



Town of Whitby
Office of the Chief Administrative Officer
Corporate Services Department
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April 20, 2020

Municipal Finance Policy Branch
Municipal Affairs and Housing
College Park 13th Floor, 777 Bay Street
Toronto, ON M5G 2E5

Re: ERO 019-1406

Purpose

This letter is in response to the request for comments on ERO 019-1406 regarding proposed regulatory matters pertaining to Community Benefits Authority under the Planning Act, the Development Charges Act and the Building Code Act.

Background

Bill 108, More Homes, More Choice Act, 2019 (Bill 108) received Royal Assent on June 6, 2019. Bill 108 included changes to the Development Charges Act and the creation of a new Community Benefits Authority with the intent of making housing more affordable and development costs more predictable.

The Minister of Municipal Affairs and Housing indicated in a letter to municipalities dated June 7, 2019 that the intent of the new legislation is to maintain municipal revenues.

On February 28, 2020 proposed regulatory matters were made available by the province for the Community Benefits Authority. Municipalities have been invited to provide feedback on these proposed regulations by April 20, 2020.

Discussion

The Town of Whitby is one of the fastest growing municipalities in the province. Whitby's population is expected to grow by 56% in the next 12 years.

Under the existing Development Charge legislation, growth does not fully pay for the cost of growth. The current cost of growth for our residents equals an increase in property taxes of 1.5% each and every year. This has an impact on both affordability and quality of life for our residents.

Any further growth related pressures will have an impact on Whitby, and our ability to

build a complete and vibrant community. Residents are struggling with the existing cost of growth and will object to any increased tax burden shifted from development to the taxpayer. As such, the Town is pleased by the province's commitment to maintain municipal revenues and not shift any additional cost of growth to Whitby taxpayers.

The Town has participated in the analysis of the proposed regulations with the Municipal Finance Officers' Association of Ontario (MFOA) and supports the submission made by MFOA.

In addition the Town of Whitby has provided the following additional comments that supports the principles that:

- Growth should pay for growth.
- Complete and vibrant communities are good for everyone.
- Administrative burden costs municipalities' time and money.
- Legislation related to municipal governance should be enabling and permissive.

1. **Parks, Recreation and Library Services** – The Town of Whitby supports the recommendation to shift Parks (excluding the acquisition of parkland), Recreation and Library services back to the development charges regime and out of the community benefit charge regime, and the subsequent removal of the 10% statutory reduction that was previously in effect for these services.

2. **Removal of the 1/300 Density Factor for Parkland Dedication** – Whitby does not support the removal of the 1 hectare for every 300 dwelling units density factor for residential parkland dedication, as it reduces the amount of parkland revenue to the municipality, especially for areas of intensification. It results in areas of high density development contributing less for parkland than areas of low density development. As a result, in order for a municipality to maintain the amount of parkland per capita as the population grows, it shifts that cost onto the tax base.

3. **Administrative Burden of a Community Benefits Charge**– The administration of a community benefits charge regime within a municipality is expected to carry a heavy administrative burden and additional operating costs (i.e. appraisals, staff time). The reliance on outside appraisers may slow down the building application process in times of growth if supply cannot meet demand.

4. **Choice between Parkland Dedication and Community Benefits Charge** – Given the capital costs associated with the remaining services under the community benefits charge authority, many municipalities (Whitby included) face a difficult decision whether to pursue a community benefits charge (and the administrative burden / costs associated with that) or to continue to collect parkland dedication at a lower rate (that can only be used for specific parkland/park costs as outlined in the Planning Act). Both choices will result in growth related costs being passed on to the taxpayer.

As such, Town of Whitby would support reinstating status quo for all services previously included under the Development Charges Act with parkland dedication remaining under

the Planning Act.

5. **Community Benefits Charge Cap** – It is the Town of Whitby’s position that the community needs and cost of growth are different for every municipality. It is too early to determine if the proposed cap of 10% for lower tier municipalities is sufficient for the Town of Whitby to be revenue neutral. Preliminary analysis of a limited sample size indicates that municipalities with low density green field development will fair better than municipalities with higher density or infill development.

Since the community benefits charge regime is new and untested, the Town of Whitby would support the inclusion of an automatic regular periodic review of the capped rates to ensure the funding is sufficient and revenue neutral.

6. **100% Legislated Tax Based Growth Services / Costs** – If the Province does not support reinstating status quo for all services previously included under the Development Charges Act, the Town of Whitby proposes the eligible services/costs under the community benefits charge regime be expanded to include all services / costs currently legislated to be 100% tax based under the Development Charge Act. These include.

- Hospitals as defined under the Public Hospitals Act
- Headquarters for the general Administration of Municipalities
- Cultural/Entertainment including Museums, Theatres, Art Galleries
- Tourism Facilities, Convention Centres
- Landfill Sites and Services
- Facilities and Services for the Incineration of Waste
- Computer Equipment
- Rolling Stock with useful life < 7 years.

By allowing the services / costs (currently 100% funded from the tax-base) to be funded through the community benefits charge, it will allow each municipality the flexibility to address all growth based needs, and ensures growth pays for growth to the greatest extent possible given legislative restrictions.

7. **Other Community Benefit Charge Costs** – The Town of Whitby also proposes the following changes for CBC eligible costs / services.

- Parkland monies collected under a CBC regime be allowed to fund the same range of parks cost eligible for funding under the current Planning Act cash-in-lieu (CIL), namely the erection, improvement or repair of buildings and the acquisition of machinery for park or other public recreational purposes.
- Currently as proposed, municipalities must choose either Parkland Dedication/CIL or a CBC, and this decision would apply to all development within the municipality. Whitby is proposing that instead of making a single municipal-wide decision, that municipalities be permitted the flexibility to utilize either Parkland Dedication/CIL or a CBC on a development by development basis, as long as no development is subject to both charges and the application rules are clear.

- In addition, it appears there is a diminished ability to acquire dedicated parkland under the proposed CBC regime as it requires an agreement between both the municipality and developer, when compared to the requirement to provide parkland under s. 42 of the Planning Act.

8. **Transition Timeline** – Given the legislated framework to pass a community benefits charge by-law, the proposed transition period of 12 months means municipalities are working within a very tight timeframe once final regulatory matters are known. Since the average length of a development charge study is 18 months, it is expected a community benefits charge study or strategy will be comparable in length; as such, a 12 month transition is not realistic. Whitby would support a transition period equal to 24 months or the expiry of a municipality's current development charge by-law.

Thank you for the consideration.

Sincerely,



Matthew Gaskell
Chief Administrative Officer

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Attachment 1 – MFOA Submission Regarding ERO 019-1406

Cc: Mayor and Members of Council
Suzanne Beale, Commissioner of Public Works
Chris Harris, Town Clerk
Sarah Klein, Director of Strategic Initiatives
Jacqueline Long, Head of Human Resources
Warren Mar, Commissioner of Legal and Enforcement Services/Town Solicitor
John Romano, Commissioner of Community Services
Roger Saunders, Commissioner of Planning and Development
Dave Speed, Fire Chief
Ann McCullough, Manager Financial Planning
Jennifer Hess, Senior Financial Analyst