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April 18, 2017

Our File No.: 136522

BY EMAIL: regionalclerk@york.ca

Chair & Council Members
York Region
17250 Yonge Street
1st Floor, Room 12000
Newmarket, Ontario
L3Y 6Z1

Attention: Mr. Christopher Raynor, Regional Clerk

Dear Chair & Council Members:

Re: April 20, 2017 Council Meeting

**Re: Agenda Item "B"
Proposed York Region Development Charges By-law – Public Meeting**

This is further to our letter dated March 8 and our March 9 deputation. Recall that we have been retained by several automobile dealerships which collectively employ over 2,440 employees.

The purpose of this letter is to supplement those submissions with the following additional information [which we have shared with your staff and counsel].

Parking Spaces

As we have noted previously, where our clients are able to provide on-site surface parking for their employees, customers, and/or for vehicles to be serviced or sold, no development charges are levied against such parking. Yet when those same vehicles are placed in the basement of the dealership or in a separate parking structure, development charges are levied. This is a costly distinction without any appreciable difference.

Whether such a vehicle is parked outdoors or indoors, the effect is the same; i.e. neither scenario increases the capital costs required to meet any increased need for Regional services resulting from the provision of that parking.

Assessing the full "retail" DC rate against such basement or structured parking is punitive and disproportionate. Whether indoors and outdoors, these parking spaces do not generate

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added employees or result in any greater demand for water or wastewater services, roads or transit.

We have examined the development charge by-laws of the neighbouring regions (and City of Toronto) which are adjacent to York Region. Toronto, Peel and Durham each exempt any and all structured parking spaces from the calculation of gross floor area against which development charges are calculated; see attached extracts. York stands alone in assessing DCs against such parking spaces.

To address this anomaly and our clients' concern, your proposed DCBL should be amended by revising the definition of "gross floor area" and/or "parking structure" to exclude parking spaces from calculable GFA for which DCs are payable.

We look forward to continuing our discussions with your staff prior to the finalization of the DCBL.

Yours truly,

AIRD & BERLIS LLP



Leo F. Longo

LFL/ly

c. Bill Hughes, Commissioner of Finance [via email: william.hughes@york.ca]

Clients

Michael Gagnon, GWD

29041465.1

Authority: Executive Committee Item 34.1, adopted as amended,
by City of Toronto Council on October 8, 9, 10, and 11, 2013

CITY OF TORONTO

BY-LAW No. 1347-2013

**To amend City of Toronto Municipal Code Chapter 415, Development of Land,
by re-enacting Article I, Development Charges.**

Whereas the City of Toronto has and will continue to experience growth through development;
and

Whereas development requires the provision of physical infrastructure and other services by the
City; and

Whereas the *Development Charges Act, 1997*, S.O. 1997, c.27 (the "Act"), authorizes Council to
pass by-laws for the imposition of development charges against land; and

Whereas Council desires to ensure that the capital cost of meeting development related demands
for, or the burden on, City services does not place an undue financial burden on the City or its
existing taxpayers while, at the same time, ensuring new development contributes no more than
the net capital cost attributable to providing the historic level of services and meeting the
requirements of subsection 5(1) of the Act; and

Whereas the City has undertaken a study of, among other matters, the matters raised in
section 10 of the Act and section 8 of O.Reg 82/98, services, service levels, expected
development, development-related facilities and the costs thereof; and

Whereas the Executive Committee at its meeting dated July 3, 2013, had before it a report from
the Deputy City Manager and Chief Financial Officer dated June 18, 2013, entitled
"Development Charges By-law Review", and a further report entitled "Development Charges
Background Study, City of Toronto" prepared by Hemson Consulting Ltd. dated June 17, 2013,
(the "Study"); and

Whereas the Study was made available to the public at least two weeks prior to the public
meeting and Council gave more than twenty days notice to the public and a meeting pursuant to
section 12 of the Act was held on July 3, 2013, before the Executive Committee, prior to and at
which the Study and the proposed development charge by-law were made available to the public
and Committee heard comments and representations from all persons who applied to be heard;
and

Whereas the Executive Committee at its meeting held on September 24, 2013, further considered
a report dated September 13, 2013, from the Deputy City Manager and Chief Financial Officer,
regarding further amendments to the proposed by-law, and an Addendum Report to the Study
prepared by Hemson Consulting Limited, dated September 12, 2013; and

Whereas Council in adopting Item 34.1 of the Executive Committee at its meeting held on
October 8, 9, 10 and 11, 2013, has considered this matter and has indicated that it intends to
ensure that the increase in the need for services attributable to the anticipated development will

MOBILE HOME - Any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer.

