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File No. 020451/000183

December 10, 2019

Delivered by Email (Julie.Amoroso@toronto.ca)

City of Toronto
City Clerk's Office
100 Queen Street West
City Hall, 10th Floor, West Tower

Attention: Julie Amoroso
Committee Administrator

*To be circulated to Executive Committee
presiding over the EDC Complaint
hearing of December 11, 2019 referenced
herein.*

Dear Ms. Amoroso:

**Re: Executive Committee Item EX11.9
Education Development Charge Complaint
55, 61-63 Charles Street East ("Subject Lands")**

We are counsel to the Toronto Catholic District School Board ("TCDSB") in respect of the above-noted matter. I write in response to the Notice Letter sent by Ms. Julie Amoroso to the TCDSB dated December 4, 2019 enclosing City of Toronto Report for Action EX11.9 regarding the education development charges complaint filed by MOD Developments dated November 4, 2019 to be heard by the Executive Committee on December 11, 2019.

TCDSB Comment on the Staff Report and the Complaint Letter

The Staff Report takes the position that "the Development Charges by-law was applied properly and no error was made in the calculation of the charges"; however, the report goes on to state that "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." The Staff Report is silent as to whether the EDC By-law was applied properly, but nevertheless recommends that the requested refund of EDCs should also be refunded.

The TCDSB takes the position that the Executive Committee does not have the jurisdiction to refund the EDCs on the basis of its own independent discretion if it contravenes a mandatory

provision of the EDC By-law. Executive Council can only refund payment of EDCs if one of the criteria under subsections 257.85(a)-(c) of the *Education Act*, R.S.O. 1990, c. E.2 are met:

- a) the amount of the education development charge was incorrectly determined;
- b) a credit is or is not available to be used against the education development charge, or that the amount of a credit was incorrectly determined; or
- c) there was an error in the application of the education development charge by-law.

The Staff Report provides no analysis of TCDSB EDC By-law No. 191 (as amended by EDC Amending By-law No. 194) (the “EDC By-law”; **Attachment “1”**) to establish how any of these criteria are met. The Staff Report cites Section 16 of the EDC By-law, but that provision is only applicable in respect of redevelopment where EDCs were previously paid. The dwelling units to be demolished at 55 and 61-41 Charles St. E were developed at a time that pre-existed the present EDC regime under the *Education Act*¹. A credit could not be applicable pursuant to Section 16.

The Complaint Letter relies upon the dwelling unit replacement exemption in Section 10 of the EDC By-law. That exemption is based on the language in O Reg. 20/98 (**Attachment “3”**) and distinct from the dwelling unit replacement exemption contained in the City’s DC By-law. The Section 10 exemption applies in respect of building permits for a dwelling unit on the same site where a dwelling unit *was* destroyed by demolition so long as the building permit for the replacement dwelling unit is issued no later than three years after the issuance of the demolition permit. The EDCs in this case were payable upon issuance of the building permit on October 31, 2019 at which time the units to be replaced had not yet been demolished. The Complaint Letter does not demonstrate any other grounds that the EDCs as charged by the City (1) were incorrectly determined, (2) that a credit was available to the applicant, or (3) that there was an error in the application of the EDC By-law.

Position of the TCDSB in Resolving the Complaint

It is my understanding that TCDSB Staff previously advised the City that there was no issue with the Staff Report. However, in discussion with counsel, the TCDSB is now of the position that the exemptions in Section 10 and 16 of the EDC By-law do not establish a basis to refund the EDCs pursuant to Section 257.85 of the *Education Act*. The TCDSB recognizes that the present case provides an unusual factual scenario where EDCs were paid in respect of dwelling units that will most likely be demolished and then replaced on the same site by new dwelling units. All else being equal, had the demolition permit been issued and the units been demolished prior to the issuance of the building permit, the exemption under Section 10 of the EDC By-law would have applied to 100 dwelling units. The TCDSB has not been provided with the specific reasons as to why the permits were sequenced in reverse order. However, we note that there are existing tenancies on the Subject Lands and recognize that the preservation of existing rental housing stock is an important policy goal of the City. The TCDSB does not seek to undermine the policy aim of preserving rental housing and understands that there may have been a practical basis for the issuance of the permits as such.

¹ 61-63 Charles St. E was developed in 1931. 55 Charles St. E was developed in the late 1950s. Page 3, Bousfields Housing Issues Report dated April 2018 (**Attachment “2”**)

That being said, the TCDSB Superintendent of Planning is mandated to enforce the mandatory provisions of the EDC By-law in accordance with the *Education Act* and the EDC Regulation. He is not in a position to instruct counsel to waive enforcement of the EDC By-law in the absence of a demonstrated ground under Section 257.85 of the *Education Act*. In the unique circumstances of this case, I am directed to state the TCDSB's position on the record, but advise that my client would be willing to consent to an adjournment of the complaint hearing until such time as the matter can be brought before the Board of Trustees to determine if authorization can be obtained to alter this position. Given the short notice period for the complaint hearing, it was not possible to bring this matter before the Board of Trustees prior to the December 11, 2019 hearing. I will be in attendance tomorrow to speak to this position.

Best regards,

BORDEN LADNER GERVAIS LLP



Andrew Baker

AB/jcm

cc: Robert Hatton, Director, Strategic & Intergovernmental Initiatives, Corporate Finance Division, Tel: 416-392-9149; Fax: 416-397-4555; Email: robert.hatton@toronto.ca

cc: Alan Shaw, Director and Deputy Chief Building Officer, Toronto Building Division; 416-395-7518, Email: alan.shaw@toronto.ca

cc: Robert Robinson, Solicitor, Legal Services; Tel: 416-392-8367; Email: robert.robinson@toronto.ca

cc: Michael Loberto, Superintendent of Planning, TCDSB, Michael.Loberto@tcdsb.org

cc: David Bronskill, Counsel to MOD Developments, dbronskill@goodmans.ca

TORONTO CATHOLIC DISTRICT SCHOOL BOARD
EDUCATION DEVELOPMENT CHARGES BY-LAW 2018 NO. 191

PREAMBLE

1. Section 257.54(1) of the *Education Act* (the “Act”) enables a district school board to pass by-laws for the imposition of education development charges against land if there is residential development in its area of jurisdiction that would increase education land costs and the residential development requires one or more of the actions identified in section 257.54(2) of the Act.
2. The Toronto Catholic District School Board (the “Board”) has determined that the residential development of land to which this by-law applies increases education land costs.
3. The Board will experience enrolment growth in the areas of the City of Toronto where it has no sites for new schools or where its existing sites cannot accommodate more students without an addition for which it will require funds for the acquisition of new school sites, expansion of existing school sites, servicing and site preparation of school sites, and other education land costs. The only available funding source for education land costs is education development charges.

The Board notes that without amendments to the Act and its regulations, the Board is legally constrained in its ability to acquire strata fee interests for the purpose of developing new school sites.

4. Section 257.54(4) of the Act provides that an education development charge by-law may apply to the entire area of jurisdiction of a board or only part of it.
5. The Board has referred its estimates of the total number of new elementary and secondary pupils and its estimates of the number of elementary and secondary school sites to the Ministry of Education for approval, and such approval was given on under section 10 of Regulation 20/98.
6. The Board has conducted a review of its education development charge policies and held public meetings on October 11 and October 18, 2018, in accordance with section 257.60 of the Act.
7. The estimated average number of secondary school pupils of the Board over the five years immediately following the day this by-law comes into force will exceed the total capacity of the Board to accommodate secondary school pupils throughout its jurisdiction on the day this by-law is passed.
8. The Board has given a copy of the education development charges background study relating to this by-law to the Minister of Education and to each school board having jurisdiction within the area to which this by-law applies in accordance with section 10 of Ont. Reg. 20/98.

9. The Board has therefore complied with conditions prescribed by section 10 of Regulation 20/98.
10. The Board has given notice and held public meetings on October 18, 2018 and November 15, 2018, in accordance with section 257.63(1) of the *Education Act* and permitted any person who attended the public meeting to make representations in respect of the proposed education development charges.
11. The Board has determined in accordance with section 257.63(3) of the Act that no additional public meeting is necessary in respect of this by-law.

NOW THEREFORE THE TORONTO CATHOLIC DISTRICT SCHOOL BOARD HEREBY ENACTS AS FOLLOWS:

PART 1 - APPLICATION

Defined Terms

1. In this by-law,
 - a. "Act" means the *Education Act*,
 - b. "area of the by-law" means the City of Toronto resulting from the amalgamation effected on January 1, 1998 under the *City of Toronto Act, 1997* S.O. 1997, c.2;
 - c. "Board" means the Toronto Catholic District School Board;
 - d. "development" means any activity or proposed activity in respect of land that requires one or more of the actions referred to in Sections 5 and 6 of this by-law, and includes redevelopment, expansion, extension or alteration, or any two or more of them, of a use, building or structure, except interior alternations to an existing building or structure which do not intensify the use of the building;
 - e. "dwelling unit" means a room or suite of rooms used, or designed or intended for use by one person or persons living together in which culinary and sanitary facilities are provided for the exclusive use of such person or persons, and shall include, but is not limited to, a dwelling unit or units in an apartment, a secondary dwelling unit, group home, mobile home, duplex, triplex, semi-detached dwelling, single detached dwelling, stacked townhouse and townhouse;
 - f. "education development charge" means charges imposed pursuant to this by-law in accordance with the Act;
 - g. "education land costs" means costs incurred or proposed to be incurred by the Board,

- i. to acquire land or an interest in land, including a leasehold interest, to be used by the Board to provide pupil accommodation;
 - ii. to provide services to the land or otherwise prepare the site so that a building or buildings may be built on the land to provide pupil accommodation;
 - iii. to prepare and distribute education development charge background studies as required under the Act;
 - iv. as interest on money borrowed to pay for costs described in paragraphs (i) and (ii); and
 - v. to undertake studies in connection with an acquisition referred to in paragraph (i).
- h. “existing industrial building” means a building used for or in connection with,
 - i. manufacturing, producing, processing, storing or distributing something,
 - ii. research or development in connection with manufacturing, producing or processing something,
 - iii. retail sales by a manufacturer, producer or processor of something they manufactured, produced, if the retail sales are at the site where the manufacturing, production or processing takes place,
 - iv. office or administrative purposes, if they are,
 - A. carried out with respect to manufacturing, producing, processing, storage or distributing of something, and
 - B. in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution;
- i. “gross floor area” means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls and, for the purpose of this definition, the non-residential portion of a mixed-use building is deemed to include one-half of any area common to the residential and non-residential portions of such mixed-use building or structure;
- j. “local board” means a local board as defined in the *Municipal Affairs Act*, other than a district school board;
- k. “mixed use” means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential uses;

- l. “non-residential use” means lands, buildings or structures or portions thereof used, or designed or intended for all uses other than residential use, and includes, but is not limited to, an office, retail, industrial or institutional use;
 - m. “residential development” means lands, buildings or structures developed or to be developed for residential use;
 - n. “residential use” means lands, buildings or structures used, or designed or intended for use as a dwelling unit or units, and shall include a residential use accessory to a non-residential use and the residential component of a mixed use or of an agricultural use.
 - o. “secondary dwelling unit” means a dwelling unit, whether contained within a proposed single detached dwelling or semi-detached dwelling, or ancillary to a single detached dwelling or a semi-detached dwelling including but not limited to a coach house, laneway suite or structure constructed above an existing garage or other structure separate from the primary dwelling unit, which:
 - i. comprises an area less than the gross floor area of the primary dwelling unit; and
 - ii. is not capable of being legally conveyed as a separate parcel of land from the primary dwelling unit.
2. Unless otherwise expressly provided in this by-law, the definitions contained in the Act or the regulations under the Act shall have the same meanings in this by-law.
 3. In this by-law where reference is made to a statute, a section of a statute, or a regulation, such reference will be deemed to be a reference to any successor statute, section or regulation.

Lands Affected

4.
 - a. Subject to section 4(b), this by-law applies to all lands in the area of the by-law;
 - b. This by-law shall not apply to lands that are owned by and are used for the purpose of:
 - i. a municipality or a local board thereof;
 - ii. a district school board;
 - iii. a public hospital receiving aid under the *Public Hospitals Act*;
 - iv. a publicly-funded university, community college or a college of applied arts and technology established under the *Ministry of Colleges and Universities Act*, or a predecessor statute;
 - v. The Toronto Area Transit Operating Authority ("GO Transit");

- vi. a cemetery or burying ground that is exempt from taxation under section 3 of the *Assessment Act*;
- vii. non-residential uses permitted under s. 39 of the *Planning Act*.

Part II - Education Development Charges

5.

(1) In accordance with the Act and this by-law, and subject to sections 9 and 10, the Board hereby imposes an education development charge against land undergoing residential development or redevelopment in the area of the by-law if the residential development or redevelopment requires any one of those actions set out in subsection 257.54(2) of the Act, namely:

- a. the passing of a zoning by-law or of an amendment to zoning by-law under section 34 of the *Planning Act*;
- b. the approval of a minor variance under section 45 of the *Planning Act*;
- c. a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
- d. the approval of a plan of subdivision under section 51 of the *Planning Act*;
- e. a consent under section 53 of the *Planning Act*;
- f. the approval of a description under section 50 of the *Condominium Act*; or
- g. the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure,

where the first building permit issued in relation to a building or structure for above ground construction is issued on or after the date the by-law comes into force.

(2) In respect of a particular development or redevelopment an education development charge will be collected once, but this does not prevent the application of this by-law to future development or redevelopment on the same property.

6.

(1) In accordance with the Act and this by-law, and subject to sections 12 and 13 the Board hereby imposes an education development charge against land undergoing non-residential development or redevelopment in the area of the by-law which has the effect of increasing existing gross floor area

of such development if the non-residential development or redevelopment requires any one of those actions set out in subsection 257.54(2) of the Act, namely:

- a. the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*;
- b. the approval of a minor variance under section 45 of the *Planning Act*;
- c. a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
- d. the approval of a plan of subdivision under section 51 of the *Planning Act*;
- e. a consent under section 53 of the *Planning Act*;
- f. the approval of a description under section 50 of the *Condominium Act*; or
- g. the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.

where the first building permit issued in relation to a building or structure for above ground construction is issued on or after the date the by-law comes into force.

(2) In respect of a particular development or redevelopment an education development charge will be collected once, but this does not prevent the application of this by-law to future development or redevelopment on the same property.

7. Subject to the provisions of this by-law, the Board hereby designates all categories of residential development and non-residential development and all residential and non-residential uses of land, buildings or structures as those upon which education development charges shall be imposed.

Residential Education Development Charges

8. Subject to the provisions of this by-law, the Board hereby imposes an education development charge of \$ 1,493 per dwelling unit upon the designated categories of residential development and the designated residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use, and, in the case of a mixed-use building or structure, upon the dwelling units in the mixed-use building or structure.

Exemptions from Residential Education Development Charges

9. As required by subsection 257.54(3) of the Act, an education development charge shall not be imposed with respect to:
- a. the enlargement of an existing dwelling unit or;
 - b. the creation of one or two additional dwelling units as prescribed in section 3 of Regulation 20/98 as follows:

NAME OF CLASS OF RESIDENTIAL BUILDING	DESCRIPTION OF CLASS OF RESIDENTIAL BUILDINGS	MAXIMUM NUMBER OF ADDITIONAL DWELLING UNITS	RESTRICTIONS
Single detached dwellings	Residential buildings, each of which contains a single dwelling unit, that are not attached to other buildings	Two	The total gross floor area of the additional dwelling unit or units must be less than or equal to the gross floor area of the dwelling unit already in the building
Semi-detached dwellings or row dwellings	Residential buildings, each of which contains a single dwelling unit, that have one or two vertical walls, but no other parts, attached to other buildings	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the dwelling unit already in the building
Other residential buildings	A residential building not in another class of residential building described in this table	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the smallest dwelling unit already in the building

10.

(1) An education development charge under section 8 shall not be imposed with respect to the replacement, on the same site, of a dwelling unit that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it uninhabitable.

(2) Notwithstanding subsection (1), education development charges shall be imposed under section 8 if the building permit for the replacement dwelling unit is issued more than 3 years after,

- a. the date the former dwelling unit was destroyed or became uninhabitable; or
- b. if the former dwelling unit was demolished pursuant to a demolition permit issued before the former dwelling unit was destroyed or became uninhabitable, the date the demolition permit was issued.

(3) Notwithstanding subsection (1), education development charges shall be imposed under section 8 against any dwelling unit or units on the same site in addition to the dwelling unit or units being replaced. The onus is on the applicant to produce evidence to the satisfaction of the Board, acting reasonably, to establish the number of dwelling units being replaced.

(4) Subject to section 13, an education development charge shall be imposed under section 8 where a non-residential building or structure is replaced by or converted to, in whole or in part, a residential building or structure.

Non-Residential Education Development Charges

11. Subject to the provisions of this by-law, the Board hereby imposes an education development charge of \$ 1.07 per square foot of gross floor area of non-residential development upon the designated categories of non-residential development and the designated non-residential uses of land, buildings or structures and, in the case of a mixed-use building or structure, upon the non-residential uses in the mixed-use building or structure.

Exemptions from Non-Residential Education Development Charges

12. As required by section 257.55 of the Act, if a development includes the enlargement of a gross floor area of an existing industrial building, the amount of the education development charge that is payable in respect of the enlargement is determined in accordance with the following rules:

- a. if the gross floor area is enlarged by 50 per cent or less, the amount of the education development charge in respect of the enlargement is zero;
- b. If the gross floor area is enlarged by more than 50 per cent the amount of the education development charge in respect of the enlargement is the amount of the education

development charge that would otherwise be payable multiplied by the fraction determined as follows:

- i. Determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement;
- ii. Divide the amount determined under paragraph 1 by the amount of the enlargement.

13.

a. As required by section 5 of Regulation 20/98, subject to paragraphs (b) and (c), an education development charge under s. 11 shall not be imposed with respect to the replacement, on the same site, of a non-residential building that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it unusable.

b. Notwithstanding paragraph (a), an education development charge shall be imposed under section 11 against any additional gross floor area of any non-residential development on the same site in excess of the gross floor area of the non-residential building or structure being replaced, subject to the following calculation:

If the gross floor area of the non-residential part of the replacement building exceeds the gross floor area of the non-residential part of the building being replaced, the exemption applies with respect to the portion of the education development charge calculated in accordance with the following formula:

$$\frac{\text{Exempted portion}}{\text{GFA (new)}} = \frac{\text{GFA (old)} \times \text{EDC}}{\text{GFA (new)}}$$

where,

"Exempted portion" means the portion of the education development charge that the board is required to exempt;

"GFA (old)" means the gross floor area of the non-residential part of the building being replaced;

"GFA (new)" means the gross floor area of the non-residential part of the replacement building;

"EDC" means the education development charge that would be payable in the absence of the exemption;

c. The exemption in paragraph (a) does not apply if the building permit for the replacement building is issued more than 5 years after,

d. the date the former building was destroyed or became unusable; or

- e. if the former building was demolished pursuant to a demolition permit issued before the former building was destroyed or became unusable, the date the demolition permit was issued;
 - f. Subject to section 16, an education development charge shall be imposed under section 11 where a residential building or structure is replaced by or converted to, in whole or in part, a non-residential building or structure.
14. The education development charge to be imposed in respect of mixed use development shall be the aggregate of the amount applicable to the residential development component and the amount applicable to the non-residential development component.
- 15.
- a. Where it appears to the Board that the land values underlying the education development charge calculation are predicting higher costs than the Board is generally experiencing over a period of time sufficient to show the discrepancy with a reasonable degree of assurance, the Board shall consider a motion to study amending the By-law to reduce the charge.
 - b. Where it appears to the Board that the land values underlying the education development charge calculation are predicting lower costs than the Board is generally experiencing over a period of time sufficient to show the discrepancy with a reasonable degree of assurance, the Board shall consider a motion to study amending the By-law to increase the charge.

