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November 18, 2022

ERO Number: 019-6172

Minister Steve Clark
Ministry of Municipal Affairs and Housing
17th Floor, 777 Bay Street
Toronto, ON M7A 2J3

Dear Minister Clark:

Subject: City of Hamilton Staff Submission on Proposed *Planning Act* and *Development Charges Act, 1997* Changes: Providing Greater Cost Certainty for Municipal Development-related Charges

Thank you for the opportunity to provide comments on the above-referenced proposal (the Proposal) related to Bill 23 - *More Homes Built Faster Act, 2022* (Bill 23). Please accept the following comments for consideration.

As communicated by the Province of Ontario, the Provincial commenting period closes at 11:59 pm on November 24, 2022. Given the short timeline provided to municipalities to comment on Bill 23, City of Hamilton (City) staff has assembled a letter that highlights initial thoughts/requests along with concerns and pressures that have the potential to impact Hamilton taxpayers in an unfavourable fashion as well as constrain the financial sustainability of the City. The City's final comments will be forwarded to the Province once they have been endorsed by Council in December 2022.

The comments in this letter are limited to Schedule 3 of Bill 23. City staff will be submitting comments on other schedules of Bill 23 related to ERO 019-6172 under a separate letter.

The City concurs with the Province's acknowledgements within the Proposal details that "too many people are struggling with the cost of living" and that a solution to the housing crisis will "take both short-term and long-term commitment from all levels of government, the private sector, and not-for-profits to drive change". The City supports the goal of communities growing "with a mix of ownership and rental housing types to meet the needs of all Ontarians".

The City, other municipalities, along with the Association of Municipalities of Ontario have long advocated that "growth should pay for growth". The changes proposed through Bill 23 absolve growth from paying for a significant portion of growth and create a funding challenge for municipalities.

The proposed changes will leave municipalities with choices regarding either significant increase to property taxes and water/wastewater rates or delaying the construction of infrastructure to support growth without being able to collect the costs to do so through DCs. If increases to property taxes and water/wastewater rates are used to fund the shortfall, these increases will directly affect long-term housing affordability for every Ontarian; including those who Bill 23 intends to support.

The City's comments have been grouped into four categories

1. Reductions to growth paying for growth / Reductions to Infrastructure funding;
2. DC Reserve Balances;
3. Prescribed Interest; and
4. Concluding comments.

Reductions to Growth Paying for Growth / Reductions to Infrastructure Funding

The DC calculation required under the DC Act considers the total capital costs required to provide the infrastructure and services that are required to support growth and then divides that cost amongst the total growth that it is expected to service. Any reductions or exemptions to the amount that is calculated mean that the municipality will not collect sufficient funds to pay for the capital costs that were used to calculate the DC rate.

Bill 23 proposes several reductions and exemptions to the amount of DCs that municipalities can collect:

- By providing an expanded exemption for secondary dwelling units
- By removing housing services as an eligible service
- By removing growth studies and the DC Background study as eligible costs
- By removing land costs as an eligible cost for services to be prescribed
- By mandating exemptions for affordable housing and attainable housing
- By mandating exemptions for non-profit housing; including exempting any active instalment plans as of the date that Bill 23 comes into effect
- By mandating exemptions for affordable units required under inclusionary zoning
- By mandating a phase-in of the calculated DC for each by-law
- By mandating 15% - 25% reductions for rental apartments
- By changing the service standard from 10 years to 15 years
- By changing the maximum length of a DC by-law from 5 years to 10 years

These reductions and exemptions have been proposed without any indication of how municipalities will be expected to fund the shortfall.

These changes will directly impact municipalities ability to deliver infrastructure to support growth.

The City supports the concept of supporting secondary dwellings, affordable and rental housing. **The City recommends a grant/incentive/rebate program to developers or homeowners funded by the Province as a more effective way to support affordable housing.** Such a program would support the development of secondary and affordable units without compromising DCs which are required for municipalities to construct infrastructure to allow the growth to proceed.

