



FRASER MILNER CASGRAIN LLP

Attachment 1

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File #201696-8

July 17, 2007

DELIVERED BY COURIER

City of Toronto
Office of the City Clerk
100 Queen Street W., 2nd Floor
Toronto, Ontario
M5H 2N2

Attention: Ulli Watkiss, City Clerk

Dear Sirs:

Re: Complaint Pursuant to s. 20 of the Development Charges Act, 1997
Upper Canada College ("UCC")
200 Lonsdale Road, Toronto, Ontario

CITY CLERK'S OFFICE
SECRETARIAT SECTION
2007 JUL 17 12:59

We act on behalf of UCC with respect to the above noted matter.

UCC Improperly Assessed Development Charges

As part of its mission to provide top quality education to its students, UCC has been working to modernize its facilities over the last several years. This modernization includes the demolition of the existing hockey rink and its replacement with a new twin-pod arena.

UCC has, through its architects, applied for a building permit to allow for the construction of the new arena and has been charged City Development Charges totalling \$370,623.07 as part of the building permit process. Attached to this letter, you will find a copy of a receipt from the City confirming that UCC has paid the City's Development Charge amount as well as an additional \$2,195.60 in development charges to the Toronto Catholic District School Board.

Toronto's Development Charge By-law Only Charges a Fee for Retail Use

As you are no doubt aware, the City of Toronto's Development Charges By-law only applies a fee to Residential and Retail Uses. All other non-residential uses, such as office or institutional uses, are not susceptible to the City's development charges, even though such uses are not specifically exempt from the development charges by-law. A private school is, of course, an institutional use.

The application of development charges just to retail uses was a conscious choice made by the City at the time of enacting the Development Charges by-law as is clearly set out in the Staff Report that accompanied the Development Charges By-law to Council. The choice by the City to only apply development charges to Retail Uses is to be contrasted with the choice made by other municipalities in Ontario, and even the TCDSB, who have either included private schools specifically, or institutional uses generally, in their development charge by-laws.

### **UCC is a Not-For-Profit Institutional Use – Not a Retail Use**

UCC is a non-profit private school whose purpose is to provide top quality education to its students. UCC is not a retail use in either the traditional sense of the word or in the specific use of that term in the City's Development Charges By-law. The proper classification of educational uses are as institutional.

### **City Has Not Charged Development Charges to Other Private Schools**

We have been able to confirm that the City has treated other private schools as institutional uses under the current Development Charges By-law and, as such, have not charged Development Charges to these other private schools. We are also aware of two additional schools where the City appears to have attempted to collect development charges, demonstrating what is, at best, an inconsistent approach taken by the City toward its interpretation of the Development Charges By-law.

### **Full Reimbursement Requested**

Given that UCC is not operating a retail use, we are filing this complaint on their behalf as there has been an error in the City's application of its development charges by-law and, as such, it was improperly applied to UCC. We are, therefore, requesting that the City reconsider its application of the Development Charges By-law and reimburse the full amount of the City's Development Charges paid by UCC.

Please refer this matter to Toronto City Council at the earliest opportunity as this matter is of great importance to our client.

If you should have any questions, please contact the undersigned. We would be pleased to meet with the City to discuss this further.

Yours truly,

**FRASER MILNER CASGRAIN LLP**

Andrew L. Jeanrie

ALJ/jr  
Enclosures

cc: Stephen Thuringer