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Ministry of Infrastructure  
Transit Oriented Communities Policy and Delivery Branch  
College Park  
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Toronto ON  
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***Sent VIA Ontario Regulatory Registry (ORR) Posting***

**RE: ORR Posting 23-MOI004, Proposed GO Transit Station Funding Act, 2023**

The intent of this letter is to provide the City of Hamilton's comments on ORR Posting 23-MOI004, Proposed GO Transit Station Funding Act, 2023. We respectfully request that you receive the staff comments to have on record as comments respecting ORR Posting 23-MOI004, Proposed GO Transit Station Funding Act, 2023, on behalf of the City of Hamilton.

City staff will be taking a report to Planning Committee on November 14, 2023 and to Council on November 22, 2023 outlining our submission. Council's position will be forwarded to the Province once it has been ratified.

#### **Proposed Intent of ORR Posting 23-MOI004**

The Province is consulting on the GO Transit Station Funding Act, 2023, that would, if passed, allow municipalities to fund the design and construction of new GO stations and recoup the costs through a charge on new development within specified areas surrounding those new stations.

The use of the tool, known as the station contribution fee, will only be permitted in municipalities where the Province has determined a new GO station is warranted. Municipalities will be required to provide a background study and pass a by-law which clearly identifies the area to which the station contribution fee will apply, to be forwarded to the Province for approval. Municipalities given approval to use the station contribution fee will be prescribed in a regulation.

#### **City of Hamilton Comments**

The following comments represent concerns or requests for clarification the City of Hamilton has on the proposed legislation:

- The Province has historically been responsible for all costs associated with the construction of new GO Stations. The City of Hamilton would like this to continue and has concerns with the potential downloading of the cost of designing and constructing GO Station to municipalities.
- The legislation states that the fee would be for “costs related to the construction of a GO Transit station that the municipality has agreed to pay” (s. 3 (1)). The statement that the Municipality has agreed to pay appears to be a larger matter of downloading Provincial Infrastructure costs onto municipalities. If the collections under a by-law are insufficient to cover the “costs related to the construction of a GO Transit station that the municipality has agreed to pay” (s. 3 (1)) how are municipalities expected to cover the shortfall?
- The Minister has stated that the charge is structured around a “land value capture” approach. This approach could apply to station areas not yet rezoned for higher density uses however some areas may have less land value to capture. As a rezoning triggers an increase in land value, municipalities may not be able to raise sufficient funds.
- The legislation could facilitate front-ending agreements between developers and municipalities, allowing developers to pay for station construction costs “up front” in order to advance their development and be compensated using transit station charge revenue raised from adjacent development. Clarification is needed how these agreements differ from those already permitted under the Development Charges Act.
- The legislation suggests that municipalities implementing a transit station charge will be expected to reduce “other development costs” to offset the charge. These “offsetting costs” could potentially reduce or cancel the financial benefit of the new charge which would not be supported by the City.
- Passing a transit station charge by-law is less predictable than the Development Charges equivalent. There is no right of appeal for developers, and for municipalities there is no certainty or timeframe for Ministerial approval.
- The City has concerns over implementation timelines given that a by-law must be passed prior to beginning station construction and the potential timeframe for completing the background study, which cannot be conducted until the study requirements are prescribed by regulation.
- The legislation imposes very few restrictions on eligible costs other than to state that they must be “costs related to the construction of a GO Transit station that the municipality has agreed to pay” (s. 3 (1)). The legislation should clarify eligible costs can cover studies, other pre-construction capital (and operating?) costs, as well as off-site capital works that connect to the station.
- It should be specified if this new funding model is being introduced to support specific GO Stations in Metrolinx’s future capital plans.
- The funding tool specifies that it requires the preparation of a background study, adoption of a By-law, specified collection methods and ongoing monitoring / reporting. The City of Hamilton recommends that 100% of the administrative costs of preparing and implementing this funding tool, including staffing and consultant costs, be provided by the Government of Ontario.
- The City is concerned with how this levy would impact its ability to enact Inclusionary Zoning around new GO Stations through a Protected Major Transit Station Area. Ontario Regulation 232/18 requires the City to complete an Assessment Report to determine the market feasibility of implementing

Inclusionary Zoning. The inclusion of a new levy that increases the cost of residential developments could negatively impact market feasibility.

- There are substantial uncertainties regarding the calculation methodology, implementation procedures, and financial implications of the charge based on what is currently available for review. Full regulations are required to provide a detailed assessment.
- The City is concerned that this levy would be a significant charge per dwelling unit, eroding affordability.
- Transit oriented developments can take years and even decades to be planned and constructed. This means that it could take 20+ years for the City to fully collect the anticipated levy, resulting in increased borrowing costs and financial risk to municipalities if the development is not realized.
- City staff have reviewed the legislation and have identified several areas in which clarification is required:
  - How does the proposed legislation relate to existing funding commitments made by Metrolinx for Capital Projects? The City of Hamilton expects all existing funding commitments to be honoured.
  - What municipalities are “prescribed municipalities” under the legislation?
  - What consists of a Metrolinx Service Area? Are there geographic limits? There does not appear to be a mechanism, through legislation, to restrict the area.
  - How does this legislation relate to GO Transit Development Charges? The City has concerns about potential ‘double dipping’ where new developments are charged both the GO Transit Development Charge and this new levy.
  - Is this legislation only applied to new GO Stations or could it be also applied to improvements to existing GO Stations to increase station capacity and/or level of service?
  - What percentage of the total capital costs to construct a GO Station would be recoverable through this levy?
  - What is the geographic area around the Go Station the charge can apply to?

Should you have questions or comments, please contact me at [Anita.Fabac@hamilton.ca](mailto:Anita.Fabac@hamilton.ca) 905-546-2424, ext. 1258 or [Dave.Heyworth@hamilton.ca](mailto:Dave.Heyworth@hamilton.ca) or at 905-546-2424 ext. 1279.

Regards,



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