The reduction for rental housing is set to take effect on the day that Bill 23 receives Royal Asset. Changes without notice create unnecessary administrative burden on municipalities as systems and processes are not able to be updated. **Should the Province continue with the requirement to reduce rental DCs, the City requests that the effective date established a minimum of 180 days in advance vs the date of Royal Assent.**

The Bulletins related to affordable housing have not been made available for review and may have unintended consequences depending on how localized the information is and how often it is updated. There are multiple factors that could affect price within specific geographies within a municipality, such as proximity to hydro corridors, industrial areas etc. which may not be taken into account in the Bulletin. It is unknown how the average purchase prices will be defined by building type (e.g. will it be specific to housing size, housing type etc.) all which have a variation on housing prices. Further the current instability of the real estate market could cause great fluctuations in prices from month to month. **Should the Province continue with exempting affordable housing from DCs vs creating a grant program, the City requests that the Province complete consultations on the Bulletins.**

The City requests that housing services remain in the DC Act. The removal of housing services from the DC Act is in direct conflict with the goal of constructing more affordable housing. The DCs collected for housing services are used to construct affordable housing units by the municipality. By removing housing services as an eligible service, municipal housing providers will need to rework project budgets and find additional revenue to relace the lost DCs; or construct fewer units. This change is proposed to take immediate effect the day Bill 23 received Royal Assent which will create unnecessary administrative burden as systems and processes will not have been updated to change the rates. **Should the Province continue with removing housing as an eligible service, the City requests that it take effect when a municipality adopts its next DC by-law.**

As municipalities grow, studies are required to determine the appropriate location of infrastructure. Bill 23 proposes to remove studies (including the cost of the DC background study) as an eligible cost for inclusion in the DC calculation. These studies are required to ensure that growth can occur for and that sufficient infrastructure is planned for to service that growth. Removing these studies as an eligible service does not eliminate their need; it does, however, transfer the burden of paying for those studies from the development community to property tax and rate payers. For the City, this would equate to an additional $25.1 M (2022$) over 10 years (roughly a 0.3% annual levy increase just to continue studies for growth). **The City requests that studies, including the DC background study, remain as eligible services in the DC Act.**

Bill 23 proposes to remove land as an eligible cost for services to be proscribed. The proposed legislation does not yet prescribe any services so it is difficult to quantify the financial impact this may have in the future. In order to provide the infrastructure and facilities needed to support growth, municipalities need to buy land. Should the Province choose to prescribe land not be an eligible cost for certain services, the need for land does not disappear, rather another funding source would be required, likely property taxes. If the City needs to increase future property tax levies to ensure availability of the land related to allowing growth to proceed it could delay the timing of development which is counter to the goals of Bill 23. **The City requests that land remain an eligible cost for all services; except where another tool for funding exists such as parkland.**

The proposed phase in of DC rates is a direct decrease in the funding required to pay for the capital costs which were the basis of the DC calculation. This required phase in runs counter to growth paying for growth as it expressly prevents that from occurring. The City has further concerns around this proposed phase in:

1. There is no assurance or requirement that a sweeping reduction in DCs will translate into a reduction in the sale price of homes.
2. There has not been an indication that the Province will provide the shortfall in funding that a phase in will create.

3. Should municipalities keep pace with construction of infrastructure required to allow growth of 1.5 M homes over the next 10 years to proceed, the infrastructure needs to be paid for. The proposed phase in prevents municipalities from using DCs to collect the required funding; leaving municipalities with the option of levying through property taxes or water rates. As the Province acknowledged, “too many people are struggling with the cost of living”. Increasing property taxes and water rates to pay for the costs of growth simply transfers the burden onto already stretched Ontario families.
4. Should municipalities not levy the loss of funding on property tax and rate payers, the municipalities will need to defer construction of infrastructure which will be counter to the goal of building 1.5 M homes over the next 10 years.

The City requests that the proposed phase in be eliminated; should a phase in remain, it should apply only to the increase in the DC from existing rates vs the entire calculated rate.

