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Chair and Members of the Executive Committee
City of Toronto
10th floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Dear: Chair and Members of the Executive Committee

**RE: Requested Inclusion of Stacked Townhouses in the Definition of "Apartment Unit"
Development Charges Bylaw Review EX33.1**

We represent Minto Urban Communities Inc. ("Minto"). We respectfully request a very specific correction to the proposed Development Charges Bylaw (the "Proposed Bylaw"). A dwelling unit located in stacked and back-to-back townhouses should be captured in the definition of "Apartment Unit", not "Multiple Dwelling Unit".

Stacked and back-to-back townhouses differ from the other dwelling units in the Multiple Dwelling Unit category which include typical townhouses or rowhouses. Dwelling units within the stacked and back-to-back townhouses are not only separated vertically from one another but are horizontally separated as well. They have layouts and densities similar to apartment buildings, where dwelling units are classified as an Apartment Unit. Some typical examples of stacked and back-to-back townhouses are attached to this letter.

The specific reasons for this requested correction are outlined in more detail in the attached briefing note, and include:

1. Stacked and back-to-back townhouses are more similar to Apartment Units than to rowhouses, functionally, legally and in terms of density. Classifying units merely on the basis of whether or not the entrance is shared, as the Proposed Bylaw suggests, is unreasonable and inappropriate.
2. The Development Charges Background Study, on which the Proposed Bylaw is statutorily required to be based, already classifies dwelling units within stacked and back-to-back townhouses as Apartment Units. It is advisable for the Proposed Bylaw to use the definitions from the Background Study on which it must be based, rather than arbitrarily inventing new definitions. This also means that there should be no financial impact to the City's revenue projections in making this proposed correction because the Background Study has already relied on the assumption that dwelling units in stacked and back-to-back townhouses are Apartment Units.
3. The new comprehensive City of Toronto Zoning By-law 569-2013 also classifies dwelling units within stacked townhouses as Apartments. These bylaws should be consistent with one another.
4. This correction will have positive impacts on housing affordability and encouraging this desirable form of development.

5. Many of Ontario's other municipalities, including the most populous ones, also use a definition of apartment units that includes dwelling units in stacked and back-to-back townhouses.

We believe that, in light of these reasons, the minor correction to the Proposed Bylaw we have suggested should be further considered.

Yours truly,



Cynthia A. MacDougall

CAM/MF

**Briefing Note
Development Charges Bylaw Review EX33.1**

**Rationale for the Inclusion of Stacked and Back-to-Back Townhouses in the Definition of
“Apartment Unit”**

Stacked and back-to-back townhouses have more in common with apartment units than with rowhouses

Development charge rates for a particular residential dwelling unit type should be based on a relative assessment of that dwelling unit's demand for municipal services. It is therefore logical to group residential dwelling units on the basis of, *inter alia*, household size or the overall density of the development within which that dwelling unit is located. However, the Proposed Bylaw groups some dwelling units simply on the superficial basis of whether or not they share a common entrance with a certain number of other dwelling units, regardless of how dense the building may be.

The definitions in the Proposed Bylaw are:

APARTMENT UNIT — A residential dwelling unit within a residential building, or the residential portion of a mixed use building, where such unit is accessed through a common principal entrance from the street level and an interior enclosed corridor, and the building contains three or more units with such access.

...

MULTIPLE DWELLING UNIT — All dwellings units other than a single detached dwelling, a semi-detached dwelling or an apartment unit, but includes a dwelling unit in a row dwelling.

These definitions leave dwelling units that are located in stacked and back-to-back townhouses out of the definition of Apartment Unit and forces them into the Multiple Dwelling Unit category simply because they have separate entrances. This is an irrational and unfair basis on which to require a higher rate of development charges.

