



Hamilton

CITY OF HAMILTON
Corporate Services
Legal Services and Office of the City Clerk

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	February 20, 2020
SUBJECT/REPORT NO:	Development Charge (DC) Section 20 Complaint Hearing (LS20009/ FCS20024) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Nicole Auty ext. 4636 Andrea Holland ext. 4509
SUBMITTED BY:	Nicole Auty City Solicitor Andrea Holland City Clerk
SIGNATURE:	

Discussion of Confidential Appendix “A” to this report in Closed Session is subject to the following requirement(s) of the City of Hamilton’s Procedural By-law 18-270 and the *Ontario Municipal Act, 2001*:

- Litigation or potential litigation, including matters before administrative tribunals, affecting the City
- Advice that is subject to solicitor-client privilege, including communications necessary for that purpose

RECOMMENDATION(S)

- That Development Charge (DC) Section 20 Complaint Hearing Report LS20009/ FCS20024 be received; and,
- That Development Charge (DC) Section 20 Complaint Hearing Appendix “A” to Report LS20009/ FCS20024 remain confidential.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

EXECUTIVE SUMMARY

On January 21, 2020 the City Clerk received a complaint under Section 20 of the *Development Charges Act, 1997*. The purpose of this report is to highlight what a Section 20 complaint is and to inform Committee of the mutually agreeable date with the complainant. The details of the complaint received on January 21, 2020 are not included in this report.

Section 20 of the *Development Charges Act, 1997* (DC Act) contains the provisions related to complaints of Development Charges. A complaint may be filed where the amount of the Development Charges (“DC”) was incorrectly determined, where a credit was incorrectly determined or where there has been an error in application of the DC By-law.

Council is required to hold a hearing into the DC complaint and the City Clerk is required to notify the complainant 14 days prior to the hearing. After hearing the complaint, Council may correct any error made or may dismiss the complaint. The City Clerk will forward notice of the decision within 40 days of the decision being made. The decision may be appealed to the Local Planning Appeal Tribunal (LPAT) by the complainant.

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial – None.

Staffing – None.

Legal Implications – See Appendix A - Confidential.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Development Charges Act, 1997

The *Development Charges Act, 1997* (“DC Act”) provides a remedy for developers who disagree with a Development Charge required to be paid. Section 20 of the DC Act states: “Complaint to council of municipality 20

- (1) A person required to pay a development charge, or the person’s agent, may complain to the council of the municipality imposing the development charge that,
 - (a) the amount of the development charge was incorrectly determined;
 - (b) whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined; or
 - (c) there was an error in the application of the development charge by-law.

Time limit

(2) A complaint may not be made under subsection (1) later than 90 days after the day the development charge, or any part of it, is payable.

Form of complaint

(3) The complaint must be in writing, must state the complainant's name, the address where notice can be given to the complainant and the reasons for the complaint.

Hearing

(4) The council shall hold a hearing into the complaint and shall give the complainant an opportunity to make representations at the hearing.

Notice of hearing

(5) The clerk of the municipality shall mail a notice of the hearing to the complainant at least 14 days before the hearing.

Council's powers

(6) After hearing the evidence and submissions of the complainant, the council may dismiss the complaint or rectify any incorrect determination or error that was the subject of the complaint."

Section 22(1) of the DC Act permits a complainant to appeal the decision of Council to the Local Planning Appeal Tribunal ("LPAT").

Setting hearing for Section 20 DC Complaint received January 21, 2020

According to Council's approved Procedural By-Law, part of the mandate of the Audit, Finance and Administration Committee is "to hold hearing on complaints made pursuant to Section 20 of the *Development Charges Act, 1997*".

While there is not a strict time requirement that Council must hear the complaint by, if Council does not hear the complaint before 60 days after the complaint is received, then the complainant may appeal to LPAT for non-decision.

March 21, 2020 is 60 days from the date the January 21, 2020 complaint was received. March 26, 2020 is the closest scheduled AF&A.

City legal staff have confirmed that the complainant consents to having the hearing of its complaint heard on March 30, 2020.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

N/A

ALTERNATIVES FOR CONSIDERATION – N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” – Legal Advice (**Confidential**)