The change from a 10-year to 15-year service standard and the change from a maximum by-law life of 5 years to 10 years have been grouped with reductions to DCs because the effect is likely to lessen the likelihood of growth paying for growth.

The service standard limits the amount that a municipality may collect for a specific service to the average service standard provided over the past 10 years; now proposed to be 15 years. While the impact to the City has not been calculated, it is probable that in high growth municipalities, this change will lower the maximum that can be collected. It is unclear how this change will supports the affordability of housing and the goal of building 1.5 M homes over the next 10 years. **The City requests that the Province maintain the 10-year historical service level.**

Considering the propose phase in of DC rates, a 10-year by-law life would enable municipalities to collect full DCs for six of the 10 years. A 5-year life ensures that the DC calculation remains relatively current with municipal growth plans. The City does not have an objection to a 10-year maximum by-law life as long as the ability to update the DC by-law earlier is maintained.

DC Reserve Balances

Bill 23 proposes a requirement that municipalities spend or allocate at least 60% of the monies in a reserve fund at the beginning of the year for water, wastewater, and services related to a highway. Other services may be prescribed by the Regulation.

This proposal appears largely administrative in nature.

There appears to be a misunderstanding about how DC reserves function and a perception by the Province that municipalities have excess funds available since municipalities have funds in DC reserves on their annual Financial Information Returns (FIRs).

To illustrate the disconnect between what is showing on the FIR and reality, Table 1 shows that while the City’s 2021 FIR shows $244 M in rates related DC reserves, the reality is that the City has taken a $81 M risk with existing approvals. In other words, the City must collect $81 M in future DC collections to pay for what has already been approved for construction. Municipalities often need to construct infrastructure before development can proceed and assume the risk that development will proceed in order to recover the funds.

Table 1:
City of Hamilton 2021 DC Reserve Balances for Water, Wastewater and Storm

	Dec 31, 2021 Balance	Future Debt payments for issued debt	Approved, unspent direct funding	Future Debt payments for approved, unissued debt	Amount available
Water	$ 63,742,809	$ (423,260)	$ (32,836,203)	$ (62,633,000)	**$ (32,149,654)**
Wastewater - Treatment Plant	$ 101,530,887	-	(1,439,351)	(17,193,000)	**$ 82,898,536**
Wastewater - Linear	$ 34,990,463	(1,929,585)	(12,621,194)	(137,969,285)	**$ (117,529,601)**
Storm	$ 43,986,221	(2,050,758)	(30,402,106)	(25,310,000)	**$ (13,776,643)**
Total	**$ 244,250,380**	**(4,403,603)**	**(77,298,854)**	**(243,105,285)**	**$ (80,557,362)**

Prescribed Interest

Bill 23 also prescribes the maximum interest rate for the purposes of Sections 26.1 and 26.2 of the DC Act and incorporates the rate into the Act vs the Regulation. This proposal will increase administration needs for municipalities; however, the City views the proposed rate as reasonable. The rate is proposed to be back dated to be effective June 1, 2022. **The City requests that the prescribed interest rate take effect at a date in the future with at least 90 days notice vs June 1, 2022.**

Concluding comments

The City supports the Province’s goal of building 1.5 M homes over the next 10 yeas and tackling the affordability crisis affecting every Ontarian. The City has concerns that the changes proposed to the DC Act through Bill 23 will not effectively support these goals. There are drastic cuts proposed to the funding municipalities use to instal the infrastructure required to service growth. There is no clear indication that these cuts will have any impact on the selling price of homes. Without funding from the Province or Federal Government, municipalities will need to raise taxes and water rates across the board; impacting every resident and business across the Province.

In addition to the comments related to the changes of the DC Act **the City recommends that the Province develop a plan to monitor and oversee the labour needs related to the construction of 1.5 M homes over the next 10 years along with the construction of the infrastructure required to service those homes**. Should the labour market fall short of demand there could be prices surges which could further exacerbate the affordability of housing.

Yours truly,

Mike Zegarac
General Manager
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