MULTIPLE DWELLING UNIT - All dwellings units other than a single detached dwelling, a semi-detached dwelling or an apartment unit, but includes a dwelling unit in a row dwelling, duplex or triplex, and a back to back townhouse.

NON-PROFIT HOUSING - Housing which is or is intended to be offered primarily to persons or families of low income on a leasehold or co-operative basis and which is owned or operated by:

- A. A non-profit corporation being a corporation, no part of the income of which is payable to or otherwise available for the personal benefit of a member or shareholder thereof; or
- B. A non-profit housing co-operative having the same meaning as in the *Co-operative Corporations Act*.

NON-RESIDENTIAL GROSS FLOOR AREA - In the case of a non-residential building or structure, or in the case of a mixed-use building or structure in respect of the non-residential portion thereof, the total area of all building floors above or below grade measured between the outside surfaces of the exterior walls, or between the outside surfaces of exterior walls and the centre line of party or demising walls dividing a non-residential use and a residential use, except for:

- A. A room or enclosed area within the building or structure above or below grade that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;
- B. Loading facilities above or below grade; and
- C. A part of the building or structure above or below grade that is used for the parking of motor vehicles which is associated with but accessory to the principal use.

NON-RESIDENTIAL USES - Land, buildings or structures or portions thereof used, or designed or intended for any use other than for a residential use as defined in this article.

NURSING HOME - A residential building or the residential portion of a mixed-use building licensed as a nursing home under the *Nursing Homes Act*.

OWNER - The owner of land or a person who has made application for an approval of the development of land against which a development charge is imposed.

✓
THE REGIONAL MUNICIPALITY OF PEEL

BY-LAW NUMBER 46-2015

A by-law to impose development charges against lands to pay for increased capital costs required because of increased needs for services arising from development within the Regional Municipality of Peel.

WHEREAS Section 2 of the *Development Charges Act, 1997*, S.O. 1997, c. 27 (the "Act") authorizes the Council of the Regional Corporation to enact a By-law to impose development charges against land to pay for increased capital costs required because of increased needs for services arising from development;

AND WHEREAS Regional Council passed resolution 2014-593 to direct that a development charge background study be completed;

AND WHEREAS a development charge background study dated May 13, 2015 was presented to Regional Council on May 28, 2015 and was completed within a one-year period prior to the enactment of this By-law;

AND WHEREAS the background study and draft proposed By-law were made available to the public at least 2 weeks prior to the public meeting required pursuant to Section 12 of the Act;

AND WHEREAS notice of the public meeting was provided in accordance with the requirements of Section 12 of the Act and in accordance with the Regulations under the Act, and such public meeting was held on May 28, 2015;

AND WHEREAS any person who attended the public meeting was afforded an opportunity to make representations and the public generally were afforded an opportunity to make written submissions relating to the proposed By-law;

AND WHEREAS Regional Council has by adopting the 2015 to 2024 Capital Plan on February 19, 2015, stated or hereby states that it is the intention of Regional Council to ensure that the increase in need for services identified in connection with the enactment of the By-law will be met;

AND WHEREAS Regional Council resolved on May 28, 2015 that no further public meeting is required and that this By-law should be brought forward for enactment;

NOW THEREFORE, the Council of the Regional Corporation enacts as follows:

1. Definitions

In this By-law:

"accessory" means where used to describe a use, building or structure, that the use, building or structure is naturally and normally incidental to and exclusively devoted to a principal use, building or structure;

"stacked townhouse" means a dwelling unit that is not an apartment in a residential building containing more than four dwelling units where each dwelling unit is separated horizontally from at least one other dwelling unit and vertically by at least one other dwelling unit by a common wall;

"temporary building or structure" means a building or structure constructed, erected or placed on land for a continuous period not exceeding eight months, or an addition or alteration to a building or structure that has the effect of increasing the usability thereof for a continuous period not exceeding eight months;

"total floor area" means the total of the areas of the floors in a building or structure, whether at, above or below grade measured between the exterior faces of the exterior walls of the building or structure or from the center line of a common wall separating two uses, or from the outside edge of a floor where the outside edge of the floor does not meet an exterior or common wall; and

- (a) includes the floor area of a mezzanine and air-supported structure and the space occupied by interior walls and partitions;
- (b) excludes any parts of the building or structure used for mechanical equipment related to the operation or maintenance of the building or structure, stairwells, elevators, washrooms, and the parking of vehicles;
- (c) where a building or structure does not have any walls, the total floor area shall be the sum total of the area of land directly beneath the roof of the building or structure and the total areas of the floors in the building or structure; and
- (d) excludes the area of any self-contained structural shelf and rack storage facility permitted by the *Building Code Act*.