Credits

16. This section applies where an education development charge has previously been paid in respect of development on land and the land is being redeveloped, except where sections 9 and 10, and/or section 12 and 13 apply:
- a. The education development charge payable in respect of the redevelopment will be calculated under this by-law;
 - b. The education development charge determined under paragraph (a) will be reduced by a credit equivalent to the education development charge previously paid in respect of the land, provided that the credit shall not exceed the education development charge determined under paragraph (a);
 - c. Where the redevelopment applies to part of the land the amount of the credit shall be calculated on a proportionate basis having regard to the development permissions being displaced by the new development. For example, if 10% of non-residential gross floor area of a non-residential building is being displaced by residential development through conversion, the residential education development charge on the applicable number of units will be calculated under section 8 of the by-law, and the credit will be the education development charge originally paid on the gross floor area being converted subject to the limit in paragraph (b).

PART III - ADMINISTRATION

Payment of Education Development Charges

17. The education development charge in respect of a development is payable to the City of Toronto on the date that the first building permit for above ground construction is issued in relation to a building or structure on land to which the education development charge applies.
18. Education development charges shall be paid by cash, by certified cheque or by bank draft.
19. The Treasurer of the Board shall establish and maintain an education development charge reserve fund in accordance with the Act, the Regulations and this By-law.

Payment by Land

20. Subject to the requirements of the Act, the Board may by agreement permit an owner to provide land in lieu of the payment of all or any portion of an education development charge. In such event, the Treasurer of the Board shall advise the Treasurer of the City of Toronto of the amount of the credit to be applied to the education development charge.

Collection of Unpaid Education Development Charges

21. In accordance with section 257.96 of the Act, section 349 of the *Municipal Act*, S.O. 2001, c. 25, applies with necessary modifications with respect to an education development charge or any part of it that remains unpaid after it is payable.

Date By-law In Force

22. This by-law shall come into force on December 3, 2018.

Date By-law Expires

23. This by-law shall expire on December 2, 2023, unless it is repealed at an earlier date.

Severability

24. Each of the provisions of this by-law are severable and if any provision hereof should for any reason be declared invalid by a court or tribunal, the remaining provisions shall remain in full force and effect.

Interpretation

25. Nothing in this by-law shall be construed so as to commit or require the Board to authorize or proceed with any particular capital project at any time.

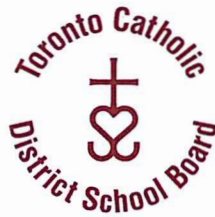
Short Title

26. This by-law may be cited as the Toronto Catholic District School Board Education Development Charges, 2018 By-law No. 191.

ENACTED AND PASSED this 15th day of November, 2018.


Chair


Director of Education and Secretary



**TORONTO CATHOLIC DISTRICT SCHOOL BOARD
EDUCATION DEVELOPMENT CHARGES AMENDING BY-LAW, 194-2019**

**A by-law to amend the
Toronto Catholic District School Board Education Development Charges By-
law, 2018 No. 191**

WHEREAS Section 257.70 of the Education Act, R.S.O. 1990, c. E.2 (the "Act") provides that a district school board may pass a by-law amending an education development charge by-law;

WHEREAS the Toronto Catholic District School Board (the "Board") passed the Toronto Catholic District School Board Education Development Charges By-law 2018 No, 191 on November 15, 2018 (the "2018 By-law");

WHEREAS the Board wishes to amend the 2018 By-law to increase the education development charges payable thereunder consistent with the legislative provisions established by O. Reg. 55/19 and adopted by the Province of Ontario on March 29, 2019;

AND WHEREAS the Board wishes to amend certain definitions in the 2018 By-law to provide additional clarity and consistency with the development charges by-law in force in the City of Toronto including an exemption from development charges for places of worship;

AND WHEREAS the Board has given notice of the proposed amendment to the 2018 By-law in accordance with the regulations made pursuant to the Act, has ensured that the education development charge background study for the 2018 By-law dated April 17, 2018 and amended on October 1, 2018, as well as sufficient information to allow the public to understand the proposed amendment have been made available to the public, and has held a public meeting on April 24, 2019;

**NOW THEREFORE THE TORONTO CATHOLIC DISTRICT SCHOOL BOARD
HEREBY ENACTS AS FOLLOWS:**

1. Section 1 of the 2018 By-law is hereby amended as follows:
 - (a) “Act” means the Education Act,
 - (b) “area of the by-law” means the City of Toronto resulting from the amalgamation effected on January 1, 1998 under the City of Toronto Act, 1997 S.O. 1997, c.2;
 - (c) “Board” means the Toronto Catholic District School Board;
 - (d) “development” means any activity or proposed activity in respect of land that requires one or more of the actions referred to in Sections 5 and 6 of this by-law, and includes redevelopment, expansion, extension or alteration, or any two or more of them, of a use, building or structure, except interior alternations to an existing building or structure which do not intensify the use of the building;
 - (e) “dwelling unit” means a room or suite of rooms used, or designed or intended for use by one person or persons living together in which culinary and sanitary facilities are provided for the exclusive use of such person or persons, and shall include, but is not limited to, a dwelling unit or units in an apartment, a secondary dwelling unit, **a purpose-built rental unit**, group home, mobile home, duplex, triplex, semi-detached dwelling, single detached dwelling, stacked townhouse and townhouse;
 - (f) “education development charge” means charges imposed pursuant to this by-law in accordance with the Act;

- (g) “education land costs” means costs incurred or proposed to be incurred by the Board,
 - (i) to acquire land or an interest in land, including a leasehold interest, to be used by the Board to provide pupil accommodation;
 - (ii) to provide services to the land or otherwise prepare the site so that a building or buildings may be built on the land to provide pupil accommodation;
 - (iii) to prepare and distribute education development charge background studies as required under the Act;
 - (iv) as interest on money borrowed to pay for costs described in paragraphs (i) and (ii); and
 - (v) to undertake studies in connection with an acquisition referred to in paragraph (i).

- (h) “existing industrial building” means a building used for or in connection with,
 - (i) manufacturing, producing, processing, storing or distributing something,
 - (ii) research or development in connection with manufacturing, producing or processing something,
 - (iii) retail sales by a manufacturer, producer or processor of something they manufactured, produced, if the retail sales are at the site

where the manufacturing, production or processing takes place,

- (iv) office or administrative purposes, if they are,
 - (A) carried out with respect to manufacturing, producing, processing, storage or distributing of something, and
 - (B) in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution;
- (i) “gross floor area” means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls and, for the purpose of this definition, the non-residential portion of a mixed-use building is deemed to include one-half of any area common to the residential and non-residential portions of such mixed-use building or structure;
- (j) “local board” means a local board as defined in the Municipal Affairs Act, other than a district school board;
- (k) “mixed use” means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential uses;
- (l) “non-residential use” means lands, buildings or structures or portions

thereof used, or designed or intended for all uses other than residential use, and includes, but is not limited to, an office, retail, industrial or institutional use **inclusive of lands dedicated to mechanical space, loading facilities, and parking accessory to the principal use;**

(m) “place of worship” means that part of a building or structure that is used primarily for worship and is exempt from taxation as a place of worship under the Assessment Act.

(n) “purpose-built rental unit” means a dwelling unit that is providing rental accommodation and that has been approved by the City of Toronto’s Affordable Housing Office as having qualified for a rebate under the City of Toronto’s Purpose-Built Rental Development Charges Rebate Program;

(m)(o) “residential development” means lands, buildings or structures developed or to be developed for residential use;

(n)(p) “residential use” means lands, buildings or structures used, or designed or intended for use as a dwelling unit or units, and shall include a residential use accessory to a non-residential use and the residential component of a mixed use or of an agricultural use.

(e)(q) “secondary dwelling unit” means a dwelling unit, whether contained within a single detached dwelling or a semi-detached dwelling, or ancillary to a single detached dwelling or a semi-detached dwelling, or ancillary to a single detached dwelling or a semi-detached dwelling

including but not limited to a coach house, laneway suite or structure constructed above an existing garage or other structure separate from the primary dwelling unit, which:

- (i) comprises an area less than the gross floor area of the primary dwelling unit; and
- (ii) is not capable of being legally conveyed as a separate parcel of land from the primary dwelling unit.

2. Section 4 of the 2018 By-law is hereby amended as follows:

- (a) Subject to section 4(b), this by-law applies to all lands in the area of the by-law;
- (b) This by-law shall not apply to lands that are owned by and are used for the purpose of:
 - (i) a municipality or a local board thereof;
 - (ii) a district school board;
 - (iii) a public hospital receiving aid under the *Public Hospitals Act*;
 - (iv) a publicly-funded university, community college or a college of applied arts and technology established under the *Ministry of Colleges and Universities Act*, or a predecessor statute;
 - (v) **Metrolinx; The Toronto Area Transit Operating Authority (“GO Transit”)**
 - (vi) a cemetery or burying ground that is exempt from taxation under section 3 of the *Assessment Act*;
 - (vii) non-residential uses permitted under s. 39 of the *Planning Act*;

- (viii) **lands as described in Schedules A and B to the Development Levy Agreement – Railway Lands Central and West made as for October 21, 1994 to the extent as provided in that agreement and pursuant to Section 6 of O. Reg. 20/98 Education Development Charges;**
- (ix) **a place of worship.**

3. Section 8 of the 2018 By-law is hereby repealed and replaced with the following:

Subject to the provisions of this by-law, the Board hereby imposes an education development charge per dwelling unit upon the designated categories of residential development and the designated residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use, and, in the case of a mixed-use building or structure, upon the dwelling units in the mixed-use building or structure. The education development charge per dwelling unit shall be in the following amounts for the periods set out below:

Year 1	May 1, 2019	to	May 31, 2019	\$1,493.00*
	June 1, 2019		April 30, 2020	\$1,793.00
Year 2	May 1, 2020	to	April 30, 2021	\$2,093.00
Year 3	May 1, 2021	to	April 30, 2022	\$2,393.00
Year 4	May 1, 2022	to	April 30, 2023	\$2,693.00
Year 5	May 1, 2023	to	December 2, 2023	\$2,993.00

**Note: rate of the charge remains unchanged in May 2019 from the existing rate in EDC By-law 2018 no. 191*

4. Section 11 of the 2018 By-law is hereby repealed and replaced with the following:

Subject to the provisions of this By-law, The Board hereby imposes an education development charge per square foot of gross floor area of non-residential

development upon the designated categories of non-residential development and the designated non-residential uses of land, buildings or structures and, in the case of a mixed use building or structure, upon the non-residential uses in the mixed-use building or structure. The education development charge per square foot of non-residential floor area shall be in the following amounts for the periods set out below:

Year 1	May 1, 2019 to June 1, 2019	to	May 31, 2019 April 30, 2020	\$1.07** \$1.12
Year 2	May 1, 2020	to	April 30, 2021	\$1.18
Year 3	May 1, 2021	to	April 30, 2022	\$1.24
Year 4	May 1, 2022	to	April 30, 2023	\$1.30
Year 5	May 1, 2023	to	December 2, 2023	\$1.37


*** Note: rate of the charge remains unchanged in May 2019 from the existing rate in EDC By-law 2018 no. 191*

5. : For greater certainty, the 2018 By-law No. 191 remains in full force and effect subject only to the amendments thereto described in Sections 1 to 4 of this amending by- law.
6. : This amending by-law shall come into force on May 1, 2019.

ENACTED AND PASSED this 24th day of April, 2019



Chair
 Maria Rizzo
 Chair of the Board
 Trustee Ward 5



Director of Education and Secretary
 Rory McGuckin
 Director of Education TCDSB

H O U S I N G
I S S U E S
R E P O R T

55 & 61-63 CHARLES
STREET EAST
CITY OF TORONTO

PREPARED FOR:
MOD DEVELOPMENTS
(CHARLES) LP

April
2018



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[1.0]

INTRODUCTION

This Housing Issues Report has been prepared in support of an application by MOD Developments (Charles) LP ("MOD") to amend the City of Toronto Zoning By-law 438-86, as amended, and the new City- Zoning By-law 569-2013, as amended, with respect to lands located on the south side of Charles Street East, just west of Church Street and approximately 200 metres east of Yonge Street, municipally known as 55 and 61-63 Charles Street East (the "subject site") (See **Figure 1**).

The subject site is an assembly of two properties which are currently developed with residential apartment buildings. 55 Charles Street East is developed with a 9-storey rental apartment building known as 'The Charlesview'. This building contains 76 residential units, with 38 parking spaces provided in an underground parking garage and 17 surface parking spaces. 61-63 Charles Street East is developed with a 3-storey rental walk-up apartment building known as 'Star Mansions'. This building contains 24 residential units and no parking. MOD is proposing to redevelop the subject site with a 55-storey mixed-use building, including 648 residential units. Of the proposed units, 100 will be rental units to replace those that currently exist on the subject site (the "proposal").

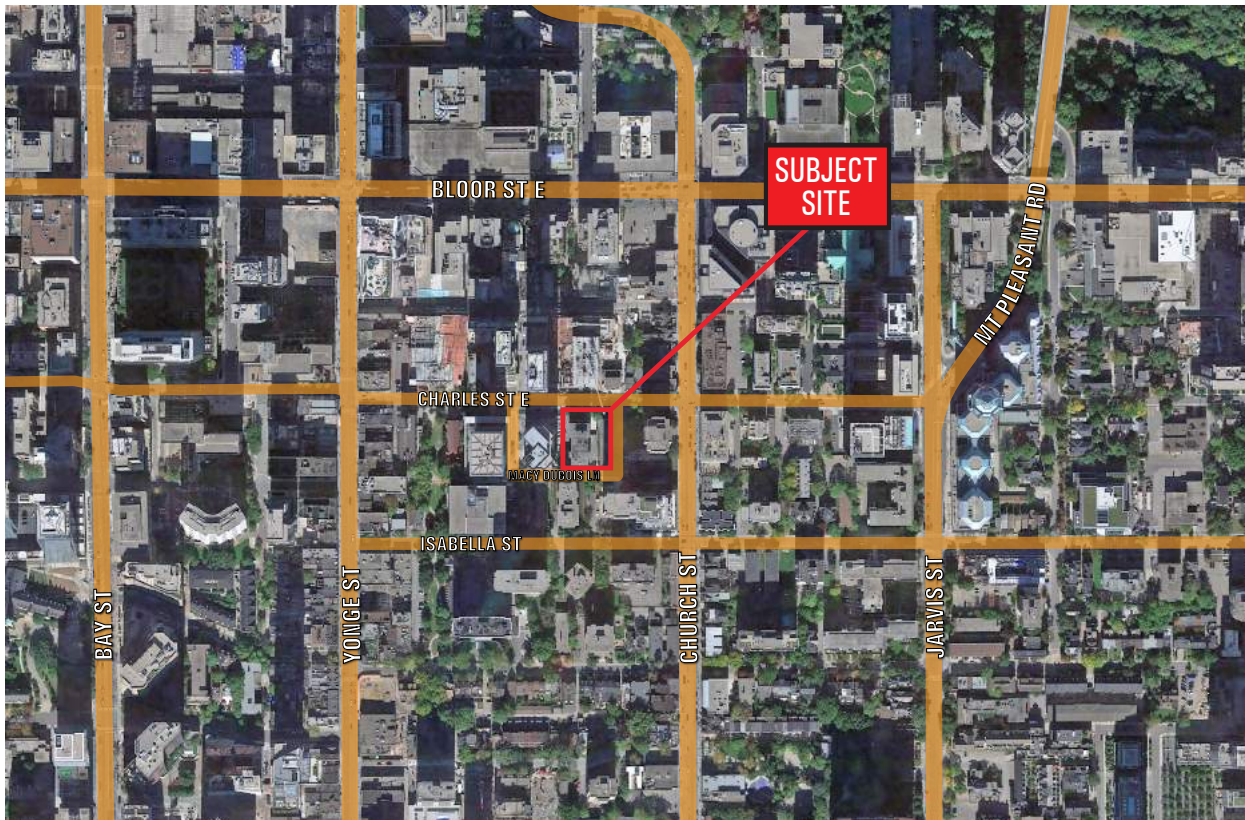


Figure 1 - Aerial of Subject Site and Surrounding Area

Section 111 of the *City of Toronto Act* gives the City authority to protect rental housing in the city. In accordance with the provisions in that Section, the City of Toronto prohibits the demolition and conversion of any rental housing on properties that contain six or more related units, unless a permit has been issued under Chapter 667 of the Municipal Code. As the proposal will result in the demolition of all 100 existing rental units on the subject site, a Request for Rental Demolition and Conversion application under Section 111 of the *City of Toronto Act* is being submitted concurrently with the rezoning application for the subject site.

Additional housing policies are set out in the City of Toronto Official Plan (the "Official Plan") which apply to the proposal. Policy 3.2.1(5) relates to significant new development on sites containing six or more rental units, where existing rental units will be retained and Policy 3.2.1(6) applies when new development would have the effect of removing all or part of a private building(s) resulting in the lot of six or more rental units. For the purposes of the proposal, only Policy 3.2.1(6) is applicable.

This purpose of this Housing Issues Report is to provide information regarding the existing rental units on the subject site and to evaluate the proposal against Section 111 of the City of Toronto Act and the housing policies of the Toronto Official Plan. In our opinion, the proposal meets the applicable requirements.

[2 . 0]

EXISTING RENTAL BUILDINGS

As noted, the subject site is currently occupied by two rental apartment buildings: 55 Charles Street East and 61-63 Charles Street East. A further description of each building is provided below:

- 55 Charles Street East is a 9-storey rental apartment building known as 'The Charlesview'. This building was constructed in the late 1950's and although it was originally designed with 75 units, currently contains 76 residential units. The current unit mix of this building includes 17 bachelor units and 59 one-bedroom units. Overall, the existing building has a gross floor area of approximately 5,150 square metres and a lot coverage of approximately 50 percent.

At grade, the existing building at 55 Charles Street East is setback approximately 6.7 metres from the north property line, with the space between the street and the building façade provided as landscaped open space. This open space features two mature trees, various shrubs and planting beds and a wide walkway to the building entrance. The first floor of the building contains the main entrance and lobby, as well as a mail room to the immediate left of the main entrance, and a laundry room off a corridor to the right of the residential lobby. There are three residential units located on the ground floor, as well as a large locker/storage room at the rear of the building.

Along the west side of the existing building at 55 Charles Street East is a driveway that provides access to a small parking area at the rear of the building. This driveway is connected to Macy DuBois Lane, which runs east-west along the rear of 45, 55, and 61-63 Charles Street East. Along the east side of the building is a ramp that provides access to the one-level of underground parking that serves

the building. This underground parking level contains 38 parking spaces. There are 17 surface parking spaces on the property, for a total of 56 parking spaces.

Beyond the open space located at the front of the building and the lobby and laundry room located on the first floor, there is no further formal indoor or outdoor amenity space associated with this building.

- 61-63 Charles Street East is a 3-storey rental walk-up apartment building known as 'Star Mansions' that was designed by architect Herbert C. Roberts and was constructed in 1931. This building currently contains 24 residential units and the unit mix includes 5 bachelor units, 15 one-bedroom units and 4 two-bedroom units. Overall, the existing building has a gross floor area of approximately 1,543 square metres and a lot coverage of approximately 67 percent.

At grade, the existing building at 61-63 Charles Street East is setback approximately 4.9 metres from the north property line. The area between the building façade and the street is provided as open space with minimal landscaping and a pathway connecting the front entrance to the sidewalk. This area contains three trees near the streetline and some small shrubs directly abutting the façade of the building. The first floor of the building contains the main entrance and residential lobby and is otherwise made up of residential units.

There are no parking spaces located at-grade or underground in association with the existing building at 61-63 Charles Street East. In addition, there are no formal indoor or outdoor amenity spaces associated with this building.

Measured drawings of the units comprising 55 Charles Street East and the first two floors comprising 61-63 Charles Street East are provided in Appendix A to this report. Measured drawings of the third floor of 61-63 Charles Street East are currently being prepared and will be submitted for consideration as part of this application under separate cover in the near future.

Table 1 below summarizes the unit mix of the existing residential buildings on the subject site. Greater detail on the subject site and its surroundings is included in our Planning and Urban Design Rationale (submitted under the same cover).

