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Our File No.: 240838

Via Email

Audit, Finance and Administration Committee
City of Hamilton
71 Main Street West
Hamilton, Ontario
L8P 4Y5

Dear Chair and Members of Committee:

Re: City of Hamilton Development Charges Review Final Report (FCS23103(b))

We are solicitors for the Hamilton Employment Landowners Group, a group of major employment landowners in the City of Hamilton that are cooperating in their review of the City's proposed development charge update, which includes:

1. First Gulf and Sun Life Assurance Company of Canada
2. Hopewell Development
3. Panattoni Development Company
4. The Beedie Group Developments
5. Alba Developments
6. Broccolini
7. Nicola Institutional Realty Advisors
8. Slate Asset Management
9. Fengate Asset Management

The Hamilton Employment Landowners Group all have active proposals for new industrial development in the City. While the group appreciates the staff recommendation to phase out the industrial discount, we do not believe that this will materially mitigate the drastic impact the increase in development charges will have on future development of employment lands in Hamilton. As noted in the Staff Report:

> … the record pace of industrial construction value realized over the last couple of years may not be sustained in Hamilton beyond 2024.

As also noted by staff, many neighbouring municipalities offer industrial development charges at a much lower rates. For example Brantford's non-residential development charge is $10.97 per square foot and Burlington's non-residential development charge is $19.11 per square foot.

The removal of the industrial discount will materially impact the City's competitiveness to attract employment development, and the feasibility of many types of industrial development, not just in the manufacturing sector. Despite recent investment in Hamilton's industrial sector being in the form of speculative development (build it and they will come), historically Hamilton has been a design-build destination (custom building construction) for companies making long-term investments in Hamilton to suit specialized needs, which are not necessarily manufacturing related. Furthermore, these companies for design-build projects are typically seeking to own their facilities and not rent them. Their decision to locate and invest in Hamilton is almost always driven by economics first and foremost, with qualitative elements being secondary to cost. Although the proposed phase-out may be beneficial in the near term, the long-term removal or the prospect of eliminating the industrial discount in its entirety will have a significant impact on economic investment in Hamilton.

The Hamilton Employment Landowners' Group is also very concerned about the calculation of the development charges in the Background Study and Addendum. The Group retained a team of consultants to review the Background Study and supporting information, including Keleher Planning & Economic Consulting, MGM Consulting (servicing engineers), and BA Group (transportation planners and engineers). Written comments were provided to the City from each of the consultants. Responses were provided by the City last week. Although we have not had much time to review the responses, we were disappointed that for the most part the high-level responses we received provided very little substance or new information that could be used to satisfy the concerns raised. The Group's consultants believe that the assumptions and calculations in the Background Study and Addendum result in proposed development charges that are inflated and that do not comply with the requirements of the legislation.

Many of the concerns identified relate to a lack of background information or analysis to support the assumptions and calculations made. For example:

1. The residential and non-residential growth forecasts used in the Background Study do not match the "service target" levels of population and employment used to determine the need for water, wastewater and road services. The City's consultants have indicated these differences are addressed by making a "provisional" allocation to post period benefit. However, no explanation has been provided in respect of how this provisional allocation was calculated, despite our requests.

2. Neither the Background Study nor supporting information provided in response to questions on the issue has substantiated the floor space per worker assumptions used to determine employment growth.

3. No analysis or backup information is provided to support the replacement costs of facilities used to calculate the historic service level standards.

4. No analysis or backup information is provided to support the estimated capital costs of new library, and parks and recreation facilities.

5. New potential public works facilities are funded without any assessment of the need for such services.

6. The benefit to existing development allocations of certain parks and recreation services has not been justified.

7. With respect to the development charge for roads:

   (a) Certain projects have been moved to the post period, which the Group believes may be required sooner, without justification.

   (b) Assumptions are made regarding costs to be funded by developers as local services, with no justification for the amounts calculated through such assumptions.

   (c) The development charge funds several categories of generic service categories (e.g., development road urbanization, sidewalks, signals, land acquisition) with no capital program or justification of estimated capital costs.

   (d) The Background Study assumes that new cycling and other active transportation facilities in rural areas have no benefit to existing development, without any reasonable justification.

   (e) Grade separations are funded without any justification regarding location or scope, and with no allocation of benefit to existing development, whereas such facilities clearly have operational and safety benefits to existing development.

   (f) The Highway 5/6 interchange project has no allocation to existing benefit, whereas it will clearly have operational and safety benefits to existing development.

(g) Various road components that clearly benefit existing development have no allocation of benefit to existing development (e.g., durable pavement markings, traffic controller cabinet replacements, sidewalks, signals, transit shelters, etc.).

The Hamilton Employment Landowners' Group does not believe the quantum of the increase in the development charge is warranted. The Group urges Council to request staff to revise the calculations in the Background Study to address the concerns raised by the Group's consultants and to recommend an increase that is fair and reasonable and in accordance with the legislation.

Yours truly,

Goodmans LLP

Robert Howe
cc: client
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