February 2, 2016

Mayor John Tory  
Members of Toronto City Council  
Toronto City Hall  
100 Queen St. West  
Toronto, ON  
M5H 2N2  

VIA EMAIL: clerk@toronto.ca  

RE: City Council Meeting – February 3, 2016 – Item EX 11.7: Development Charges Act Changes

Dear Mayor Tory and Members of Toronto City Council,

NAIOP Greater Toronto Chapter (the Commercial Real Estate Development Association) has major concerns with the Deputy City Manager and Chief Financial Officer’s report on “Development Charges Act Changes” for City Council’s February 3, 2016 meeting.

As you are aware, Bill 73, Smart Growth for Our Communities Act, 2015, was passed in December 2015 and made substantial amendments to the Development Charges Act, 1997. As the staff report highlights, significant portions of the amendments to the Act do not apply until the City updates or renews its current development charges by-law. However, other sections of Bill 73 that relate to the timing of the payment and calculation of development charges are effective immediately and take precedence over the City’s existing by-law. The province has made an effort to be very precise with respect to the timing of the Bill’s implementation and provided specific instructions to municipalities in this regard.

However, instead of following the Province’s directions for the Bill’s implementation, City staff has instead recommended in their report that: “1. City Council authorize the Chief Building Official to require applicants seeking conditional below-grade permits to enter into a Development Charges Deferral Agreement in accordance with the general terms and conditions in Appendix 1 and in a form acceptable to the Deputy City Manager and Chief Financial Officer and the City Solicitor.”

This recommendation appears to be an attempt to disregard the provincial government’s specific instructions and intentions for Bill 73. Indeed, Section 6, Subsection 1.1 of Bill 73, explicitly states: (1.1) “If a development consists of one building that requires more than one building permit, the development charge for the development is payable upon the first building permit being issued.” By attempting to collect development charges at a later date, the City would be ignoring this
provision in Bill 73.

NAIOP understands that the City is not entirely satisfied with the outcome of Bill 73 – indeed, many stakeholders are in the same position. However, as BILD highlighted in their submission, all parties are required to follow the new rules as set out in by the Province. Municipalities must update their by-laws and practices in line with the Act and cannot cherry pick aspects of the Bill that most benefit them, while ignoring others.

As such, NAIOP is requesting that Council not approve the first recommendation in the report, in line with the updated Development Charges Act, 1997.

Sincerely,

Jeremy Wedgbury
President, NAIOP Greater Toronto Chapter