Table 1 - Existing Unit Mix at 55 and 61-63 Charles Street East

Unit Type	55 Charles Street East	61-63 Charles Street East
Bachelor	17	5
1-bedroom apartment	59	15
2-bedroom apartment	0	4
Total	76	24

[3 . 0] P R O P O S A L

The proposal is for a 55-storey residential building consisting of a 6-storey podium base building and a 49-storey tower element above. The building will be 169.25 metres tall, excluding the mechanical penthouse, and has a total gross floor area of 44,073 square metres, of which 43,756 square meters is residential. At grade, 317 square metres of non-residential gross floor area is proposed in the form of a community space. The proposed overall density is 19.30 FSI.

A total of 648 residential units are proposed, 100 of which are rental units which replace the same number of rental units currently on the subject site. Additionally, seven 2-storey grade-related townhouses units are located along the portion of the podium base, accessed by a walkway connected to the Charles Street public sidewalk. These townhouses are a mix of two- and three-bedroom units. The intent is that the community space noted above and some of the residential condominium units be provided in conjunction with a future non-profit entity. The amount and types of units associated with the future non-profit entity are subject to further discussion with the Ward 27 Councillor and City Planning Staff as part of the potential Section 37 agreement associated with the rezoning application being submitted to permit the proposal.

The unit mix for the condominium component of the proposal comprises 66 studio units (12%), 291 one-bedroom units (53%), 128 two-bedroom units (23%) and 63 three-bedroom units (11%). The condominium units will be located on Levels 8 through 55 in the tower element. The unit mix for the rental replacement component of the proposal is generally similar to the rental unit mix that currently exists on the subject site. In this regard, the proposed rental replacement includes: 20 bachelor units (20%), 75 one-bedroom units (75%) and 5 two-bedroom units (5%). The rental replacement units will be located on Levels 2 through 6 within the base building, along with rental-related amenity space, which includes storage lockers and laundry and lounge facilities. It is intended that the 100 rental replacement units will form a separate condominium corporation owned by the owner/operators of the two existing apartment buildings on the subject site. Rental replacement units will feature air-conditioning and barrier-free layouts.

The residential entrance to the building is located at the north end of the building and is directly accessible and visible from the public sidewalk. The double-height lobby, which is shared by rental and condominium residents, is glazed along its north wall, creating an inviting and transparent relationship with the street and providing views into and from the lobby space. New trees and landscaped areas will flank the entrance doors to the residential lobby within the Charles Street public realm. At the northeast corner of the building is a grade-related, double-height Community Space with an area of 317 square metres and an entrance that is clearly visible and directly accessible from the public sidewalk along Charles Street East. This community

space is potentially to be affiliated with a future non-profit entity. The space is non-residential in nature and is intended to be a public benefit, supportive of community-related programming that has yet to be determined.

The indoor amenity space provided totals 938 square metres and consists of a meeting room, media room, lounges, party room with kitchen and gym. 358 square metres of indoor amenity space is also provided for the rental component, comprising storage lockers and a laundry facility. Indoor amenity spaces for rental units are located on Levels 2 through 7. The provided outdoor amenity space, which is shared by both condominium and rental residents, totals 855 square metres and includes a roof garden, barbeque and dining area and several outdoor lounge areas. The outdoor amenity space wraps entirely around the indoor amenity space located on Level 7. With respect to private outdoor space, the majority of rental and condominium units have access to private patios, terraces or balconies from each unit.

Vehicular access to the proposed parking and loading spaces will be provided from Macy Dubois Lane, off of Charles Street East. A two-way ramp will be located at the south end of the building, running in a north-south direction and leading to four levels of underground parking. The underground parking garage will include 154 parking spaces. Of these parking spaces, 130 will be for residents at a rate of 0.20 spaces per unit, two will be for car-share and 22 will be for building visitors at a rate of 0.035 spaces per unit. The visitor parking spaces are planned to be operated as a commercial parking garage located on levels P1 and P2. The two car-share spaces will be located on level P1 and parking for residents will be located on levels P2 through P4. A total of 649 bicycle parking spaces are proposed at a rate of 1.0 per unit, including 584 spaces for residents, located on levels P1 through P4, and 65 spaces for visitors, located on level P1.

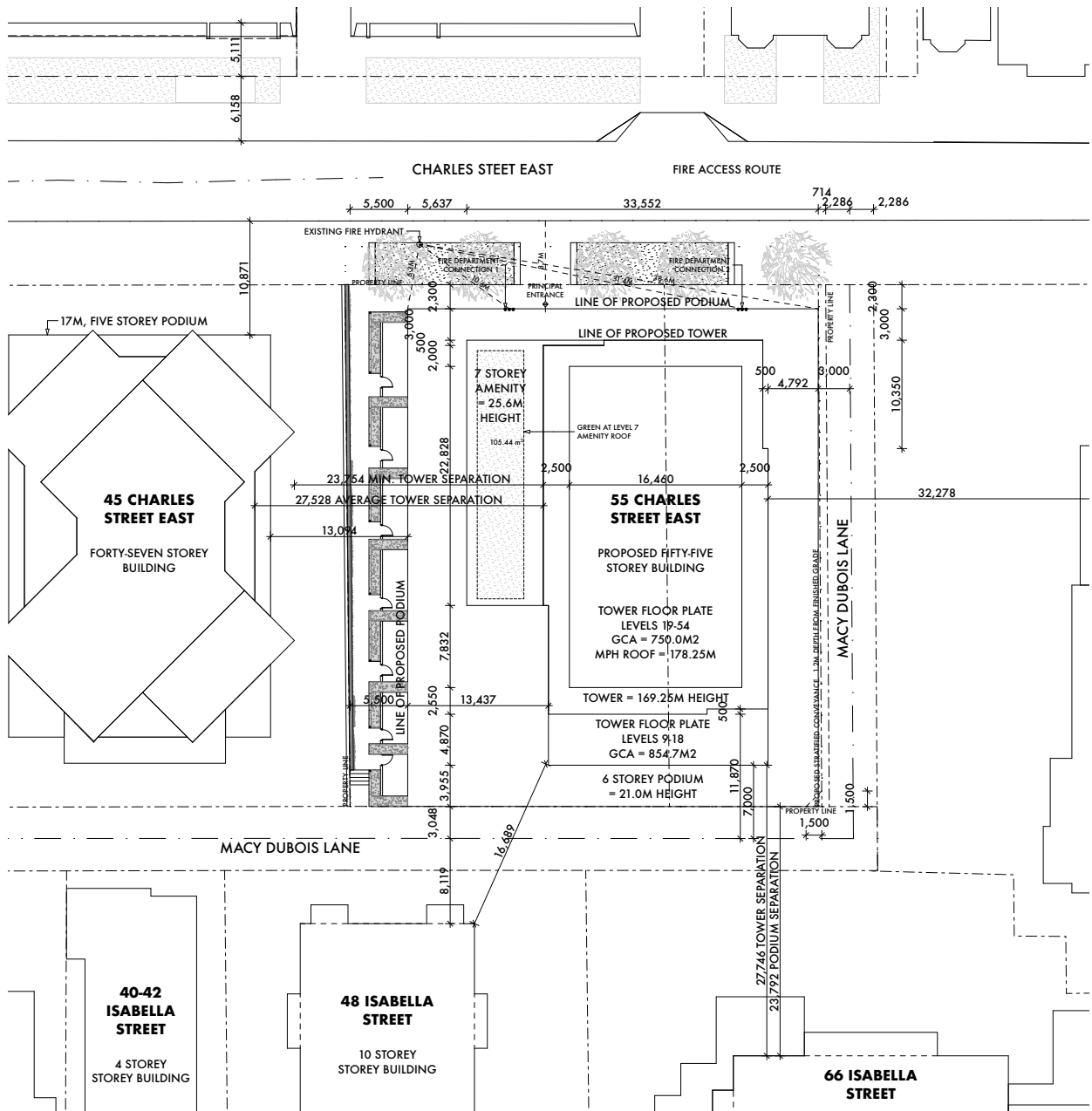


Figure 2 - Site Plan (Source architectsAlliance)

[4 . 0]

A P P L I C A B L E P O L I C Y A N D R E G U L A T O R Y C O N T E X T

This Housing Issues Report outlines the applicable housing policies that apply to the proposal. Further policy detail is included in our Planning and Urban Design Rationale.

4.1 Provincial Policies

The 2014 PPS provides overall policy direction on matters of provincial interest relating to land use planning and development. The PPS is intended to promote efficient development and land use patterns to support strong communities, to protect the environment and public health and safety, and promote a strong economy. With respect to housing, Policy 1.4.3 of the PPS requires provision to be made for an appropriate range and mix of housing types and densities to meet projected requirements of current and future residents by, among other matters, permitting and facilitating all forms of residential intensification and redevelopment, promoting densities for new housing which efficiently use land, resources, infrastructure and public service facilities and support the use of alternative transportation modes and public transit.

The Growth Plan for the Greater Golden Horseshoe (the "Growth Plan") came into effect on July 1, 2017 and any municipal decisions made after this date will need to conform with this new plan. The subject site is within a *Strategic Growth Area* as defined by the Growth Plan, due to its location within the Downtown Toronto *Urban Growth Centre* and within a *Major Transit Station Area* (i.e. located within 400 metres radial distance of the Bloor-Yonge subway station).

Section 2.2.6 of the Growth Plan (2017) sets out the housing policies. Policy 2.2.6(1) directs municipalities to develop housing strategies that support the achievement of minimum intensification and density targets by identifying a diverse range and mix of housing options and densities and establishing targets for *affordable* ownership housing and *affordable* rental housing. Policy 2.2.6(2) provides that notwithstanding Policy 1.4.1 of the PPS, municipalities will support the achievement of complete communities by planning to accommodate forecasted growth, achieving the minimum intensification and density targets, considering a range and mix of housing options and densities, and planning to diversify overall housing stock across the municipality. In accordance with Policy 2.2.6(3), municipalities are to consider using available tools to require that multi-unit residential developments incorporate a mix of unit sizes to accommodate a diverse range of household sizes and incomes.

4.2 Toronto Official Plan

With respect to the City of Toronto Official Plan, the subject site is designated *Mixed Use Areas* on Land Use Map 18. The policies set out in Section 4.5 of the Official Plan recognize that *Mixed Use Areas* will absorb most of the anticipated increase in retail, office and service employment in Toronto in the coming decade, as well as much of the new housing. Development proposals in *Mixed Use Areas* are subject to a series of development criteria set out in Policy 4.5(2).

Section 3.2.1 of the Official Plan contains a number of policies related to the provision of housing, in particular, the need to establish a healthy balance between high rise ownership housing and other forms of housing, including purpose-built rental housing, affordable rental housing and affordable low-rise ownership housing for large households with children and multi-family households. The housing policies relevant to the subject site and the proposal are as follows:

- Policy 3.2.1(1) provides that a full range of housing in terms of form, tenure and affordability will be provided to meet the current and future needs of residents. A full range of housing includes: ownership and rental housing, affordable and mid-range rental and ownership housing, social housing, shared and/or congregate-living housing arrangements, supportive housing, emergency and transitional housing for homeless people and at-risk groups, housing that meets the needs of people with physical disabilities and housing that makes more efficient use of the existing housing stock.
- Policy 3.2.1(2) indicates that the existing housing stock will be maintained and replenished. New housing supply will be encouraged through intensification and infill that is consistent with the Official Plan.
- Policy 3.2.1(5) provides that significant new development on sites containing six or more rental units, where existing rental units will be kept in the new development will secure as rental housing, the existing rental units which have affordable rents and mid-range rents, and may secure any needed improvements or renovations required to the existing rental housing, without pass-through of such costs in the rents to the tenants.
- Policy 3.2.1(6) provides that new development that would have the effect of removing all or part of a private building or related group of buildings, and would result in the loss of six or more rental housing units will not be approved unless:
 - a. all of the rental housing units have rents that exceed mid-range rents at the time of the application; or
 - b. in cases where planning approvals other than site plan are sought, the following are secured:
 - i. at least the same number, size and type of rental housing units are replaced and maintained with rents similar to those in effect at the time the redevelopment application is made;
 - ii. for a period of at least 10 years, rents for replacement units will be the rent at first occupancy increased annually by not more than the Provincial Rent Increase Guideline or a similar guideline as Council may approve from time to time; and
 - iii. an acceptable tenant relocation and assistance plan addressing the right to return to occupy one of the replacement units at similar rents, the provision of alternative accommodation at similar rents, and other assistance to lessen hardship, or
 - c. in Council's opinion, the supply and availability of rental housing in the City has returned to a healthy state and is able to meet the housing requirements of current and future residents, based on a number of factors.

As discussed in detail in Section 5.0 below, it is our opinion that the proposal conforms to the applicable Official Plan housing policies.

4.6 Zoning

The in-force Zoning By-law applying to the site is By-law 438-86, as amended, of the former City of Toronto. The new City-wide Zoning By-law 569-2013 was enacted by City Council on May 9, 2013. However, By-law 569-2013 is subject to numerous appeals to the Ontario Municipal Board and is therefore not yet in force.

ZONING BY-LAW 438-86

In-force Zoning By-law 438-86, as amended, designates the subject site CR T2.0 C1.0 R2.0 subject to a maximum height of 30.0 metres and a maximum overall density of 2.0 FSI. The CR zone permits a broad range of commercial and residential uses; however non-residential uses are restricted to 1.0 FSI and residential uses restricted to 2.0 FSI on the subject site.

ZONING BY-LAW 569-2013

Under the new city-wide Zoning By-law 569-2013, the subject site is designated CR 2.0 (c1.0; r2.0) SS1 (x1454), which is effectively an updated version of the zoning regulations contained within the former City of Toronto Zoning By-law 438-86. Similar restrictions in terms of maximum height and density are provided, with a height limit of 30.0 metres and a maximum density permission of 2.0 FSI.

[5 . 0]

A N A L Y S I S A N D O P I N I O N

5.1 General Analysis

The proposal is supportive of the policy directions set out in the Provincial Policy Statement 2014, the Growth Plan for the Greater Golden 2017 and the City of Toronto Official Plan, as it will provide a range of unit sizes at a density similar to the surrounding area in Downtown Toronto and will add to the overall stock of housing in the City. The 1 to 1 rental replacement included in the proposal will ensure there will be no net loss of rental units in the neighbourhood.

The proposal conforms to Section 3.2.1 of the Official Plan as the proposal will contribute to a range of housing in terms of both form and tenure. Although the redevelopment will have the effect of completely removing the existing rental apartment buildings on the subject site, it is our opinion that the proposal is in keeping with Policy 3.2.1(2), as the new building will include both rental replacement units (100 units) as well as 548 new condominium units, thereby maintaining and replenishing housing stock in the City. In terms of Policy 3.2.1(5), we have determined that the proposal is not subject to this policy, as none of the existing rental units will be kept in the new development. Further analysis on the proposal's conformity with Policy 3.2.1(6) is set out below.

5.2 Analysis of Policy 3.2.1(6)

POLICY 3.2.1(6)(A): ANALYSIS OF UNIT AFFORDABILITY

As indicated in Section 4 of this report, Policy 3.2.1(6)(a), provides that new development that would have the effect of removing all or a part of a private building or related group of buildings and would result in the loss of six or more rental housing units, will not be approved unless all of the rental housing units have rents that exceed mid-range rents at the time of the application.

The Official Plan defines "affordable rents" as housing where the total monthly shelter cost (gross monthly rent including utilities but excluding parking and cable television charges) is at or below one times the average City of Toronto rent, by unit type, as reported annually by the Canada Mortgage and Housing Corporation. "Mid-range rents" is housing where the total monthly shelter costs exceed affordable rents but fall below one and one-half times the average City of Toronto rent. "High-end rent" is housing where the total month shelter cost exceeds the mid-range threshold. The applicable 2018 rent limits by relevant unit type are included in **Table 2**.

Table 2 - 2018 Average Rent Thresholds

Unit Type	Affordable Rent	Mid-Range Rent
Bachelor	\$1,019	\$1,528
1-bedroom apartment	\$1,202	\$1,802
2-bedroom apartment	\$1,426	\$2,138

The current unit affordability analysis for the rental apartment buildings on the subject site is set out in a separate confidential enclosure. The analysis is based on the April 2018 rent rolls for each building (also included in the confidential enclosure). Tenants pay separate rates for parking spaces and cable internet (if desired), and this cost has not been added to the gross monthly rent. In terms of utilities, water and gas costs are currently incorporated within the monthly rent paid by the tenants and hydro costs are currently paid separately by each tenant directly to the hydro provider. As gross monthly rent is to be inclusive of all utility costs, in the case of 55 Charles Street East the rents for all tenants have been adjusted to reflect an average of the actual monthly hydro cost for each unit type in March 2018, and in the case of 61-63 Charles Street East the rents for all tenants have been adjusted based on an estimated monthly hydro cost based on a sample hydro bill provided for each unit type within the building.

As of April 1, 2018, there were four vacancies in the apartment building at 55 Charles Street East (1 bachelor unit and 3 one-bedroom units) and no vacancies in the building at 61-63 Charles Street East. In terms of staff occupied units, there is one unit at 61-63 Charles Street East that is occupied by staff (a two-bedroom unit) and one unit at 55 Charles Street East that is occupied by staff (a one-bedroom unit) with one bachelor unit at 55 Charles Street East being utilized as a building office. In addition, there is 1 one-bedroom unit at 55 Charles Street East that is currently rented as a commercial office (unit 104). However, as this unit was previously renovated to function as a rental dwelling unit, it has been included in the rental unit count and considered for replacement.

A summary of the affordability analysis is set out in **Table 3** below. In total, inclusive of vacancies and staff occupied units (see further details below), there are 3 affordable units and 97 mid-range units between the two existing apartment buildings, all of which will be removed as part of the proposed development. There are no existing high-end units in either of the buildings on the subject site.

Table 3 - Summary of Rents at 55 and 61-63 Charles Street East (April 2017)

Unit Type	Affordable Units	Mid-Range Units	High End Units
55 Charles Street East			
Bachelor unit	0	17	0
1-bedroom unit	2	57	0
2-bedroom unit	0	0	0
Total	2	74	0

Unit Type	Affordable Units	Mid-Range Units	High End Units
61-63 Charles Street East			
Bachelor unit	0	5	0
1-bedroom unit	1	14	0
2-bedroom unit	0	4	0
Total	1	23	0
Overall Total	3	97	0

As previously mentioned, there are currently four vacancies in the apartment building at 55 Charles Street East (1 bachelor unit and 3 one-bedroom units) and no vacancies in the building at 61-63 Charles Street East. In addition, there is one unit in 61-63 Charles Street East that is occupied by staff (a two bedroom unit) and there are two units at 55 Charles Street East that are utilized for staff/office purposes (1 bachelor unit and 1 one-bedroom unit). In most cases, there is no rent data available for each of these vacant/staff units, and as a result, their affordability was determined based on an evaluation of the relationship between unit type and size, and the analysis completed for the rents for occupied units in each building. Excluding the units with unknown rents, approximately 97% of the units in 55 Charles Street East and 96% of the units in 61-63 Charles Street East were classified as mid-range, with only 3% and 4% respectively classified as affordable. Given this consideration and the fact that the sizes of the unknown units were generally consistent with those of mid-range classified units for each unit size in each building, it is our opinion that it is reasonable to classify these unknown units as mid-range.

As set out above, as none of the units on the subject site are high end the requirement set out in Policy 3.2.1(6)(a) has not been met. Accordingly, the following section will evaluate the proposal against Policy 3.2.1(6)(b) to determine if the alternate requirement set out therein has been achieved.

POLICY 3.2.1(6)(B): RENTAL REPLACEMENT

Where new development will result in the loss of six or more rental housing units that are available at affordable or mid-range rents at the time of application, and in cases where planning approvals other than site plan area sought, Policy 3.2.1(6)(b) requires the replacement of existing rental units with "at least the same number, size and type" of rental housing units. In considering the intent of this policy, it is observed that there is no definition of either "size" or "type". However, based on a full reading of the Official Plan and an understanding of how the policy has been applied in the past, the terms should be understood as follows:

"Size" refers to the actual square footage of the units, but with reasonable allowances to take into consideration modern design efficiencies.

"Type" refers to the number of bedrooms, rather than to building form. In the definition of "affordable rents", the Plan refers to "unit types (number of bedrooms)".

Policy 3.2.1(6)(b)(ii) further establishes certain requirements in terms of rents for the replacement rental units. In this regard, it requires the rents for the replacement units to be “similar to those in effect at the time the redevelopment application is made” and that, for a period of at least 10 years, the rents be increased annually “by no more than the Provincial Rent Increase Guideline or a similar guideline as Council may approved from time to time” and a one-time increase of 4% for new construction.

MOD is committed to replacing all existing rental units that will be demolished as part of the proposal. Based on the April 2018 rent rolls, 100 rental replacement units are required. It is intended that through the Section 37 and 111 Agreements, these replacement units will be secured as rental for 20 years and maintained at similar rent levels in a range of unit types that closely approximate the existing rental units for 10 years. Any replacement unit vacated and re-rented within the 10 years of the date of initial occupancy would have an initial rent equal to the greater of the last rent charged for that unit or the then-current rent threshold.

The replacement units are proposed to be located on Levels 2 through 6 of the new building and have generally been provided as the same unit type, and in some instances have been replaced with a larger unit type. In this regard, it is proposed that two of the existing bachelor units will be replaced with one-bedroom units, and one of the one-bedroom units will be replaced with a two-bedroom unit. In our opinion, it is a desirable condition to increase the number of bedrooms available to returning tenants, while providing a broad mix of unit types. A summary of the propose rental replacement units is been included in **Table 4** below.

Table 4 - Comparison of Existing and Proposed Rental Replacement Units

Unit Type	Existing	Proposed Replacement
Bachelor	22	20: Bachelor units 2: 1-bedroom units
1-bedroom	74	73: 1-bedroom units 1: 2-bedroom units
2-bedroom	4	4: 2-bedroom units

As illustrated by **Table 5** below, the overall rental floor area will be increased slightly (approximately 13%) in the new building. This is generally a result of maintaining unit sizes while significantly increasing the provision of shared indoor amenity spaces, as neither existing building has any formal indoor amenity space beyond the laundry room within 55 Charles Street East.

Table 5 - Comparison of Existing and Proposed Rental GFA

Measure	Existing	Proposed
Total Units	100	100
Total GFA	Approx. 6,693 m ²	Approx. 7,602 m ²
Change	13.6% increase	

Furthermore, although Policy 3.2.1(6)(b) only speaks to the replacement of the same number, size and type of rental housing units, MOD further intends to include a number of dedicated rental parking stalls in their proposed development, albeit at a reduced number than what currently exists at 55 Charles Street East (no parking currently existing at 61-63 Charles Street East). In this regard, the proposed development will be replacing 25 of the existing 56 parking spaces. As of April 1, 2018, only 30 of the 56 existing parking spaces are rented, a number which has fluctuated significantly over the past few years. In consultation with the existing owners of the buildings at 55 and 61-63 Charles Street East, it has been determined that 25 new rental parking spaces will be sufficient to meet the demands of the 100 rental replacement units within the proposed development.

Overall, it is our opinion that the proposal meets the requirements set out in Section 111 of the City of Toronto Act and Chapter 667 of the Municipal Code, as well as the intent of the housing policies set out in the Official Plan, specifically Policy 3.2.1.6(b).

TENANT RELOCATION AND ASSISTANCE

Policy 3.2.1(6)(b) also requires an acceptable tenant relocation and assistance plan, addressing the right to return to occupy one of the replacement units at "similar rents", the provision of alternative accommodation at "similar rents" and "other assistance to lessen hardship". No specific terms are set out for the tenant relocation and assistance plan and it is understood that such terms are intended to be negotiated on a development-by-development basis.

The *Residential Tenancies Act, 2006* requires that, if notice of termination of tenancy is given for the purposes of termination where the landlord requires possession of the rental unit in order to demolish it, the date of termination shall be at least 120 days from the day on which the notice is given. If a tenancy is terminated for the purpose of the demolition, the Act requires that the landlord shall either:

- Compensate a tenant in an amount equal to three (3) months rent; OR
- Offer the tenant another rental unit acceptable to the tenant.

MOD intends to develop a tenant relocation and assistance plan in negotiation with the City, potentially in a manner that goes beyond the minimum RTA requirements. This may include assisting tenants in securing new rental accommodations through a dedicated rental agent. MOD intends to hold an initial information meeting and open house for existing tenants living in both apartment buildings prior to the formal submission of the rezoning application to permit the proposed development. MOD will continue to have conversations with existing tenants to best determine the overall relocation and assistance plan.

Section 111 of the *City of Toronto Act* prohibits the demolition or conversion of any rental housing unit on properties that contain six or more related units unless a permit has been issued under Chapter 667 of the Municipal Code. Accordingly, a permit to demolish 100 units will be applied for through a Rental Demolition and Conversion Application Form. It is our understanding that this application will proceed through a process that is delegated to City Staff.

[6 . 0]

C O N C L U S I O N

It is our opinion that the proposal incorporates a rental replacement element that meets the intent of the Provincial policies regarding housing and the housing policies of the Toronto Official Plan, in particular, Policy 3.2.1.6(b). In this regard, the proposed development will replace the existing rental units with the same number of units with rents at similar rent levels (i.e. affordable or mid-range) and at least with the same mix of unit types, if not larger. Additionally, the rental replacements units will be higher quality than those that currently exist on the subject site, with new finishes and appliances, the introduction of air conditioning, indoor and outdoor amenity space, and fully accessible unit layouts. The tenants of the rental units will also have access to the concierge in the building lobby, a secure mail room and parcel area and building elevator. MOD intends to have ongoing discussions with the City and the existing building tenants in order to secure an appropriate tenant relocation and assistance plan.

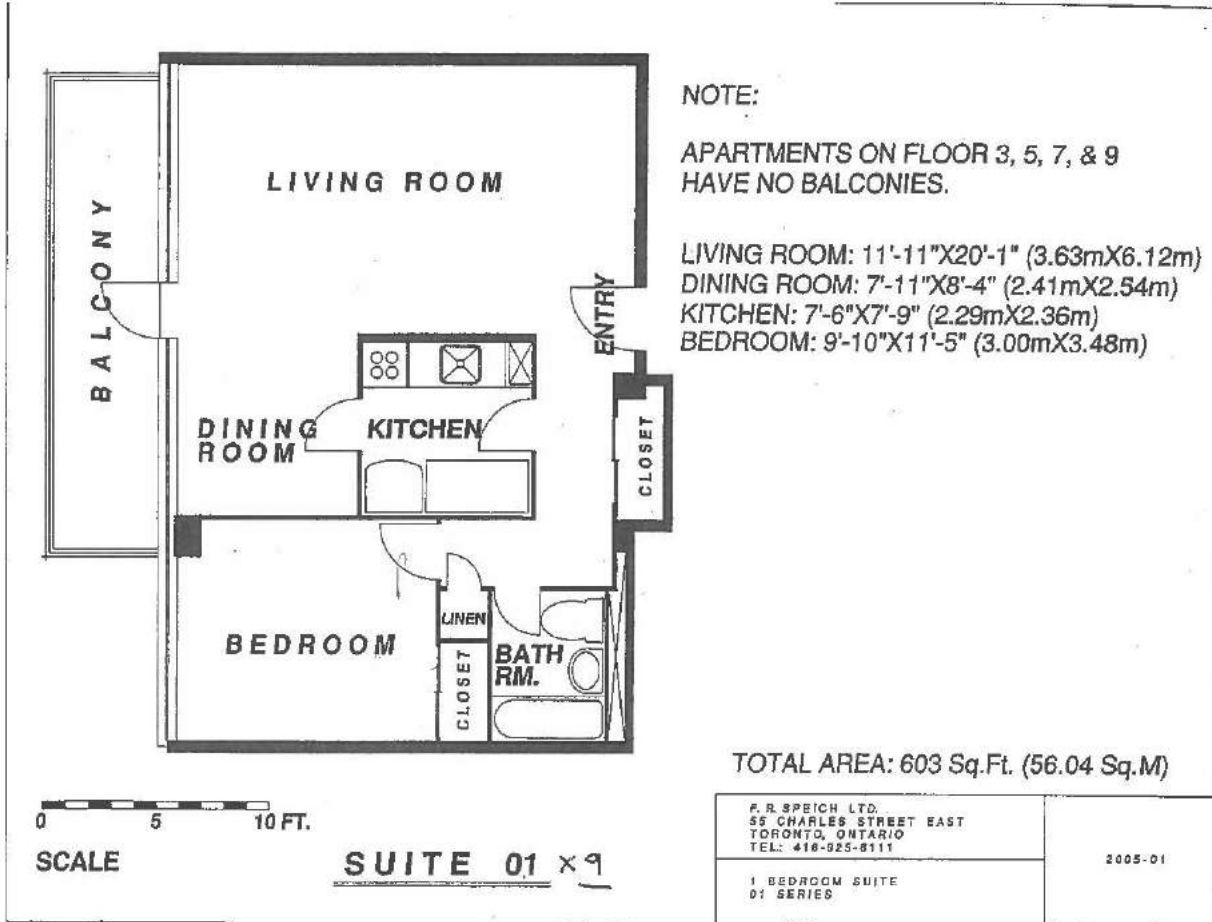
Based on the foregoing, it is our opinion that the application for rental housing demolition and conversion in accordance with Chapter 667 of the Municipal Code is appropriate and desirable and is consistent with Section 111 of the *City of Toronto Act* and, accordingly, should be approved.

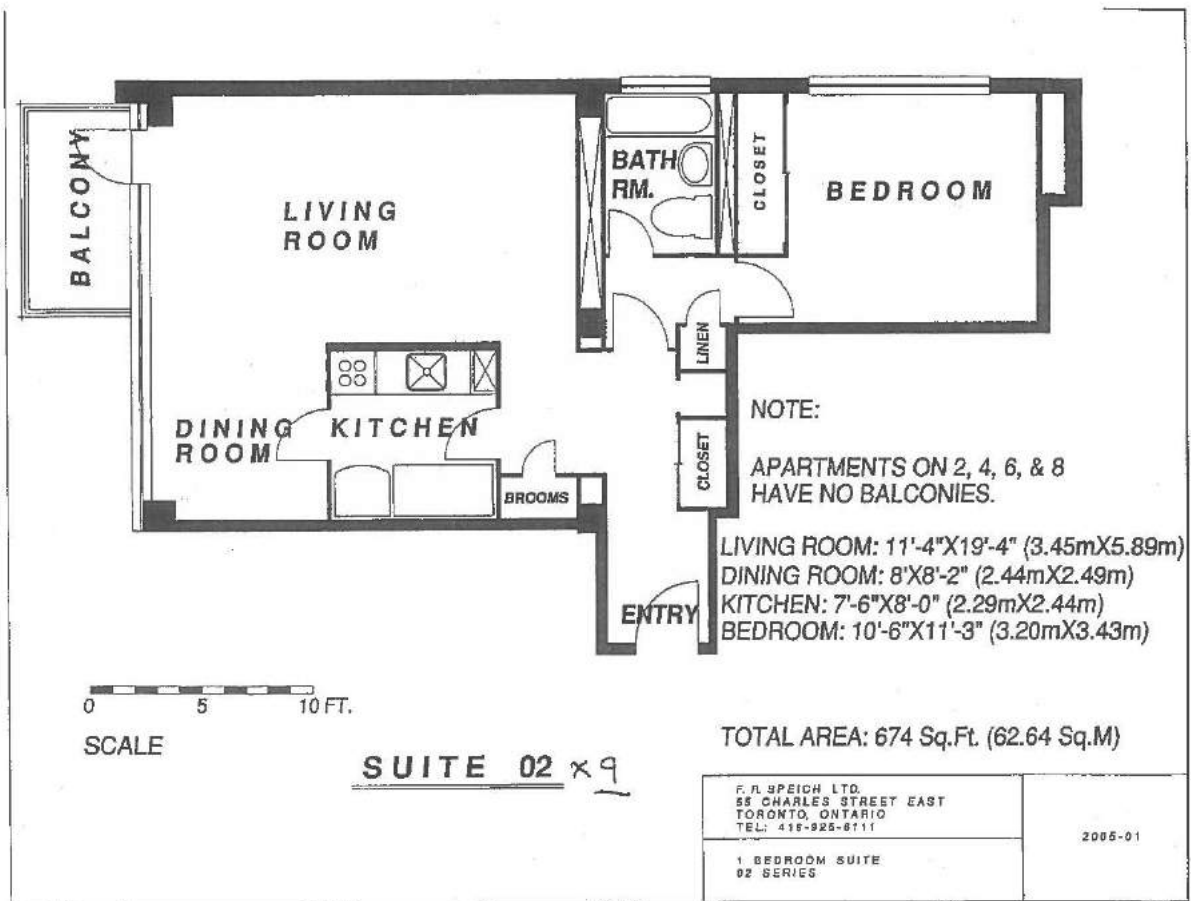
A P P E N D I X A

MEASURED DRAWINGS

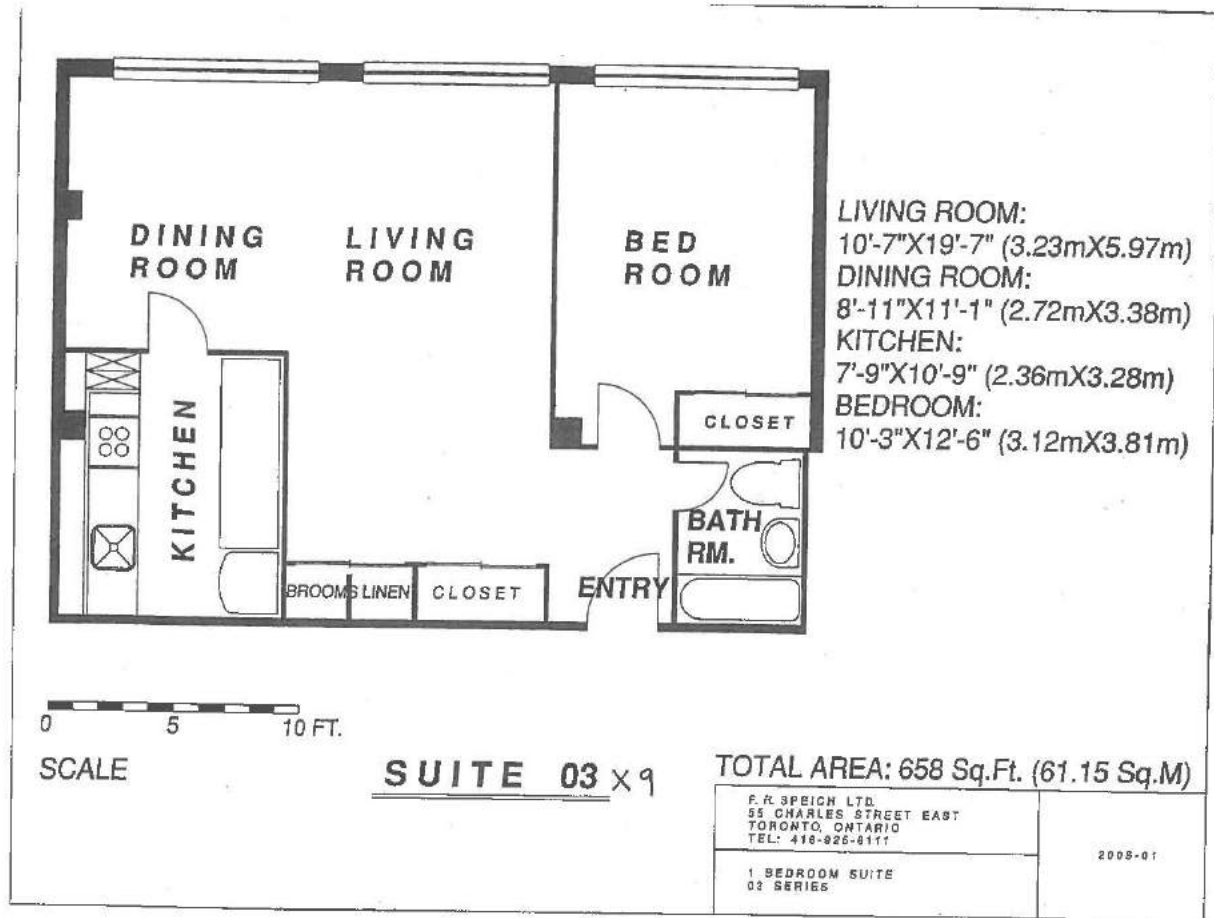
55 CHARLES STREET EAST &
61-63 CHARLES STREET EAST

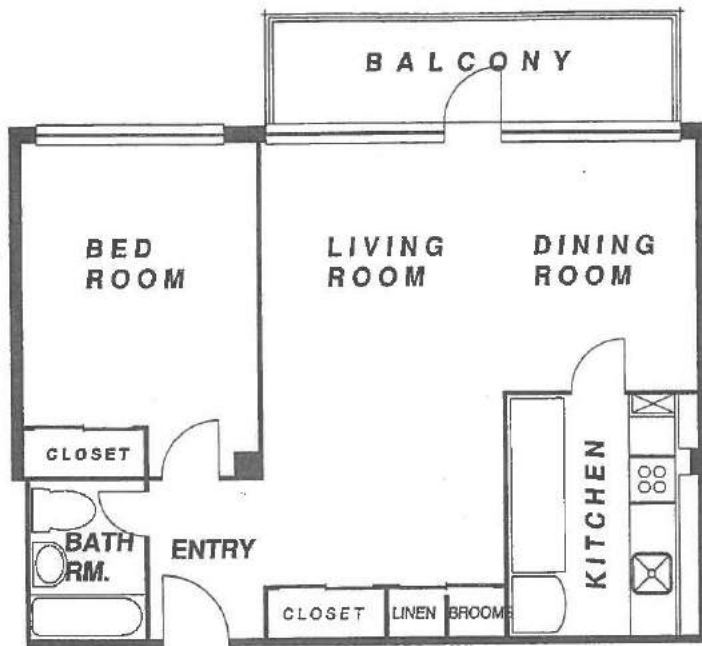
55 CHARLES STREET EAST





55 CHARLES STREET EAST





LIVING ROOM
 10'-7"X19'-7" (3.23mX5.97m)
DINING ROOM:
 8'-6"X11'-1" (2.59mX3.38m)
KITCHEN:
 7'-4"X10'-9" (2.34mX3.28m)
BEDROOM:
 10'-3"X12'-6" (3.12mX3.81m)

0 5 10 FT.

SCALE

TOTAL AREA: 639 Sq.Ft. (59.39 Sq.M.)

SUITE 04 x 9

F. R. SPEICH LTD. 55 CHARLES STREET EAST TORONTO, ONTARIO TEL: 416-925-5111	2005-01
1 BEDROOM SUITE 04 SERIES	

55 CHARLES STREET EAST



LIVING & DINING ROOM:
12'-8"X19'-10" (3.86mX6.05m)
KITCHEN:
6'-1"X7'-8" (1.85mX2.34m)

0 5 10 FT.

SCALE

TOTAL AREA: 408 Sq.Ft. (37.92 Sq.M)

SUITE 05 x 8

F. R. SPEIGH LTD.
55 CHARLES STREET EAST
TORONTO, ONTARIO
TEL: 416-925-4111

2005-01

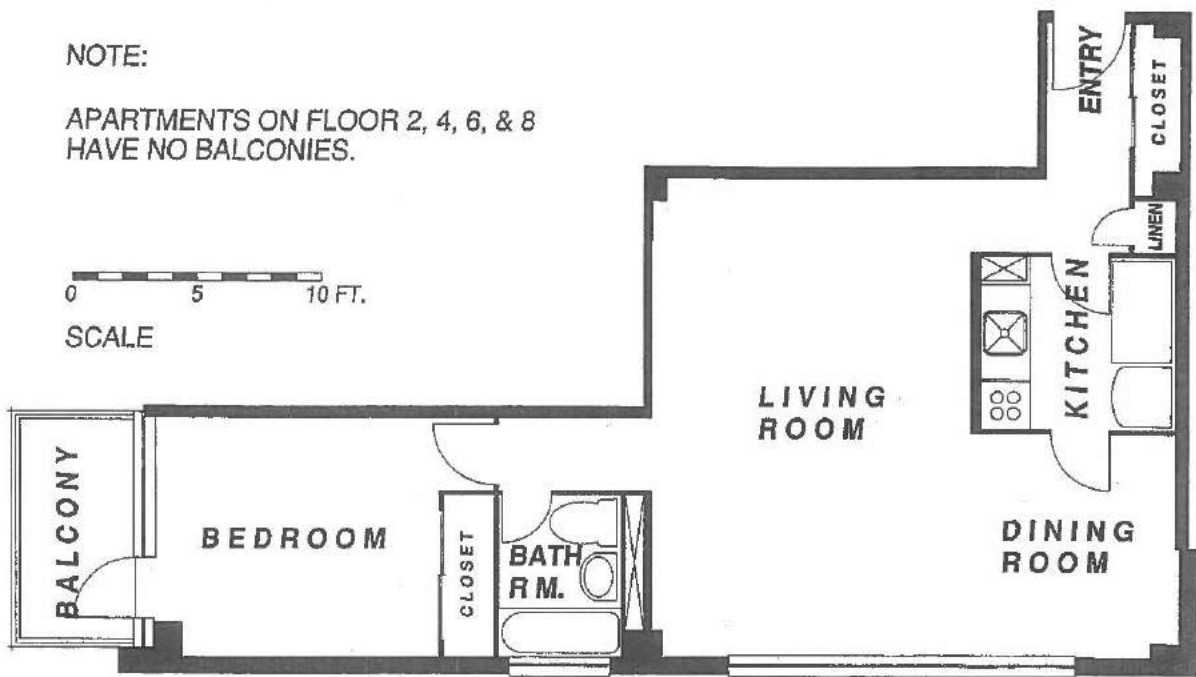
BACHELOR'S SUITE
05 SERIES

NOTE:

APARTMENTS ON FLOOR 2, 4, 6, & 8
HAVE NO BALCONIES.

0 5 10 FT.

SCALE



LIVING ROOM: 12'-10"X19'-8" (3.91mX5.99m)

DINING ROOM: 8'-2"X9'-3" (2.49mX2.82m)

KITCHEN: 7'-2"X7'-9" (2.18mX2.36m)

BEDROOM: 9'-10"X11'-5" (3.00mX3.48m)

TOTAL AREA: 649 Sq.Ft. (60.32 Sq.M)

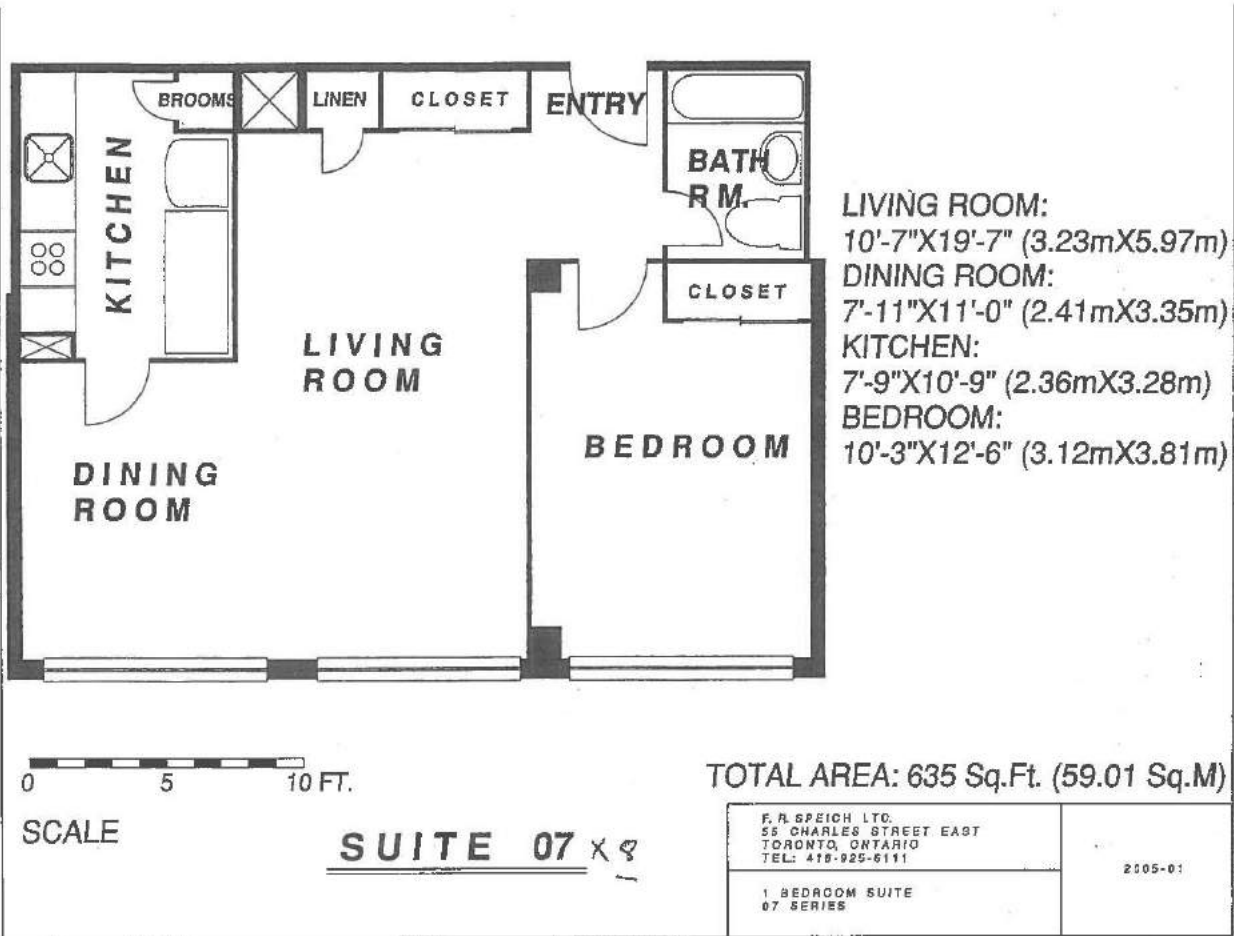
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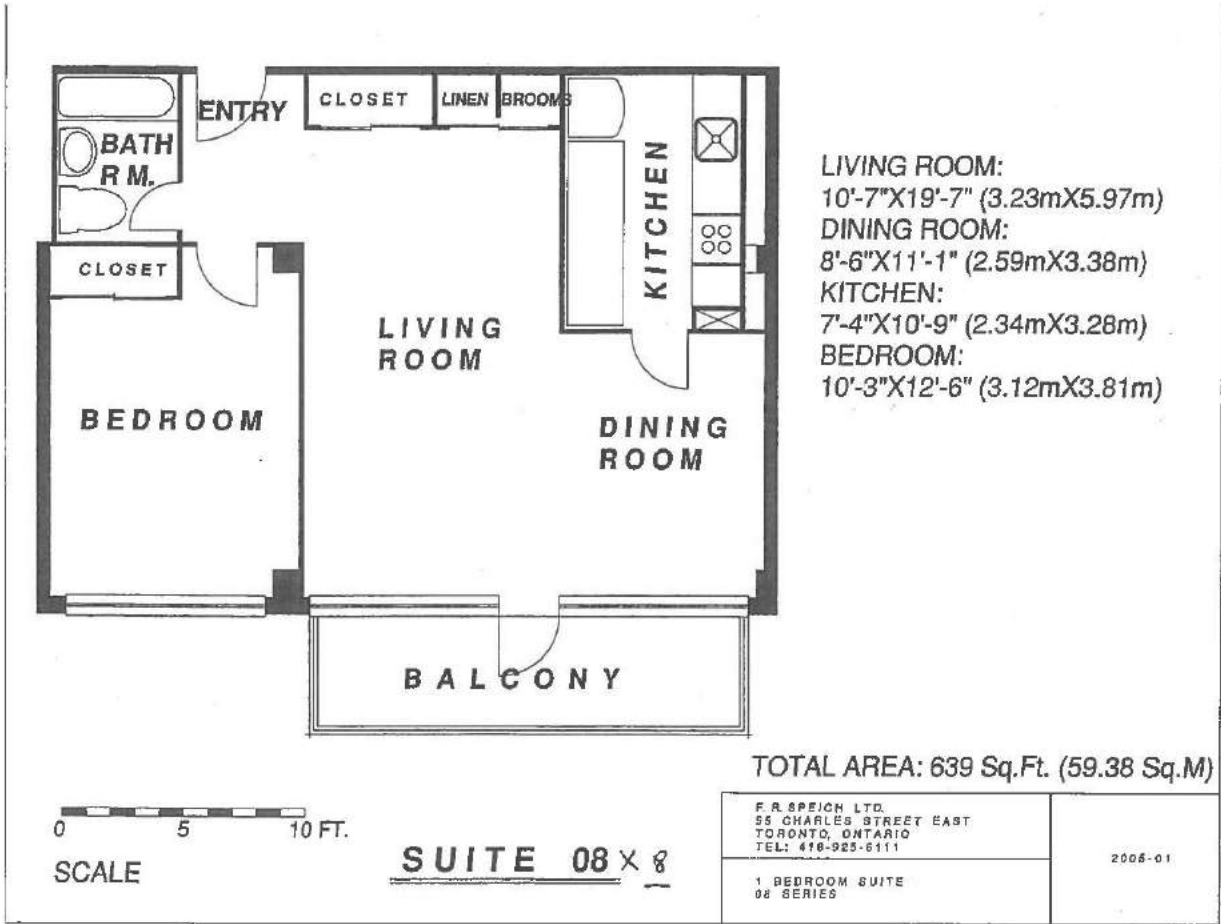
F.R. SPEICH LTD.
55 CHARLES STREET EAST
TORONTO, ONTARIO
TEL: 416-925-8111

1 BEDROOM SUITE
06 SERIES

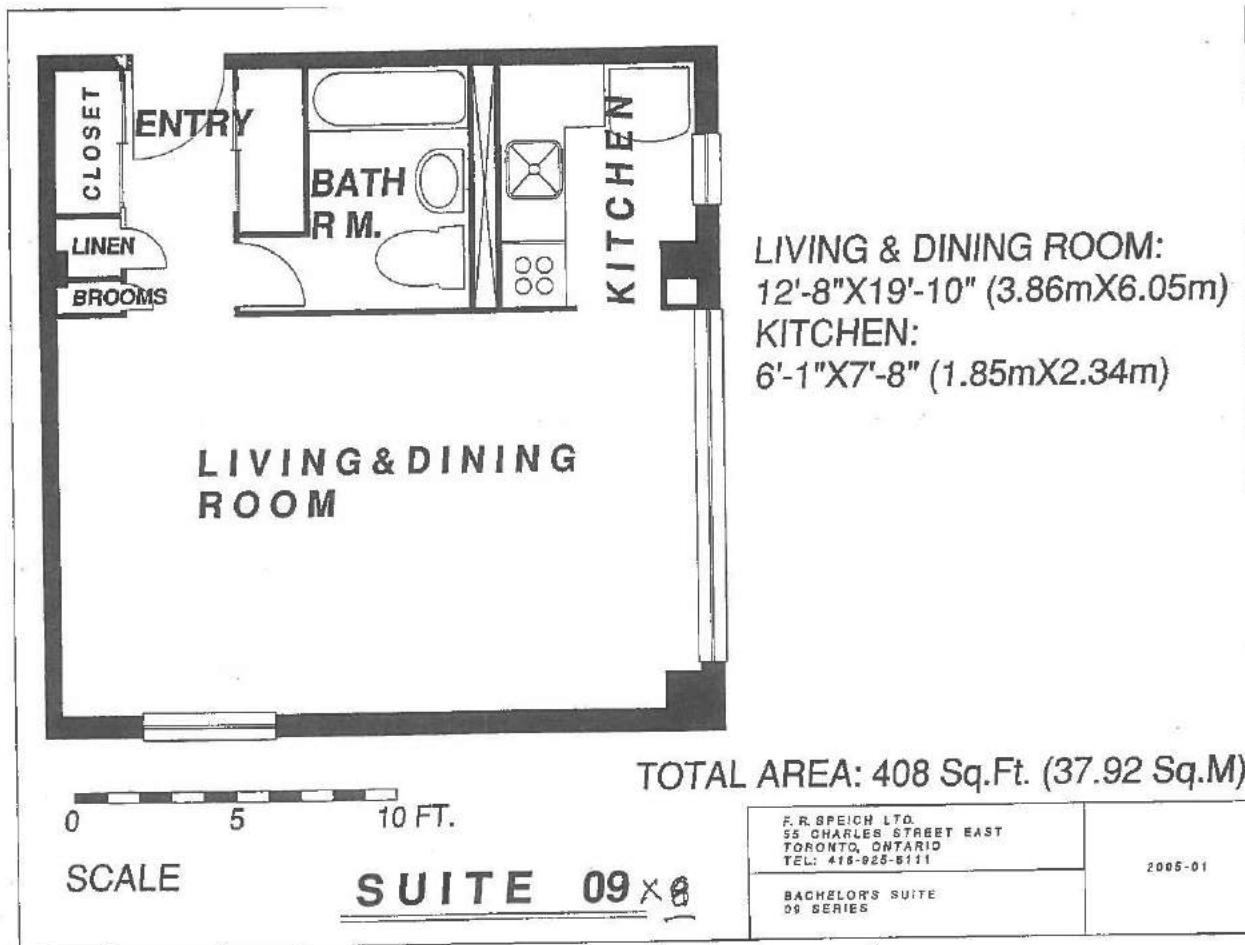
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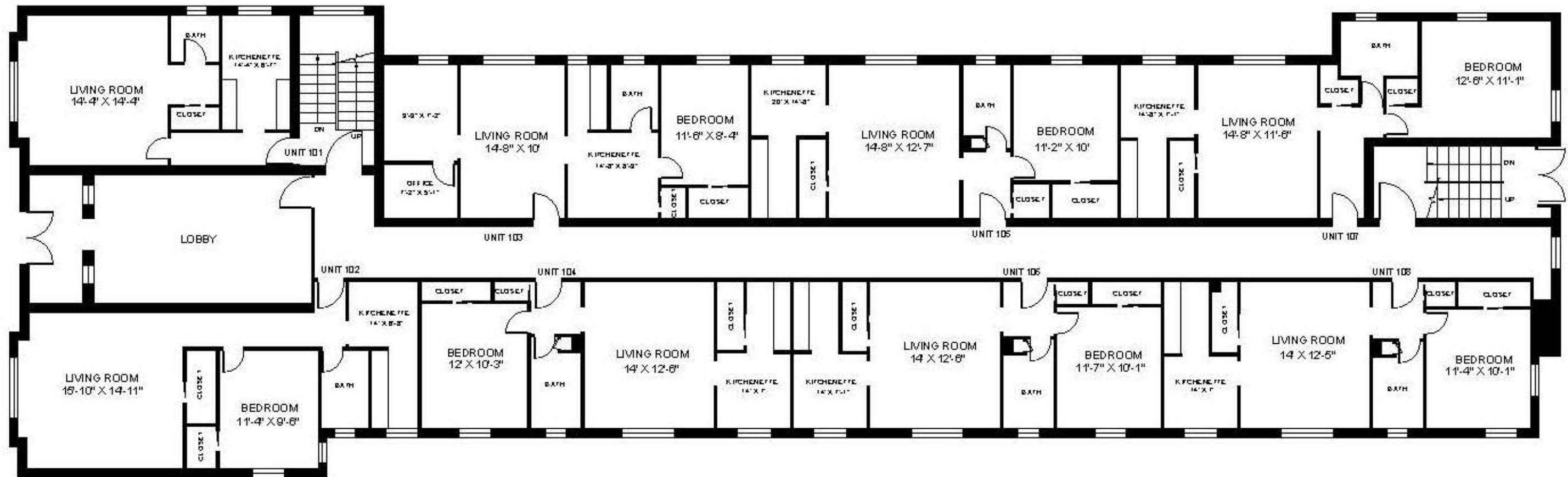
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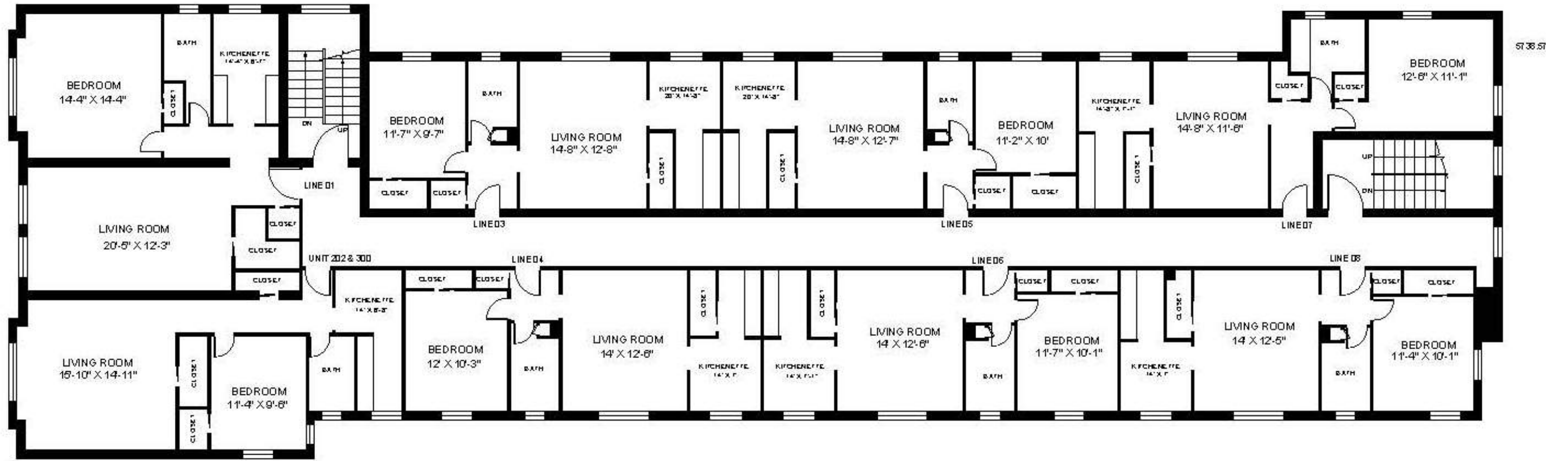




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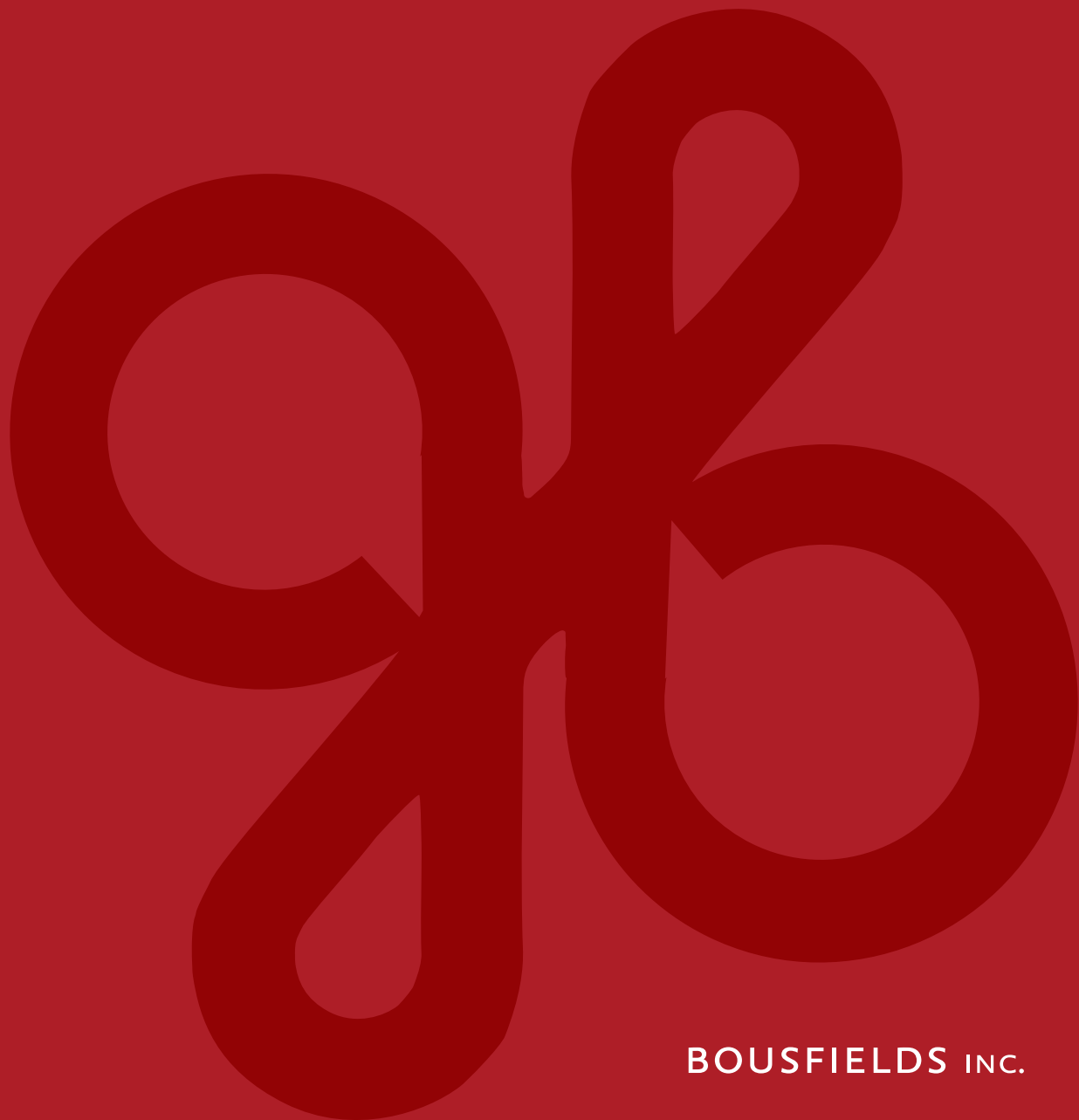






SECOND FLOOR PLAN

N.B.: Measured plans for the third floor of 61-63 Charles Street East are currently in progress and will be submitted under separate cover in the near future.



