



August 21, 2019

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RE: Proposed New Regulation Pertaining to the Community Benefits Authority under the Planning Act (ERO # 019-0183)

Please accept this letter in response to the Environmental Registry of Ontario – ERO #019-0183 Proposed New Regulation Pertaining to the Community Benefits Authority under the *Planning Act*. The Town of Caledon is appreciative of the opportunity to provide initial comments on the above ERO posting. Town staff provided initial comments on proposed changes in May 2019 and the subsequent comments in this letter reiterate the concerns of previous submissions to the Province on Bill 108 (please refer to enclosed letter dated May 31, 2019 and Town staff Memorandum dated May 21, 2019).

A report on the Proposed Regulations and Impacts related to Bill 108, More Homes, More Choice Act, 2019 is planned to go before the Town's Planning Committee on September 17, 2019 and subsequently to Council on September 24, 2019. This letter should be viewed as subject to Council endorsement, and a copy of the Report and Council resolution will be forwarded to Ministry staff for further consideration.

Although the Town support the Province's aims to increase housing choice, make housing more affordable and make it faster and easier to build housing according to the More Homes, More Choice: Ontario Housing Supply Action Plan; Town staff are opposed to the various proposed amendments of Bill 108 that impact local planning, appeal procedures and funding for provision of community services for new development. The changes jeopardize the Town's being able to maintain a "growth pays for growth" principle and ensure the burden of growth does not fall on existing taxpayers.

Attached please find the Municipal Finance Officers Association (MFOA) comments on the Environmental Registry of Ontario – ERO #019-0183 Proposed New Regulation Pertaining to the Community Benefits Authority under the *Planning Act*. Town staff support the general comments made by MFOA on the above ERO posting. Town Staff have provided comments below to further expand or emphasis the comments made by MFOA and have also prepared an analysis of what impacts are likely to result from the use of property value as the basis of a Community Benefits Charge for "soft services" funding in the Town. Several CBC formula-related recommendations are made based on this preliminary analysis.

Transition:

The Minister proposes that the specified date for municipalities to transition to community benefits is January 1, 2021. Municipalities would generally no longer be able to collect Development Charges (DC) for discounted services.

Town of Caledon Staff comments:

Town Staff recommend an alternative to the January 1, 2021 prescribed date could be either of the following dates:

- The date the DC by-laws come to a natural expiry, or are repealed by Council;
- 3 years after the Regulations are in full force and effect detailing the proposed cap, and the requirements of the Community Benefits Strategy are finalized.

The changes from Bill 108 are significant and drastic when compared to the 1997 amendment to the *DC Act* which allowed municipalities two years to transition into the revised regulations (within the same Act). Now municipalities must operate under a completely new regime, under a different Act which is why a longer transition period is being recommended by Town Staff. Town staff are concerned that it will not be possible to effectively complete a CBC strategy and adopt a by-law prior to January 2021 while ensuring revenue neutrality.

The draft Regulations do not describe any of the requirements that municipalities must follow to complete a CBC Strategy. It is reasonable to assume that a CBC strategy will require the same transparency, effort, detail and public consultation that the DC Background Study requires. It took approximately a full year to complete the Town of Caledon's 2019 DC background Study under the same rules and regulations since 1997. There are currently only two prominent consulting firms in Ontario that provide professional services to complete the DC process. These firms will likely undertake the CBC process for over 200 Ontario municipalities which will cause resource issues unless more transition time is provided.

- Town staff recommends that the Province consult on the draft regulation to provide municipalities with the opportunity to test the proposed Community Benefit Charge (CBC) caps in their local communities and that the specified transition date be 18 months after the approval of the CBC caps or the expiry date of the current DC by-law, whichever is later.
- The Town of Caledon has entered into agreement with developers with respect to parklands and other services and Town staff recommend that existing agreements be recognized.
- Town staff are concerned that under the current regulations parkland dedication provisions (S. 42) cease to exist immediately upon proclamation. Town staff recommend there should be no gap in this transition, and that the Province should not repeal alternative parkland rates until CBC By-laws are in place.

