

## **92 East 15<sup>th</sup> Street Hamilton Water Billing Dispute Delegation to Audit, Finance & Administration Committee**

### Summary

In April 2017, the current property owner purchased 92 East 15<sup>th</sup> Street, Hamilton and the water bill is in the owner/landlord's name with a Mississauga mailing address for the water account. Table 1 on page three provides the property's water and wastewater/storm billings under the current owner. The crux of the landlord's water billing issue lies with the "catch-up" bill received in January 2018 for a significant amount of unbilled water consumption following an actual water meter reading that was obtained when the property's remote water meter reading device was replaced in mid-December 2017. The remote reading device was not working resulting in water billings based on estimated usage for a four-month timeframe (September 2017 to December 2017). When unable to obtain a water meter reading, the meter reader leaves a meter read request door hanger for the customer to call in/return read card with an actual consumption read from their water meter. Invoices that are based on estimated consumption do indicate to the customer that the related consumption reading is based on an "Estimate."

The water meter registered 1,644 m<sup>3</sup> of water consumed between August 17, 2017 to January 15, 2018, resulting in actual average daily consumption (ADC) of 10.9m<sup>3</sup>/day over this period of 151 days suggesting significant leakage was occurring. The level of high usage continued into the subsequent billing period ending February 15, 2018 with an ADC of 4.6m<sup>3</sup>/day signifying some adjustment/repair occurred that thereafter restored the property's water consumption to typical usage levels for this account. The landlord was contacted by the City's water billing agent Alectra Utilities Corporation (AUC) on January 23, 2018 of high water usage and apparently shortly thereafter, the landlord brought in a plumber who stated the property had no water leaking at that time. It is quite possible that during the plumber's water leak investigation that the leaking condition(s) were addressed as the metered consumption reflects thereafter. Plumbing issues can range from a flapper that "sticks" over time causing consumption to go up and down, to faucets/shower control valves that leak only when opened to a certain degree because the washer/cartridges require replacement. Sometimes a faulty flush valve in a toilet may cause a toilet to run intermittently.

### City's Consecutive Estimates Policy

Estimated billings and customer contact for the subject account have been conducted in accordance with the City's Consecutive Estimates Policy. Unbilled consumption that results from obtaining an actual water meter reading remains the responsibility of the property owner.

The City's practices and authority with respect to estimated billing were confirmed earlier this year as the City and AUC were successful in defending at trial a Small Claims Court claim by a residential landlord which was brought against the City and AUC relating to estimated billing practices. This decision (*Radassao v. City of Hamilton et al.*) confirmed

the City's authority to use estimated billing where actual readings were not available, and that it is the property owner's responsibility to thoroughly read bills (which always indicate estimated or actual usage) and maintain the property accordingly.

#### Water Meter Accuracy Testing

At the request of the property owner, Hamilton Water attended the property in February 2018 and found no issues with the water meter. On May 16, 2018, the water meter was removed from service for a meter accuracy flow test that was performed by Neptune Technology Group at their Mississauga site. The property owner was present for the testing which confirmed the meter was performing within the manufacturer operating specifications. The unusual step of a further "odometer" test was conducted and this test confirmed no measurement accuracy issues. It should be noted that the meter removed for testing had been in service for approximately six months as it was installed in June 2017. Consequently, no bill adjustment has occurred. Note that Hamilton Water strictly as a goodwill gesture, waived the meter accuracy test fees which for both tests amounted to over \$500.

#### City's Water Bill Adjustment Policies

City Council has approved water bill adjustment policies (Water Leak Adjustment Policy and the Extraordinary Circumstance Policy) that provide staff authority to allow bill adjustments under specific circumstances, however, an "Income Producing Residential Rental Property" The term "income property" should not be confused to mean that rental income exceeds the property's operating costs (mortgage, property taxes, utilities, maintenance, etc). Many landlords do not "profit" from the rent exceeding costs but recoup operating cost recovery shortfalls when selling the property by means of the capital appreciation of the property over time.

The *Municipal Act, 2001* does include an "anti-bonusing" clause whereby a municipality shall not assist directly or indirectly any commercial enterprise through the granting of bonuses that includes giving a total or partial exemption from any levy, charge or fee. This consideration is why landlords are excluded from being eligible under the bill adjustment policies that any Ontario municipality may offer. This is also why Hamilton may provide an adjustment to registered non-profit housing (social housing) providers. The City's Legal Services have reviewed the existing water bill adjustment policies and continue to recommend that income producing properties be considered as commercial so that such policies be restricted to residential and non-profit customers to comply with the *Municipal Act*.

**TABLE 1**

Read Date	Meter Number	Total Bill (\$)	Usage (m3)	Read Estimated	Read From	Read To	Avg Daily (m3)	Billing Days
5/14/17	576801722	13.03	2	No	2,436	2,438	0.133	15
6/14/17	535318707	130.71	42	No	0	0	1.355	31
7/20/17	535318707	154.85	49	No	0	49	1.361	36
8/17/17	535318707	140.58	46	No	49	95	1.643	28
9/19/17	535318707	117.20	37	Yes	95	132	1.121	33
10/16/17	535318707	95.36	31	Yes	132	163	1.148	27
11/13/17	535318707	87.12	28	Yes	163	191	1.000	28
12/11/17	535318707	75.24	24	Yes	191	215	0.857	28
<b>1/15/18</b>	<b>535318707</b>	<b>4,611.39</b>	<b>1,524</b>	<b>No</b>	<b>215</b>	<b>1,739</b>	<b>43.543</b>	<b>35</b>
<b>2/15/18</b>	<b>535318707</b>	<b>449.60</b>	<b>143</b>	<b>No</b>	<b>1,739</b>	<b>1,882</b>	<b>4.613</b>	<b>31</b>
3/15/18	535318707	115.80	36	No	1,882	1,918	1.286	28
4/10/18	535318707	98.90	31	No	1,918	1,949	1.192	26
5/10/18	535318707	111.00	34	No	1,949	1,983	1.133	30
6/13/18	536917228	132.40	40	No	0	31	1.176	34

#### Alectra Utilities Customer Contact Timeline

9/19/17 – First estimated water bill issued as meter reading not obtained due to remote reading device (commonly referred to as a touchpad) not working. Meter reader leaves meter read request door hanger (bright yellow card requesting occupant to read water meter typically found in basement and submit the reading to AUC).

10/16/17 – Second estimated water bill with meter read request door hanger left at door.

11/2/17 – AUC issues touchpad repair work order to City to repair touchpad in accordance with the City's Estimates Policy.

11/6/17 – Owner calls AUC who advise of touchpad issue and direct owner to call Hamilton Water to have touchpad repaired.

11/13/17 – Third estimated bill. AUC issues access letter to owner and attempts to call owner as well but no answer or ability to leave message.

12/7/17 – Owner calls AUC that appointment with Neptune to repair touchpad scheduled for Dec 14<sup>th</sup> – this appointment occurs as scheduled where Neptune replaces wire from meter and the touchpad itself.

1/15/18 – AUC issues catch-up bill for unbilled consumption of 1,524m3 reflecting actual water meter reading of 1,739m3 on meter.

1/23/18 – AUC calls owner to advise of high water usage and to investigate for possible leakage.

2/6/18 – Owner calls AUC advising plumber has attended property and no leaking conditions at that time