



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### 32, 36 and 38 Olive Avenue – Development Charges Complaint – Request for Directions

**Date:** October 31, 2025  
**To:** City Council  
**From:** City Solicitor  
**Wards:** Ward 18 - Willowdale

#### REASON FOR CONFIDENTIAL INFORMATION

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This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

#### SUMMARY

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On May 12, 2025, the City received a complaint from 31 F Development Limited Partnership (the "Complainant"), pursuant to Section 20 of the *Development Charges Act, 1997*, S.O. 1997, c. 27 (the "Section 20 Complaint"), for 32, 36 and 38 Olive Avenue (the "Site") regarding the payment of development charges.

The City Solicitor requires further directions. For reasons set out in Confidential Attachment 1, this matter is urgent and cannot be deferred.

#### RECOMMENDATIONS

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The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report from the City Solicitor.
2. City Council direct that the confidential recommendations and all other information contained in Confidential Attachment 1 and the Confidential Appendix "A" to this report from the City Solicitor is to remain confidential as it contains advice and information which is subject to solicitor-client privilege and litigation privilege.

#### FINANCIAL IMPACT

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The financial impact of adopting the recommendations in this report is detailed in Confidential Attachment 1 to this report.

## DECISION HISTORY

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On December 14 and 15, 2022, City Council adopted Item EX1.6, which directed that the general terms and conditions of the below grade conditional permit development charges agreement be amended so that the development charges due and payable to the City, pursuant to the agreement, would be determined based on the higher of the development charge rate in effect at the time of permit issuance or the development charge rate in effect based on Section 26.2 of the *Development Charges Act, 1997* (the "Higher of Provision"). City Council also directed that interest would be payable where development charges are determined based on Section 26.2 of the *Development Charges Act, 1997* in the agreement. City Council's resolution for Item EX1.6 can be found at:

[Agenda Item History -2023.EX1.6](#)

On May 30, 2023, the City received a complaint from 31F Development Limited Partnership, pursuant to Section 20 of the *Development Charges Act, 1997*, S.O. 1997, c. 27, for 32, 36 and 38 Olive Avenue regarding the payment of development charges on the Site. The Complainant disputed the \$11,601,820.54 of development charges it paid to the City and sought a refund in the amount of \$2,295,405.93 from the development charges it paid.

On August 16, 2023, pursuant to Section 22(2) of the *Development Charges Act, 1997*, the Complainant appealed City Council's neglect or failure to make a decision on its complaint to the Ontario Land Tribunal (the "OLT"). On January 23, 2024, this matter was litigated at the OLT, however, the OLT agreed to withhold issuing its decision on the matter to allow for further discussions between the City and the Complainant.

On March 20 and 21, 2024, City Council adopted Item CC16.17 on this matter, containing confidential instructions to staff in Confidential Attachment 1 to the report (March 7, 2024) from the City Solicitor. City Council's resolution for Item CC16.17 can be found at:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.CC16.17>

On May 12, 2025, the City was served with the Section 20 Complaint, regarding a dispute arising from the amount of development charge the Complainant paid in relation to the development on the Site. The Complainant disputed the \$1,010,091.06 of development charges it paid to the City and sought a refund in the amount of \$239,366.06 from the development charges it paid.

On June 25 and 26, 2025, City Council adopted Item EX24.2, which rescinded the current practice of using the agreement discussed above, inclusive of the Higher of Provision, for applicants seeking conditional below grade permits for all new developments and any development, subject to the agreement discussed above, provided no development charge has been paid. City Council's resolution for Item EX24.2 can be found at:

[Agenda Item History -2025.EX24.2](#)

## **COMMENTS**

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The City Solicitor requires further instructions on this matter. This report is about an ongoing complaint and contains advice or communications that are subject to solicitor-client privilege.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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1. Confidential Attachment 1 - Confidential Information
2. Confidential Appendix "A" - Confidential Information