Town of East Gwillimbury

Our town, Our future

CORPORATE SERVICES REPORT CS2019-10

To: Committee of the Whole Council

Date: August 13, 2019

Subject: Bill 108 Proposed Regulations

Origin: Corporate Services Department – Finance Branch

RECOMMENDATIONS

1. **THAT** the Corporate Services, Finance Branch Report CS2019-10 dated August 13, 2019 entitled “Bill 108 Proposed Regulations” be received.

2. **THAT** Council support the comments to the draft regulations to Bill 108, as outlined in Attachment 1.

PURPOSE

The purpose of this report is to provide Council with information relating to the proposed regulations to Bill 108 and an update on the results of the York Region Workshop prior to comments being due on August 21, 2019.

BACKGROUND

Draft regulations supporting Bill 108 have been released and comments are due by August 21

Bill 108, *More Homes, More Choice Act, 2019* received Royal Assent on June 6th, 2019. The Bill amends thirteen pieces of legislation including the *Development Charges Act, 1997.*

Proposed regulations were posted on June 21st. Many important details remain to be released, which will determine the real impact of the changes to municipalities and their ability to recover growth-related costs. Municipalities have until August 21, 2019 to provide comments on the regulations, however the scope of the comments is limited to the calculation of the proposed Community Benefits Charge, which will replace development charges for ‘soft services’, parkland dedication fees, and density bonusing.

The Province has formed a Technical Working Group to develop a Community Benefits Charge calculation methodology

A Technical Working Group representing municipalities has been formed by the Province, consisting of select municipal representatives, consultants and Ontario's Ministry of Municipal Affairs and Housing. The group is tasked to arrive at a calculation methodology that preserves the two main goals outlined by the Province; increasing certainty of costs, and preserving revenue neutrality for municipalities.

York Region has been invited to participate in the province's Technical Working Group.

Municipal Finance and Planning representatives met to discuss the draft regulations

On July 19, a workshop was held with the Region and all nine local municipalities. The main objectives of the workshop were to:

1) Develop a shared understanding of Bill 108 and proposed regulatory framework;
2) Identify common areas of concern and potential areas of collaboration;
3) Identify common key messages; and,
4) Share communication/commenting strategy on the regulatory framework.

The proposed comments shown in Attachment 1 are based on staff input and feedback received at the workshop. These comments will also support the Region in providing feedback to the provincial Technical Working Group.

ANALYSIS

The municipal workshop focused on three areas

At the municipal workshop, feedback was provided in three themes; transitioning from the current DC regime to Bill 108, calculation of the Community Benefits Charge (CBC), and the impact on Development Charges (DC).

Transition

Municipalities must have a Community Benefits Strategy and By-law in place by January 1, 2021 in order to continue to recover growth-related capital costs for soft services. Development Charge by-laws must also be revised to reflect this change. There is a general concern among York Region municipalities that this does not provide enough time to develop the strategy and make all required administrative and procedural changes by that time, particularly as some key details on calculation methodology and administration have yet to be determined.

There is an overall sense that municipalities need more time for fulsome consultation with the Province and for feedback to be provided. The information released to date lacks detail and municipalities are left unsure as to whether or not revenue neutrality will be preserved in future.

Community Benefits Charge

It is intended that the CBCs be calculated in such a way as to preserve revenue neutrality for municipalities. It is unclear whether this will be established based on municipality, development type, or based on forward, as opposed to historical, revenues. The community benefits regime should ensure that all municipalities are in the same position they would be in if they could continue to collect soft service DCs, density bonusing and parkland dedication. It was also agreed that the additional administrative costs associated with the changes introduced by Bill 108 and proposed regulations be eligible for funding through CBC revenue. This has not yet been addressed.

Further clarity is required in determining how the charges will be calculated, levied and allocated in a two-tier system. The Region will also be seeking clarity on the ramifications of not allocating 60% of CBC revenue annually, as required by Bill 108.