Exemptions from Community benefits:

- Town staff recommends that these exempt development types (eg. retirement homes etc) be scoped and defined in alignment with definitions that exist under current legislation. The lack of clarity surrounding the exemptions makes it difficult for municipalities to comment on the regulations.
- Town staff recommends caution and consideration of unintended consequences of exempting retirement homes from a charge for community benefits due to the significant loss of revenue expected. These

exempted properties will still rely heavily on soft services to support quality of life, and residents will still expect the Town of Caledon to provide these services.

- Town staff recommend that only non-profit organizations should be exempt.

Appraisals:

- Town Staff recommends that the Province provide clarifying language regarding cost and which party is responsible for appraisal costs. Municipalities should be provided with a full cost recovery mechanism in relation to the appraisal process.
- Town Staff recommend that all appraisals under Section 6 of the regulation must be completed by appraisers holding the Accredited Appraiser Canadian Institute designation from the Appraisal Institute of Canada and all appraisals must confirm to the Canadian Uniform Standards of Professional Appraisal Practice.
- Town staff are concerned that CBCs can be paid through a combination of cash, land and in-kind contributions and the negotiations for value placed on each of these components will be substantial. These negotiations for value placed on each of these components will be substantial and will create an administrative burden that could lead to delay.
- Presently, DC soft service and parkland per unit rates are known well in advance of building permit issuance providing predictability. Disputes over land valuations are very common, so the proposed process could routinely require three appraisals. As such, it will be time consuming and more difficult for landowners and municipalities to estimate future CBC obligations. A per-unit based charge calculated in advance will likely provide more certainty than a land appraisal-based charge.
- The time requirements for undertaking these appraisals (30 days) may be challenging to meet, given that this new requirement will place strong demand on the limited number of qualified appraisers in the region.

Excluded services:

- Public facilities such as hospitals, municipal headquarters and landfill sites have a direct correlation to the size and growth of a municipality; as a municipality grows larger, it requires expansions of such infrastructure. As such, the Town staff request the ability to recover these costs through CBC's.
- Cultural, entertainment and tourism facilities add vibrancy to municipalities and provide for complete communities. Town staff request the ability to recover these costs through CBC's.

Reporting Requirements:

- The annual reporting requirements outlined in the regulation are in-line with the Town of Caledon's current reporting processes.

Community Planning Permit System

- Town staff recommend that O. Reg. 173/16: Community Planning Permits be modified to allow the collection of Community Benefit Charges, to simplify the provision of community facilities or services, rather than create a two-tier system that would ultimately add complexity to the development process; and,

- That where the Minister designates an area subject to a Community Planning Permit System, the municipality may be allowed to enter into cost-sharing agreements with multiple landowners to provide community services to those areas.

Community Benefits Charges Formula Considerations and Recommendations

Town of Caledon is relying upon the CBC's to recover the same amount of revenue as the former soft service DCs and parkland dedication regime, keeping with the "Growth pays for growth" philosophy. As such, the Province must carefully consider the prescribed percentages of the CBC formula to mitigate any unintended consequences. The prescribed cap will be problematic for municipalities to capture all of the eligible growth-related capital costs or if, over the period of the by-law with fluctuations in the land values.

Land values have little to no correlation to the cost of providing the service (i.e. - construction cost of a library, community centre, or sports field). Basing this revenue tool on the value of land automatically creates issues between municipalities, and between neighbourhoods within a municipality.

The current methodology of planning a 10-year provision of "soft services" allows municipalities to set Development Charges that are directly linked to population increases and the associated costs. The stipulation made in the *Planning Act* that Community Benefits Charges will be calculated based on a percentage of land value has added a layer of complexity and uncertainty to both the planning and funding processes of municipal services to support development. Unpredictable revenue streams makes long term financial planning extremely difficult. Municipalities will have difficulty committing to growth-related capital projects in the absence of being able to forecast revenue streams with any level of confidence.

