



PARKS AND RECREATION ONTARIO: Response to ERO 019-1406

Proposed Regulatory Matters Pertaining to Community Benefits Authority under the Planning Act, The Development Charges Act, and The Building Code Act

April 20, 2020
Parks and Recreation Ontario
1 Concorde Gate, Suite 302
Toronto, ON M3C 3N6



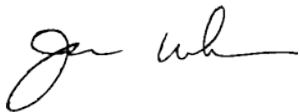
Introduction

Parks and Recreation Ontario (PRO) is a provincial association representing over 6,500 members in municipalities across the province. PRO's members provide facilities and services to more than 85% of Ontarians in communities from Windsor to Ottawa to Thunder Bay.

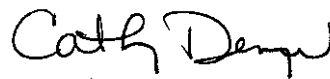
PRO thanks the Government of Ontario for providing an extension on the initial regulatory posting pertaining to the Community Benefits Charge framework. PRO is also pleased that the Government proposes to implement the recommended changes subsection 2(4) of the Development Charges Act. Making recreation and park facilities, libraries and other "soft service" facilities 100% eligible under the DCA is one positive step to help municipalities create complete, livable communities. However, PRO and its municipal members are reporting that these amendments do not mitigate the impact of other proposed changes.

During the current COVID-19 crisis, PRO has gathered input from a representative sampling of its membership in order to prepare these comments. The analysis of the impact of the proposed legislative and regulatory amendments is consistent across all municipalities and is supported by findings presented by allied organizations such as the Municipal Finance Officers' Association of Ontario. As presented, the proposed CBC regime and changes to the DC legislation will not maintain municipal revenues that are available under the current legislation. Historical tracking in communities that have experienced high growth under the previous legislative framework will be challenged with the transition to these new proposed revenue tools and may contribute to conflict among local community priorities. Additionally, the uniform application of the proposed CBC regime creates a significant shift in what types of development contribute to parkland acquisition. As PRO had previously noted, land value is not a proxy for what the amount of parkland a community will require.

PRO recognizes the need to address Ontario's housing crisis. It is in the province's best interest to ensure that the instruments available to municipalities will increase the supply of housing – including affordable housing – and also promote growth that is consistent with Ontario's Provincial Policy Statement. PRO strongly urges the Government to reconsider significant elements of the CBC regime and reopen consultations once the current pandemic crisis is over.



Jan Wilson, Chair



Cathy Denyer, CEO

Contact Information:

Parks and Recreation Ontario
1 Concorde Gate, Suite 302
Toronto, ON M3C 3N6

pro@prontario.org | www.prontario.org



Recommendations

1. Required content of a community benefits charge (CBC) strategy and timeline to transition to the new community benefits charge regime

Recommendation: If the regulation moves forward as proposed, PRO recommends that the timeline to transition to the new community benefits charge regime be extended to two years after the regulation comes into force. However, as outlined in item 3 below, PRO recommends that CBC regulation should not move forward until there is additional consultation on the CBC maximum percentage.

Similar to DCs, PRO also recommends that costs related to background studies and consultations should be recoverable through the CBC regime.

The proposed content of the CBC strategy as presented is similar to what is currently required for a municipal DC study. PRO commends the Government for including flexibility in the CBC strategy, but this will only benefit municipalities if that flexibility generates the funds needed to support growth-related costs. As outlined under item 3 below, municipalities are concerned that the new regime and prescribed cap will result in decreased growth-related revenues compared with the current legislative framework. Municipalities will be challenged to fund all essential infrastructure and acquire adequate parklands within this new funding envelope, leading to competing priorities.

Municipalities also raised concerns that the one-year transition to the CBC regime is not adequate. Many municipalities do not have a parks plan, which is a proposed requirement of a CBC strategy. They will also need time to consult on the CBC strategy and develop a by-law. There are a limited number of consultants with the expertise to support municipalities in developing both parks plans and CBC strategies, which could cause additional delays. A longer transition time is needed to accommodate additional consultation and to allow municipalities to prepare the required plans, strategies and by-laws.

2. Services eligible to be funded through development charges

Recommendations: PRO supports the amendment to subsection 2(4) of the DCA to include the five prescribed types of services. It also supports the elimination of the 10% statutory discount for these services.

PRO also recommends that the Government re-examine the relationship between CBCs and DCs to ensure that together these instruments maintain development-related revenues for municipalities. PRO supports the recommendations of Municipal Finance Officers' Association in asking the Government to consider:

- **Allowing development charges and the community benefits authority to be used together, so unrecoverable DC growth-related costs (e.g. service level) can be recovered under the community benefits authority.**

PRO supports the proposal to include the following services under subsection 2(4) of the Development Charges Act:

1. Public libraries, including library materials for circulation, reference or information purposes
2. Long-term care
3. Parks development, such as playgrounds, splash pads, equipment and other park amenities (but not the acquisition of land for parks)
4. Public health
5. Recreation, such as community recreation centres and arenas

PRO also supports the elimination of the 10% statutory discount for these services.

While these steps are positive, there is concern that the CBC framework will not provide the necessary funding to support both the acquisition of parkland and those services excluded from DCs such as child care facilities, affordable housing, social services, parking and by-law enforcement. As noted in item 3 below, PRO recommends a complete re-examination of CBC framework.

