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August 21, 2019

Mr. John Ballantine  
Manager, Municipal Finance Policy Branch  
Municipal Affairs and Housing  
13th Floor, 777 Bay Street  
Toronto, Ontario M5G 2E5

Dear Mr. Ballantine:

**Re: 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**

On July 22, 2019, through report [CORS-047-19 Legislative Update: Bill 108: More Homes, More Choice Act, 2019](#), Town of Milton Council authorized staff to prepare and submit a formal response to ERO Number 019-0184 regarding the 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.

The intent of Bill 108, as positioned by the Province, is to increase housing supply, cut red tape to make it easier and faster to build new housing and to make housing more affordable across the Province. Furthermore, the legislation was intended to make the costs of building new homes more predictable and encourage developers to build more housing.

Milton supports the intent of Bill 108. The Town does, however, believe that there are more effective alternatives to achieving the Province's goals.

- The Minister has noted that streamlining the rate structures by reducing the number of different charges was a desired outcome of this process. An opportunity has been missed, however, to fully integrate the charges as a new Community Benefit Charge (CBC) structure has been created (versus further leveraging the existing development charge framework).
- The new CBC does not achieve increased predictability in development costs as the charge is based on appraised land values that can fluctuate over time. Not only does the charge create uncertainty, it also creates volatility risk for municipal cash flows and therefore the resulting infrastructure needed to support growth.
- The utilization of multiple rate structures along with the additional volume of appraisals increases administration costs and time for processing, which combined work against the desired outcomes of Bill 108.

Milton believes the Province's goals could be better achieved by consolidating the growth infrastructure funding legislation for parkland and density bonusing from the Planning Act into the Development Charges Act, 1997 (DCA), thereby creating one comprehensive and predictable rate structure. Once consolidated, and when combined with the other legislative changes related to the timing for determining the DC amount and installment payments, the new

structure would better support the Provinces' goals and ensure municipalities and developers are able to work cooperatively to increase both the supply and affordability of housing.

Understanding Milton's overarching concerns regarding the legislation as written, the following summarizes Milton's perspectives on the 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 posted under ERO Number 019-0184.

#### 1. Transition

The proposed regulation provides for transition to the new CBC authority during the period of January 1, 2020 to January 1, 2021. In addition to completing both a development charge background study and community benefits strategy, implementing the extensive changes from Bill 108 will require new business processes and software to track the calculation, collection and deferral of development charge and CBC payments. A successful implementation will require a significant investment of human and financial resources that will place a strain on municipal services in the short-term to meet the proposed transition deadline. Furthermore, there are minimal consulting firms in Ontario able to support the hundreds of Ontario municipalities in developing the DC background study and community benefits strategy needed to implement the new legislation. **Milton recommends the prescribed transition period provide at least a 2-year transition period following the enactment of the regulations. Furthermore, all existing municipal DC By-law provisions should remain effective at the municipality's discretion during the transition period, such that development charge by-law amendments including instalment payments, DC freeze and statutory exemptions can take effect at the same time as the transitioning to the CBC.**

#### 2. Development charge deferral

Instalment payments negatively impact municipal cash flows and increase the risk associated with collections. To ensure collection and the municipalities' ability to deliver the required infrastructure, **Milton recommends the Province considers the risk municipalities will be exposed to in the period between building permit issuance and the final DC installment payment, and ensure that the regulations outline the mitigation options available to municipalities.** These mitigation could include securing the development charge payments through the collection of letters of credit and the registration of the financial obligation on title.

The proposed regulation contains definitions for the five (5) development types eligible for development charge deferrals. **Milton recommends the following changes be made to the definitions:**

- "Non-profit housing development" should exclude non-profit corporations that are not providing affordable housing, tie the definition of a non-profit corporation to the Not-for-Profit Corporations Act, 2010 and require the non-profit corporation to remain both the owner and operator of the development.
- "Institutional development" should require the definitions of long-term care and retirement homes be tied to specific legislation such as the Long-Term Care Homes Act, 2007, and the Retirement Homes Act, 2010.

Similarly **Milton recommends that the Province further scope the definition for Rental Housing Development**, and ensure that there is a mechanism provided to ensure that rentals are not converted to other uses following building permit approval.

Finally, **Milton believes that municipalities are best positioned to determine when DC deferrals in the institutional, industrial and commercial sectors are in the best interest of the community**, and believes that regulation should not provide for a blanket deferral to all development activity within these classes.

3. Period of time for which the development charge freeze would be in place

A significant amount of time can lapse between development application, approval date and issuance of a building/occupancy permit. To reduce the administrative burden of tracking multiple development charge rates and to encourage developments to reach the market faster, **Milton recommends the regulation be amended to freeze the development charge for a period of two years from the date a complete application is received; not the application approval date. Milton also recommends the regulation stipulate that the application date has the same meaning as it does under the current Planning Act.**

4. Interest rate during deferral and freeze of development charges

**Milton supports the Provinces' decision not to include a prescribed maximum interest rate.**

5. Second Dwelling Unit Exemptions:

Any exemptions provided in the DCA do not support the “growth pays for growth” objective and place an increased burden on existing taxpayers to fund the exemptions. **Milton, therefore, does not support extending the exemption to new residences nor adjusting the maximum number of additional dwelling units from one to one percent for other residential buildings. Should the regulation remain in its current form, however, Milton recommends the regulation stipulate the noted exemptions are one-time only to not allow multiple exemptions in perpetuity, as well as limit the exemptions on other residential buildings to affordable housing units only.**

**Other considerations not currently addressed in ERO 019-0184**

a. Changes to eligible services

As noted above, removing services from the DCA and introducing the proposed CBC creates uncertainty for municipalities and leaves municipal revenues vulnerable to a volatile real estate market. Milton currently includes costs within the DC charge for such growth-related studies including Official Plan Updates, Secondary Plans and associated studies, and DC Background Studies . The current legislation is unclear as to which mechanism, the DCA or the CBC in the Planning Act, will be used to collect funding to support these growth-related studies, parking or animal services. Section 2(4).12 of the revised DCA provides an opportunity for the inclusion of “other services as prescribed” to be included in the charge and **Milton recommends the regulation be amended to include Growth-related studies, parking, and protective inspection and control services as eligible services.**

b. Administrative Burden

The More Homes, More Choice Act, 2019 adds new administrative processes that will increase the burden on municipalities and potentially increase the cost and/or time related to approvals. Additional resources will be required to manage the numerous installment plans,

freezing of development charge rates, the appraisal processes, as well as other proposed changes. **The Town therefore suggests that clarity be provided to ensure that municipalities are provided with the appropriate revenue tools to administer the DC and CBC regimes, thereby ensuring that growth pays for growth.**

Milton appreciates the opportunity to participate in the consultation process and trusts that there will be a thorough review and evaluation of the feedback provided to the Ministry to ensure the regulatory framework achieves the Province's housing supply objectives. The Town looks forward to providing further input at such time as the proposed CBC prescribed percentages and formula are released and the full draft regulations become available.

Sincerely,



Glen Cowan  
Chief Financial Officer & Treasurer

gc/mw

- c Milton Town Council Members  
Municipal Finance Officers Association (MFOA)  
Association of Municipalities on Ontario (AMO)  
Mr. Parm Gill, MPP for Milton