

## **Development Charges Deferral for Anduhyaun Shelter**

**Date:** April 29, 2021

**To:** City Council

**From:** Chief Financial Officer and Treasurer

**Wards:** All

### **SUMMARY**

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In response to the April 7, 2021 Council request, this report comments on the feasibility of deferring the payment of development charges for Anduhyaun Women's Shelter, a violence against women emergency shelter.

The development proposal by Anduhyaun Women's Shelter is to construct a three storey Crisis Care Shelter for women. The shelter is a family support shelter that is substance free and provides culturally sensitive counselling and referrals for women and their children. The City's development charges bylaw requires a payment of \$135,055.67 at the time of building permit issuance.

While it is feasible to provide a deferral through a section 27 agreement, staff recommend that Council refer this request to the comprehensive bylaw review currently underway. This report seeks authority to enter into an agreement to defer payment until that review has been completed and where Council may see it fit to provide an exemption of the charges. This report has been prepared in consultation with the City Legal Services and Toronto Building.

### **RECOMMENDATIONS**

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The Chief Financial Officer and Treasurer recommends that:

1. City Council authorize the Chief Financial Officer and Treasurer, in consultation with the Chief Building Official and Executive Director, to enter into an agreement in a form satisfactory to the City Solicitor, to defer the payment of development charges for Anduhyaun Women's Shelter proceeding under building permit number 20-232944 based on the general terms and conditions in Attachment 1, including any amendments to previously executed agreements, as necessary, relating to the payment of development charges.
2. City Council direct the Chief Financial Officer and Treasurer to review this matter as part of the development charges bylaw review process currently underway.

## **FINANCIAL IMPACT**

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The development proposal for Anduhyaun Women's Shelter under Building Permit No. 20 232944 is to construct a three storey Crisis Care Shelter. The development charge due to the City is \$135,055.67 for the new ground floor gross floor area (GFA) of the project (approximately 346 m<sup>2</sup>). The non-ground floor GFA (approximately 632 m<sup>2</sup>) is exempted from the charges, in accordance with Council policy.

In general, development charge deferrals delay collection of revenue for the City and can increase debt financing requirements during the deferral period and/or delay construction of growth-related projects until the funds are collected and available for capital investment. Should Council proceed with the recommendation in this report, collection of the payment will be deferred to the bylaw review, where Council may see it fit to provide an exemption foregoing to collect the amount in full, or provide a further deferral.

## **DECISION HISTORY**

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At its meeting on April 7, 2021, City Council adopted MM31.6 "Requesting the Deferral of Development Charges for the Anduhyaun Shelter" and directed staff to report to the May 5, 2021 meeting of City Council on the feasibility of deferring the payment of development charges in the amount of \$153,101.33 for Anduhyaun Shelter.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.MM31.6>

## **COMMENTS**

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This report responds to a Council request to report on the feasibility of a development charges deferral for the Anduhyaun Women's Shelter.

The developer is seeking to construct a three storey Crisis Care Shelter that requires a development charge payment in the amount of \$135,055.67. The ground floor is proposed to contain office space and common elements for clientele with the above storeys containing 18 beds along with common space and amenities for clients.

Development charges are collected to pay for capital costs required because of increased needs for services arising from new development. The rules on how development charges are payable, and what types of developments are exempt from payment are set out in the City's development charges bylaw. Under the City's current bylaw, Anduhyaun Women's Shelter is exempted from paying development charges for GFA above the ground floor; however ground floor space is chargeable.

As indicated in previous reports, the City Solicitor has expressed concerns with unsecured long-term deferral agreements noting challenges with the ability to collect development charges from current or future owners related to the lack of legislative authority under the DCA to ensure collection, such as the inability to register

agreements on title to land and lack of priority lien status of outstanding charges being added to the tax roll. In addition, long-term deferrals are administratively onerous to monitor and maintain.

Accordingly, staff recommend that development charges for this project be deferred to the comprehensive development charges bylaw review process currently underway and based on the general terms and conditions in Attachment 1. By doing so, development charges would be deferred to the earlier of:

1. The date of enactment of a new development charges bylaw
2. The date that the building is no longer maintained and operated as a women's shelter
3. The sale of the property, unless the agreement is assigned to a new owner who is also a women's shelter operator.

With this format, development charges will be re-calculated at time of new bylaw, depending on the rules in effect at that time which are developed as part of a comprehensive process. If the new bylaw to be enacted in 2022 does not provide an exemption or a reduction in the rates for this use, then the owner will be required to pay some or all of the development charges for the current development proposal based on the rates and policies applicable at that time. Council will also have an option to provide a further deferral as may be deemed appropriate.

While a long-term deferral option is available to Council, it does have drawbacks as noted in this and past reports. When providing a deferral without financial security or other means of enforcing payment, the City assumes the collection risk in the event of default. Unlike the standard method of collecting payment as a condition of permit issuance, when a deferral is provided to a development with no financial security required, the collection of development charges after they have been deferred is not guaranteed.

In conclusion, staff recommend that payment be deferred and considered as part of a comprehensive bylaw review. It is not recommended that long-term unsecured deferrals become standard practice at the City.

## **CONTACT**

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Shirley Siu, Senior Financial Analyst, Corporate Financial Strategy and Policy,  
Tel: 416-397-4205, [Shirley.Siu@toronto.ca](mailto:Shirley.Siu@toronto.ca)

Andrew Flynn, Controller, Office of the Controller,  
Tel: 416-392-8427, [Andrew.Flynn@toronto.ca](mailto:Andrew.Flynn@toronto.ca)

## **SIGNATURE**

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Heather Taylor  
Chief Financial Officer and Treasurer

## **ATTACHMENTS**

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Attachment 1:       General Terms and Conditions of the Development Charges  
                          Anduhyaun Shelter

## **Attachment 1: General Terms and Conditions of the Development Charges Deferral for Anduhyaun Shelter**

### **1. Agreements**

- a. The owner must enter into an agreement with the City under Section 27 of the *Development Charges Act, 1997*.

### **2. Term of Deferral**

- a. Development charges shall be deferred until the earlier of:
  - i. The date of enactment of the next development charges bylaw that replaces the current 2018 development charges bylaw;
  - ii. The date that the building is no longer maintained and operated as an women's shelter; or
  - iii. The sale of the property, unless the agreement is assigned to a new owner who will continue to operate and maintain the building as an emergency shelter.

### **3. Amount of the Development Charges**

- a. The development charges shall be calculated based on the prevailing rates and policies in effect at the end of the term of the deferral. If the new development charges bylaw to be enacted in 2022 does not provide an exemption for proposed use, then the owner will be required to pay the development charges for the current development proposal, which will become due and payable upon the date that the new bylaw is enacted by Council based on the rates and policies in effect at that time.

### **4. Registration on title**

- a. The owner agrees to have the notice of the development charges payment agreement, including its schedules, to be registered on title to the Lands at the cost of the owner.
- b. If notice is not accepted by the Land Registrar, the owner agrees that the Site Plan Agreement or other development agreement as necessary, may include reference to the development charges payment agreement or include the particulars of the development charges deferral, at the City's discretion.

### **5. Event of default**

- a. In the event of default, development charges may be added to the property tax roll with applicable interest penalties.

### **6. Annual reporting**

- a. The owner agrees to provide the City on January 15 annually evidence to the satisfaction of the City that it continues to be maintained and operated as a women's shelter.

7. Administrative Amendments

- a. The Chief Financial Officer and Treasurer, in consultation the City Solicitor, shall be authorized to make administrative amendments to this program and include any additional terms and conditions as may be deemed necessary to protect the City's financial interests and administer the program.