



January 22, 2025

Chair Perks and Members of the Planning and Housing Committee

City of Toronto
Toronto City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Sent via email to: phc@toronto.ca

Re: PH18.13 - Community Benefits Charge: In-Kind Guidelines

Dear Chair Perks and Members of the Planning and Housing Committee,

I am writing on behalf of the Building Industry and Land Development Association (BILD), which represents the land development, homebuilding, and professional renovations sectors in the Greater Toronto Area and Simcoe. We have reviewed the City's staff report regarding item PH18.13 - Community Benefits Charge: In-Kind Guidelines (the "guidelines") and would like to offer our comments as follows.

First, we would like to express our appreciation to City Staff for organizing a stakeholder meeting on the guidelines. We meet with staff on January 10th and value the opportunity for open dialogue that was provided. At the meeting, BILD was accompanied by its CBC consulting team of Ira Kagan, Founding Partner of Kagan Shastri DeMelo Winter Park LLP and Daryl Keleher, Principal, Keleher Planning & Economic Consulting Inc. (KPEC). This consulting team specializes in reviewing CBCs across the Greater Toronto Area for BILD. Based upon their advice and our own understanding of the development industry, our comments are as provided below.

1. **The Guidelines provide insight into City objectives and expectations** for in-kind benefits. This is appreciated and valuable. In-kind contributions are ultimately a negotiated agreement between both the City and the applicant. Just as the applicant cannot force an in-kind contribution on the City, neither can the City force the applicant to provide an in-kind contribution or to provide on terms unacceptable to the applicant. Accordingly, if the City's terms are essentially provided in the guidelines and those terms are too difficult or rich for the applicant, then the guidelines run the risk of preventing in-kind negotiations before they even get started.
2. **The Guidelines risk being too rigid**, which could ultimately have a negative impact on the community. The guidelines contain numerous specific numbers, which may be interpreted by staff as being inflexible. For example, the guidelines state that the minimum size for a daycare is 5,000 square feet, and the minimum duration for maintaining affordable housing is 25 years. While specific parameters can be helpful, they may also limit flexibility in meeting community needs. As such, it is imperative that guidelines be treated as 'guidelines' with a flexible application and implementation. Additional examples of this rigidity which can create unintended consequences are described below.
 - **Affordable Homeownership:** The guidelines require developers to maintain the affordable sale price of units for 25 years, while also stipulating that the unit be transferred to a non-profit housing provider. This raises the question: How can developers be expected to control the unit price for 25 years if the unit is transferred to another entity from day one? Developers may ultimately find the legal complexities overwhelming

and opt to pay the 4% CBC in cash, rather than navigating these challenges.

- **Planning Act Parkland and Parkland Improvements:** The guidelines prohibit encumbered parkland, yet the Planning Act allows for encumbered parkland (subject to outstanding regulations). If the Ontario Land Tribunal (OLT) orders the City to accept encumbered parkland, the current guidelines would prevent the acceptance of parkland finishes as an in-kind contribution for encumbered parkland. This issue needs to be resolved.
- **Valuation of Affordable Housing Contributions:** The guidelines must include a method for determining the appropriate value of affordable housing contributions. For example, how is the value of an affordable rental unit to be assessed? This issue frequently arose under the previous Section 37 guidelines and should be even more critical now, given the 4% cap.
- **Inconsistent Contribution Values:** There are conflicting references to contribution values being based on "construction costs" in some sections and "finished and equipped" in others. This discrepancy must be resolved for clarity.
- **Minimum Facility Sizes:** The minimum required sizes for certain facility types may be difficult, if not impossible, to achieve. For instance, to accommodate a minimum 10,000 SF childcare centre under the 4% cap, the land value would need to be \$175 million. At a land value of \$200 per buildable SF, this would necessitate the development of 900 units.
- **Library Minimum Size:** The 15,000 SF minimum for libraries, all of which would need to be located on the ground floor, poses similar challenges. To meet this requirement under the 4% cap, a massive development would be required. Additionally, many libraries in the City are typically 5,000 to 8,000 SF in size, making it unclear why the minimum size is being set so high.

BILD understands that the next steps for the guidelines include their publication on the Section 37 Community Benefits Charge webpage and sharing them as part of development review meetings with landowners. Before approving these guidelines and posting them, BILD recommends that staff consider these comments and consider revising the guidelines to reflect them. Providing flexibility is important since in-kind contributions are a negotiation after all. We would appreciate receiving a final copy of the guidelines.

Thank you for your attention to our comments. Should you have any questions or require further information, please do not hesitate to contact me directly.

Sincerely,



Danielle Binder, RPP MCIP
Senior Director, Policy and Advocacy