

April 20, 2020

By E-Mail Only at *john.ballantine@ontario.ca*

Mr. John Ballantine
Ministry of Municipal Affairs and Housing
Municipal Finance Policy Branch
College Park 13th fl., 777 Bay Street
Toronto, ON M7A 2J3

Dear Mr. Ballantine:

Re: ERO No. 019-1406
Community Benefits Charge (“CBC”)
Proposed Regulation (the “CBC Regulation”)
Planning Act, Development Charges Act and Building Code Act
Comments By Nobleton York Holdings Inc. (“Nobleton York”)

We are counsel to Nobleton York, the owner of approximately 21 hectares of land located in the southeast quadrant of Highway 27 and 15th Sideroad in Nobleton (the “**Subject Lands**”).

We are pleased to provide you with our client’s comments from the perspective of an individual landowner with an ongoing development application that may be subject to the proposed CBC Regulation.

Our comments are rooted in the Province’s announced intention that the new CBC regime should be revenue neutral compared to the current regime, and that it should serve the overall policy objective of “More Homes, More Jobs”.

Background

On September 20, 2019, Nobleton York’s consultants submitted zoning by-law amendment and draft plan of subdivision applications (the “**Applications**”) to the Township of King (the “**Township**”) to permit development of the Subject Lands. The proposal includes 170 dwelling units and a 1.393 hectare parkland/underground stormwater management facility block (the “**Proposed Development**”).

Nobleton York appealed the Township's failure to make a decision on the Applications to the Local Planning Appeal Tribunal on February 18, 2020. A hearing has not yet been scheduled.

Proposed Land Value Maximums for Determining CBC's

Our client has significant concerns with the land value maximums in the CBC Regulation, and their potential impact on levies imposed for the Proposed Development.

To replace current requirements for parkland dedication, Section 37 contributions and certain soft services included in regional and local development charges, the Province has suggested a maximum CBC for lower-tier municipalities of 10% of the assessed land value, and 5% for upper-tier municipalities.

In order to determine the impact of these numbers, our client's land economists, IBI Group ("IBI"), undertook a cost comparison of municipal levies under the current and CBC regimes. To do so, IBI utilized three different land value inputs.¹ In summary, IBI's findings were:

- The total levies for the Proposed Development under the CBC regime will be 22% to 26% higher than under the current system, assuming that a cash-in-lieu of parkland payment is made under the current system.
- IBI assumed that a Section 37 contribution would not be required under the current regime.² If a Section 37 contribution was required, it would be \$1.77 to \$2.44 million less than the potential CBC payment.

In short, the proposed regime will not be revenue neutral.

Further, based upon IBI's analysis, Nobleton York sees two equally undesirable outcomes. On the one hand, if Nobleton York were forced by the state of the market to absorb the increased costs, the viability of the Proposed Development would be jeopardized. On the other hand, if the state of the market enabled Nobleton York to pass on the costs to future homebuyers, the affordability of the homes would be substantially and adversely affected.

¹ Land value input from Nobleton York, the March Reports from URBANATION, and lot values *per front foot* from MCAP.

² This is Nobleton York's position; it has not been accepted by the Township.

The land value caps proposed by the CBC Regulation will undermine the intent of the *More Homes, More Choice Act, 2019* (the “*MHMCA*”) to increase the supply of housing and make housing more affordable.

Transitional Issues

While Nobleton York commends the Province’s shift to a formula-based system for funding community benefits, a serious concern remains about previously-arranged contributions under the current regime.

This directly affects Nobleton York, which entered into a private cost-sharing agreement with an adjacent landowner to contribute to servicing infrastructure, and has paid that money. Under the current regime, Nobleton York’s position is that this is a Section 37 benefit. Our client is very concerned that the new CBC regime will not permit the recognition of this contribution as a credit.

Nobleton York believes that this concern can, and should, be addressed by grandparenting all zoning and subdivision applications under the current regime.

Nobleton York’s Request

Our client respectfully asks that the Province consider the following:

- Reducing the proposed land value caps to ensure reasonable CBC payments that reflect and safeguard the intent of the *MHMCA*, the principle of revenue neutrality and the policy objective of “More Homes, More Jobs”; and,
- Grandparenting all existing complete zoning and subdivision applications so that they are governed by current law, or alternatively, ensuring that all previously-arranged or paid contributions are recognized as credits in future CBC payments.

Thank you for the opportunity to provide our client’s comments. If you have any questions or wish to discuss, please feel free to contact me.

Yours sincerely,
DAVIES HOWE LLP



Michael Melling

MWM:sl

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Clients