



Office of the Commissioner,
Finance Department
and the Office of the Chief Planner,
Corporate Services Department

MEMORANDUM

To: Members of Committee of the Whole

From: Laura Mirabella, FCPA, FCA
Commissioner of Finance and Regional Treasurer and

Paul Freeman, MCIP, RPP
Chief Planner

Date: September 19, 2019

Re: York Region staff comments on the proposed Bill 108, *More Homes, More Choice Act, 2019*, regulatory framework

This memo provides an overview of staff comments provided to the Province on the proposed regulatory framework accompanying Schedules 3 (*Development Charges Act, 1997*), 9 (*Local Planning Tribunal Act, 2017*), and 12 (*Planning Act, 1990*) of Bill 108, *More Homes, More Choice Act, 2019*.

On June 6, 2019, Bill 108, *More Homes, More Choice Act, 2019* received Royal Assent with the proposed regulatory framework released later that month

On May 2, 2019 the Province tabled Bill 108, *More Homes, More Choice Act, 2019* ("Bill 108"); the cornerstone of the Provincial Housing Supply Action Plan. Bill 108 amended 13 statutes including those dealing development charges, Local Planning Appeal Tribunal (previously known as the Ontario Municipal Board - OMB), and land use planning. Staff comments on Schedules 3 and 12, which dealt with development charges and land use planning respectively, were submitted to the Province on May 31, 2019¹. Bill 108 received Royal Assent on June 6, 2019.

¹ Note: These comments were later endorsed by Council on June 27, 2019 in a report entitled, "[Bill 108, More Homes, More Choice Act, 2019: Implications for the Development Charges Act and the Planning Act](#)".

On June 21, 2019, the Province released the proposed regulatory framework supporting the changes to the *Planning Act, 1990*, *Local Planning Tribunal Act, 2017* and *Development Charges Act, 1997*. The commenting period on transition matters related to the *Local Planning Tribunal Act, 2017* and the *Planning Act, 1990* ended on August 5th and 6th respectively. Municipalities had until August 21, 2019 to submit comments regarding the proposed regulatory framework related to the amended *Development Charge Act, 1997*, and the community benefits charge regime (under the *Planning Act, 1990*).

The Commissioner of Finance and the Chief Planner held a workshop with local municipal staff to identify common themes related to the proposed regulatory framework

On July 19, the Commissioner of Finance and Chief Planner hosted a workshop at the City of Vaughan's municipal offices to identify common areas of concerns and key themes related to the regulatory framework under Bill 108. Attendees included Finance, Planning and Legal staff from both the Region and all nine local municipalities.

Regional staff provided comments on the proposed regulatory frameworks prior to the respective commenting deadlines in August

Staff comments on the transition matters related to the *Local Planning Tribunal Act, 2017* and *Planning Act, 1990*, were submitted on August 2 (See Attachment 3).

Staff comments on the regulatory framework to the *Development Charges Act, 1997* and the community benefits charge were submitted on August 21, 2019 (See Attachment 2). These comments were informed by feedback received at the July 19 workshop with local municipal staff as well as consultations with neighboring municipalities and the Municipal Finance Officers' Association of Ontario (MFOA).

An executive summary of the staff submissions can be found in Attachment 1 to this memorandum.

Staff recommendations to the Province on the proposed regulatory framework related to the development charges and community benefits charges regime were guided by five principles:

1. Allotting municipalities sufficient time to effectively transition to the new framework
2. Ensuring municipalities can deliver complete communities in a fiscally sustainable way
3. Ensuring municipalities have a clear legislative foundation for implementing the changes
4. Ensuring all stakeholders involved in delivering housing supply, including residents, businesses, municipalities and developers, are treated fairly and equitably
5. Recognizing municipalities are at different stages of growth and development, with different infrastructure requirements

Staff support many of the regulatory changes related to changes to land use planning but have expressed concerns related to the associated transitional matters

York Region staff were generally supportive of the proposed regulatory changes that pertain to community planning permit systems, additional residential units and other regulatory housekeeping changes under the *Planning Act, 1990*.

