

Development Charge and Education Development Charge Complaint - 55-63 Charles Street East

Date: November 27, 2019

To: Executive Committee

From: Chief Financial Officer and Treasurer

Wards: Ward 13 - Toronto Centre

SUMMARY

This report responds to a complaint filed pursuant to Section 20 of the *Development Charge Act, 1997* and Education Development Charges Act relating to a construction project for an apartment building containing 541 condominium apartments and 100 rental-replacement units located at 55-63 Charles Street East.

On July 16, 2019 the City Council approved redevelopment of the Subject Lands but place a number of conditions on the issuance of a demolition permit.

The applicant, MOD Developments (Charles) LP, asserts that they should have received a demolition reduction against the City's Development Charges and Toronto District Catholic School Board's Education Development Charges for the existing 100 rental units that will be demolished.

In the case of redevelopment, the development charges payable may be reduced by an amount calculated by multiplying applicable per unit charge by the number of dwelling units that will be demolished or converted to another type of residential or non-residential use. The reduction was not applied because under the bylaw a demolition permit needs to be obtained prior to application for a full building permit.

The above grade structural part permit was applied for on September 25, 2019 and issued on October 31, 2019. Development charges (DCs) were assessed for all new units and paid for on October 31, 2019. Application for demolition permit was made on November 12, 2019.

City Staff has reviewed the complaint and is of the opinion that the Development Charges by-law was applied properly and no error was made in the calculation of the charges.

Nevertheless, staff believe it is not the intention of the DC by-law or EDC by-law to deny demolition reduction when construction proceeds promptly after demolition as in this case. Therefore, staff recommend that Council reimburse applicant for the amount in dispute.

RECOMMENDATIONS

The Chief Financial Officer and Treasurer recommends that:

1. Council authorize the City Chief Financial Officer and Treasurer, in consultation with the City Solicitor and Chief Building Official, to reimburse MOD Developments (Charles) LP, an amount up to \$2,463,060.00 of City's Development Charges and \$179,300.00 of Toronto District Catholic School Board's Education Development Charges for the 100 rental-replacement units at 55-63 Charles Street East. The funds will be withdrawn from associated the development charge reserve accounts.

FINANCIAL IMPACT

The value of the disputed demolition reduction is \$2,463,060.00, equivalent to the DCs paid for the construction of 100 rental units that are to be demolished.

Development charges are used to fund the City's eligible growth-related capital costs, as approved by Council through the City's annual capital budgeting process. Any loss in development charge revenue results in increased tax and rate supported costs, or reduced capacity to invest in capital infrastructure.

DECISION HISTORY

On July 16, 2019, City Council approved redevelopment of the Subject Lands at 55-63 Charles Street East:

<http://www.toronto.ca/legdocs/mmis/2019/te/bqrd/backgroundfile-135146.pdf>

COMMENTS

Development charges are applied in accordance with a bylaw enacted by Council pursuant to provisions of the *Development Charges Act, 1997* (DC Act). Under Section 20 of the DC Act, a complaint may be brought to Council on one of the three grounds:

- a. *"the amount of the development charge was incorrectly determined;*
- b. *whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined; or*
- c. *there was an error in the application of the development charge by-law."*

Section 20(4) indicates that Council shall hold a hearing into the complaint and give the complainant an opportunity to make representations at the hearing. After hearing the evidence and submissions of the complainant, Council to the Ontario Local Planning Appeal Tribunal (LPAT). The complainant may also appeal to the LPAT if Council does not deal with the complaint within 60 days after the complaint has been made.

Background

The City's Development Charges by-law and the Toronto Catholic District School Board's Education Development Charges by-law allow for a demolition reduction of the applicable development charges when the demolition permit has been issued prior to the date of submission of a complete building permit application.

Section 415-7(c) of City's Development Charges by-law 515-2018, states that in redevelopment, the development charges payable will be reduced by an amount calculated by multiplying applicable development charge by the number of dwelling units that will be demolished or converted to another type of residential or non-residential use.

Section 16 of Toronto Catholic District School Board Education Development Charges by-law 2018 No. 191 indicates that where a redevelopment occurs, the amount of the credit shall be equivalent to the education development charge previously paid in respect of the land.

Under normal circumstances, any existing buildings are generally demolished during the planning process of developments and receive a demolition reduction for any lawfully existing dwelling units and/or non-residential floor area that was associated with an issued demolition permit. In this case, application for demolition permit was made on November 12, 2019 to the existing buildings on site, one at 55 Charles Street East and one at 61 Charles Street East. Both apartment buildings have tenants who will occupy their units until March 31, 2020.

The City Council at its meeting on July 16, 2019 approved redevelopment of the Subject Lands but placed a number of conditions on the issuance of a demolition permit, in order to secure construction of replacement rental units. None of these conditions appear to have been intended to deny the applicant of eligibility for a demolition reduction against his development charges obligation. The complainant suggests that the demolition permit conditions of Council contributed to the denial of a demolition reduction related to both the City's Development Charges and the Education Development Charges.

Calculation of demolition reduction:

Type of Units	# of units	DC rates \$
Bachelor @ \$24,150	21	507,150.00
Multiples - One Bedrooms @ \$24,150	75	1,811,250.00
Multiples - 2+ Bedrooms @ \$36,165	4	144,660.00
Totals DC's	100	2,463,060.00
EDC @ \$1,793 per residential unit	100	179,300.00

Staff met with the applicant to consider their arguments on November 14, 2019. The redevelopment of the Subject Lands is clearly predicted upon the demolition of the above existing residential units.

Staff asks the Council to authorize reimbursement to MOD Developments (Charles) LP up to \$2,463,060.00 of City's Development Charges and \$179,300.00 of Toronto District Catholic School Board's Education Development Charges for the rental replacement units at 55-63 Charles Street East.

Staff at Toronto Catholic District School Board was consulted in resolving this complaint and supports this resolution.

CONTACT

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SIGNATURE

Heather Taylor
Chief Financial Officer and Treasurer

ATTACHMENTS

Attachment 1: Complaint letter from Goodmans Barristers & Solicitors dated November 4, 2019.