The treatment of existing DC reserves that will become recoverable through CBCs is unclear. The Municipalities are unsure how to transfer reserve balances to the new regime.

DCs

Concerns expressed by the group focus on the ability to freeze rates and phase in the payment of DCs for non-residential, rental and non-profit housing. There is also concern about certain types of development that will have phased payments, particularly retirement homes and commercial development. This will likely present challenges to municipalities in that it may result in significantly incomplete applications being submitted prematurely in order to freeze rates. It also presents risks to municipalities in collecting phased or delayed DC payments in annual installments as it is not yet clear on what type of security the municipalities have that they payments are made regularly.

Overall, the proposed changes to the Development Charges Act, 1997 create a disconnect between the timing and amount of growth-related servicing costs and the collection of required revenue. This will inevitably cause cash flow problems for municipalities and create an inability to keep up with increasing costs. Municipalities are being asked to finance developers and administer long term payment plans, which do not keep up with the servicing infrastructure required by their developments. The framework should be revisited to ensure municipalities have the necessary tools to protect their financial interests and be able to properly service growth, while building livable communities.

There were general concerns expressed that municipalities don't feel they're being heard. The legislative process has been rapid, with little time between the Bill's first reading and receiving Royal Assent. There was little time allowed for municipalities to provide feedback and, at this time, feedback is limited to the calculation methodology of the CBC charge.

NEED FOR PUBLIC CONSULTATION

This report is published on the Town's agenda for public review. There are no consultation requirements at this time.

FINANCIAL IMPLICATIONS

Development Charges are a critical funding source for municipalities to ensure that growth-related infrastructure is paid for by development. This ensures that the servicing demands of new growth is not borne by existing taxpayers. It has often been acknowledge that, due to some of the limitations of the Development Charges Act, growth has not been fully paying for growth, despite the intensions of the legislation. If changes are to be made to the regime, the scope of DCs should be increased, as opposed to limited.

It is critical that revenue neutrality be maintained at minimum. With increasing cost pressures being faced by municipalities across Ontario, specifically with regards to asset management and increasing capital construction costs, fiscally responsible financing of growth-related infrastructure is of paramount importance. Staff are concerned with the bundling of services under the CBC regime, specifically parks, indoor recreation and public works. This this has the potential impact the Town's ability to fund some key growth-related infrastructure. This could also prevent the Town from meeting community expectations and meeting established service levels.

The specific financial implications of the changes to the Development Charges Act will be determined pending completion of the consultation process and final calculation methodology being determined.

ALIGNMENT TO STRATEGIC PLAN

The recommendations of this report align with the following Strategic Priority(ies):

CULTURE of municipal excellence	Culture of Municipal Excellence	Ensure strong fiscal responsibility and program delivery

CONCLUSION

York Region local municipalities have shared reactions to Bill 108 and the proposed regulations. Municipalities have until August 21 to submit feedback on the calculation of the CBC charge. Representatives from York Region are participating in the Province's Technical Advisory Committee and will incorporate requests, concerns and feedback from local municipalities. Staff will continue to monitor Bill 108 and the regulations and advise Council of any changes that occur.

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Attachment 1
Summary of Recommendations

Community Benefits Charge

1. The regulations that were released in June 2019 provide very little detail on how CBCs will be calculated and charged. The town does not agree with the basis of the CBC calculation based on land value as it does not align with the true costs of servicing. However, if this methodology remains, further clarification is required.

    - The Town requests further clarification on the calculation of CBCs, specifically:

        i. How cost recovery will be determined for growth-related projects;

        ii. How the cap on the charge will be determined and how that applies in a two-tier jurisdiction;

        iii. The basis of the charge ($/unit, square foot, hectare);

        iv. Public consultation requirements; and,

        v. Content and timelines for the Community Benefit Strategy.

2. Long term care homes, legions, hospices, retirement homes, colleges and universities, non-profit housing and areas within Community Improvement Plan areas will be exempted from the payment of CBCs. It is unclear why a for-profit retirement home development should be exempt from these fees.

