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July 2, 2013

File No. 529692-9

VIA E-MAIL ONLYThe Committee Chair and Members
Executive Committee
City of Toronto
10th floor, West Tower, City Hall
100 Queen Street West
Toronto ON M5H 2N2**Attention: Ms. K. McCarthy, Committee Administrator
Members of the City of Toronto Executive Committee**

Dear Sirs and Mesdames:

**Subject: Proposed New City of Toronto Development Charges By-Law
Executive Committee Meeting of July 3rd, 2013
Agenda Item EX33.1 – Public Meeting**

We are writing on behalf of our client, 863880 Ontario Limited, the owners and developers of the Liberty Village Project on the former Inglis Lands South of King Street and West of Strachan Avenue. This Project, which has been under active development for more than twenty years, has effectively created a new downtown neighbourhood and assisted in the revitalization of this area of the City. In doing so, our client has made significant investments in new road and servicing infrastructure.

The report before you as Item EX33.1 is the result of a review of the City's Development Charges By-Law 275-2009 which is set to expire on April 1, 2014. We have been asked to express our client's concerns with the draft By-Law as follows:

1. We see no justification for increasing the Development Charges prior to the expiry date of the existing By-Law. The current By-Law sets out a process for increasing the Development Charges through to its termination date on May 1, 2014. We submit that there is no reason why the new By-Law should come into force and effect any earlier than the date required to replace the existing By-Law or i.e. May 1, 2014.
2. The new proposed charges are a dramatic increase over the existing charges. We will leave the detailed analysis and review of these charges to BILD and the consultants which it has retained. However, the increase appears to be far beyond what one would normally expect as a result of incremental increases in the costs of the services whose recovery is permitted by the *Development Charges Act*.
3. Given the dramatic increase and the contentious nature of some of these charges, we believe that more extensive discussion of the basis and justification for such changes is required. The time for consideration of these increases has been extremely limited. Accordingly, we would

request that the City consider a deferral of its consideration of this report to provide additional time for affected parties to review the basis for the increased charges. The *Development Charges Act* sets out the specified legal basis for the recovery of the amounts represented by these charges. They are not taxes. There are Ontario Municipal Board Decisions regarding the imposition of these cost recovery charges and the interpretation of the Act. As a result, we believe that additional reasoned discussion would be helpful in attempting to avoid the need for third party determination of these increases.

4. Lastly, given that the charges are likely to be a dramatic increase even if adjusted, we believe that appropriate transition provisions are critical to allow the development community to properly budget for these costs in their development projects. The timeline for a new condominium project between the commencement of selling of units and the completion of construction of the finished building is between four and five years. No prudent developer would proceed with construction before very significant presales have been secured. As a result, the purchase prices for units are fixed at an early period in time – up to two years before the Development Charges are paid as part of the building permit process. As a result, we would request transition provisions which reflect the development timetable process. We were only informed of the proposed transition provisions by the release of the draft By-Law on June 18th and do not believe that they adequately do so. Once again, if this matter is deferred, there will be additional time for a reasoned discussion with City Staff over the transition provisions.

Accordingly, we would request:


- (a) That the Committee defers its consideration of this report until the fall to provide additional opportunities for the parties to review the now released By-Law and to discuss a justification for the quantum as well as the transition provisions of the By-Law.
- (b) That the new By-Law does not come into force and effect any earlier than May 1, 2014.
- (c) That the new By-Law incorporates transition provisions which reflect the two year typical delay between the signing of agreements of purchase and sale and the payment of Development Charges.

Please ensure that we receive notice of all future proceedings respecting this matter.

Thank you for your consideration.

Yours truly,

DENTONS CANADA LLP



Doug Quick
DBQ/mr

cc: Phil Beinhaker
David Moscovitz
Bill Dalton
Walter Jensen