Toronto Building Division: Conditional Permits

The Complaint
The Fraud & Waste Hotline received a complaint suggesting there was a financial incentive for conditional permit (CP) applicants to obtain above-grade CPs in advance of scheduled development charges (DC) rate increases; and, some above-grade CPs were not issued in full compliance with section 8(3) of the Building Code Act (BCA).

What we found
There is a financial incentive for CP applicants to obtain an above-grade CP in advance of a DC rate increase. In 11 of 15 files reviewed, the CPs appear to have been issued prematurely, reducing potential DC revenues for the City.

Some above-grade CPs issued were not in full compliance with section 8(3) of the BCA, resulting in lost DC revenue in 2 of the 15 sites we reviewed.

11 of 15 Files Reviewed did not Meet the Division's Draft Criteria

- 2 files did not have proper zoning in place. Issuing a CP under these circumstances is non-compliant with the BCA.
- The existing Conditional Permit Policy does not include any objective criteria for determining when to issue above-grade conditional permits to ensure that all developers are treated consistently and fairly.
- In 10 files, it was unlikely that above-grade construction was probable in the near term and that unreasonable delays in above-grade construction would occur if an above-grade CP was not granted; these files failed to meet the Division's draft criteria that: "Site construction must be at parking level 1 and in a construction position to proceed above grade".
- $8.0 million in DCs was lost where CPs appear to be prematurely issued when measured against draft criteria.

Need for Due Diligence in Approving and Monitoring Conditional Permits

- Majority of files reviewed did not have documentation supporting:
  - claims of unreasonable delays in construction
  - why the Division acted contrary to advice from other City Divisions
- Need to strengthen controls over front-end CP application review. The high demand for CPs immediately prior to DC rate increases leaves staff with insufficient time to perform the necessary due diligence.
- Inadequate monitoring and enforcement of CP agreement requirements.

Culture Where Conditional Permits are Encouraged and Expedited

- Staff invite developers to apply for CPs prior to scheduled increases in DC rates to save money. More consistency is required in this process.
- Some performance appraisals cite reduced DC as an accomplishment.

How Recommendations will Benefit the City
The implementation of the 17 recommendations contained in this report will help address control deficiencies, mitigate the risk of regulatory non-compliance, enhance transparency and consistency, and ensure the City's interests in collecting DC revenues are protected.

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