



Town of Milton
150 Mary Street
Milton, ON L9T 6Z5

T 905-878-7252
www.milton.ca

April 10, 2020

Mr. John Ballantine
Municipal Finance Policy Branch
College Park 13th Floor, 777 Bay Street
Toronto, Ontario M7A 2J3

Dear Mr. Ballantine:

Re: ERO Number 019-1406 Proposed Regulatory Matters Pertaining to Community Benefits Authority Under the *Planning Act*, the *Development Charges Act*, and the *Building Code Act*

On July 22, 2019, through report CORS-047-19 Legislative Update: Bill 108: *More Homes, More Choice Act, 2019*, Town of Milton Council authorized staff to prepare and submit additional submissions in response to legislative changes under Bill 108. Milton continues to support the intent of Bill 108, as positioned by the Province, to increase housing supply, cut red tape to make it easier and faster to build new housing, to make housing more affordable across the Province and make the costs of building new homes more predictable while encouraging developers to build more housing.

Milton acknowledges and commends the Province for addressing, through the current ERO posting, many of Milton's previously expressed concerns regarding the legislation, most specifically the return of many services to the *Development Charges Act*. Milton believes further improvements can be made to the legislation to the benefit of both municipalities and the development community.

The following summarizes the Town's perspectives on the proposed new regulation relating to the Community Benefits Authority under the *Planning Act*, the *Development Charges Act*, and the *Building Code Act* posted under ERO Number 019-1406.

Required Content of a Community Benefits Charge Strategy

While Milton has no real concerns with the required content of the community benefits charge strategy, quantifying the financial impact of the increased need for a community service for the purposes of establishing a charge will be problematic due to the inherent volatility of land values as they relate to parkland acquisition. As noted in previous submissions, Antec Appraisal Group (Antec), under contract with the Town, recommended the use of benchmarks for land values be discontinued as they do not accurately reflect the constantly changing real estate market or take into consideration the complexity of factors influencing property values such as location, zoning or site characteristics, etc. If benchmark values are no longer recommended by industry professionals, it is unclear how the municipality will calculate the community benefit charge (as a dollar rate, assuming that is the intent) in a manner that will remain appropriate throughout the desired time horizon of a community benefit strategy report.

Services Eligible to be Funded through Development Charges

Milton is very pleased to observe in the proposed regulation the reinstatement within the *Development Charges Act*, many of the services previously shifted to the community benefits charge regime and wholly supports the removal of the 10% statutory deduction on such services as it better reflects the principle of growth paying for growth. It is unclear; however, why some services, such as parking, affordable housing and childcare facilities, remain under the community benefit charge regime. Enabling such services to be funded through development charges would provide increased certainty and predictability for both municipalities and developers as the charge would reflect the cost of infrastructure development and be collected based on the increased need for service rather than volatile land values.

Furthermore, during the teleconference on Friday, February 28th, 2020, the Province provided verbal confirmation that growth related studies, such as official plans, secondary plans and associated studies, master plans, etc. are intended to be eligible for inclusion in development charges. These costs are not explicitly included in the *Development Charges Act* or the supporting regulations and are critical studies to support the effective planning of complete communities. **Milton recommends the *Development Charges Act* be amended to specifically include growth-related studies as well as all services previously eligible for development charge collection, such as parking, affordable housing, and child care facilities, as eligible services under Section 2(4) of the *Act*.**

Percentage of Land Value for Determining a Maximum Community Benefits Charge

Milton supports the Provinces' goals to maintain the revenue levels provided from development charges, parkland dedication, and density bonusing as well as to make the costs of development more predictable; however, Milton does not believe the new community benefits charge regime will achieve predictability in development costs as the charge is based on land values that can be volatile. As noted above, Milton is supportive of returning previously eligible services back into the *Development Charges Act* and **recommends the new community benefit charge regime solely consolidate the existing parkland dedication and bonusing provisions under the Planning Act and not include services previously eligible for development charge collection.**

Without completing a full, comprehensive community benefit charge strategy, it is difficult to evaluate the reasonability of the percentages of land value proposed to be prescribed through the regulation. For this reason the Province may want to consider the frequency for which the percentage thresholds will be revisited in the future.