"townhouse" means a dwelling unit in a building which consists of more than two attached dwelling units, which are divided vertically above grade by a party wall at least five metres in length and at least two metres in height, and having a yard abutting at least two exterior walls of each dwelling unit, and includes stacked townhouses and back-to-back townhouses;

"triplex" means a building or structure that is divided horizontally into three separate dwelling units, at least two of which have a separate entrance through a common vestibule;

"truck terminal" means a building, structure or place where, for the purposes of a common carrier, trucks or transports are rented, leased, kept for hire, or stored, or parked for remuneration or from which trucks or transports are dispatched;

"university" has the same meaning as defined in Section 171.1 of the *Education Act*, R.S.O. 1990, c. E.2;

"use" means the use of land, a building or a structure.

2. Provisions Required Under Section 6 of the Act

- (1) This By-law applies to the whole of the Regional Area and outside the Regional Area with respect to services of the Region that are provided outside of the Regional Area.

BY-LAW NUMBER 16-2013
OF
THE REGIONAL MUNICIPALITY OF DURHAM

being a by-law regarding development charges

WHEREAS section 2(1) of the *Development Charges Act, 1997*, provides that council of a municipality may by by-law impose development charges against land to pay for increased capital costs required because of increased needs for services arising from development of the area to which the by-law applies if the development requires one or more of the approvals identified in section 2(2) of the *Development Charges Act, 1997*;

AND WHEREAS a development charge background study has been completed in support of the imposition of development charges;

AND WHEREAS the Council of The Regional Municipality of Durham has given notice and held a public meeting on April 3, 2013, in accordance with section 12(1) of the *Development Charges Act, 1997*;

AND WHEREAS the Council of The Regional Municipality of Durham has permitted any person who attended the public meeting to make representations in respect of the proposed development charges;

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF DURHAM HEREBY ENACTS AS FOLLOWS:

PART I

INTERPRETATION

Definitions

1. In this By-law,
 - (a) "Act" means the *Development Charges Act, 1997*, or a successor statute;
 - (b) "agricultural use" means lands, buildings or structures, excluding any portion thereof used as a dwelling unit or for a commercial use, used or designed or intended for use for the purpose of a *bona fide* farming operation including, but not limited to, animal husbandry, dairying, livestock, fallow, field crops, removal of sod, forestry, fruit farming, greenhouses, horticulture, market gardening, pasturage, poultry keeping, and equestrian facilities;
 - (c) "apartment building" means a residential building, or the residential portion of a mixed-use building, other than a triplex, semi-detached duplex, semi-detached triplex, townhouse or stacked townhouse, consisting of more than 3 dwelling units, which dwelling units have a common entrance to grade;
 - (d) "apartment" means a dwelling unit in an apartment building;
 - (e) "area municipality" means a lower-tier municipality that forms part of the Region;
 - (f) "bedroom" means any room used, or designed or intended for use, as sleeping quarters;
 - (g) "commercial accessory building or structure" means a building or structure that complies with all of the following criteria:

residential development or of increasing existing gross floor area of non-residential development.

- (2) Notwithstanding the provisions of this by-law, development charges shall not be imposed in regard to:
- (a) agricultural uses and farm buildings;
 - (b) places of worship;
 - (c) public hospitals receiving aid under the *Public Hospitals Act*, R.S.O. 1990, c. P.40, excluding such buildings or structures or parts thereof used, designed or intended for use primarily for or in connection with a commercial purpose;
 - (d) any part of a building or structure used for the parking or loading of motor vehicles;
 - (e) free standing roof-like structures and canopies that do not have exterior walls.

Exemption for Enlargement of Existing Industrial Building

17. (1) Despite any other provisions of this by-law, if a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charge that is payable in respect of the enlargement shall be calculated as follows:
- (a) if the gross floor area is enlarged by fifty percent or less, the amount of the development charge in respect of the enlargement is zero;
 - (b) if the gross floor area is enlarged by more than fifty percent the amount of the development charge in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:
 - (i) determine the amount by which the enlargement exceeds fifty percent of the gross floor area before the enlargement; and
 - (ii) divide the amount determined under paragraph (i) by the amount of the enlargement.
- (2) For the purposes of subsection 17(1) the following provisions apply:
- (a) the gross floor area of an existing industrial building shall be calculated as it existed prior to the first enlargement of such building for which an exemption under subsection 17(1) was sought;
 - (b) the enlargement of the gross floor area of the existing industrial building must be attached to such building;
 - (c) the enlargement must not be attached to the existing industrial building by means only of a tunnel, bridge, passageway, shared below grade connection, foundation, footing or parking facility, but must share a common wall with such building.
- (3) In this section "gross floor area" means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls.