

TORONTO STAFF REPORT

April 20, 2005

To: Policy and Finance Committee

From: Deputy City Manager and Chief Financial Officer
Chief Building Official and General Manager

Subject: Development Charges By-law – Transitional and Implementation Matters

Purpose:

This report responds to requests made by Council with respect to a number of development charges transitional and implementation matters.

Financial Implications and Impact Statement:

There are no financial implications arising from the recommendations of this report.

Recommendation:

It is recommended that this report be received for information.

Background:

On June 24, 2004, Council adopted Development Charges By-law No. 547-2004 pursuant to the Development Charges Act, 1997. The by-law contains "grandparenting" and phase-in provisions which effectively:

- (1) shield development applicants from any increase in development charges provided that a complete building permit application is submitted by December 31, 2004, and an above-grade permit is issued by December 31, 2005; and
- (2) phase-in the increase with 50 percent of the increase phased-in on January 1, 2005, and the remainder phased-in on July 1, 2005.

Eleven notices of appeal of the by-law were filed with the City within the prescribed appeal period. Policy and Finance Committee requested the Chief Financial Officer and Treasurer and the City Solicitor to submit a further report with respect to the appellants to the by-law.

At its meeting of November 23, 2004, the Policy and Finance Committee had before it a joint confidential report, from the Chief Financial Officer and Treasurer and the City Solicitor dated November 4, 2004, related to the appeals launched against the City's Development Charges By-law. That report was adopted as amended by Council at its November 30, December 1 and 2, 2004 meeting. At that meeting, Council also directed the Chief Building Official, in consultation with the Chief Financial Officer and Treasurer and the City Solicitor, to report to the Policy and Finance Committee on the following matters:

- (1) the criteria used by the Chief Building Official to determine what constitutes a "complete building permit application" for the purposes of Section 415-12 of the City's Development Charges By-law 547-2004;
- (2) the internal control measures, if any, that are in place to ensure that only those applicants that have met the grandparenting provisions of the by-law receive the benefit of these provisions; and
- (3) a list of all residential building permit applications (in excess of 10 units) that are accepted as complete before the deadline and the estimated Development Charges revenue foregone from these applications.

Comments:

As the December 31, 2004 deadline for building permit applications to qualify for the grandparenting provision within the Development Charges By-law approached, it was important to ensure that any building permit application accepted as a complete application for the purposes of the Development Charges By-law met the criteria.

To achieve this objective the Chief Building Official met with the Chief Financial Officer and Treasurer and the City Solicitor to develop a protocol for permit submission to ensure that applications which receive the benefit from the grandparenting provisions in the Development Charges By-law were "complete" applications as defined. As a result of that meeting and discussion thereafter, the following protocol was developed and implemented in all Districts across the City.

Complete Building Permit Applications:

"Complete building permit application" is defined in By-law 547-2004 as "an application submitted to the Chief Building Official for an above grade building permit which complies with all technical requirements of the Building Code Act and includes the payment of all applicable fees."

Requirements for a complete building permit application are outlined in Chapter 363 of the City of Toronto Municipal Code to include:

- (1) sufficient plans, specifications, documents and information sufficient to determine conformity with the Building Code Act and any other applicable law; and

(2) the required fee or deposit as outlined in Chapter 363 of the City of Toronto Municipal Code.

In practice, this includes complete working drawings for the proposed development, including all architectural, structural, mechanical and electrical drawings sufficient to determine compliance for an above-grade building permit as well as those fees required under the Municipal Code at permit application. Separate permit applications for Mechanical, Site Services or Plumbing are not necessary for the issuance of an above-grade permit.

There was no change to the current practice in the adoption of the by-law to accept building permit applications as complete prior to the zoning by-law being in full force or prior to site plan approval. In fact, the grandparenting provisions which provided a full year for permit issuance after the December 31, 2004 deadline for submission of a complete application were intended to allow sufficient time for the processing of the applications under the Planning Act. This is targeted at 9 months under the STAR (Streamlining the Application Review) program.

Internal Control Procedures:

After the adoption of the by-law, Finance, Legal and Building Division staff developed and held four comprehensive training sessions on the new Development Charges By-law. These training sessions highlighted the changes to the by-law and included training on administering all aspects of the by-law, as well as detailed information on the application of the transition provisions contained within the by-law.

The Chief Building Official notified plan review staff in writing of the expectations for accepting applications received prior to the December 31, 2004 deadline.

In accordance with the instruction given to all plan review staff, permit applications of 10 or more units submitted by December 31, 2004, were to be reviewed by a Plan Review Manager to determine whether the applications were complete, in accordance with the Development Charges By-law and the Building Permit By-law, prior to being accepted.

For applications not meeting the above criteria, staff were advised that a standard Notice was to be completed and issued to the owner and applicant.

Staff were advised that there was no change to the current practice in the adoption of the by-law to accept building permit applications as complete prior to the zoning by-law being in full force or prior to Site Plan Approval.

Where there are substantial changes to the applications accepted as complete, before the permit is issued, such as significant changes to height, footprint, gross floor area, or number of units, the Building Division has agreed to consult with the City Solicitor to determine whether the revisions constitute a new application, in which case the permit would no longer be shielded by the grandparenting provisions of the by-law.

Grandparented Applications and Estimated Development Charges Foregone:

Grandparenting and phase-in provisions were included in the current by-law in order to mitigate the impact of the increased charges on developments already in advanced stages of planning. As a result of adding many services not incorporated in the previous by-law's calculation of development charges, the new by-law established charges that represented an increase of more than 100%. The immediate implementation of an increase of this scale would have had an unanticipated and consequential impact on developers that had already formed business plans based on financial pro-formas incorporating the previously existing charges. In addition, it was estimated that residential development charges at the recommended levels would generate, over the 5-year life of the development charges by-law, over \$100 million more than would have been collected under the earlier by-law. Accordingly, for these reasons the grandparenting and phase-in provisions were viewed as necessary transitional measures.

The building permit applications for 10 or more units accepted as complete between October 1 and December 31, 2004, are summarized in Table 1 and detailed in Appendix A. There was a significant increase in the number of applications received in December compared with the previous two months, suggesting that these applications were, for the most part, submitted with the intent of meeting the December 31, 2004 transition date. It is not possible to determine how many of the building permit applications submitted during December 2004 would actually have been submitted, possibly, after July 1, 2005, were it not for the grandparenting and phase-in provisions.

Table 1
Complete Applications Received from October 1 to December 31, 2004

	October	November	December	Total
Number of units proposed applications received (All districts/10 units or more)	534	353	10,480	11,367

Precise development charges that would apply to each project are not yet available, as they are determined at permit issuance. However, revenues foregone as a result of the grandparenting provisions of By-law 574-2004 have been estimated assuming an even distribution of one- and two-bedroom units across all applications.

Based on an application processing time of six months, the applications listed in Appendix A are likely to receive building permits between January 1 and June 30, 2005. During this period the phase-in provisions will still be in effect so that only half of the full increase in the charges would be applicable even in the absence of the grandparenting provision.

The revenue foregone as a result of the grandparenting provision is therefore estimated to be the total number of units in Appendix A multiplied by the difference in the development charges payable prior to the December 31, 2004 deadline and those that would have otherwise been payable during the period January 1 to June 30, 2005. Table 2 below provides an estimate of the development charges revenue foregone, for the units listed in Appendix A, as a result of the grandparenting provision contained in the by-law.