The legislation indicates that should a community benefits by-law under section 37 of the *Planning Act* be in force, then a by-law under section 42(1) of the *Planning Act* is of no force and effect. There may be situations in which a municipality would wish to implement an area-specific community benefits by-law and use section 42 of the *Planning Act* in other areas to ensure the municipality is able to attain the land needed to provide complete communities. **Milton requests the Province provide clarity in the legislation to articulate that if a development is not subject to the community benefits by-law (ie. External to the area), it could then be required to convey land for parkland under section 42(1) of the *Planning Act*.**

Timeline to Transition to the New Community Benefits Charge Regime

The proposed regulation provides for transition to the new CBC regime one year after the date the proposed CBC regulation comes into effect. Municipalities are currently challenged with

implementing the extensive changes from Bill 108 that require new business processes and software to track the calculation, collection and deferral of development charge and CBC payments. A successful implementation will require significant investment of human and financial resources that will place a strain on municipal services in the short-term to meet the proposed transition timeline. Furthermore, there are minimal consulting firms in Ontario able to support the hundreds of Ontario municipalities in developing the DC background study and community benefits strategy needed to implement the new legislation. Municipalities could achieve efficiencies in both financial and human resources if the transition timeline was lengthened and designed to coincide with the expiration date of existing development charges by-laws as the studies could be completed concurrently. **Milton recommends the prescribed transition period should provide at least a 2-year transition period following enactment of the regulations, and/or consideration of the expiration of existing municipal by-laws.**

Other Comments regarding the Community Benefits Charge Regime

Through the proposed regulation under ERO 019-0183, exemptions for various types of development were provided, various services were excluded from the community benefit charge and timeframes were prescribed for appraisals. No amendments to these provisions were provided through this ERO posting and as Milton's concerns regarding these proposals, as previously submitted, are still valid and they have been reiterated below:

Exemptions from community benefits

The proposed regulation provides exemptions for various development types; however, it does not provide any clear definitions leaving the terms open for interpretation. **Milton recommends the regulation align the definitions of the various exempt development types with definitions that already exist under current legislation** with consideration to the following:

- a. Long-term care homes as defined in the Long-Term Care Homes Act, 2007.
- b. Retirement homes as defined in the Retirement Homes Act, 2010 to ensure for profit retirement homes and condominium developments marketed to seniors do not benefit from this exemption.
- c. Universities and colleges be restricted to developments that are solely owned by academic institutions, as defined in ss.2(1) of the Freedom of Information and Protection and Privacy Act, 1990 and excluding those defined in ss.1(1) of the Private Career Colleges Act, 2005. Furthermore, the Province should clarify if the exemption is solely on the academic space or if it includes other uses such as student residences.

Furthermore, the regulation proposes an exemption for non-profit housing developments; however, this development type is not defined and the intent is unclear. **Milton requests the Province clarify the definition of non-profit housing and give further consideration to sales by non-profit housing corporations to for-profit corporations.**

Appraisals for the CBC

The regulation currently prescribes specific timeframes (30, 45 and 60 days) within which appraisals must be produced by either the owner or the municipality. Given the additional volume of appraisals that will be required going forward to implement the legislation as written, **the Province should evaluate and ensure that the land appraiser industry will be capable of supporting these time horizon in all circumstances.** Milton further requests that clarity be

provided within the regulation as to when the timelines begin for the appraisal appeals period, and that any reference to 'days' be clarified to 'business days'.

The Town also recommends that the Province provide clarifying language regarding the cost of appraisals and which party is responsible, and ensure that municipalities are provided with a full cost recovery mechanism in the spirit of growth paying for growth.

Milton appreciates the opportunity to participate in the consultation process and trusts that there will be a thorough review and evaluation of the feedback provided to the Ministry to ensure the regulatory framework achieves the Province's housing supply objectives. The Town looks forward to additional opportunities for input and as the full draft regulations become available.

Sincerely,

Glen Cowan
Chief Financial Officer & Treasurer

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c Milton Town Council Members
Municipal Finance Officers Association (MFOA)
Association of Municipalities on Ontario (AMO)
Mr. Parm Gill, MPP for Milton