Stacked and back-to-back townhouses are typically designed to aesthetically resemble townhouses or rowhouses from the exterior, including separate entrances, in order to seamlessly integrate them into surrounding low-rise residential neighbourhoods. In fact however, stacked and back-to-back townhouses typically have the density, internal configuration, and the legal character of a condominium or apartment building. Many are even incorporated as condominium corporations.

Consistency with the Development Charges Background Study

The Development Charges Background Study (the “Background Study”), which the Proposed Bylaw is statutorily required to rely on, is based on the assumption that stacked and back-to-back townhouses are included in the definition of “Apartment”, not “Rowhouse.” The definitions used in the Background Study are taken directly from Statistics Canada census data, which can be found in *Structural Type of Dwelling and Collectives Reference Guide, 2011 Census*. The data and assumptions about growth on which the Study, and the Proposed Bylaw, are based include stacked and back-to-back townhouses in the definition of Apartment, not Rowhouse.

The reallocation of stacked townhouses to the Rowhouse category of Multiple Dwelling Unit is therefore arbitrary, inconsistent with the data and methodology of the Background Study, and could be the basis of a challenge to the Ontario Municipal Board.

The fact that the Background Study already considers stacked and back-to-back townhouses to it to be part of the Apartment definition is an important fact when considering the cost of this proposed correction.

It means that the cost consequences of **this correction will have no impact on the revenue projections** estimated by the Background Study.

Consistency with the new City of Toronto Zoning Bylaw

The new comprehensive City of Toronto Zoning By-law 569-2013 (the "Zoning Bylaw"), s. 800.50(55) defines Apartment Building in a way that includes stacked and back-to-back townhouses because it explicitly does not distinguish on the irrelevant basis of whether or not the dwelling units share a common entrance:

Apartment Building

*means a building that has five or more dwelling units, with at least one dwelling unit entirely or partially above another, and each dwelling unit has a **separate entrance directly from outside or through a common inside area**. A building that was originally constructed as a detached house, semi-detached house or townhouse and has one or more secondary suites is not an apartment building.*

It would be logical, efficient and fair for the City to ensure that the definitions used in the Proposed Bylaw are consistent with and complimentary to the Zoning Bylaw. Other municipalities, including the City of Mississauga in its Development Charges Bylaw 342-09, explicitly refers to and relies on the dwelling unit definitions from its zoning bylaw rather than attempt to reinvent those definitions.

Housing affordability and encouraging the appropriate scale of development

The Proposed Bylaw fundamentally alters the economics of building stacked and back-to-back townhouses and discourages them from being built at all. Stacked and back-to-back townhouses are apartment-quality units that it is proposed the developer must pay development charges at the rate of rowhouses to construct.

Dwelling Units in stacked and back-to-back townhouses are very comparable to condominiums, and are designed to be a form of low-rise ownership in the affordability range of condominiums. Housing affordability is a major issue in the City of Toronto that, if structured properly, the Proposed Bylaw can be a tool to help address. Housing affordability through the construction of stacked and back-to-back townhouses is also one of the Strategic Directions of the Official Plan. Section 3.2.1 states that:

*"The current production of ownership housing, especially condominium apartments, is in abundant supply. What is needed is a healthier balance among high-rise ownership and... **affordable low-rise ownership** housing for large households with children and multi-family households".*

The Proposed Bylaw is a powerful economic disincentive to build stacked and back-to-back townhouses which are the most affordable form of low-rise ownership. It makes affordable low-rise development less attractive and encourages the overdevelopment of sites that might otherwise be economically suitable for affordable low-rise development.

Ontario's other major municipalities define it this way

Although City staff have noted in their report that there is not a complete consensus among all Ontario municipalities, it is noteworthy that many Ontario municipalities, including the major municipalities, employ a definition of apartment dwelling unit in their development charges bylaws that include stacked and back-to-back townhouses.

These municipalities include:

- City of Ottawa
- City of Mississauga
- City of London

It is unclear why the City of Toronto would forge ahead in a completely different, and counterintuitive, direction to these numerous other municipalities.