

Development Charges and Delivery of Housing



TOWN OF THE BLUE MOUNTAINS COMMITTEE OF THE WHOLE

Tuesday, November 30, 2021

HEMSON

New Framework for “Growth-Related” Capital



Development Charges Act (DCs)

- Used to fund initial round of capital infrastructure
- Prescribed list of eligible services
- Certain “soft” services removed from list (e.g. parking, cemeteries, airports)
- No eligible services subject to 10% discount



Planning Act: Community Benefits Charges (CBCs)

- Initial round of capital, can overlap with DCs
- In-kind contributions permitted
- Capped at 4% of land value
- Imposed only on development with 5 or more storeys & 10 or more housing units
- Only local municipalities can charge



Planning Act: Parkland & CIL

- Parkland acquisition and CIL
- Standard rate of 5% for residential and 2% for non-residential
- Alternative, higher rate may apply based on units/ha *with Parks Plan*
- Cash In Lieu of land permitted

All tools are appealable to Ontario Land Tribunal (OLT) (with conditions)

DCA Prescribed List of Eligible Services

- Water Supply Services
- Wastewater Services
- Storm water Drainage and Control Services
- Services related to a highway (roads, public works buildings, and fleet)
- Policing Services
- Fire Protection Services
- Ambulance Services
- Transit Services
- Waste Diversion Services
- Public Libraries (including resources)
- Recreation (arena, centres, etc.)
- Park Development (excluding parkland acquisition)
- Long-term Care
- Public Health
- By-law Enforcement
- Provincial Offences
- Emergency Preparedness
- Child Care
- *Housing Services*
- Development-Related Studies

Three Critical Issues

To include Housing in a DC By-law there are three critical questions

1. Who is responsible for the delivery of the service?
2. Has Council shown intent to delivery the service?
3. Does the municipality have a historic service level?

Key Legislative Considerations & Issues: Service Delivery Responsibility

- Need to establish the increased needs for services arising from development to levy a DC for a specific service
 - Who is responsible for the delivery of housing services in TTBM?
 - The County of Grey's proposed new DC By-law includes Social Housing
- Practice across Ontario
 - Provision and support of social and affordable housing included in a number of DC by-laws
 - Included in Upper Tier Municipal DC By-laws (Simcoe County, York Region, etc.) and Single Tier Municipalities (Toronto, Peterborough, Barrie, etc.)
 - Not aware of any lower-tier municipal that includes housing as DC funded service

Key Legislative Considerations & Issues: Need for Capital Program

- Under the DCA a municipality must demonstrate that it plans to deliver a service to include a service in the DC By-law
 - *may include an increase in need only if the council of the municipality has indicated that it **intends** to ensure that such an increase in need will be met.*
- How is intent requirement met:
 - *the council of a municipality has indicated that it intends to ensure that an increase in the need for service will be met if the increase in **service forms part of an official plan, capital forecast or similar expression** of the intention of the council and the plan, forecast or similar expression of the intention of the council has been approved by the council.*

Key Legislative Considerations & Issues: Need for Historic Service Level

- Must have a historic service level. For any service included in DC By-law:
 - *must not include an increase that would result in the level of service exceeding the average level of that service provided in the municipality over the 10-year period immediately preceding the preparation of the background study required under section 10. How the level of service and average level of service is determined may be governed by the regulations.*
- Regulation Requirements:
 - *both the quantity and quality of a service shall be taken into account in determining the level of service and the average level of service.*

Key Challenges for Town included Housing in a DC By-Law

- Town does not currently provide housing, directly or through indirect capital support, and therefore can't currently meet the historic service level requirement of the DCA
- Other important considerations:
 - Service delivery responsibility
 - Need to have a Council approved intent to delivery the service that includes capital expenditures
 - Need to establish needs arising from development and account for existing needs
 - DC by-laws can be appealed to the Ontario Land Tribunal (OLT former OMB)