

**Development Charges By-law -- OMB Appeal by
Canada Lands Company Ltd. and Parc Downsview
Park Inc.**

Date: June 27, 2017

To: City Council

From: City Solicitor

Wards: Ward 9 - York Centre

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City or one of its agencies or corporations.

This report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

The purpose of this report is to propose terms of settlement of an appeal to the Ontario Municipal Board of the City's Development Charges By-law filed by Parc Downsview Park Inc. and Canada Lands Company Ltd.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the Confidential Instructions to staff in Confidential Attachment 1.
2. City Council authorize the public release of Recommendation 1 in Confidential Attachment 1, once adopted by City Council.
3. City Council direct that the balance of the recommendations and confidential information contained in Confidential Attachment 1 remain confidential in their entirety, as they contain advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

The financial impact of the proposed settlement is detailed in the Confidential Attachment to this report.

COMMENTS

At its meeting on October 8, 9 and 10, 2013, Council enacted the City's Development Charges By-law (No. 1347-2013, the "DC by-law"). In accordance with the provisions of the *Development Charges Act, 1997*, Park Downsview Park Inc. and Canada Lands Company Ltd. filed an appeal of the DC by-law to the Ontario Municipal Board, dated November 20, 2013 (attached as Attachment 1 to this report). Park Downsview Park Inc. is a subsidiary of Canada Lands Company Ltd.

The basis of the appeal to the OMB is limited to the provisions in the DC By-law respecting redevelopment and in particular the eligibility for demolition reductions (Article 415-7C), and the 3 year limitation period for being eligible for such reductions.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Attachment 1 - Notice of Appeal, dated November 20, 2013, from Davies Howe Partners LLP

Confidential Attachment 1



Davies
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LLP

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File No. 702282-10

November 20, 2013

By Next Day Courier

Ms. Ulli S. Watkiss
City Clerk
Toronto City Hall,
12th Floor, West Tower
100 Queen Street West
Toronto, ON, M5H 2N2

Dear Ms. Watkiss

**Re: Notice of Appeal
City of Toronto Development Charge By-law No. 1347-2013**

We are counsel to Parc Downsview Park Inc. and Canada Lands Company Limited ("PDP/CLC"). PDP is a subsidiary of CLC.

PDP is the owner of approximately 241.71 hectares of land which is subject to the Downsview Area Secondary Plan ("DASP"), and located between Wilson Avenue to the south, Keele Street to the west, Sheppard Avenue West to the north, and Allen Road to the east.

On October 11, 2013, the City passed Development Charge By-law No. 1347-2013 (the "DC By-law"). Our client hereby appeals the DC By-law pursuant to section 14 of the *Development Charges Act, 1997*.

This appeal is limited to the provisions respecting redevelopment, and particularly, eligibility for demolition credits ("DC Credits"), in the DC By-law, being Article 415-7, Section C. Our client does not challenge the amount of the development charges imposed. The reasons for our client's appeal are outlined below.

The PDP lands are the subject of the DASP, which includes a variety of permissions including residential and mixed use.

The redevelopment and development of PDP's lands under the DASP involve the demolition of a substantial number of buildings. PDP believes it should be entitled to DC Credits from the demolished buildings to be applied to the construction of future new residential and non-residential buildings on its lands.

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Davies
Howe
Partners
LLP

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PDP's objections relate to the DC By-law's treatment of two aspects of DC Credits,

First, PDP's position is that DC Credits should not expire 36 months following the issuance of a demolition permit. Given the widespread nature of the proposed redevelopment and development for the PDP lands, it may not be feasible to submit all necessary building permit applications within this period. The loss of DC Credits from the demolition of the existing buildings on PDP's lands could amount to a significant financial loss for PDP.

In support of its position, PDP notes that a limitation period for DC Credits is not required or contemplated by the *Development Charges Act, 1997*.

Second, PDP should receive DC Credits for the demolition of all non-residential buildings. DC Credits should not be limited only to the demolition of non-residential buildings to which a development charge would be payable under the DC By-law.

We reserve the right to pursue such further reasons as may subsequently be identified.

We have enclosed with this Notice of Appeal our firm cheque in the amount of \$125.00, payable to the Minister of Finance, which represents the filing fee associated with the processing of this appeal. Also enclosed is a completed O.M.B. Appellant Form (A2).

Should you require any additional information, please do not hesitate to contact the undersigned. We would appreciate receiving your confirmation of receipt of this Notice of Appeal.

Yours sincerely,
DAVIES HOWE PARTNERS LLP

Jeffrey L. Davies

JLD:MEM

encl.: as above

copy: Client

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