BOUSFIELDS INC.

Education Act

ONTARIO REGULATION 20/98 EDUCATION DEVELOPMENT CHARGES — GENERAL

Consolidation Period: From November 8, 2019 to the [e-Laws currency date](#).

Last amendment: 371/19.

Legislative History: 151/98, 473/98, 136/00, 95/02, 66/03, 366/10, 162/11, 350/17, 438/18, 55/19, 371/19.

This is the English version of a bilingual regulation.

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PART I INTERPRETATION

DEFINITIONS

1. (1) For the purposes of Division E of Part IX of the Act and in this Regulation, “existing industrial building” means a building used for or in connection with,
- (a) manufacturing, producing, processing, storing or distributing something,
 - (b) research or development in connection with manufacturing, producing or processing something,
 - (c) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production or processing takes place,

- (d) office or administrative purposes, if they are,
 - (i) carried out with respect to manufacturing, producing, processing, storage or distributing of something, and
 - (ii) in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution; (“immeuble industriel existant”)

“gross floor area” means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls; (“surface de plancher hors oeuvre brute”)

“growth-related net education capital cost” means the net education capital cost reasonably attributable to the need for such net education capital cost that is attributed to or will result from development in all or part of the area of jurisdiction of a board and, for the purpose of this definition, “net education capital cost” has the same meaning as in Part III of the *Development Charges Act* as that Act read on January 31, 1998. (“dépense en capital nette à fin scolaire liée à la croissance”) O. Reg. 20/98, s. 1; O. Reg. 136/00, s. 1; O. Reg. 95/02, s. 1 (1).

- (2) References in this Regulation to the “board-determined GFA” are references to,
 - (a) the gross floor area as determined under the applicable education development charge by-law, if the expression “gross floor area” is defined in the by-law; or
 - (b) the gross floor area as defined in subsection (1), if the applicable education development charge by-law does not contain a definition of “gross floor area”. O. Reg. 95/02, s. 1 (2).

EXCLUSION FROM EDUCATION LAND COSTS — EXCESS LAND

2. (1) Costs that are attributable to excess land of a site are prescribed, for the purposes of paragraph 2 of subsection 257.53 (3) of the Act, as costs that are not education land costs. O. Reg. 20/98, s. 2 (1).

(2) Subsection (1) does not apply to costs described in paragraph 5 of subsection 257.53 (2) of the Act. O. Reg. 20/98, s. 2 (2).

- (3) Land is not excess land if it is reasonably necessary,
 - (a) to meet a legal requirement relating to the site; or
 - (b) to allow the facilities for pupil accommodation that the board intends to provide on the site to be located there and to provide access to those facilities. O. Reg. 20/98, s. 2 (3).
- (4) This section does not apply to land,
 - (a) that has already been acquired by the board before February 1, 1998; or
 - (b) in respect of which there is an agreement, entered into before February 1, 1998, under which the board is required to, or has an option to, purchase the land. O. Reg. 20/98, s. 2 (4).

(5) In this section,

“excess land” means the part of a school site that exceeds the maximum area determined, under Table 1 or Table 2 to this section, based on the number of pupils that can be accommodated in the school to be built on the site.

TABLE 1
ELEMENTARY SCHOOLS

Item	Column 1 Number of pupils	Column 2 Maximum area (acres)
1.	1 to 400	4
2.	401 to 500	5
3.	501 to 600	6
4.	601 to 700	7
5.	701 or more	8

TABLE 2
SECONDARY SCHOOLS

Item	Column 1 Number of pupils	Column 2 Maximum area (acres)
1.	1 to 1000	12
2.	1001 to 1100	13
3.	1101 to 1200	14
4.	1201 to 1300	15
5.	1301 to 1400	16
6.	1401 to 1500	17
7.	1501 or more	18

**PART II
EXEMPTIONS**

ADDITIONAL DWELLING UNIT EXEMPTION

3. For the purposes of clause 257.54 (3) (b) of the Act, the following table sets out the name and description of the classes of residential buildings that are prescribed, the maximum number of additional dwelling units that are prescribed for buildings in those classes and the restrictions for each class.

Name of class of residential building	Description of class of residential buildings	Maximum number of additional dwelling units	Restrictions
Single detached dwellings	Residential buildings, each of which contains a single dwelling unit, that are not attached to other buildings.	Two	The total gross floor area of the additional dwelling unit or units must be less than or equal to the gross floor area of the dwelling unit already in the building.
Semi-detached dwellings or row dwellings	Residential buildings, each of which contains a single dwelling unit, that have one or two vertical walls, but no other parts, attached to other buildings.	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the dwelling unit already in the building.
Other residential buildings	A residential building not in another class of residential building described in this table.	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the smallest dwelling unit already in the building.

O. Reg. 20/98, s. 3; O. Reg. 95/02, s. 2.

REPLACEMENT OF DWELLING UNIT EXEMPTION

4. (1) Subject to subsection (2), a board shall exempt an owner with respect to the replacement, on the same site, of a dwelling unit that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it uninhabitable. O. Reg. 20/98, s. 4 (1).

(2) A board is not required to exempt an owner if the building permit for the replacement dwelling unit is issued more than two years after,

- (a) the date the former dwelling unit was destroyed or became uninhabitable; or
- (b) if the former dwelling unit was demolished pursuant to a demolition permit issued before the former dwelling unit was destroyed or became uninhabitable, the date the demolition permit was issued. O. Reg. 20/98, s. 4 (2).

REPLACEMENT OF NON-RESIDENTIAL BUILDING EXEMPTION

5. (1) Subject to subsections (2) and (3), a board shall exempt an owner with respect to the replacement, on the same site, of a non-residential building that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it unusable. O. Reg. 20/98, s. 5 (1).

(2) If the board-determined GFA of the non-residential part of the replacement building exceeds the board-determined GFA of the non-residential part of the building being replaced, the board is only required to exempt the owner with respect to the portion of the education development charge calculated in accordance with the following formula:

$$\text{Exempted portion} = [\text{GFA}(\text{old}) \div \text{GFA}(\text{new})] \times \text{EDC}$$

where,

“Exempted portion” means the portion of the education development charge that the board is required to exempt,

“GFA (old)” means the board-determined GFA of the non-residential part of the building being replaced,

“GFA (new)” means the board-determined GFA of the non-residential part of the replacement building,

“EDC” means the education development charge that would be payable in the absence of the exemption.

O. Reg. 95/02, s. 3.

(3) A board is not required to exempt an owner if the building permit for the replacement building is issued more than five years after,

- (a) the date the former building was destroyed or became unusable; or
- (b) if the former building was demolished pursuant to a demolition permit issued before the former building was destroyed or became unusable, the date the demolition permit was issued. O. Reg. 20/98, s. 5 (3).

(4) This section does not apply with respect to education development charges on residential development. O. Reg. 20/98, s. 5 (4).

TORONTO RAILWAY LANDS EXEMPTION

6. (1) In this section,

“agreement” means the agreement entitled “Development Levy Agreement — Railway Lands Central and West” made as of October 21, 1994 among The Corporation of the City of Toronto, Canadian National Railway Company, CN Transactions Inc., The Board of Education for the City of Toronto, Metropolitan Separate School Board and The Metropolitan Toronto School Board, and registered in the Land Registry Office for the Land Titles Division of Metropolitan Toronto (No. 66) as Instrument No. C920254; (“entente”)

“lands” means the lands described in Schedules A and B to the agreement. (“terrains”) O. Reg. 20/98, s. 6 (1).

(2) A board shall exempt an owner from education development charges on the lands to the extent provided for in the agreement. O. Reg. 20/98, s. 6 (2).

EXEMPTION FOR CERTAIN TYPES OF PROPERTIES

6.1 (1) A board shall exempt an owner from education development charges if one of the following conditions is satisfied:

1. Subject to subsection (2), the development would construct, erect or place a building or structure, or make an addition or alteration to a building or structure for one of the following purposes:
 - i. A private school.
 - ii. A long-term care home, as defined in the *Long-Term Care Homes Act, 2007*.
 - iii. A retirement home, as defined in the *Retirement Homes Act, 2010*.
 - iv. A hospice or other facility that provides palliative care services.
 - v. A child care centre, as defined in the *Child Care and Early Years Act, 2014*.
 - vi. A memorial home, clubhouse or athletic grounds owned by the Royal Canadian Legion.
2. The owner is a college of applied arts and technology established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*.
3. The owner is a university that receives regular and ongoing operating funds from the Government of Ontario for the purposes of post-secondary education.
4. The owner is an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*. O. Reg. 371/19, s. 1.

(2) If only a portion of a building or structure, or an addition or alteration to a building or structure, referred to in paragraph 1 of subsection (1) will be used for a purpose identified in that paragraph, only that portion of the building, structure, addition or alteration is exempt from an education development charge. O. Reg. 371/19, s. 1.

PART III DETERMINATION OF CHARGES AND PASSAGE OF BY-LAW

DETERMINATION OF EDUCATION DEVELOPMENT CHARGES

7. (1) Before an education development charge by-law is passed, the board shall do the following for the purposes of determining the education development charges:

1. The board shall estimate the number of new dwelling units in the area in which the charges are to be imposed for each of the years, for a period chosen by the board of up to 15 years, immediately following the day the board intends to have the by-law come into force. The board’s estimate shall include only new dwelling units in respect of which education development charges may be imposed.
2. The board shall identify different types of new dwelling units and estimate, for each type, the average number of new school pupils generated by each new dwelling unit who will attend schools of the board.
3. For each of the years referred to in paragraph 1, the board shall estimate the total number of new school pupils using the estimated number of new dwelling units and the estimated average number of new school pupils generated by each new dwelling unit and, subtracting from that number, the number of existing school pupil places that, in the opinion of the board and subject to the Minister’s approval under section 10, could reasonably be used to accommodate those new school pupils.
- 3.1 The board shall estimate the total number of new school pupils who were or who are, for each of the years referred to in paragraph 1, expected to be generated by new dwelling units that were, since the coming into force of the currently in force or, subject to subsection (2), the most recently expired by-law, as the case may be, built in the area in which the charges are to be imposed under the proposed by-law.

- 3.2 The board shall determine the number of existing and planned school pupil places that, in the opinion of the board and subject to the Minister's approval under section 10, could reasonably be used to accommodate the estimated total number of new school pupils referred to in paragraph 3.1.
- 3.3 The board shall subtract the number determined under paragraph 3.2 from the number estimated under paragraph 3.1.
- 3.4 The board shall add the number determined under paragraph 3.3 to the number estimated under paragraph 3.
4. The board shall estimate the net education land cost for the school sites required to provide pupil places for the number of new school pupils determined under paragraph 3.4.
5. The board shall estimate the balance of the education development charge account, if any, relating to the area in which the charges are to be imposed. The estimate shall be an estimate of the balance immediately before the day the board intends to have the by-law come into force.
6. The board shall adjust the net education land cost with respect to any balance estimated under paragraph 5. If the balance is positive, the balance shall be subtracted from the cost. If the balance is negative, the balance shall be converted to a positive number and added to the cost.
7. The net education land cost as adjusted, if necessary, under paragraph 6, is the growth-related net education land cost.
8. The board shall choose the percentage of the growth-related net education land cost that is to be funded by charges on residential development and the percentage, if any, that is to be funded by charges on non-residential development. The percentage that is to be funded by charges on non-residential development shall not exceed 40 per cent.
9. The board shall determine the charges on residential development subject to the following:
 - i. The charges shall be expressed as a rate per new dwelling unit.
 - ii. The rate shall be the same throughout the area in which charges are to be imposed under the by-law.
 - iii. The rate shall be an amount that does not exceed the maximum rate, which is determined for each year of the proposed by-law by taking the lesser of,
 - A. the rate that, if applied over the period referred to in paragraph 1 to the estimated residential development in the area to which the by-law would apply and for which charges may be imposed, would not exceed the percentage of the forecasted growth-related net education land cost that is to be funded by charges on residential development, and
 - B. the rate determined under paragraph 9.1.
- 9.1 The rate referred to in sub-subparagraph 9 iii B shall be determined as follows:
 - i. In respect of the first year of the by-law, take the greater of,
 - A. the product of 1.05 and,
 1. if a by-law is currently in force, the residential rate set out in that by-law that would apply, on the day immediately before the day the proposed by-law would come into force, to the area to which the proposed by-law would apply,
 2. if a by-law is not currently in force, the residential rate set out in the most recent by-law that would have applied, on the day that by-law expired, to the area to which the proposed by-law would apply, or
 3. zero, if a by-law has never applied to the area to which the proposed by-law would apply, and
 - B. the sum of \$300 and,
 1. if a by-law is currently in force, the residential rate set out in that by-law that would apply, on the day immediately before the day the proposed by-law would come into force, to the area to which the proposed by-law would apply,
 2. if a by-law is not currently in force, the residential rate set out in the most recent by-law that would have applied, on the day that by-law expired, to the area to which the proposed by-law would apply, or
 3. zero, if a by-law has never applied to the area to which the proposed by-law would apply.
 - ii. In respect of the second year of the by-law and each subsequent year, if applicable, take the greater of,
 - A. the product of 1.05 and the residential rate determined under subparagraph 9 iii in respect of the previous year of the by-law, and
 - B. the sum of \$300 and the residential rate determined under subparagraph 9 iii in respect of the previous year of the by-law.
10. Despite paragraph 9, if the board intends to impose different charges on different types of residential development, the board shall determine,

- i. the percentage of the growth-related net education land cost to be funded by charges on residential development that is to be funded by each type of residential development, and
 - ii. the charges on each type of residential development, subject to the rules in subparagraphs 9 i, ii and iii.
11. If the charges are to be imposed on non-residential development, the board shall determine the charges, which shall be expressed as a rate to be applied to the board-determined GFA of the development and shall satisfy the following requirements:
- i. The rate shall be the same throughout the area in which charges are to be imposed under the by-law.
 - ii. The rate shall be a rate determined such that it does not exceed the maximum rate, which is determined for each year of the proposed by-law by taking the lesser of,
 - A. the rate that, if applied over the period referred to in paragraph 1 to the estimated non-residential development in the area to which the by-law would apply and for which charges may be imposed, would not exceed the percentage of the forecasted growth-related net education land cost that is to be funded by charges on non-residential development, and
 - B. the rate determined under paragraph 12.
12. A rate referred to in sub-subparagraph 11 ii B shall be determined as follows:
- i. In respect of the first year of the by-law, take the greater of,
 - A. the product of 1.05 and,
 - 1. if a by-law is currently in force, the non-residential rate set out in that by-law that would apply, on the day immediately before the day the proposed by-law would come into force, to the area to which the proposed by-law would apply,
 - 2. if a by-law is not currently in force, the non-residential rate set out in the most recent by-law that would have applied, on the day that by-law expired, to the area to which the proposed by-law would apply, or
 - 3. zero if a by-law has never applied to the area to which the proposed by-law would apply, and
 - B. the sum of \$0.10 and,
 - 1. if a by-law is currently in force, the non-residential rate set out in that by-law per square foot that would apply, on the day immediately before the day the proposed by-law would come into force, to the area to which the proposed by-law would apply,
 - 2. if a by-law is not currently in force, the non-residential rate set out in the most recent by-law per square foot that would have applied, on the day that the by-law expired, to the area to which the proposed by-law would apply, or
 - 3. zero if a by-law has never applied to the area to which the proposed by-law would apply, and
 - ii. In respect of the second year of the by-law and each subsequent year, if applicable, take the greater of,
 - A. the product of 1.05 and the non-residential rate determined under subparagraph 11 ii in respect of the previous year of the by-law, and
 - B. the sum of \$0.10 and the non-residential rate determined under subparagraph 11 ii in respect of the previous year of the by-law. O. Reg. 438/18, s. 1; O. Reg. 55/19, s. 1; O. Reg. 371/19, s. 2 (1-6).
- (2) For the purposes of estimating the number of new school pupils under paragraph 3.1 of subsection (1), the board shall only consider the most recently expired by-law if that by-law came into force no more than six years before the day the board intends to have the proposed by-law come into force. O. Reg. 371/19, s. 2 (7).
- (3) For the purposes of determining the rate under subparagraphs 9.1 i and 12 i of subsection (1),
- (a) if, with respect to the area to which the proposed by-law would apply, the area is currently the subject of more than one in force by-law, more than one expired by-law, or a combination of the two, the board shall use the lower of the rates set out in those by-laws; and
 - (b) if, with respect to the area to which the proposed by-law would apply, part of the area is currently the subject of an in force or expired by-law and part of the area is not the subject of any in force or expired by-laws, the board shall use zero. O. Reg. 371/19, s. 2 (7).

ALTERNATIVE PROJECTS — NOTICE

8. (1) For the purposes of subsection 257.53.1 (3) of the Act, the prescribed time period within which the board must provide notice to the Minister is at least 60 days prior to the day the board makes any changes to an alternative project or a proposed allocation of revenue approved under subsection 257.53.1 (2). O. Reg. 371/19, s. 3.

(2) For the purposes of subsection 257.53.1 (4) of the Act, the prescribed time period within which the Minister must notify the board that a proposed change shall not be made is not more than 60 days from the day the notice referred to in subsection (1) of this section is provided. O. Reg. 371/19, s. 3.

BACKGROUND STUDY CONTENTS

9. The following information is prescribed, for the purposes of clause 257.61 (2) (d) of the Act, as information that must be included in the education development charge background study relating to an education development charge by-law:

1. The following estimates that the board intends to use in determining the education development charges:
 - i. The board's estimates under paragraph 1 of section 7, for each of the years for which estimates are made, of the number of new dwelling units in the area in which the charges are to be imposed.
 - ii. The board's estimates under paragraph 2 of section 7, for each type of new dwelling unit identified by the board, of the average number of new school pupils generated by each new dwelling unit who will attend schools of the board.
 - iii. The board's estimates under paragraph 3 of section 7, for each of the years for which estimates are made, of the total number of new school pupils, without the adjustments set out in that paragraph being made and with the adjustments set out in that paragraph being made.
2. For each school site, the net education land cost of which the board intends to include in its estimation under paragraph 4 of section 7,
 - i. the location of the site,
 - ii. the area of the site,
 - iii. the estimated education land costs of the site, and
 - iv. the number of pupil places the board estimates will be provided by the school to be built on the site and the number of those pupil places that the board estimates will be used to accommodate the number of new school pupils estimated under paragraph 3 of section 7. O. Reg. 438/18, s. 2.

