

## REVIEW AT A GLANCE

### WHY THIS REPORT IS IMPORTANT

It is in the City's interest to receive DCs to pay for growth while ensuring that all developers are treated consistently, development is not slowed down, and that appropriate fees are paid.

### BACKGROUND

The issuance of the first *above-grade* permit, conditional or otherwise, is a critical milestone. The date of issuance is when the amount of DCs is calculated and payable.

The *BCA* allows for the issuance of CPs at the discretion of the Chief Building Official (CBO) when three conditions are met:

1. The project meets zoning and other specified requirements in the *BCA*
2. The CBO is of the opinion that unreasonable delays in the construction would occur if a permit was not issued
3. The applicant enters into a CP agreement with the City

In 2002, City Council delegated to the CBO the authority to enter into CP agreements to protect the City's interests.

### BY THE NUMBERS

- \$702 million in DCs have been collected over the past four years
- 57% of total DC revenues are related to CPs processed within 30 days of a DC rate increase (Oct 2013 – Sep 2016)
- 70% of all CPs (issued from Oct 2013 – Sep 2016) were processed within 30 days before a DC rate increase
- 15 files reviewed had a total of \$29.9 million in DCs
- 11 out of the 15 files reviewed appear to have CPs that were prematurely issued when benchmarked against draft criteria for issuing *above-grade* CPs.
- \$8.0 million in DCs lost on the 11 files where CPs appear to be prematurely issued using draft criteria

### Toronto Building Division: Conditional Permits

#### The Complaint

The Fraud & Waste Hotline received a complaint suggesting there was a financial incentive for conditional permit (CP) applicants to obtain *above-grade* CPs in advance of scheduled development charges (DC) rate increases; and, some *above-grade* CPs were not issued in full compliance with section 8(3) of the *Building Code Act (BCA)*.

#### What we found

There is a financial incentive for CP applicants to obtain an *above-grade* CP in advance of a DC rate increase. In 11 of 15 files reviewed, the CPs appear to have been issued prematurely, reducing potential DC revenues for the City.

Some *above-grade* CPs issued were not in full compliance with section 8(3) of the *BCA*, resulting in lost DC revenue in 2 of the 15 sites we reviewed.

#### 11 of 15 Files Reviewed did not Meet the Division's Draft Criteria

- 2 files did not have proper zoning in place. Issuing a CP under these circumstances is non-compliant with the *BCA*.
- The existing Conditional Permit Policy does not include any objective criteria for determining when to issue *above-grade* conditional permits to ensure that all developers are treated consistently and fairly.
- In 10 files, it was unlikely that *above-grade* construction was probable in the near term and that unreasonable delays in *above-grade* construction would occur if an *above-grade* CP was not granted; these files failed to meet the Division's draft criteria that: "*Site construction must be at parking level 1 and in a construction position to proceed above grade*".
- \$8.0 million in DCs was lost where CPs appear to be prematurely issued when measured against draft criteria.

#### Need for Due Diligence in Approving and Monitoring Conditional Permits

- Majority of files reviewed did not have documentation supporting:
  - claims of unreasonable delays in construction
  - why the Division acted contrary to advice from other City Divisions
- Need to strengthen controls over front-end CP application review. The high demand for CPs immediately prior to DC rate increases leaves staff with insufficient time to perform the necessary due diligence.
- Inadequate monitoring and enforcement of CP agreement requirements.

#### Culture Where Conditional Permits are Encouraged and Expedited

- Staff invite developers to apply for CPs prior to scheduled increases in DC rates to save money. More consistency is required in this process.
- Some performance appraisals cite reduced DC as an accomplishment.

#### How Recommendations will Benefit the City

The implementation of the 17 recommendations contained in this report will help address control deficiencies, mitigate the risk of regulatory non-compliance, enhance transparency and consistency, and ensure the City's interests in collecting DC revenues are protected.

Beverly Romeo-Beehler, CPA, CMA, B.B.A., JD, ICD.D, CFF  
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