Staff identified concerns related to transitional matters proposed in ERO #019-0181 under the *Planning Act, 1990*. Specifically, staff felt that expanding grounds of appeal, limiting appeal rights and reducing decision timeframes should not apply to applications where a notice of public meeting has been issued prior to the proposed changes coming into force.

Regarding the transitional matters under the *Local Planning Appeal Tribunal Act, 2017* (Schedule 9 to Bill 108) staff expressed concern that de novo hearings would be permitted on appeals that have not been scheduled for a hearing.

Staff support some of the proposed regulatory changes related to development charge and the community benefits charges regime

As they relate to the *Development Charges Act, 1997*, staff supported the following regulatory proposals:

- Two year 'sunset period' between site plan or zoning bylaw amendment approval and building permit issuance for those developments that have locked in rates at site plan or zoning bylaw amendment application
- No maximum interest rate being prescribed
- Only one second suite in, or ancillary to, new buildings be eligible for a development charge exemption
- Secondary suite exemption for additional units in, or ancillary to, existing buildings being subject to the same rules/restrictions currently in place

Staff are also supportive of some of the proposals that relate to the new community benefits charge regime:

- Additional consultation will occur in developing the prescribed percentage to cap the community benefits charge
- In determining the percentage for the cap on the community benefits charge, one of the goals will be revenue neutrality
- Reporting requirements are similar to those that under the *Development Charges Act, 1997*

Staff also have concerns with many aspects of the proposed development charges and community benefits charges regulatory framework

While staff support elements of the proposed regulatory framework pertaining to development charges and community benefits charges, they also raise a number of questions and concerns. First and foremost, staff indicated that municipalities need more time to transition to the new regime and more consultation is needed.

As it relates to the development charge framework, areas of staff concern included:

- No 'sunset period' provided between application and approval as was done between approval and building permit
- Inability to ensure and secure payment for those types of development that qualify for the phased and delayed development charges
- Defined types of development eligible for phasing of development charge payments appear to be too broad

As it relates to the community benefits charge regime, some of the areas that staff have identified as requiring refinement and/or clarification included:

- Use of 'historically collected' revenues to determine revenue neutrality
- List of types of development exempt from the community benefits charge (e.g., for-profit retirement homes)
- Services ineligible for community benefits charge funding
- Treatment of the charge in a two-tier jurisdiction
- Requirements of the Community Benefits Charge Strategy and consultation

Once in force, Schedules 3 and 12 of Bill 108 could result in significant development charge shortfalls for the Region

Development charges are a highly variable source of revenue that is dependent on the housing market and non-residential development. The level of collections is the key driver of the Region's capacity to fund growth infrastructure and manage its overall debt levels. The Region's 2019, 10 year capital plan is dependent on the assumption that \$380 million of development charges collection could be realized annually. Of this amount, approximately \$290 million is needed annually to pay the principal and interest on existing development charges debt. The remainder of about \$90 million would be available annually to construct new growth-related projects.

While the impact of Bill 108 cannot be fully assessed until the regulatory framework is finalized, staff analysis indicates that the Region could see upwards of a \$300 million reduction in development charge collections over the next five years. This is due to the wide range of the types of development eligible for the freezing of rates and the delayed and phased development

charge payments, the latter of which, at present, have no mechanism for municipalities to ensure and secure payments. Staff expect that this shortfall in development charge collections could continue to grow over time, though at a slower pace; primarily as a result of the continued ability of non-residential developers to delay and phase in their development charge payments.

The impact of this shortfall could require deferrals of growth-related infrastructure projects to avoid taking on unsustainable debt levels. This could result in delayed development which would be counter to the Province's objective of accelerating the delivery of housing supply.

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Attachments (3)
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