CONDITIONS OF PASSAGE OF BY-LAW

10. The following conditions are prescribed, for the purposes of subsection 257.54 (6) of the Act, as conditions that must be satisfied in order for a board to pass an education development charge by-law:

1. The Minister has approved,
 - i. the board's estimates under paragraph 3 of section 7, for each of the years required under that paragraph, of the total number of new school pupils, and the number of existing school pupil places that could reasonably be used to accommodate those new school pupils,
 - i.1 the board's estimates under paragraph 3.1 of subsection 7 (1), for each of the years required under that paragraph,
 - i.2 the board's estimates of existing and planned school pupil places under paragraph 3.2 of subsection 7 (1), and
 - ii. the board's estimates of the number of school sites used by the board to determine the net education land cost under paragraph 4 of section 7.
2. At least one of the following conditions:
 - i. The estimated average number of elementary school pupils of the board over the five years immediately following the day the board intends to have the by-law come into force exceeds the total capacity of the board to accommodate elementary school pupils throughout its jurisdiction on the day the by-law is passed.
 - ii. The estimated average number of secondary school pupils of the board over the five years immediately following the day the board intends to have the by-law come into force exceeds the total capacity of the board to accommodate secondary school pupils throughout its jurisdiction on the day the by-law is passed.
 - iii. At the time of expiry of the board's last education development charge by-law that applies to all or part of the area in which the charges would be imposed, the balance in the education development charge account is less than the amount required to pay outstanding commitments to meet growth-related net education land costs, as calculated for the purposes of determining the education development charges imposed under that by-law.
3. The board has given a copy of the education development charge background study relating to the by-law to the Minister and to each board having jurisdiction within the area to which the by-law would apply.
4. REVOKED: O. Reg. 371/19, s. 4 (3).
5. The board provides information related to the background study or the calculation of education development charges under section 7, if the Minister requests such information after reviewing the background study submitted under paragraph 3. O. Reg. 438/18, s. 2; O. Reg. 371/19, s. 4.

NOTICE OF PUBLIC MEETING

11. (1) The notice of the public meeting the board is required to give under clause 257.63 (1) (b) of the Act shall be given in one of the following ways and in accordance with subsection (3):

1. To every owner of land in the area to which the proposed by-law would apply, by personal service, electronic mail or mail.
2. By publication in a newspaper that is, in the secretary of the board's opinion, of sufficiently general circulation in the area to which the proposed by-law would apply to give the public reasonable notice of the meeting. O. Reg. 20/98, s. 11 (1); O. Reg. 371/19, s. 5 (1, 2).

(2) For the purposes of paragraph 1 of subsection (1), the owners are the owners shown on the last revised assessment roll, subject to any written notice of a change of ownership of land the secretary of the board may have received. A notice given by mail to an owner shall be mailed to the address shown on the last revised assessment roll or, if applicable, to the address shown on the notice of a change of ownership of land received by the secretary of the board. O. Reg. 20/98, s. 11 (2).

(3) The notice referred to in subsection (1) shall be posted on the board's website and contain the location, date and time of the public meeting. O. Reg. 371/19, s. 5 (3).

NOTICE OF BY-LAW

12. (1) This section applies to the notices relating to the passage of an education development charge by-law that the secretary of a board is required to give under section 257.64 of the Act. O. Reg. 20/98, s. 12 (1).

(2) Notice shall be given in one of the following ways:

1. By personal service, electronic mail or mail to every owner of land in the area to which the by-law applies.
2. By publication in a newspaper that is, in the secretary of the board's opinion, of sufficiently general circulation in the area to which the by-law applies to give the public reasonable notice of the by-law. O. Reg. 20/98, s. 12 (2); O. Reg. 371/19, s. 6 (1).

(3) Subsection 11 (2) applies, with necessary modifications, for the purposes of paragraph 1 of subsection (2). O. Reg. 20/98, s. 12 (3).

(4) In addition to the notice under subsection (2), notice shall be given, by personal service, electronic mail or mail, to the following:

1. Every person and organization that has given the secretary of the board a written request for notice of the passing of the by-law and has provided a return address.
2. The Minister.
3. Unless notice is given under paragraph 2 of subsection (2),
 - i. the clerk of every municipality having jurisdiction within the area to which the by-law applies, and
 - ii. the secretary of every board having jurisdiction within the area to which the by-law applies. O. Reg. 20/98, s. 12 (4); O. Reg. 371/19, s. 6 (2).

(5) Each notice shall set out the following:

1. A statement that the board has passed an education development charge by-law.
2. A statement setting out when the by-law was passed and what its number is.
3. A statement that any person or organization may appeal the by-law to the Ontario Municipal Board under section 257.65 of the Act by filing with the secretary of the board a notice of appeal setting out the objection to the by-law and the reasons supporting the objection.
4. A statement setting out what the last day for appealing the by-law is.
5. An explanation of the education development charges imposed by the by-law on residential development and non-residential development.
6. A description of the lands to which the by-law applies.
7. A key map showing the lands to which the by-law applies or an explanation of why a key map is not provided.
8. An explanation of where and when persons may examine a copy of the by-law.
9. A statement that notice of a proposed by-law amending the education development charge by-law or the passage of such an amending by-law is not required to be given to any person or organization, other than to certain clerks of municipalities or secretaries of school boards, unless the person or organization gives the secretary of the board a written request for notice of any amendments to the education development charge by-law and has provided a return address. O. Reg. 20/98, s. 12 (5).

**PART IV
AMENDMENT TO BY-LAW**

RE-DETERMINATION OF EDUCATION DEVELOPMENT CHARGES

13. If a proposed amendment to an education development charge by-law would change a rate used to determine the amount of an education development charge, section 7 applies with necessary modifications before the by-law to make the amendment is passed. O. Reg. 95/02, s. 6.

NOTICE OF PROPOSED AMENDMENT TO BY-LAW

14. (1) This section applies to the notices relating to a proposed by-law amending an education development charge by-law that a board is required to give under section 257.72 of the Act. O. Reg. 20/98, s. 14 (1).

(2) Notice shall be given to the following:

1. Every person and organization that has given the secretary of the board a written request for notice of any amendments to the education development charge by-law and has provided a return address.
2. The clerk of every municipality having jurisdiction within the area to which the education development charge by-law applies.
3. The secretary of every board having jurisdiction within the area to which the education development charge by-law, as amended, applies.
4. The Minister. O. Reg. 20/98, s. 14 (2); O. Reg. 438/18, s. 3.

(3) Notice to a person or organization described in paragraph 1, 2 or 3 of subsection (2) shall be given by personal service, electronic mail or mail. O. Reg. 371/19, s. 7.

(4) The information required under subsection (5) to be set out in the notice shall be posted on the board's website. O. Reg. 371/19, s. 7.

(5) Each notice shall set out the following:

1. A statement that the board proposes to amend the education development charge by-law.
2. An explanation of the education development charges imposed by the education development charge by-law on residential development and non-residential development.
3. An explanation of the proposed amending by-law.
4. A description of the lands to which the education development charge by-law applies.
5. A key map showing the lands to which the education development charge by-law applies or an explanation of why a key map is not provided.
6. If the lands to which the education development charge by-law would apply will be different if the proposed amending by-law is passed, a description of the lands to which the education development charge by-law, as amended, would apply and a key map showing those lands or an explanation of why a key map is not provided.
7. An explanation of where and when persons may examine a copy of the proposed amending by-law. O. Reg. 20/98, s. 14 (5).

NOTICE OF THE PASSAGE OF AMENDING BY-LAW

15. (1) This section applies to the notices relating to the passage of a by-law amending an education development charge by-law that the secretary of a board is required to give under section 257.73 of the Act. O. Reg. 20/98, s. 15 (1).

(2) Notice shall be given to the following:

1. Every person and organization that has given the secretary of the board a written request for notice of any amendments to the education development charge by-law and has provided a return address.
2. The Minister.
3. The clerk of every municipality having jurisdiction within the area to which the education development charge by-law, as amended, applies.
4. The secretary of every board having jurisdiction within the area to which the education development charge by-law, as amended, applies. O. Reg. 20/98, s. 15 (2).

(3) Notice to a person or organization described in paragraph 1, 2, 3 or 4 of subsection (2) shall be given by personal service, electronic mail or mail. O. Reg. 371/19, s. 8.

(4) The information required under subsection (5) to be set out in the notice shall be posted on the board's website. O. Reg. 371/19, s. 8.

(5) Each notice shall set out the following:

1. A statement that the board has passed a by-law amending the education development charge by-law.
2. A statement setting out when the amending by-law was passed and what its number is.
3. A statement that any person or organization may appeal the amending by-law to the Ontario Municipal Board under section 257.74 of the Act by filing with the secretary of the board a notice of appeal setting out the objection to the amending by-law and the reasons supporting the objection.
4. A statement setting out what the last day for appealing the amending by-law is.
5. A statement that an appeal may not raise an issue that could have been raised in an appeal of the education development charge by-law under section 257.65 of the Act. O. Reg. 20/98, s. 15 (5).

PART V MISCELLANEOUS

EDUCATION DEVELOPMENT CHARGE ACCOUNT

16. (1) A board shall, under section 257.82 of the Act, establish an education development charge account for the area to which an education development charge by-law applies. O. Reg. 20/98, s. 16 (1); O. Reg. 366/10, s. 4 (1).

(2) Money from an education development charge account established under subsection (1) may be used only,

- (a) for growth-related net education land costs attributed to or resulting from development in the area to which the education development charge by-law applies;
- (a.1) for alternative projects for which the allocation of revenue raised by education development charges has been approved by the Minister under section 257.53.1 of the Act;
- (b) as provided for under subsection 241 (1) or section 257.99 of the Act;
- (c) REVOKED: O. Reg. 371/19, s. 9 (2).
- (d) to pay the service charges of a financial institution relating to the account; or
- (e) if an education development charge has been paid but the building permit for the development is revoked, to refund the education development charge plus interest at a rate not exceeding the rate prescribed under section 18. O. Reg. 20/98, s. 16 (2); O. Reg. 473/98, s. 1; O. Reg. 95/02, s. 7; O. Reg. 366/10, s. 4 (2, 3); O. Reg. 162/11, s. 1; O. Reg. 371/19, s. 9.

16.1 (1) If paragraph 4 of section 6.1 of Ontario Regulation 193/10 (Restricted Purpose Revenues) made under the Act applies to the proceeds of a sale, lease or other disposition of real property by a board, the board shall establish an education development charge account. O. Reg. 366/10, s. 5 (1).

(2) Money from an education development charge account established under subsection (1) may be used only to fund costs that meet all of the following criteria:

1. The costs are education land costs.
2. The costs are growth-related net education capital costs.
3. The costs are incurred for the purpose of acquiring land or an interest in land in the region prescribed under clause 257.101 (d) of the Act in which the real property referred to in subsection (1) is located. O. Reg. 473/98, s. 2; O. Reg. 136/00, s. 2; O. Reg. 366/10, s. 5 (2).

EXPIRY OF BY-LAWS — SPECIAL RULE

17. (1) This section governs the expiry of an education development charge by-law of a board (the “new by-law”) if, when the new by-law is passed, an education development charge by-law of another board (an “existing overlapping by-law”) applies to any part of the area to which the new by-law applies. O. Reg. 20/98, s. 17 (1).

(2) The new by-law expires on the earliest of the expiry dates of the existing overlapping by-laws, as they read on the day the new by-law is passed. O. Reg. 20/98, s. 17 (2).

(3) For greater certainty, a by-law continued under section 257.103 of the Act is not an existing overlapping by-law. O. Reg. 20/98, s. 17 (3).

INTEREST

18. (1) The interest rate that shall be paid under subsections 257.69 (3) and 257.90 (2) of the Act and the minimum interest rate that boards shall pay under section 257.99 of the Act is the lowest prime rate reported to the Bank of Canada by any of the banks listed in Schedule I to the *Bank Act* (Canada) at the beginning of the period for which interest is to be paid. O. Reg. 20/98, s. 18.

(2) Despite subsection (1),

- (a) the prescribed interest rate for periods after this subsection comes into force for the purposes of subsections 257.69 (3) and 257.90 (2) of the Act, in respect of refunds in connection with an education development charge by-law, is the rate of interest determined under subsection (3); and
 - (b) the minimum interest rate that a board shall pay for the purposes of section 257.99 of the Act in respect of an amount borrowed from an education development charge account established in connection with an education development charge by-law that is made after the day this subsection comes into force is the rate of interest determined under subsection (3). O. Reg. 95/02, s. 8; O. Reg. 366/10, s. 6.
- (3) For the purposes of subsection (2), the rate of interest in respect of amounts payable in connection with an education development charge by-law is,
- (a) the Bank of Canada rate on the day the by-law comes into force; or
 - (b) the Bank of Canada rate on the day the by-law comes into force, as adjusted to the current Bank of Canada rate on the first day of every following January, April, July and October, if the by-law authorizes the adjustments. O. Reg. 95/02, s. 8.

REGIONS

19. (1) The area of the jurisdiction of a board is divided into regions for the purposes of section 257.57 of the Act in accordance with the following:

- 1. The part of the jurisdiction that is in the area described in an item of the Schedule to this Regulation is a region.
- 2. The part of the jurisdiction that is not in any area described in an item of the Schedule to this Regulation is a region. O. Reg. 20/98, s. 19 (1).

(2) A reference in the Schedule to an upper-tier municipality or to a local municipality shall be read as a reference to the geographic area that is under the jurisdiction of the municipality on January 1, 2002, unless otherwise stated in the Schedule. O. Reg. 95/02, s. 9.

(3) In this section and the Schedule,

“local municipality” means a single-tier municipality or a lower-tier municipality; (“municipalité locale”).

“upper-tier municipality” means a municipality of which two or more lower-tier municipalities form part for municipal purposes. (“municipalité de palier supérieur”) O. Reg. 95/02, s. 9.

(4) In subsection (3),

“lower-tier municipality” means a municipality that forms part of an upper-tier municipality for municipal purposes; (“municipalité de palier inférieur”)

“municipality” means a geographic area whose inhabitants are incorporated; (“municipalité”)

“single-tier municipality” means a municipality, other than an upper-tier municipality, that does not form part of an upper-tier municipality for municipal purposes. (“municipalité à palier unique”) O. Reg. 95/02, s. 9.

MONTHLY REPORTS

20. (1) The following information, as it relates to land in the municipality, is prescribed as information to be included in a monthly report under section 257.97 of the Act:

- 1. The total education development charges that are collected in respect of residential development.
- 2. The number of building permits, for each type of new dwelling unit the board identified under paragraph 2 of section 7, in respect of which education development charges were imposed.
- 3. The location of the lands to which the building permits described in paragraph 2 pertained.
- 4. The total education development charges collected in respect of non-residential development.
- 5. The number of building permits issued for non-residential development in respect of which an education development charge is imposed by the board.
- 6. The total board-determined GFA of the non-residential development in respect of which education development charges, determined using a rate applied to the board-determined GFA of the development, are imposed by the board. The total board-determined GFA shall not include the gross floor area of a development with respect to which subsection 257.55 (3) of the Act applies or the board-determined GFA to which subsection 5 (2) of this Regulation applies.
- 7. The total declared value, if applicable, of the non-residential development in respect of which education development charges, determined using a rate applied to the declared value of the development, are imposed by the board. The total declared value shall not include the declared value of a development with respect to which subsection 257.55 (3) of the Act or subsection 5 (2) of this Regulation applies.

8. For each development with respect to which subsection 257.55 (3) of the Act applies and in respect of which education development charges are imposed by the board,
 - i. the gross floor area of the existing building,
 - ii. the gross floor area of the enlargement, and
 - iii. if the education development charges are determined using a rate applied to the declared value of the development, the declared value upon which the charges for the development are determined.
 9. For each development with respect to which subsection 5 (2) of this Regulation applies and in respect of which education development charges are imposed by the board,
 - i. the board-determined GFA of the non-residential part of the building being replaced,
 - ii. the board-determined GFA of the non-residential part of the replacement building, and
 - iii. if the education development charges are determined using a rate applied to the declared value of the development, the declared value upon which the charges for the development are determined.
 10. The number of building permits issued for residential development in an area to which the education development charge by-law applies in respect of which no education development charge is imposed.
 11. The number of building permits issued for non-residential development in an area to which the education development charge by-law applies in respect of which no education development charge is imposed. O. Reg. 20/98, s. 20 (1); O. Reg. 95/02, s. 10; O. Reg. 371/19, s. 10.
- (2) The report shall cover the period,
 - (a) beginning at the end of the period covered by the previous report by the municipality or, if there was no previous report, beginning on the first day that an education development charge by-law of the board applied to land in the municipality;
 - (b) ending at the end of the 25th day of the month before the month in which the report is due. O. Reg. 20/98, s. 20 (2).

INFORMATION EXPLAINING BY-LAW

- 21.** (1) For each education development charge by-law, a board shall post on its website,
 - (a) a description of the general purpose for which the education development charges under the by-law are being imposed; and
 - (b) the rules for determining if an education development charge is payable in a particular case and for determining the amount of the charge. O. Reg. 20/98, s. 21 (1); O. Reg. 371/19, s. 11 (2).
- (2) The board shall post the information referred to in subsection (1) on its website,
 - (a) if the by-law is not appealed to the Ontario Municipal Board, within 60 days after the by-law comes into force;
 - (b) if the by-law is appealed to the Ontario Municipal Board, within 60 days after the Ontario Municipal Board's decision or, if the Ontario Municipal Board orders the board to amend the by-law, within 60 days after the board does so. O. Reg. 20/98, s. 21 (2); O. Reg. 371/19, s. 11 (3).
- (3) If an education development charge by-law is amended, the board shall revise the information on its website as necessary. O. Reg. 20/98, s. 21 (3); O. Reg. 371/19, s. 11 (4).
- (4) If the board is required to revise the information on its website, it shall do so,
 - (a) if the amending by-law is not appealed to the Ontario Municipal Board, within 60 days after the amending by-law comes into force;
 - (b) if the amending by-law is appealed to the Ontario Municipal Board, within 60 days after the Ontario Municipal Board's decision or, if the Ontario Municipal Board orders the board to amend the amending by-law, within 60 days after the board does so. O. Reg. 20/98, s. 21 (4); O. Reg. 371/19, s. 11 (5).
- (5)-(7) REVOKED: O. Reg. 371/19, s. 11 (6).
- (8) A person may reproduce and distribute the pamphlet in any form. O. Reg. 20/98, s. 21 (8).

**PART VI
TRANSITION FROM OLD DEVELOPMENT CHARGES ACT**

SUCCESSOR BOARDS

- 22.** (1) Each board set out in Column 2 of the following table is prescribed as a successor board of the corresponding old board set out in Column 1 for the purposes of Division E of Part IX of the Act.

Item	Column 1	Column 2
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	Old Boards	Successor Boards
1.	The York Region Board of Education	English-language Public District School Board No. 16 Conseil de district des écoles publiques de langue française no 58
2.	The York Region Roman Catholic Separate School Board/Conseil des écoles séparées catholiques de la région de York	English-language Separate District School Board No. 42 Conseil de district des écoles séparées de langue française no 64
3.	The Carleton Board of Education	English-language Public District School Board No. 25
4.	The Carleton Roman Catholic Separate School Board	English-language Separate District School Board No. 53
5.	The Durham Board of Education	English-language Public District School Board No. 13 Conseil de district des écoles publiques de langue française no 58
6.	The Durham Region Roman Catholic Separate School Board/Conseil des écoles séparées catholiques de la région de Durham	English-language Separate District School Board No. 45 Conseil de district des écoles séparées de langue française no 64
7.	The Halton Board of Education	English-language Public District School Board No. 20 Conseil de district des écoles publiques de langue française no 58
8.	The Halton Roman Catholic Separate School Board/Conseil des écoles catholiques de Halton	English-language Separate District School Board No. 46 Conseil de district des écoles séparées de langue française no 64
9.	The Peel Board of Education	English-language Public District School Board No. 19 Conseil de district des écoles publiques de langue française no 58
10.	The Dufferin County Board of Education	English-language Public District School Board No. 18 Conseil de district des écoles publiques de langue française no 58
11.	The Dufferin-Peel Roman Catholic Separate School Board/Conseil des écoles séparées catholiques de Dufferin & Peel	English-language Separate District School Board No. 43 Conseil de district des écoles séparées de langue française no 64
12.	The Wentworth County Board of Education	English-language Public District School Board No. 21 Conseil de district des écoles publiques de langue française no 58
13.	The Hamilton-Wentworth Roman Catholic Separate School Board/Le conseil des écoles séparées catholiques romaines de Hamilton-Wentworth	English-language Separate District School Board No. 47 Conseil de district des écoles séparées de langue française no 64
14.	Le Conseil des écoles publiques d'Ottawa-Carleton	Conseil de district des écoles publiques de langue française no 59
15.	Conseil des écoles catholiques de langue française de la région d'Ottawa-Carleton	Conseil de district des écoles séparées de langue française no 66

O. Reg. 20/98, s. 22.

(2) For the purposes of this Part, the predecessor of a board set out in Column 2 of the table referred to in subsection (1) is the corresponding old board set out in Column 1. O. Reg. 473/98, s. 3.