Preliminary analysis undertaken by Town staff has shown that using land value as the basis of Community Benefits Charges calculations will need to account for both development densities and differing land values, both between and within municipalities. Exploring the impacts on funding "soft services" expected during the 10-year development window currently planned for in the Town of Caledon's Development Charges By-law depicts scenarios where:

- Increases in density are negatively associated with cost recovery; the higher the density, the greater the land value charge percentage needs to be to recover costs.
- Increases in land values have a flattening out effect on cost recovery across densities when using a percentage of land values as the cost recovery mechanism. This flattening out effect will likely allow CBC municipal requirement estimations in Ontario's neighbourhoods with the highest levels of property values to be relatively precise, however, relatively low and/or large variation in property values will severely negatively impact the precision of CBC charge estimations. Likewise, while developers may be able to plan project costs with relative precision when land values are high, they will experience severely increased uncertainty in estimating project costs in areas with low and/or large variation in property values.
- In areas with low land values, the relationship between land value and density is associated with drastic increases to Community Benefits Charge percentage increases needed to maintain levels of service provision. In an instance where land value is at \$1.1M per hectare, which closely reflects many of Caledon's greenfield developable lands, meeting the provincial mandate of 50 persons per hectare will require at a cap rate of least 62% to maintain service provision. When land values pass \$4.9M per hectare the cap rate for 50 persons per hectare development would drop below 25% and would largely

depend on the density of units built (lower density units (and therefore an increased total number of units) would result in lower cost recovery percentages; 24.4% at 3.21 average persons per unit compared to 21% at 2.75 persons per unit).

- Based on a scenario of Caledon's future developments being somewhere between \$1.85M to \$4.9M per hectare, between 50 and 85 persons per hectare, and 3.21 and 2.75 persons per unit. The difference between these estimates represents a CBC percentage requirement variability that ranges between 21% and 63%. This range closely reflects an analysis of several recent developments that occurred in Caledon, which reflect nearly 5000 units, range in densities from less than 2 PPH to over 200 PPH, but average at 59 PPH and would require between a 3.5% to 67% CBC on property values, ranging from \$88,000 per hectare to \$5.5M per hectare, to recover the value of "soft services" currently collected for under the Town's DC by-law. The estimated weighted average land value percentage CBC to fund this spectrum of past projects would be 27%, with a site-specific density of 78 PPH.
- While higher density developments will generally yield higher property values, and thereby reduce the CBC percent per unit, density related zoning by-laws are only one of the many factors that affect land values. The majority of Caledon's future development occurring as a result of greenfield development will prove incredibly difficult to predict land values, as the Town currently has land valuation (based on evidence from recent property appraisals related to parkland dedications) that ranges from less than \$250,000 per hectare to over \$2M per hectare, due to factors related to location, zoning, servicing, site condition, amenities, etc. As CBCs will be calculated at the time of building permit, rather than at site plan submission, varying from DC calculation times, and given that the housing market is in constant flux, any amount of precision will be incredibly difficult to achieve and plan for on behalf of either municipalities or developers.

Given these complexities for calculating CBCs and preliminary analysis undertaken to date, Town staff are recommending that:

1. The Province add a fixed component to the Community Benefits Charge formula to account for the costs of building growth-related soft services infrastructure; and,
2. That if the Community Benefits Charge cap is solely linked to a percentage of land value, that the cap be set at no less than 50% for low land-value (less than \$2M per hectare) greenfield development to allow developing municipalities to remain revenue neutral while meeting the 50 people per hectares targets set by the A Place to Grow: Growth Plan for the Greater Golden Horseshoe for Caledon; and,
3. That if the Community Benefits Charge cap is solely linked to a percentage of land value, that the cap be set at no less than 70% for medium-low land-value (\$2-6M per hectare) to allow for infill in developing communities, such as Caledon, in a manner that allows developing municipalities to remain revenue neutral while developing transit supportive intensification, as required in the proposed changes to the Provincial Policy Statement (2019); and
4. That the Community Benefits Charge use land value classifications that reflects the large variation in land values seen both across the province and within communities, such as Caledon (i.e.: very low = less than \$1M per hectare; low = \$1-2M per hectare; low-medium = \$2-6M per hectare; medium =

\$6-15M per hectare; medium-high = \$15-30M per hectare; high = \$30-50M per hectare; very high = more than \$50M per hectare; and,

5. That, in addition to land value classifications, the proposed range of the Community Benefits Charge cap be based on a sliding scale of densities that recognizes the inherent increases to per unit CBC charge percentages associated with increased densities.

If you have any comments or require clarification, please do not hesitate to contact us.

Sincerely,



Peggy Tollett, CPA, CGA
General Manager
Community Services

Sincerely,



Heather Haire, CPA, CA
Treasurer
Finance & Infrastructure Services

- c: Mike Galloway, Chief Administrative Officer, Town of Caledon
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Adrian Smith, Region of Peel
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