



REPORT FOR ACTION

Supplementary Report: Response to Auditor-General's Outstanding Recommendation Regarding Section 37 and Section 45 Funds Not Received in 2008-2017 Approvals

Date: October 22, 2019

To: City Council

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

The report from the Chief Planner dated August 12, 2019 (Item PH8.8) identifies five developments where Section 37 cash payments to the City totalling \$701,387 are due and no records of receipt have been found. Staff have again contacted all five developers by telephone and e-mail to advise of the report and inquire about the payments in question.

In two cases, the development corporations have committed to making a payment as soon as reasonably possible. In a third case, the identified corporation who had entered into the Section 37 Agreement with the City now suggests that another development corporation purchased the project from them and are now responsible for the payment. Staff have contacted that development corporation to determine whether they will make the outstanding payment or if they can provide documentation of the payment. The fourth and fifth cases are related to outstanding payments from one identified parent corporation. Numerous attempts were made to contact the corporation but no response has been received.

The updated information is summarized in a table attached to this report as Attachment 1.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning recommends that:

1. City Council direct the Chief Planner and Executive Director, City Planning, to report to City Council in January 2020 on any additional outstanding funds that have been received.

FINANCIAL IMPACT

There are no financial impacts as a result of approval of the recommendations in this report. Any additional funds collected will be identified during the report back to City Council in January, 2020.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

City Council considered item PH8.8 "Response to Auditor General's Outstanding Recommendation Regarding Section 37 and Section 45 Funds Not Received in 2008-2017 Approvals" on October 2, 2019.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH8.8>

It was City Council's decision to defer consideration of the item until the October 29 and 30, 2019 meeting of City Council.

COMMENTS

In Attachment 1 to the August 12, 2019 report from the Chief Planner, five developments were listed by address in which a Section 37 cash benefit had been secured, with the cash benefit amount and purpose also listed, and in which records had not been located regarding receipt of the payment. The total amount due and outstanding for the five developments was \$701,387.

Between August 12, 2019 and the date of this report, further investigations were undertaken and additional communications were attempted with respect to the outstanding payments related to those five developments. The updates are summarized in the table attached as Attachment 1 to this report.

In two cases, the developers (Roehampton Birch Properties Inc. and Eleven Superior Ltd.) have made commitments to pay the outstanding Section 37 contribution totalling \$203,387.44. In the third case, the original owner advised that the development had been transferred to another development corporation (The Norstar Group) who they say should have been responsible for the payment. Attempts to contact the alternate developer have been initiated. In the fourth and fifth cases it was determined that one development company (Torbel Developments) was related to the two numbered companies for which Section 37 payments cannot be accounted for. Communications with the related development company were not returned. If the pledged payments as outlined are received the \$701,387 outstanding balance due will be reduced to \$498,000.

That would leave an outstanding balance of \$498,000. The Confidential Attachment to Item PH8.8 from the City Solicitor which provides advice and seeks direction from City Council with respect to the outstanding balances is still applicable.

CONTACT

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SIGNATURE

Gregg Lintern, MCIP, RPP
Chief Planner and Executive Director
City Planning Division

ATTACHMENTS

Attachment 1: Updated Status: Outstanding Payments Due Identified in October 22, 2019 report from the Chief Planner

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Development Address	Registered Owner at time of required payment	Alternative Contact / Party Responsible for Payment	Details of Payment Requirements	Outstanding payment	Status	Comments
920-922 Sheppard Avenue West	2062131 Ontario Ltd.	Torbel Developments	The owner was to make a cash contribution to the City in the sum of \$100,000 to be used towards local park improvements within Ward 10	\$100,000.00	Torbel representatives contacted by telephone and e-mail regarding overdue payment	No communications received from Torbel Developments
359-377 Roehampton Avenue	Roehampton Birch Properties Inc.	None	The owner was to provide a cash payment of \$200,000 to the City of Toronto Capital Revolving Fund for Affordable Housing	\$200,000.00	Overdue but payment promised	Developer indicates that payment will be made.
695-717 Sheppard Avenue West	Elm Sheppard Inc.	Norstar Development Corp.	The owner was to provide to the General Manager, Parks, Forestry and Recreation a cash contribution of \$180,000	\$180,000.00	Norstar representatives contacted by telephone and e-mail regarding overdue payment	No commitment for payment received from Norstar Developments

Development Address	Registered Owner at time of required payment	Alternative Contact / Party Responsible for Payment	Details of Payment Requirements	Outstanding payment	Status	Comments
758-764 Sheppard Avenue West	2148425 Ontario Limited	Torbel Developments	The owner was to provide a cash contribution of \$218,000 to be dedicated to capital improvements in Earl Bales Park.	\$218,000.00	Torbel representatives contacted by telephone and e-mail regarding overdue payment	No communications received from Torbel Developments
2388-2398 Lake Shore Boulevard West and 13 Superior Avenue	Eleven Superior Ltd.	None	The owner was to make an indexed payment on \$150,000. No indexing was paid.	\$3,387.44	Overdue but payment promised	Payment to be made in 1 month