JOINT EDUCATION DEVELOPMENT CHARGE ACCOUNTS

23. (1) For each joint education development charge account held by old boards set out in column 1 of the table to section 22 on December 31, 1997, the successor boards to the old boards shall establish an education development charge account to be held jointly by the successor boards. O. Reg. 20/98, s. 23 (1).

(2) If, under the old Act, the amounts collected under an education development charge by-law would have been deposited into a joint education development charge account, the amounts paid under the by-law, as continued under section 257.103 of the Act, shall be deposited into the corresponding education development charge account established under subsection (1). O. Reg. 20/98, s. 23 (2).

(3) The *Development Charges Act* and Regulation 268 of the Revised Regulations of Ontario, 1990, as they read on January 31, 1998, continue to apply, with necessary modifications, to money collected by the treasurer of a municipality under an education development charges by-law continued under section 257.103 of the Act and to a joint education development charge account established under subsection (1), subject to the following rules:

1. In addition to the money that a successor board may withdraw under subsection 5 (7) of Regulation 268 of the Revised Regulations of Ontario, 1990 as it read on January 31, 1998 from the account established under subsection (1), the successor board may withdraw from the account an amount that will be applied to costs that meet all of the following criteria:
 - i. The costs are education land costs.
 - ii. The costs are growth-related net education capital costs.
 - iii. The costs are incurred for the purpose of acquiring land or an interest in land in the area to which applied the successor board's predecessor by-law for the account established under subsection (1).
2. Subsection 5 (6) of Regulation 268 of the Revised Regulations of Ontario, 1990 as it read on January 31, 1998 does not apply to withdrawals under paragraph 1.
3. The total amount that may be withdrawn under paragraph 1 by a successor board shall not exceed the amount determined in accordance with the following formula:

$$A \times B \times (D + E + F + G + H + I - J - K - L - M - N - P - Q) / (B + C)$$

where,

- A = the factor set out in Column 3 of the Table to this section opposite the name of the successor board set out in Column 1 and the name of the successor board's predecessor set out in Column 2,
- B = the revenue raised by charges imposed by the successor board's predecessor by-law for the account established under subsection (1),
- C = the revenue raised by charges imposed by the other education development charge by-law under which amounts were deposited into the predecessor account of the account established under subsection (1),
- D = the income earned by the predecessor account of the account established under subsection (1),
- E = the income that has been earned by the account established under subsection (1),
- F = the future income that will be earned by the account established under subsection (1),
- G = the sum of all the amounts that were deposited into the predecessor account of the account established under subsection (1),
- H = the sum of all the amounts that have been deposited by the treasurer of a municipality into the account established under subsection (1),
- I = the sum of all future amounts that will be deposited by the treasurer of a municipality into the account established under subsection (1),
- J = the sum of all the amounts that were withdrawn from the predecessor account of the account established under subsection (1) under subsection 5 (7) of Regulation 268 of the Revised Regulations of Ontario, 1990 as it read on January 31, 1998,
- K = the sum of all the amounts that have been withdrawn from the account established under subsection (1) under subsection 5 (7) of Regulation 268 of the Revised Regulations of Ontario, 1990 as it read on January 31, 1998,
- L = the sum of all future amounts that will be withdrawn from the account established under subsection (1) under subsection 5 (7) of Regulation 268 of the Revised Regulations of Ontario, 1990 as it read on January 31, 1998,
- M = the sum of all future amounts that will be withdrawn under clause (6) (a) from accounts established under paragraph 1 of subsection (4) to which money will be distributed under subsection (5) from the account established under subsection (1),
- N = the sum of all the amounts that were refunded from the predecessor account of the account established under subsection (1), including interest,
- P = the sum of all the amounts that have been refunded from the account established under subsection (1), including interest,
- Q = the sum of all future amounts that will be refunded from the account established under subsection (1), including interest.

O. Reg. 473/98, s. 4 (1); O. Reg. 136/00, s. 3 (1); O. Reg. 366/10, s. 7 (1).

(4) The following rules apply if an education development charge by-law is repealed or expires and amounts paid under the by-law were required, before it was repealed or expired, to be deposited into an education development charge account established under subsection (1):

1. The successor board whose by-law was repealed or expired shall establish an education development charge account that is in addition to any other education development charge account that the board may have established.
2. If, after the repeal or expiry, no amounts under an education development charge by-law of any other board will be required to be deposited into the education development charge account, a surplus in the account shall be distributed in accordance with subsection (5) to the education development charge accounts that have been established in respect of the account under paragraph 1. O. Reg. 20/98, s. 23 (4); O. Reg. 473/98, s. 4 (2); O. Reg. 366/10, s. 7 (2, 3).

(5) If paragraph 2 of subsection (4) requires a surplus in an education development charge account established under subsection (1) to be distributed in accordance with this subsection, the surplus shall be distributed so that the education development charge account established by each successor board under paragraph 1 of subsection (4) in respect of the account receives from the account the amount determined in accordance with the following formula:

$$[A \times B \times (D + E + F + G - H - I - J - K - L) / (B + C)] - M$$

where,

- A = the factor set out in Column 3 of the Table to this section opposite the name of the successor board set out in Column 1 and the name of the successor board's predecessor set out in Column 2,

- B = the revenue raised by charges imposed by the successor board's predecessor by-law for the account established under subsection (1),
- C = the revenue raised by charges imposed by the other education development charge by-law under which amounts were deposited into the predecessor account of the account established under subsection (1),
- D = the income earned by the predecessor account of the account established under subsection (1),
- E = the income that has been earned by the account established under subsection (1),
- F = the sum of all the amounts that were deposited into the predecessor account of the account established under subsection (1),
- G = the sum of all the amounts that have been deposited by the treasurer of a municipality into the account established under subsection (1),
- H = the sum of all the amounts that were withdrawn from the predecessor account of the account established under subsection (1) under subsection 5 (7) of Regulation 268 of the Revised Regulations of Ontario, 1990 as it read on January 31, 1998,
- I = the sum of all the amounts that have been withdrawn from the account established under subsection (1) under subsection 5 (7) of Regulation 268 of the Revised Regulations of Ontario, 1990 as it read on January 31, 1998,
- J = the sum of all future amounts that will be withdrawn under clause (6) (a) from accounts established under paragraph 1 of subsection (4) to which money will be distributed under this subsection from the account established under subsection (1),
- K = the sum of all the amounts that were refunded from the predecessor account of the account established under subsection (1), including interest,
- L = the sum of all the amounts that have been refunded from the account established under subsection (1), including interest,
- M = the total of all the amounts that have been withdrawn from the account established under subsection (1) by the successor board under paragraph 1 of subsection (3).

O. Reg. 473/98, s. 4 (3); O. Reg. 366/10, s. 7 (4, 5).

(6) Money from an education development charge account established under paragraph 1 of subsection (4) may be used only to,

- (a) pay amounts that are required to be paid under agreements entered into on or before the date referred to in subsection 257.103 (4) of the Act and that could have been withdrawn under subsection 5 (7) of Regulation 268 as it read on January 31, 1998 from the account established under subsection (1) or from the predecessor account of the account established under subsection (1); or
- (b) fund costs that meet all of the following criteria:
 1. The costs are education land costs.
 2. The costs are growth-related net education capital costs.
 3. The costs are incurred for the purpose of acquiring land or an interest in land in the area to which applied the successor board's predecessor by-law for the account established under subsection (1). O. Reg. 473/98, s. 4 (3); O. Reg. 136/00, s. 3 (2); O. Reg. 366/10, s. 7 (6).

(6.0.1) Despite subsection (6), a board that has not passed a new education development charge by-law may use money from an education development charge account established under paragraph 1 of subsection (4) for a purpose set out in section 1 of Ontario Regulation 446/98 if,

- (a) the money is used to fund costs related to school properties located in the area to which applied the successor board's predecessor by-law for the account established under subsection (1); and
- (b) the money is used to fund costs that are growth-related net education capital costs. O. Reg. 136/00, s. 3 (3); O. Reg. 366/10, s. 7 (7).

(6.1) For the purposes of paragraph 5 of section 7, if a board proposes to pass a new education development charge by-law for all or part of an area to which, when the new by-law comes into force, an education development charge by-law of the board that was continued under subsection 257.103 (2) of the Act will still apply, the board's estimate shall be an estimate of the amounts that will be distributed under subsection (5) to education development charge accounts established by the board on the expiry or repeal of the continued by-law, less any amount that the board has entered into an agreement to pay and that the board is authorized to withdraw but has not yet withdrawn from the education development charge accounts established under subsection (1) in respect of the continued by-law. O. Reg. 473/98, s. 4 (3); O. Reg. 366/10, s. 7 (8).

(6.2) For the purposes of paragraph 5 of section 7, if a board proposes to pass a new education development charge by-law for all or part of an area in respect of which, when the new by-law comes into force, money from education development

charge accounts established under paragraph 1 of subsection (4) may be used, the board's estimate shall be an estimate of the amount that will be in the accounts immediately before the new by-law comes into force, less any amount that the board has entered into an agreement to pay and that the board is authorized to withdraw but has not yet withdrawn from the accounts. O. Reg. 473/98, s. 4 (3); O. Reg. 366/10, s. 7 (9).

(7) REVOKED: O. Reg. 366/10, s. 7 (10).

(8) In this section,

“predecessor account” means, with respect to an account established under subsection (1), the joint account established under the *Development Charges Act*, as it read on January 31, 1998, into which amounts were deposited that, under subsection (2), are required to be deposited into the account established under subsection (1); (“compte remplacé”)

“predecessor by-law” means, with respect to a successor board and an account established under subsection (1), the education development charge by-law of the successor board's predecessor under which amounts were deposited into the predecessor account of the account established under subsection (1). (“règlement remplacé”) O. Reg. 473/98, s. 4 (4).

TABLE

Item	Column 1 Successor Board	Column 2 Predecessor	Column 3 Factor
1.	Conseil de district des écoles publiques de langue française n° 59	Le Conseil des écoles publiques d'Ottawa-Carleton	1.00000
2.	Conseil scolaire de district catholique Centre-Sud	The Dufferin-Peel Roman Catholic Separate School Board	0.01685
3.	Conseil scolaire de district catholique Centre-Sud	The Durham Region Roman Catholic Separate School Board	0.03843
4.	Conseil scolaire de district catholique Centre-Sud	The Halton Roman Catholic Separate School Board	0.03633
5.	Conseil scolaire de district catholique Centre-Sud	The Hamilton-Wentworth Roman Catholic Separate School Board	0.02826
6.	Conseil scolaire de district catholique Centre-Sud	The York Region Roman Catholic Separate School Board	0.02061
7.	Conseil scolaire de district catholique du Centre-Est de l'Ontario	Conseil des écoles catholiques de langue française de la région d'Ottawa-Carleton	1.00000
8.	Conseil scolaire de district du Centre Sud-Ouest	The Dufferin County Board of Education	0.00410
9.	Conseil scolaire de district du Centre Sud-Ouest	The Durham Board of Education	0.00910
10.	Conseil scolaire de district du Centre Sud-Ouest	The Halton Board of Education	0.00860
11.	Conseil scolaire de district du Centre Sud-Ouest	The Peel Board of Education	0.01050
12.	Conseil scolaire de district du Centre Sud-Ouest	The Wentworth County Board of Education	0.00680
13.	Conseil scolaire de district du Centre Sud-Ouest	The York Region Board of Education	0.00840
14.	Dufferin-Peel Catholic District School Board	The Dufferin-Peel Roman Catholic Separate School Board	0.98315
15.	Durham Catholic District School Board	The Durham Region Roman Catholic Separate School Board	0.96157
16.	Durham District School Board	The Durham Board of Education	0.99090
17.	Halton Catholic District School Board	The Halton Roman Catholic Separate School Board	0.96367
18.	Halton District School Board	The Halton Board of Education	0.99140
19.	Hamilton-Wentworth Catholic District School Board	The Hamilton-Wentworth Roman Catholic Separate School Board	0.97174
20.	Hamilton-Wentworth District School Board	The Wentworth County Board of Education	0.99320
21.	Ottawa-Carleton Catholic District School Board	The Carleton Roman Catholic Separate School Board	1.00000
22.	Ottawa-Carleton District School Board	The Carleton Board of Education	1.00000
23.	Peel District School Board	The Peel Board of Education	0.98950
24.	Upper Grand District School Board	The Dufferin County Board of Education	0.99590
25.	York Catholic District School Board	The York Region Roman Catholic Separate School Board	0.97939
26.	York Region District School Board	The York Region Board of Education	0.99160

O. Reg. 473/98, s. 4 (5).

MONTHLY REPORTS FOR CONTINUED BY-LAWS

24. The following apply with respect to a report required under section 257.97 of the Act as that section applies under subsection 257.103 (3) of the Act:

1. The period that the report must cover is the period referred to in subsection 37 (5) of the old Act.

2. The information that the report shall contain is the information that was prescribed under section 14 of Regulation 268 of the Revised Regulations of Ontario, 1990, as it read on January 31, 1998. O. Reg. 20/98, s. 24.
25. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THE ENGLISH VERSION OF THIS REGULATION). O. Reg. 20/98, s. 25.

SCHEDULE REGIONS

1. The area of jurisdiction of the former Atikokan Board of Education as it existed on December 31, 1997.
2. The area of jurisdiction of the former Beardmore, Geraldton, Longlac and Area Board of Education, as it existed on December 31, 1997, and the former Kilkenny District School Area.
3. The area of jurisdiction of the former Central Algoma Board of Education as it existed on December 31, 1997.
4. The area of jurisdiction of the former Chapleau Board of Education as it existed on December 31, 1997.
5. The area of jurisdiction of the former Cochrane-Iroquois Falls, Black River-Matheson Board of Education as it existed on December 31, 1997.
6. The area of jurisdiction of the former Dryden Board of Education, as it existed on December 31, 1997, and the former Sturgeon Lake District School Area.
7. The area of jurisdiction of the former East Parry Sound Board of Education as it existed on December 31, 1997.
8. The area of jurisdiction of the former Espanola Board of Education as it existed on December 31, 1997.
9. The area of jurisdiction of the former Fort Frances-Rainy River Board of Education as it existed on December 31, 1997.
10. The area of jurisdiction of the former Hearst Board of Education as it existed on December 31, 1997.
11. The area of jurisdiction of the former Hornepayne Board of Education as it existed on December 31, 1997.
12. The area of jurisdiction of the former Kapuskasing-Smooth Rock Falls and District Board of Education as it existed on December 31, 1997.
13. The area of jurisdiction of the former Kenora Board of Education as it existed on December 31, 1997.
14. The area of jurisdiction of the former Kirkland Lake Board of Education as it existed on December 31, 1997.
15. The area of jurisdiction of the former Lake Superior Board of Education as it existed on December 31, 1997.
16. The area of jurisdiction of the former Lakehead Board of Education, as it existed on December 31, 1997 and the former Kashabowie District School Area.
17. The area of jurisdiction of the former Manitoulin Board of Education as it existed on December 31, 1997.
18. The area of jurisdiction of the former Michipicoten Board of Education as it existed on December 31, 1997.
19. The area of jurisdiction of the former Muskoka Board of Education as it existed on December 31, 1997.
20. The area of jurisdiction of the former Nipigon-Red Rock Board of Education as it existed on December 31, 1997.
21. The area of jurisdiction of the former Nipissing Board of Education as it existed on December 31, 1997.
22. The area of jurisdiction of the former North Shore Board of Education as it existed on December 31, 1997.
23. The area of jurisdiction of the former Red Lake Board of Education as it existed on December 31, 1997.
24. The area of jurisdiction of the former Sault Ste. Marie Board of Education as it existed on December 31, 1997.
25. The area of jurisdiction of the former Sudbury Board of Education as it existed on December 31, 1997.
26. The area of jurisdiction of the former Timiskaming Board of Education as it existed on December 31, 1997.
27. The area of jurisdiction of the former Timmins Board of Education as it existed on December 31, 1997.
28. The area of jurisdiction of the former West Parry Sound Board of Education as it existed on December 31, 1997.
29. The local municipality of South Algonquin.
30. The local municipalities of Brantford and County of Brant.
31. The upper-tier municipality of Bruce.
32. The upper-tier municipality of Dufferin.
33. The upper-tier municipality of Elgin and the local municipality of St. Thomas.

34. The upper-tier municipality of Essex and the local municipality of Pelee.
35. The geographic area of the Frontenac Management Board, as set out in paragraph 3.3 (b) of an Order made under section 25.2 of the *Municipal Act* on January 7, 1997 and published in *The Ontario Gazette* dated February 15, 1997, and the local municipality of Kingston.
36. The upper-tier municipality of Grey.
37. The upper-tier municipality of Haliburton.
38. The upper-tier municipality of Hastings, the local municipality of Belleville and the portions of the geographic area of the local municipality of Quinte West that on December 31, 1997 were included in the geographic area of the upper-tier municipality of Hastings or of the former City of Trenton.
39. The upper-tier municipality of Huron.
40. The local municipality of Chatham-Kent.
41. The upper-tier municipality of Lambton.
42. The upper-tier municipality of Lanark and the local municipality of Smiths Falls.
43. The upper-tier municipality of Leeds and Grenville and the local municipalities of Brockville, Gananoque and Prescott.
44. The upper-tier municipality of Lennox and Addington.
45. The upper-tier municipality of Middlesex.
46. The upper-tier municipality of Northumberland, the local municipality of Clarington and the portion of the geographic area of the local municipality of Quinte West that on December 31, 1997 was included in the geographic area of the upper-tier municipality of Northumberland.
47. The upper-tier municipality of Oxford.
48. The upper-tier municipality of Perth and the local municipalities of St. Marys and Stratford.
49. The upper-tier municipality of Peterborough and the local municipality of Peterborough.
50. The upper-tier municipality of Prescott and Russell.
51. The local municipality of County of Prince Edward.
52. The upper-tier municipality of Renfrew and the local municipality of Pembroke.
53. The upper-tier municipality of Simcoe and the local municipalities of Barrie and Orillia.
54. The upper-tier municipality of Stormont, Dundas and Glengarry and the local municipality of Cornwall.
55. The local municipality of Kawartha Lakes.
56. The upper-tier municipality of Wellington and the local municipality of Guelph.
57. The upper-tier municipality of Durham, except for the local municipality of Clarington.
58. The local municipality of Haldimand County.
59. The local municipality of Norfolk County.
60. The upper-tier municipality of Halton.
61. The local municipality of Hamilton.
62. The portion of the upper-tier municipality of Niagara that on December 31, 1997 was the school division of The Lincoln County Board of Education.
63. The portion of the upper-tier municipality of Niagara that on December 31, 1997 was the school division of The Niagara South Board of Education.
64. The local municipality of Ottawa.
65. The upper-tier municipality of Peel.
66. The upper-tier municipality of Waterloo.
67. The upper-tier municipality of York.
68. The local municipality of London.
69. The local municipality of Toronto.
70. The local municipality of Windsor.

71. REVOKED: O. Reg. 95/02, s. 11 (5).

72. REVOKED: O. Reg. 95/02, s. 11 (5).

O. Reg. 20/98, Sched.; O. Reg. 95/02, s. 11.

Français

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