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Subject: Niagara's comments: transition regulations for *Bill 108 – More Homes, More Choice Act, 2019*, regarding the *Planning Act, 1990* (ERO 019-0181, -0183), and the *Development Charges Act, 1997* (ERO 019-0184)

Date: August 6, 2019

To: John Ballantine
Municipal Finance Policy Branch, Ministry of Municipal Affairs and Housing

Planning Consultation
Provincial Planning Policy Branch

From: Rino Mostacci, MCIP, RPP
Commissioner of Planning and Development Services, Niagara Region

Kindly accept this letter on behalf of the Commissioner of Planning and Development Services of the Regional Municipality of Niagara (the "Region") in response to the proposed regulations for the *Development Charges Act, 1997*, and the *Planning Act, 1990*, through the Ministry of Municipal Affairs and Housing (MMAH) *Bill 108: More Homes, More Choice Act, 2019*.

The views expressed in this letter are those of the Region's Commissioner of Planning and Development Services.

Comments in this letter are submitted collectively in response to the following Environmental Registry of Ontario ("ERO") postings:

- ERO #019-0181: "*Proposed new regulation and regulation changes under the Planning Act, including transition matters, related to Schedule 12 of Bill 108 - the More Homes, More Choice Act, 2019*"
- ERO #019-0183: "*Proposed new regulation pertaining to the community benefits authority under the Planning Act*"
- ERO #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*"

Regional staff supports some of the proposed changes

Regional staff supports the following aspects of the proposed regulations:

- The Ministry's stated commitment that municipal revenue historically collected through development charges (DCs) and parkland 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.

- Specified transition period for the review and approval of *Planning Act, 1990*, applications such as official plan amendments, zoning by-law amendments, and plans of subdivision.
- Specified official plan elements required to implement a Community Planning Permit System and that approval of that instrument cannot be appealed.
- Decision to *not* specify a prescribed maximum interest rate on deferred / frozen DCs. This will allow municipalities to determine the appropriate rate based on its particular circumstances.

Regional staff comments

Participation in future consultations

The regulation does not specify how the Region can participate in future Bill 108-related consultation, including commenting on the CBC formula. The Region seeks to provide input.

Concern with the CBC By-law implementation date

The regulation sets out that CBCs need to be implemented by January 1, 2021.

This implementation date will be difficult to achieve given the process that must occur prior to the completion of a CBC Strategy.

Undertaking a CBC Strategy in a two-tiered governance structure will take considerable time and be difficult to coordinate between all stakeholders, particularly the first time.

It takes more than a year to complete the necessary background work required for a Development Charge Background Study. As such, we expect a CBC Strategy to take at least this long since it is a new initiative and will involve consultation and coordination with 13 municipalities. It is an unreasonable time expectation to have this work completed, including passing a By-law, for Niagara's 13 municipalities by January 2021.

It would be unfair to prohibit the collection of development charges under a circumstance where a By-law was not passed during this period. Losing out on these charges would be detrimental to the construction of community infrastructure necessary to accommodate growth.

Regional staff requests MMAH to adjust the implementation date of a CBC By-law to allow for proper planning and consultation with municipalities to better understand administrative resourcing, tools, and processes required for this major transition.

In our view, instead of the January 2021 implementation date, CBCs should be phased-in at the time of DC By-law expiry. For example, if a DC By-law expires in March 2023, development charges, including soft services DCs, could continue to be collected until that date, at which time a CBC By-law would be required in order to do so. Using this phased approach will allow for better coordination between the local municipalities and Region, and allow additional time for municipalities to prepare and plan for this new funding process.

Additionally, there is confusion about the requirements for the January 2021 date based on the available materials. It is unclear whether a new DC By-law must be passed by January 2021 (thus requiring a new DC Study prior to that date), or if a municipality may instead amend its existing DC By-law by removing soft service rates recovered through the CBC By-law (without a DC Study). If the January 2021 date remains in the final form of the regulation, clarification about the requirements is needed.

Non-profit housing definition

Non-profit housing developments are able to defer payments in the revised *DC Act*. The regulation does not currently identify eligibility requirements for a non-profit that could receive this benefit.

Regional staff requests that the regulation include a “charitable organization” requirement for non-profit housing developments to prevent unmeritorious corporations from incorporating as a non-profit to qualify for DC deferral.

Applicable DC rates upon expiry of deferral periods

Regional staff requests clarification in regards to whether the initial DC rate or current DC rate would apply to applications whose two year deferral period has expired under ss. 26.1-26.2 of the *DC Act*.

Establish criteria for eligible CBC “in-kind contributions”

The regulation should specifically identify eligibility requirements for “in-kind contributions” in lieu of cash on a remaining CBC balance (*Planning Act, 1990, ss.37(6-8)*).

For example, the regulation should provide that in-kind contributions collected by municipalities count towards its 60% annual spending/allocation requirement (*Planning Act, 1990, ss.37(27)*). The legislation and regulation is unclear on whether in-kind contributions, or cash-only, meet the 60% requirement.

Conclusion

Regional staff appreciates the opportunity to provide these comments and looks forward to participating in further consultation opportunities.

Respectfully submitted and signed by



Rino Mostacci, MCIP, RPP
Commissioner of Planning and Development Services
Niagara Region