



REPORT FOR ACTION

Development Charge Complaint - 1251 Bridletowne Circle

Date: October 7, 2019

To: Executive Committee

From: Chief Financial Officer and Treasurer

Wards: 22 - Scarborough - Agincourt

SUMMARY

This report responds to a complaint filed pursuant to Section 20 of the *Development Charges Act, 1997* relating to a residential development project located at 1251 Bridletowne Circle.

Section 20 of the *Development Charges Act, 1997* allows a person required to pay development charges to file a complaint to the council of municipality under certain circumstances.

The development consists of various forms of townhouses. The City's Development Charges Bylaw defines stacked townhouses and assigns to them an apartment unit rate, and also defines back-to-back and traditional townhouses and assigns to them a somewhat higher, multiple unit rate.

The complaint asserts that townhouses deemed by the City to be 'back-to-back' meet the definition of 'apartment unit' and should therefore have been charged the associated lower, apartment unit rate.

City staff has reviewed the complaint and is of the opinion that the Development Charges Bylaw was applied properly and no error was made in the calculation of the charges. This report recommends that the complaint be dismissed. A decision of Council to dismiss the complaint may be appealed to the Local Planning Appeal Tribunal (LPAT). This report was prepared in consultation with the Chief Building Official and the City Solicitor.

RECOMMENDATIONS

The Chief Financial Officer and Treasurer recommends that:

1. City Council determine that the Development Charges By-law has been properly applied to the residential land development project located at 1251 Bridletowne Circle.
2. City Council dismiss the complaint filed pursuant to Section 20 of the *Development Charges Act, 1997*.

FINANCIAL IMPACT

There is no financial impact from the adoption of recommendations contained in this report.

The amount under dispute related to the classification of 92 units as back-to-back town houses at the 'multiples' rate is \$723,580.

Development charges help pay for growth-related capital costs for municipal services such as roads, transit, water, sewer, parks and recreation facilities.

DECISION HISTORY

COMMENTS

Development charges are applied in accordance with a bylaw enacted by Council pursuant to provisions of the *Development Charges Act, 1997* (the "DC Act"). Under Section 20 of the DC Act, a complaint may be brought to Council on one of three grounds:

- a. *"the amount of the development charge was incorrectly determined;*
- b. *whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined; or*
- c. *there was an error in the application of the development charge by-law."*

Section 20 (4) indicates that Council shall hold a hearing into the complaint and give the complainant an opportunity to make representations at that hearing. After hearing the evidence and submissions of the complainant, Council may "*dismiss the complaint or rectify any incorrect determination or error that was the subject of the complaint.*"

Section 22 of the Act, provide that the complainant may appeal the decision of Council to the Ontario Local Planning Appeal Tribunal (LPAT). The complainant may also appeal to the LPAT if Council does not deal with the complaint within 60 days after the complaint has been made.

Background

The City's Development Charges By-law ("the Bylaw") levies differentiated residential charges based on type of dwelling and includes definitions for various forms and types of residential dwellings - single detached, semi-detached, apartment unit, back-to-back townhouse, stacked townhouse and row dwelling, among others.

The development at 1251 Bridletowne Circle consists of a mix of 282 residential dwelling units in townhouse built form. Development charges in the amount of \$7,049,004 were collected by the City related to a building permit issued January 31, 2016 in accordance with the following number and type of units:

Type of Units	DC rate type applied	# of units
Townhouses	Multiples - 2+ Bedrooms	22
Stacked Townhouses	Apartments - 2 Bedrooms	168
Back-to-back Townhouses	Multiples - 2+ Bedrooms	92
Total		282

The complainant paid the DCs under protest at issuance of building permit. The complaint relates to the assessment for the 92 units at the Multiple Dwelling Unit DC rate. The value of the difference in charges between the multiple rate and the apartment rate for 92 units is \$723,580.00.

The relevant definitions affecting the complaint are as follows:

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, and includes a stacked townhouse.

BACK TO BACK TOWNHOUSE - A building that has three or more dwelling units, joined by common side and rear walls and where no dwelling unit is entirely or partially above another.

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, duplex or triplex, and a back to back townhouse.

ROW DWELLING - One of a series of three or more attached residential buildings with:

- A. *Each building comprising one dwelling unit;*
- B. *Each building divided vertically from another by a party wall; and*
- C. *Each building located on a lot.*

STACKED TOWNHOUSE - A building that has three or more dwelling units, joined by common side walls with dwelling units entirely or partially above another.

Staff met with the applicant to consider their arguments.

In order for a townhouse to qualify for the apartment unit rate it must be stacked, that is, include dwelling units entirely or partially above another. The disputed units are not stacked.

In order for the building to be deemed an apartment under the DC bylaw, it must be a unit within a building that 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, and includes a stacked townhouse.*

The 92 disputed units each have two entrances - an independent at-grade entrance, and at grade entrances to a below grade corridor that is accessed from the underground parking lot and provides walk up access to each unit. In this respect the corridor is similar to an apartment building corridor, except that it is below-grade.

To assess the units as multiples, staff relied on the bylaw definition requiring the at grade access to the corridor to be "a common principal entrance". The at grade corridor access points were not considered the principal entrance to the units, which are each equipped with an at grade front door. Staff maintain that the 92 disputed units fall under Back to Back Townhouse definition of the Bylaw, and therefore the appropriate rate is the multiple dwelling unit rate.

Consequently staff maintains the view that the Bylaw was appropriately applied, and recommend that the complaint be dismissed.

The complainant may be entitled to appeal any decision of Council to the Ontario Local Planning Appeal Tribunal.

CONTACT

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SIGNATURE

Heather Taylor
Chief Financial Officer and Treasurer

ATTACHMENTS

Attachment 1: Complaint letter from WeirFoulds LLP dated April 13, 2016