    - The Town requests that the Province reconsider For-Profit Retirement Homes in the exemption from CBCs.

3. The calculation of the CBC will be based on a percentage of the value of land. This is in an attempt to preserve revenue neutrality and cost predictability. Percentages have not yet been prescribed.

    - The Town would like the province to consider different types of development, including varying densities and location in setting the cap of the percentage of land value to preserve revenue neutrality.

4. Bill 108 requires that 60% of all CBC revenue be spent or allocated within the year. This should be further clarified, including an indication of what would happen if the money was not spent as intended.

    - The Town requests that the province further clarify the meaning of allocation, and allow flexibility to adjust funding allocations as required.

5. The calculation of the CBC is intended to preserve revenue neutrality for municipalities. In determining the required percentage of appraised land value, revenue associated with DCs for soft services, S.37 (density bonusing), and cash in lieu of parkland must be considered. When determining revenue neutrality, it is unclear whether this will be compared against historical revenues or projected revenues.

   - The Town requests that the determination of revenue neutrality be based on projected revenue for all three revenue sources as opposed to historic revenues.

6. There will be significant additional requirements and costs associated with the transition and administration of the regime under Bill 108. These costs are currently ineligible for funding through DCs and CBCs. This will put municipalities at a significant disadvantage.

   - The Town requests that the administrative costs associated with transition and implementing Bill 108 be eligible for funding through DC and CBC revenue.

Development Charges

7. Development charges will be determined and frozen at the time of application for a plan of subdivision. The rates will be valid for two years. It is unclear how the DCs will be recalculated after two years have passed since submission.

   - The Town requests there be a sunset period of two years between approval of site plan or zoning by-law amendment application and building permit.

8. The Town requests clarification on the point at which DC rates are set. Bill 108 suggests this will occur at application stage, however it is not clear whether this will refer to the time of application submission, or once the application is determined to be complete.

   - The Town requests that this be set at the point at which an application is determined to be complete.

9. If an application is determined to be complete, and the DC rates frozen, it is not clear if DCs will be recalculated in the event that an application is changed significantly. It would cause significant administrative delays if developers began submitting incomplete applications in order to freeze DC rates early.

   - The Town is requesting that municipalities be given authority to re-calculate DCs if an application is significantly altered.

10. DCs collected for certain non-residential categories will be eligible for delayed and phased payments. Commercial, industrial, institutional and rental housing will be paid in annual installments over five years. Eligible DCs for non-profit housing will be made over 20 years, with interest. It remains unclear how municipalities will be able to assure annual payments are made and how the costs of this additional administrative task will be recovered.

    - The Town requests more direction on the administration of the collection of delayed and phased DC payments.

    - The Town requests that more direction be provided by the Province on establishing interest rates between when rates are frozen and payable, as well as for deferred annual installments.

    - The Town requests the ability to secure the full value of the DCs in advance to limit risk with collecting annual installments and/or register the DC obligation on title.

    - The Town requests that more power be provided to municipalities to ensure rental buildings remain rental in order to qualify for the delayed DC payment. This could be done through covenant on title.

<u>Transition / Administration</u>

11. CBC By-laws must be in place by January 1, 2021. At that point, municipalities may no longer collect development charges for soft services. Given the lack of detail in the regulations released to date, this does not allow municipalities enough time to complete the required Community Benefits Strategy, calculate fees and pass a CBC by-law.

    - The Town requests that the January 1, 2021 date be extended to January 1, 2022 to allow fulsome discussion and sufficient resources be allocated to the transition process.

12. This process has been fast and municipalities feel they are not being provided with sufficient opportunity to provide feedback and impact the process. Additional collaboration could help the province, Region and local municipalities address issues related to the additional administrative process, cash flow for financing significant growth-related projects, and protecting revenue neutrality going forward.

    - The Town requests that the January 1, 2021 date be extended to allow fulsome discussion and sufficient resources be allocated to the transition process.