unit that is neither the principal residence nor needed for health or well-being, will be considered an asset unless reasonable efforts are made on a continuous basis to sell the property.

Legislative Authority

[Sections 28\(1\)1,2,3,17 and 18 of the ODSP Regulation](#)

Summary of Directive

The circumstances under which a property is exempt from treatment as an asset and when it is not exempt are described, as well as the steps to be followed if a property is a non-exempt asset.

Intent of Policy

To allow an asset exemption for a property that is used as a principal residence or necessary for a person's health and well-being. To allow a reasonable period for an applicant/recipient to sell a property that is not exempt.

Application of Policy

Exempt Property and Waivers to Sell Non-Exempt Real Property

The principal residence of the benefit unit is an exempt asset. A second property owned by a member of the benefit unit may be exempt if it is necessary for the health or well-being of any member of the benefit unit.

Health and Well-Being

Where a second property is considered necessary for the health and well-being of any member of the benefit unit, the requirement that it be sold does not apply. For example, a second property that consists of a cottage could be considered necessary for health and well-being. Considerations that should influence a decision about whether a second property is necessary for the health and well-being of a member of the benefit unit include how frequently the property is used and for how long a period of time.

A second property that is income generating would not normally be considered necessary for health and well-being and would need to be sold.

Property in Another Country with Currency Restrictions

Where a member of a benefit unit has an interest in a non-exempt property in a country with currency restrictions and is unable to liquidate or remit proceeds out of that country, a letter from the embassy or consulate should be sought, whenever possible, to confirm the situation. The requirement to sell should be waived in these circumstances until such time as conditions change.

Less Than Allowable Assets

Where an applicant/recipient has an interest in a non-exempt property with a value that together with other assets is less than the allowable asset level, he/she would not be required to sell the property.

Requirements to Sell Non-Exempt Real Property

For non-exempt real property, deeds, valuations by realtors, Land Registry records, and mortgages must be verified to confirm ownership, equity and current market value of the property based on local market conditions and whether the property is marketable.

Where a member of a benefit unit has an interest in a non-exempt property, every reasonable effort to sell the property within six months must be made. In addition:

Attempts should be made to rent the property until it is sold.

If the property is rented or leased, the rent should be reviewed based on current market rates to determine if it is adequate. Where the rental amount is reasonable 40% of the amount will be exempt as income.

If the income from the property is unreasonably low, based on current market conditions and any other relevant factors, such as

services provided by the tenant, the ODSP income charge shall be based on an estimated reasonable amount of income.

After Six Months

If the recipient is making reasonable efforts to sell the property, but the property remains unsold and vacant after six months, there will be no reduction in income support.

When a property remains unsold or vacant after six months, the situation should be reviewed with the recipient at least annually, to ensure that all reasonable efforts to rent and sell are being made. Ongoing reasonable efforts must be made to sell income producing properties as well as vacant properties.

Monitoring reasonable efforts to sell a non-exempt property include: description (residential, non-residential), location and assessment; present use; action taken to rent and sell the property; estimated current market value; amount of equity (market value less encumbrances); and ownership and recipient's equity if ownership is shared.

Hyperlinks associated with this Policy Directive

Related Directives:

[4.1 Definition and Treatment of Assets](#)

[4.4 Transfer of Assets for Inadequate Consideration](#)