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May 9, 2025

**DELIVERED BY EMAIL**  
**exc@toronto.ca**

City of Toronto Executive Committee c/o Catherine Regan  
Toronto City Hall  
100 Queen Street West  
Toronto, ON M5H 2N

Dear Ms. Regan

**Re: EX23.6 - 150 Eighth Street - Education Development Charges Complaint -  
Response of the Toronto Catholic District School Board**

We are legal counsel to the Toronto Catholic District School Board (the “TCDSB”) with respect to an Education Development Charges (“EDCs”) complaint by the Canadian Helen Keller Centre (the “CHKC”) regarding 150 Eighth Street. The TCDSB supports the recommendation set out in the staff report dated April 29, 2025 and respectfully requests that the Executive Committee receive the complaint from CHKC and recommend that Council dismiss the complaint in its entirety.

The *Education Act*, RSO 1990, c E.2 (the “*Education Act*”) permits a school board that meets certain criteria to pass by-laws which impose EDCs. The TCDSB has passed an EDC by-law and therefore is permitted to collect EDCs from developments which meet the criteria set out in the by-law. These EDCs are collected from property owners by the City of Toronto (the “City”) and remitted to the TCDSB; however, they differ from the Development Charges (“DCs”) that the City is permitted to collect from certain developments pursuant to the *Development Charges Act*, 1997, SO 1997, c 27 (the “*Development Charges Act*”) and the City’s own by-law.

We understand that CHKC has indicated that their project is exempt from the payment of DCs under the *Development Charges Act* and is seeking a similar exemption from payment of EDCs. As indicated above, DCs and EDCs are administered by different statutes, and have different governing regimes and rules. Therefore, types of developments which attract EDCs pursuant to the TCDSB’s EDC by-law differ from those which attract DCs pursuant to the City’s DC by-law. Each development in the City of Toronto is assessed for the purposes of EDCs based on the language of *Education Act*, its Regulations, and the in-force EDC by-law at the relevant time period when the charge is payable. While the *Development Charges Act* permits municipalities to exempt certain development from the

payment of DCs, no such exemptions exist under the *Education Act* or its Regulations. Therefore, there are situations where a property owner will be legally required to pay EDCs to the TCDSB even though that development is subject to a exemption under the municipal DC regime.

A further relevant difference between DCs and EDCs is that the *Education Act* does not permit either a school board or a municipality to waive the collection of EDCs on a case-by-case basis. Even if CHKC had approached the TCDSB or its Trustees seeking an individual exemption for the project at 150 Eighth Street, there would be no legal basis upon which this exemption could be granted while the present EDC By-law is in force. In other words, the City must apply the letter of the EDC By-law when assessing any EDC; the TCDSB cannot legally provide a unilateral waiver on any given case.

The *Education Act* permits an owner to make a complaint to the City about an EDC that is payable on the following bases only:

- (a) the amount of the education development charge was incorrectly determined;
- (b) a credit is or is not available to be used against the education development charge, or that the amount of a credit was incorrectly determined; or
- (c) there was an error in the application of the education development charge by-law.

The TCDSB respectfully submits that CHKC has not proven that the EDC amount of \$184,408 which was paid under protest was incorrectly determined, or that the TCDSB's EDC by-law was applied in error. Their complaint is made on the basis that they feel their type of project should be exempted from EDCs similar to how it was exempt from DCs; however, nothing in the *Education Act*, its Regulations, or the EDC by-law grants such an exemption. TCDSB agrees with the conclusions of City staff, as set out in the April 29, 2025 staff report, that the EDC by-law was applied properly, and no error was made in the determination of the applicable education development charges.

If City Council finds that that EDC by-law was applied properly, and no error was made in the determination of the applicable education development charges, the TCDSB respectfully submits that there is no jurisdictional basis for City Council to waive or exempt some or all of the EDC amount paid by CHKC, and that any such decision would be grounds for an appeal to the Ontario Land Tribunal.

We will attend at the meeting of Executive Committee on May 13, 2025 to speak to the TCDSB's position and answer any questions that the Committee may have.

Sincerely,  
**BORDEN LADNER GERVAIS LLP**



Julie Lesage