



STAFF REPORT INFORMATION ONLY

Report on Requesting the Province to amend the Planning Act to Increase Minor Variance Application Fees

Date:	January 17, 2011
To:	City Council
From:	Chief Planner and Executive Director, City Planning
Wards:	All
Reference Number:	Cc12008

SUMMARY

Executive Committee on January 12, 2012, adopted a motion requesting the Chief Planner and the City Solicitor to “report directly to Council on requesting the Province to amend the *Planning Act* so that the cost of Committee of Adjustment variance applications be based on both cost recovery and the value of the construction as it does for building permits.”

The legislative scheme in Ontario allows municipalities to recover the cost of processing a development application. It does not permit charging planning fees for the purpose of general revenue for a municipality. A change to Committee of Adjustment minor variance application fees to charge amounts above cost recovery would require a fundamental change to the law in Ontario as it relates to development fees, for this specific type of application.

Building Permit fees are governed by the *Building Code Act* and, although calculated on a per square foot basis, the total amount of those fees must similarly not exceed the anticipated reasonable cost of the municipality to administer and enforce that Act.

Staff will review and evaluate the Minor Variance fee throughout the course of the year to determine whether the fee could be calculated based on construction value. The review will include an analysis of the processing effort required for different sizes of Minor Variances, other municipalities Minor Variance fees and whether or not the City would need to request the Province to amend the *Planning Act* and make any changes through the annual budget process.

FINANCIAL IMPACT

There are no financial impacts resulting from the adoption of this report.

DECISION HISTORY

This report was requested from the Chief Planner and the City Solicitor by a motion at Executive Committee on January 12, 2012.

ISSUE BACKGROUND

Pursuant to a Motion made at Executive Committee on January 12, 2012 the Chief Planner and the City Solicitor have been asked to report on requesting the Province amend the *Planning Act* to allow for increased application fees for minor variance applications.

COMMENTS

Under the *Planning Act*, the City can establish a tariff of fees which is designed to meet only the anticipated cost to the municipality or to a Committee of Adjustment. Subsection 69(1) of the *Planning Act* allows the City of Toronto to charge fees on planning applications to a maximum of 100 percent of the total cost of processing the application.

There is a specific appeal process to the Ontario Municipal Board related to planning fees set out in subsection 69(3), in the event an applicant chooses to dispute the fee and argue the fee charged was above the cost of processing the application.

The City of Toronto has adopted Chapter 441 of the Toronto Municipal Code dealing with Fees. Fees for minor variance matters are in Appendix 'C', Schedule 13 of Chapter 441.

Building Permit Fees cannot exceed the anticipated processing costs

There was a suggestion in the motion from Executive Committee that building permit fees charge for the cost of processing and the value of construction. However, the *Building Code Act* states that the total amount of the fees must not exceed the anticipated reasonable cost of the municipality to administer and enforce the *Building Code Act*. In setting the fees, guidance is provided in the annual reporting requirements of the Building Code outlined in Division C, Part 1, Section 1.9 "Fees" Article 1.9.1.1 which identifies the information which is required to be included in the annual fee reports.

Building permit fees take into account the direct costs of administration and enforcement of the Act and indirect costs of administration and enforcement of the Act, including support and overhead costs. This is similar to what can be included in the development application fees under the *Planning Act*.

Legal Services has been consulted in the preparation of this report.

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SIGNATURE

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