City of Burlington Comments

Development Charges:

The City of Burlington is pleased that growth related services as they pertain to park development, recreation and public libraries are restored within the development charge (DC). This along with the removal of the 10% statutory deduction for these services represent positive changes. The development charge legislation applies to growth and therefore every development will contribute DC funding that municipalities require for these growth-related capital costs and reduce the amount required from property taxes.

Community Benefits Charge

Park Dedication: Unfortunately, ERO 019-1406 does not further deliver on the Ministry's promise to be revenue neutral and predictable. The former density provisions of the Planning Act ensured that high, medium and low-density development projects were all treated equitably by setting a per dwelling unit density formula similar to Development Charges, that was fully scalable and applicable to developments of varying densities; based on the principle that each dwelling unit creates incremental demand for parks. By replacing the fully scalable formula with a fixed percentage, low density and non-residential developments could have a greater share of costs than high and medium density developments resulting in serious inequity and unpredictability.

Furthermore, the prescribed fixed percentages proposed in ERO 019-1406 are projected to seriously impact the ability of municipalities to provide adequate park supply especially in higher density areas where parks are needed most. This presents a particular challenge in municipalities such as Burlington which is largely built-out with little remaining greenfield and where the majority of future growth will be in the form of intensification. As well the land value, which sets a cap for the community benefit charge, is not related to the cost of providing services. Imposing a cap based on land value means that the community benefit charge may not change over time to reflect project costs. The prescribed cap should be anchored in the costs to service growth. Without this link, growth will not pay for growth.

It should be further noted that high density development, by nature, places more demand on the park system than low density due to the lack of amenity space and green space in a high-density setting compared to yards, parks and open space already available in low density residential neighborhoods. Like the Development Charge legislation, municipalities need to be able to charge park dedication on per unit basis and not based on a prescribed percentage of land value.

It would be better for the Ministry and municipalities to explore alternatives to a fixed, prescribed percentage that are scalable to density and still provide some upper limit predictability. For example, many municipalities, including Burlington, currently have in place fixed maximum rates per dwelling unit instead of a fixed maximum percentage of land value. Fixed maximum cash-in-lieu rates per dwelling unit are scalable, predictable, defensible and align nicely with Development Charges per unit.

To continue on the premise of predictability, land values are unpredictable in nature and unknown without site specific development information. The prescribed percentage as discussed does not consider the impacts of density and land value fluctuations that can be based on location, development, and market behaviour. The chart below demonstrates the range of variability in site value based on site density and property location of nine (9) sample properties in Burlington. All properties are in downtown Burlington, of which two (2) are constructed and the remaining are in various stages in the planning process. The approximate density per ha derived from each site ranges from 256 to 1766 (6-27 stories). Based on the community benefit charge methodology the value of the site (land value) drives the community benefit charge, for Burlington (lower tier municipality) it is capped at a maximum of 10 per cent. With the community benefits charge maximum of 10 per cent applied to these select properties the City of Burlington can expect to achieve a maximum of $5.3 million. This falls short of the $8.3 million we would receive under the previous $5,500 per unit park dedication cap - resulting in an overall revenue loss to the City of Burlington of approximately $3 million. The previous per unit park dedication cap considers density as the driver behind the City's revenue requirements for parkland and as such is more aligned with servicing anticipated growth resulting from the increased density.

It is important to note that the comparison only includes park dedication versus the community benefits charge and does not consider existing Section 37 height and density provisions that are currently imposed by the City of Burlington. These Section 37 agreements would no longer be allowable with the new regulation, further impacting the revenue neutrality.

	Property A	Property B	Property C	Property D	Property E	Property F	Property G	Property H	Property I	Total
C.B.C. Cap @10%	$ 0.600	$ 1.280	$ 0.320	$ 0.535	$ 0.850	$ 0.529	$ 0.366	$ 0.600	$ 0.212	$ 5.292
$5,500 per unit cap	$ 0.935	$ 1.249	$ 0.215	$ 1.320	$ 1.705	$ 0.902	$ 0.352	$ 1.007	$ 0.633	$ 8.316

(Millions)

The increased population growth as a result of high-density development will also have a significant impact on existing park infrastructure even with an increase of new parkland. Previous legislation permitted municipalities to finance park renewal with cash-in-lieu of parkland dedication. Municipalities should have the flexibility to fund park renewal projects from the community benefits charge to address the pressures of increased park use as a result of growth.

Timing: The specified date for transition one year after the community benefits charge authority is in effect, presents a challenging time frame for any municipality to comply with. Time is required to consider the new community benefits charge methodology, collect data, complete a parks plan, conduct a public process, pass a by-law, and develop an appraisal and collection process. It takes the City of Burlington 18 months to complete a development charges background study and by-law, which is a similar process. Eighteen months at minimum should be considered for transition. The completion of a parks plan is also required as part of the strategy, that alone could take up to a year to complete. If all municipalities are working on developing a community benefits charge strategy, as well as developing a parks plan at the same time, availability of consultants will also have a considerable impact on transition timing. To assist in managing the transition across the province the transition date should be the later of two years or the expiration of each municipality's current development charges by-law. This ensures consistency and alignment between the community benefits charge and development charge.

Definition of Capital Cost: The Development Charges Act has an existing definition for capital costs which includes land, buildings, capital leases, furnishing and equipment, various types of studies and approvals, etc. Will these types of capital costs continue to be eligible as capital infrastructure under a community benefits charge, including the costs to complete the community benefits charge strategy and related plans? Municipalities prepare overarching plans, to strategically guide their future, which cover a range of services. Making the preparation of these documents eligible for recovery promotes integrated long-term planning. Also, will the cost of land appraisals, including annual appraisal studies, be an eligible recoverable community benefits charge cost? Additionally, the cost of an appeal to LPAT to support the strategy should be eligible for funding from community benefits charge revenues.

The City of Burlington urges the Ministry to further consult with municipal partners on alternatives to the prescribed maximum rates that are scalable, consistent, predictable and equitable.

Appendix A - CC-03-20 Comments on Bill 108 Regulations, File Number 155-03-01

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(Millions)