3. Percentage of land value for determining a maximum community benefits charge

Recommendation: PRO does not support the current percentage of land value for determining a maximum community benefit charge. PRO urges the government to pause implementation of this CBC regulation until further analysis is done to determine the appropriate percentages that allow municipalities to achieve revenue neutrality. This could include a number of options suggested by municipalities such as, but not limited to:

- Determining alternate caps for different types of development
- Allowing differing percentages within a single CBC by-law (based on community need)
- Creating a mechanism for municipalities to exceed the cap in certain circumstances

PRO also supports the recommendation of the Municipal Finance Officers' Association to:

- Add a subsection under PA s 37 to provide for regular updating of the prescribed maximum amount of community benefits charge: "The Ministry of Municipal Affairs and Housing shall initiate a review of the prescribed maximum amount of community benefits charge before the end of 2024 and thereafter within five years of the end of the previous review."

PRO joins municipalities and allied associations in asking the Government to reassess the proposed maximum percentages for community benefits charges. The current maximums of 15% for single tier, 10% for lower tier and 5% for upper tier municipalities do not achieve the revenue neutrality or aims for predictability and equity that the Government committed to when it introduced the *More Homes, More Choices Act*.

a. The cap does not maintain revenue neutrality.

When the CBC regime was introduced, the Minister of Municipal Affairs and Housing stated it was the Government's intention that the new legislation would maintain municipal revenues for the provision of growth-related services. Analyses by many municipalities have shown that the new framework does not yield the same level of revenue as the existing legislation. Case studies shared with PRO demonstrated a gap of up to 30% applying the maximum CBC rate, even when taking into account increased funds available through DCs. This will result in challenges as municipalities try to meet all community needs within a smaller funding envelope.

There is also concern that the distribution of CBCs between upper tier (5%) and lower tier (10%) municipalities will make funding the DC-ineligible infrastructure as well as parkland through CBCs extremely challenging. It is clear that municipalities continue to require more flexible revenue tools that specifically address density and parkland acquisition.

b. The application of a single cap across all types of development is inequitable.

Many municipalities have also noted that the uniform cap applied across all types of development results in a shift in what different types of development contribute to parkland acquisition and other CBC services. Because the CBC is based on a percentage of land value, medium and high density development will see lower charges compared with current growth-related fees. For lower density and non-residential developments, municipalities would be faced with the difficult choice of considering much higher fees to maintain service levels or adopting lower charges which will result in less revenue to fund parkland and other CBC services.

As PRO has previously noted, land absorption is not directly related to the need for parks. The provision of parkland should be based on population density rather than on a percentage of land value. Parks are essential for complete, livable communities. They contribute to quality of life in many ways, from recreational use to mitigating “heat islands” to contributing to storm water management.

Finally, transitioning to a single instrument that will fund both parkland and services like child care and affordable housing will be a challenge. The variety of fiscal tools previously available to municipalities allowed for flexibility. While not without its challenges, that flexibility did enable for the provision of services that truly responded to local need. A “one size fits all approach” is simply not practical for the diversity of communities in Ontario.

PRO encourages the Province to explore, in consultation with municipalities, a different approach to the CBC maximum. Most importantly the CBC regime must be responsive to different types of development and varying land values. New approaches could include alternate caps for different types of development (in order to account for density) or providing a mechanism by which municipalities can exceed the cap in certain circumstances. Alternate rates, justified through the analysis of needs and costs in a CBC Strategy, will more accurately reflect the real costs of eligible services and the varied needs of communities across the province. Municipalities are already exploring these options and could provide data to support an equitable and workable solution for the province.

c. Scheduled review

Similar to the PPS, the Government should undertake a timely review of the CBC percentage maximums in order to ensure they are providing adequate revenue to fund growth-related costs.

4. A mechanism to secure land for parks

Recommendation: PRO supports the recommendation made by municipalities and the Municipal Finance Officers’ Association of Ontario to allow municipalities to require conveyance of parkland as follows:

- **Add a subsection under PA s 37 to include conveyance such that: “As a condition of development or redevelopment of land, the council of a local municipality may, by by-law applicable to the whole municipality or to any defined area or areas thereof, require that land be conveyed to the municipality for park or other public recreational purposes.”**

PRO is also concerned with the lack of a proper mechanism to require parkland rather than cash. The Government has included a provision whereby if a developer and the municipality agree, a developer could provide land for parks (rather than a payment). The agreed-upon value attributed to the in-kind parkland contribution would be applied toward the community benefits charge payable.

Municipalities do not see this as a viable option. The determination to require parkland or cash-in-lieu should solely rest with the municipality, based on the location of the development and park needs in the area. Without this authority, municipalities may struggle to provide a cohesive and coordinated plan for parks and open space based on the willingness of developers to “agree” with a municipalities overall parks plan.

Conclusion

PRO appreciates the opportunity to address specific concerns related to *Proposed Regulatory Matters Pertaining to Community Benefits Authority under the Planning Act, The Development Charges Act, And the Building Code Act*. PRO has focused its comments on strengthening the proposed regulatory and legislative amendments to support the provision of vital community recreation infrastructure and parks. There continues to be an overriding concern from stakeholders that there is an erosion of deference to municipal planning, along with potentially significant financial implications, especially related to parks and those services proposed to be excluded from the DCA.

PRO strongly urges the Government to pause implementation in order to reopen consultation with municipalities. This should only be undertaken once the current pandemic crisis has ended and municipalities can dedicate their full attention to this important issue.

For additional information, please contact:
Diane English, Director of Policy and Communications
Parks and Recreation Ontario
denglish@prontario.org
416-779-8670

