

June 21, 2022

Our File No.: 221941

Via E-mail clerk@hamilton.ca

Mayor and Members of Council
City of Hamilton
71 Main Street West
Hamilton, ON L8P 4y5

Dear Sirs/Mesdames:

**Re: Community Benefits Charge Strategy
41-61 Wilson Street and 97, 99 and 117 John Street North**

We are solicitors for the owners of the property known municipally in the City of Hamilton (the “City”) as 41-46 Wilson Street and 97, 99 and 117 John Street North (the “Property”).

By letter dated June 15, 2022, on behalf of our client, we provided our client’s comments to the Audit, Finance and Administration Committee regarding the draft community benefits charge by-law (the “**Draft CBC By-law**”). The Draft CBC By-law has not been revised to address our client’s concerns, so we are providing these comments directly to City Council for its consideration.

Background

The Property is subject to existing zoning that permits certain as-of-right heights and density for which a Section 37 contribution is not required. This was the City’s decision to ensure an approach to intensification of the Property (and others within the same area).

Our clients have significantly advanced the planning processes for the Property in reliance on this approach. Although the Property is subject to conditional site plan approval, we understand that the City is not prepared to allow our client to apply for a building permit at this time. This would prevent our client from avoiding application of the Draft CBC By-law.

The concern is that the Draft CBC By-law does not recognize the approach to pre-zone the Property (and others) without a Section 37 requirement. Passage of the Draft CBC By-law without a corresponding exemption would result in the Property being subject to payment of a community benefits charge contrary to the planning history for the Property.

In passing zoning by-law amendments in certain areas, including for the Property, the City deliberately chose not to secure facilities, services or matters in return for an increase in the height/density of development. Our client relied on this decision of City Council in purchasing the Property and proceeding with development. However, the transition in Section 37.1 of the *Planning Act* may not apply to the Property, meaning that the City's decision not to apply Section 37 to the Property would be reversed absent an exemption in the Draft CBC By-law.

We would respectfully request that the City recognize the planning history for the Property and specifically exempt the Property from the imposition of community benefits charges. This would be consistent with the current approach to Section 37 for the Properties and protect the ongoing planning processes.

We would appreciate if this correspondence could be included as part of the record. Please also accept this letter as our request to receive notice of any decisions of the City regarding the Draft CBC By-law.

Yours truly,

Goodmans LLP



David Bronskill
DJB/

cc: Clients

7282114