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**London**  
CANADA

August 19, 2019

John Ballantine, Manager  
Municipal Finance Policy Branch  
Municipal Affairs and Housing  
13<sup>th</sup> Floor, 77 Bay Street  
Toronto, ON M5G 2E5

Re: City of London comments: **ERO Number: 019-0184**; Proposed changes to O. Reg. 82/98 under the Development Charges Act related to Schedule 3 of Bill 108 - More Homes, More Choice Act, 2019 and **ERO Number: 019-0183**; Proposed new regulation pertaining to the community benefits authority under the Planning Act

Dear Mr. Ballantine,

Thank you for the opportunity to comment on the proposed regulations for the new community benefits authority under the Planning Act and for Schedule 3 of Bill 108, More Homes, More Choice Act, 2019. The City of London strongly supports the efforts of the Province in tackling the pressing issue of housing affordability, and appreciates the additional clarity provided by the proposed regulations.

In particular, the City supports several aspects of the proposed regulations including:

- the Ministry's stated commitment to ensure municipal revenues historically collected from development charges (DCs) for "soft services", parkland dedication including the alternative rate, and density bonusing are maintained through the Community Benefits Charge (CBC) formula;
- clarified roles and responsibilities between the applicant and the municipality during the land value appraisal process used to calculate a CBC;
- clarified definitions for the types of development subject to DC deferral and the period of time for which a DC freeze would be in place; and,
- the proposal to not specify a maximum interest rate on deferred and frozen DCs, which would allow a municipality to determine the appropriate rate based on its particular circumstances.

While the above are helpful details, the City has several recommendations to improve clarity and assist with the effective implementation of the proposed regulations.

## **Definitions for types of development subject to DC deferral**

- Rental housing developments will be able to defer payments in the revised DC Act. The regulation identifies such development as a building or structure with four or more self-contained units that are intended for use as rented residential premises.
- The City has a concern regarding the assurance that deferred rental housing development units intended to be used as a rented residential premises are developed as such and are maintained as rental housing. Greater clarity is requested on how the rental status can be maintained without requiring additional administrative requirements on the part of the municipality. The City further requests that the regulation clarify the treatment of units in a plan of condominium, which may be owned and rented by individuals or owned and rented by a single entity (e.g., to avail of differing property tax treatment) and to ensure rentals are not converted into owner occupied housing during the deferral period.
- Likewise, non-profit housing development will be able to defer payments. However the regulation does not currently identify eligibility requirements for a non-profit, which should be clarified. The City requests that the regulation include a 'charitable organization' requirement to ensure only meritorious corporations qualify for a DC deferral.
- Regarding the definitions for institutional development, the City is concerned that the definitions are much too ambiguous. To ensure clarity and consistency of application, the City requests that a link be established between the uses and definitions provided in related legislation. For example, the definition of retirement homes should align with section 2(1) of the Retirement Homes Act, Colleges should reflect those established under the Ontario Colleges of Applied Arts and Technologies Act, Universities should reflect those defined in section 171.1 of the Education Act, etc.
- As Colleges and Universities occasionally develop portions of their lands for non-institutional purposes, it is recommended that the regulations specify that the uses subject to the deferral should only be for the purposes set out under their enabling legislation.

## **Exemptions from Community Benefits**

- The regulation proposes that certain types of development be exempt from paying community benefits charges and include several institutional developments and non-profit housing development. It should be noted that these proposed exempted forms of development still incur servicing requirements for growth infrastructure that would be funded through a community benefits charge. Consistent with the above, the City is concerned that the definitions are too ambiguous and difficult to interpret and implement and would likely result in growth costs being funded from non-growth funding sources. The City recommends that no exemptions be identified, or, if necessary, that these definitions be aligned with definitions that exist under current Development Charges legislation.

## **Community Benefits Charge Strategy Preparation**

- No guidance is provided in the regulation as to how a community benefits charge strategy would be prepared. This is in contrast to the Development Charges Act which provides a methodology to calculate a charge that includes projecting needs, requires deductions and establishes net eligible costs, recognizes outstanding obligations and commitments, and determines shares for each type of development. The methodology provides a sound and transparent approach.
- The City is of the view that a clear and consistent approach is necessary for all municipalities when preparing a community benefits charge strategy. It is recommended that a methodology similar to that provided in the Development Charges Act be included in the community benefits authority regulation to provide for a fair distribution of cost-sharing and to ensure a consistent methodology for all municipalities.

## **Appraisals for Community Benefits**

- While three timelines have been provided in the regulation regarding community benefits appraisals, the City notes that there is no prescribed time period for an owner to select a third party for final appraisal. As such, under 37(18) of the revised Planning Act, should the City request the owner to select from the list, and the owner fails to do so for an extended period of time, there is no means to end the process. The City recommends that the regulations include a prescribed time period for an owner to select from the list to prepare the final appraisal.
- The City has concerns regarding the increased administrative burden resulting from the appraisal process, and it is not clear which party is responsible for the cost of an appraisal. The City recommends that the regulations provide clarifying language which party is responsible for appraisal costs, and provide municipalities with a cost recovery mechanism.

## **Community Benefits Formula**

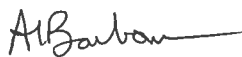
- The revised Planning Act establishes that the community benefit charge payable will not exceed a prescribed percentage of the value of the development land on the day before the building permit is issued. The regulation proposes principles to be used in developing a formula to determine the prescribed percentages. No prescribed percentages have been proposed to date in the regulation. However, the Ministry has stated that further consultation on the proposed formula will be held in late summer.
- The City has concerns as it is unclear whether the formula will account for London's development context, or ensure that revenues collected from soft service DCs, parkland dedication and density bonusing will be maintained. The regulation does not specify how the City can participate in future Bill 108 related consultation, including commenting on the CBC formula. The City would like an opportunity to provide additional input as the CBC formula is developed.

## Community Planning Permit System

- The City has concerns about the proposed regulation that would prevent community benefits charges from being collected in areas with a Community Planning Permit System (CPPS) as a municipality may not be able to provide certain community benefits should it use a CPPS. The City questions how community benefits resulting from the use of the CPPS and the use of community benefits charges are different. Conditions enabled through a CPPS function in a manner more similar to the density bonusing provisions in the previous Planning Act, and as such may not be interchangeable with matters identified in a community benefits charges strategy. Moreover, CPPS conditions do not explicitly permit cash contributions to pay for soft services and parkland cash-in-lieu.
- Rather than completely excluding a community benefits charge by-law from areas with a CPPS, it is recommended that the regulation specifies and clarifies that any individual component of a community benefits charges by-law that is the subject of a condition of a CPPS would not be charged, thereby ensuring that there are not two opportunities to collect the same charge for a community benefit through two different processes.

The City supports Provincial aims to address housing affordability through collaboration with the Province, and is requesting that the input provided through this consultation process be incorporated into the new regulations to address municipal needs.

Sincerely,



Anna Lisa Barbon, CGA, CPA  
Managing Director, Corporate Services and City Treasurer, Chief Financial Officer  
City of London