Table 2

Estimated Development Charges Revenue Foregone
on account of Grandparenting Provisions

1	2	3	4	5
Type and Number of Units	DC Rate payable on Dec. 31, 2004	DC Rate between Jan. 1 and Jun. 30, 2005	Difference on account of grandparenting (Col 3 – Col 2)	DC Revenue foregone on account of grandparenting provisions (Col 4 x Col 1)
5684 (1-bedroom units)	\$1,802	\$2,730	\$928	\$5,274,752
5683 (2-bedroom or larger units)	\$2,816	\$4,351	\$1,535	\$8,723,405
Total Estimated DC Revenue Foregone for 11,367 units				\$13,998,157

Conclusion:

The City's Development Charges By-law contains a grandparenting provision to shield development applicants from the new charges if complete building permit applications were submitted on or before December 31, 2004, and permits are issued on or before December 31, 2005. Building Division staff were trained and a protocol was developed to confirm which applications meet the definition of "complete application" prior to the deadline. The new rates are expected to generate an additional \$100 million as compared to the rates under the old by-law, however, revenue foregone as a result of the grandparenting provisions of the by-law is estimated to be approximately \$14 million.

Contact:

Joe Farag
Director, Special Projects
Telephone: (416) 392-8108
Fax: (416) 397-4465
E-Mail: jfarag@toronto.ca

Ann Borooah
Chief Building Official and
General Manager, Building
Telephone: (416) 397-4446
Fax: (416) 397-4383
E-Mail: aborooa@toronto.ca

Joseph P. Pennachetti
Deputy City Manager and
Chief Financial Officer

V. Ann Borooah
Chief Building Official and
General Manager

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List of Attachment:

Appendix A: Residential Permit Applications Received October 1, 2004 to December 31, 2004

Appendix A

Residential Permit Applications Received October 1, 2004 to December 31, 2004 [Applications with 10 units or more]		
Project Address	District	No of Units
1400 Eglinton Avenue West	South	13
2 Murray Street	South	91
1435 Queen Street East	South	18
21 Carlton Street	South	442
311 Adelaide Street East	South	158
500 Sherbourne Street	South	381
46 Wellesley Street East	South	230
169 John Street	South	45
35 Balmuto Street	South	310
38 Charles Street East	South	310
761 Bay Street	South	564
533 Richmond Street East	South	72
650 Mount Pleasant Road	South	136
112 St Clair Avenue West	South	22
700 Huron Street	South	332
500 St Clair Avenue West	South	153
759 Mount Pleasant Road	South	12
64 Colgate Avenue	South	230
824 Pape Avenue	South	12
625 Queen Street East	South	19
601 Kingston Road	South	77
6 Plymouth Avenue	South	13
1110 King Street West	South	222
341 Wallace Avenue	South	134
363-269 Sorauren Avenue	South	153
43 Hanna Avenue	South	215
15 Greenview Avenue	North	416
550 Hopewell Avenue	North	29
2737 Keele Street	North	247
237 McRae Drive	North	12
18 Spring Garden	North	342
5566 Yonge Street	North	520

Appendix A (con't)

Residential Permit Applications Received October 1, 2004 to December 31, 2004 [Applications with 10 units or more]		
Project Address	District	No of Units
120 Dallimore Circle	North	201
2701 Keele Street	North	244
1425 Bayview Avenue	North	14
19 Churchill Avenue	North	155
12 Ream Drive	North	112
1100 Islington Av.	West	101
6 Windermere Ave	West	120
1050 The Queensway	West	175
10 St. Albans Rd	West	309
24 St. Albans Road	West	340
4009 Eglinton Avenue West	West	156
4005 Eglinton Avenue West	West	103
120 Eringate Dr	West	47
700 Humberwood Blvd	West	408
870 Jane St.	West	36
1900 Lakeshore Blvd W	West	283
1 Michael Power Place	West	253
3 Michael Power Place	West	261
5 Michael Power Place	West	207
4135 -4159 Dundas St	West	120
975 The Queensway	West	72
Oakdale Village Ward 7	West	269
977 - 981 Kipling Ave	West	20
3025 Finch Avenue. W.	West	389
Lakeridge Drive	East	47
Tideswell Blvd	East	43
Cheetah Cres	East	30
2800 Eglinton Avenue E	East	109
Treewood Street.	East	66
4177 Lawrence Avenue E	East	200
216 Scarborough Golf Club	East	59
5225 Finch Avenue E	East	151
5235 Finch Avenue E	East	101
238 Bonis Avenue	East	236
Total All Districts		11,367