



April 20, 2020

Mr. John Ballantine
Municipal Finance Policy Branch
College Park 13th Flr, 777 Bay St
Toronto, ON M7A 2J3

Via portal

Dear Mr. Ballantine,

RE: ERO 019-1406 - Proposed Regulatory Matters Pertaining to Community Benefits Authority under the Planning Act, the Development Charges Act, and the Building Code Act

On behalf of NAIOP Greater Toronto, we are pleased to provide our comments on the proposed regulations pertaining to the community benefits charge ("CBC") authority under the *Planning Act*, and *Development Charges Act*, in response to ERO posting 019-1406.

NAIOP Greater Toronto represents developers, owners and related professionals in office, industrial, retail and mixed-use real estate. With almost 1,300 members from over 300 companies in the Greater Toronto Area, we are residents and stakeholders who are committed to the region's future and play an important role in the non-residential development sector, which is vital to region's economic health, facilitating job growth for the ever-growing population of the area.

NAIOP is grateful to the Ministry for its work to date developing the CBC proposal and we thank the Ministry for inviting and listening to submissions from NAIOP and stakeholders across Ontario. The CBC regime will have a significant impact on all segments of the development community. In this regard, NAIOP's primary concern is that the current CBC proposal will impose significant costs to non-residential development in Ontario, well beyond those costs currently provided for in the *Planning Act*, making some non-residential projects no longer commercially viable. NAIOP submits that a one size fits all approach for the application of the CBC needs to be revisited, and it is necessary that non-residential development be treated differently than other development types. The reasons for NAIOP's view and how our concerns could be addressed are expanded upon below. In preparing this submission, NAIOP has consulted with other stakeholders, including BILD and REALPAC.

Treatment for Non-Residential Development

The Ministry's proposed regulation would cap CBCs at 15% of land value for single-tier municipalities, 5% for upper-tier municipalities, and 10% for lower-tier municipalities. The proposed regulation would also remove certain soft services from eligibility for funding through CBCs, and instead leave them to be funded through development charges, with the result that the CBCs would primarily fund parkland acquisition and a much more limited range of soft services than initially expected. The implications of this new regime will be significant, and the specific impacts will differ depending on the nature of the development type.

As noted above, the range of soft services proposed to be funded by the CBC is fairly limited. This, coupled with the fact that Section 37 contributions are not often imposed in respect of non-residential development (except for certain instances in the City of Toronto), means that for non-residential development, most of the CBC will likely fund the acquisition of parkland. The current parkland dedication rate in the *Planning Act* is 2% of land for commercial or industrial development. This rate is significantly lower than the rates single tier (15%) and lower-tier (10%) municipalities may impose on non-residential development (with single and lower-tier municipalities being those municipalities that typically impose a charge on development for the acquisition of parkland). Also, it is contemplated that the assessed value for the CBC will be addressed at the time of an above grade permit. As it relates to cash-in-lieu of parkland or parkland dedication, the current practice is earlier in the approvals program and this proposed change will substantially add cost as the assessed value along this approvals time frame inherently increases. The CBC could therefore have a material impact on the cost to non-residential development and could make many non-residential projects untenable.

Recommendation

NAIOP supports in principle BILD's proposal to treat non-residential differently than residential development. We share a collective concern that the current CBC proposal will cost much more to new non-residential development than the existing development fees and charges regime. More particularly, NAIOP recommends that the proposed CBC regulation be revised so that non-residential is subject to the soft service component of the CBC only (i.e. exempt non-residential uses from the land component charge of the CBC) and continue to impose a 2% parkland dedication rate for commercial or industrial development, as currently provided for in the *Planning Act*. If a municipality chooses to implement a CBC by-law, this separate treatment should be universally required.

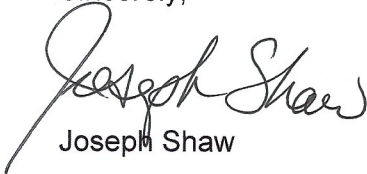
This approach would better maintain historical revenues for municipalities with respect to non-residential development, providing a formula that is largely revenue neutral, while at the same time imposing a charge on non-residential development that is predictable, fair, and will better promote vital non-residential development growth in Ontario.

COVID-19 Considerations

Given the ongoing COVID-19 crisis, and the uncertainty around its economic impact on the development industry, NAIOP cautions against making any significant changes to the development process at this time. NAIOP believes that COVID-19's impacts need to be fully understood before the CBC proposals can be finalized to ensure there are no unintended consequences.

Thank you for the opportunity to share our comments. We look forward to continuing to work with you to develop proposals for community benefit charges that will support the continued success of the non-residential development sector.

Sincerely,



Joseph Shaw

President

NAIOP Greater Toronto