

CITY OF HAMILTON

CORPORATE SERVICES DEPARTMENT
Financial Planning & Policy Division

TO: Mayor and Members General Issues Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: May 9, 2011	
SUBJECT/REPORT NO: Development Charges for Student Residences and Lodging Houses (Residential Facility Rate) (FCS11028) (City Wide)	
SUBMITTED BY: Roberto Rossini General Manager, Finance & Corporate Services	PREPARED BY: Joseph Spiler 905-546-2424 Ext. 4519
SIGNATURE:	

RECOMMENDATION

- (a) That the Development Charge rate for student residences of private universities and colleges (Residential Facility DC Category) be set at 50% of the calculated DC By-law's rate;
- (b) That the Residential Facility Rate for conversions of existing residential units to lodging rooms remain at 100% of the calculated DC By-law's rate;
- (c) That Development Charge By-laws 09-144 and 09-143 be amended as per recommendation (a) of Report FCS11028 effective July 6, 2011;
- (d) That the DC Deferral Agreement #127 between the City of Hamilton and Columbia International College (CIC) be amended as per recommendation (a) of Report FCS11028.

EXECUTIVE SUMMARY

The purpose of this report is to deal with 2 Development Charge (DC) complaints regarding the City's Residential Facility DC Rate. Residential Development Charge rate

**SUBJECT: Development Charges for Student Residences and Lodging Houses
(Residential Facility Rate) (FCS11028) (City Wide) - Page 2 of 10**

categories are based on average densities. The residential facility rate is based on 1 person per residential development and, in the former Hamilton municipal boundary, the current charge is \$8,400 per unit (\$7,790 + \$610 education DC). These units share common kitchen and bathroom facilities. Student residences and lodging rooms fall into this category.

As part of Report FCS05063a “Development Charges – McMaster University Student Residences and Athletic Centre”, Council, in 2005, approved a 50% DC reduction for student residences built by McMaster. Appendix D of this report references a letter dated September 12, 2005, from McMaster University. This letter states that McMaster is in agreement with a 50% DC rate on student residences (subject to a deferral agreement) on a “without prejudice basis”. As per staff’s analysis (refer to Tables 1 to 3 of Report FCS11028), a reduced rate is recommended for private school student residences for the following reasons:

1. While publicly funded universities in Hamilton are currently subject to a 50% discount on DC’s for student residences, they do not pay full property taxes (they only pay Payment-In-Lieu-of-Taxes (PILs), \$75 per number of full-time students). Privately funded universities in Hamilton are currently subject to 100% DC’s and pay full market value assessment property taxes. Staff are of the opinion that there should be a consistent approach in both cases.
2. The economic rent for private student residences in Hamilton (refer to Appendix “B” of Report FCS11028 – the assumption is that the building is significantly financed) is close to or exceeds the revenue potential. A reduction in the DC liability for these developments, would bring the economic rent closer to its revenue potential.
3. By reducing the Residential Facility DC Rate for student residences, the City would be promoting development intensification. The Province’s “Places To Grow” planning document dictates that 40% of the City’s future growth must come through intensification.

Development Charges Complaint #1

Columbia International College - Student Residences – 768 Sanatorium Rd.

Columbia International College (CIC) requested by letter, dated September 7, 2010, (refer to Appendix A of Report FCS11028) that Development Charges on their proposed student residence development on Sanatorium Road be waived. They are most concerned with the impact that the DC liability will have on their financial viability. At the full residential facility rate, the DC liability for their proposed 198 units (refer to Appendix A of Report FCS11028 references 196 units but, subsequent consultation with CIC, confirmed 198 units) would be \$1,263,208 (includes Education DC’s of \$119,560). The building permit for this development was approved in June 2010. The DC Residential Facility rates for the 2009/2010 period apply. The applied municipal DC rates were

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\$5,844 per unit and \$610 in education DC's per unit. In addition, various green initiatives which have been proposed for the building reduce the impact of the building on City Services, as well as, the fact that publicly funded and not-for-profit educational institutions face substantially reduced development charges.

From a property tax perspective, Columbia International College would contribute approximately \$70,000 per year in municipal taxes, assuming 198 units. This would pay back the foregone DC revenue of \$571,824 in approximately 8 years.

Development Charges Complaint #2

**Conversion of 2 Apartment Units to 12 Residential Facility Units
667-675 Fennell Avenue East**

In September 2010, staff received a request (refer to Appendix C of Report FCS11028) for a reduction of Development Charges at 667–675 Fennell Avenue East. The owner wanted to legally convert 2 apartment units to a 12 unit rooming house. The proposed lodging facility at 667 Fennell Avenue East faces a current City DC liability of \$52,825, Education DC liability of \$5,490 and GO Transit liability of \$443 for the conversion of 2 apartment units to a 12-room lodging house. Assuming a 10% net profit margin on a rental rate of \$300 per month per unit (approximate rental rate per owner, assuming 0 vacancies), it would take the owner 21 years of profits to pay the DC liability. From a property tax perspective, the additional property taxes from this conversion (existing \$3,800 revised 12 x \$500 = \$6,000) would be a net of approximately \$2,200 annually.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial:

The financial cost of approving staff's recommendations for the City of Hamilton would be represented by foregone DC revenue. If these projects were to be developed, the afore-mentioned cost would be off-set by an increase in property tax revenue over an extended period of time. There may also be long-term accompanying benefits in terms of infrastructure efficiencies associated with intensification. Table 1 of Report FCS11028 illustrates the DC liability based on current rates versus a 50% reduction in rates:

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TABLE 1

Development	Current City DC Liability	50% DC Liability	Foregone DC Revenue
Columbia International College Student Residence	\$ 1,143,648	\$ 571,824	\$ 571,824
Proposed 665/675 Fennel Lodging Home *(note)	\$ 52,825	\$ 10,349	\$ 42,476

The difference between the current and 50% DC liability calculation is: reduction of 50% liability for lodging house charge (total -\$46,338) and 1 lodging room credit at only 50% of DC charge (\$3,861) (see table below).

<i>With 100% Development Charge</i>					
	Qty	Current		50% DC Liability	
		Rate	Total	Rate	Total
Existing Apartment Credits	-2	\$ 16,064.00	\$ (32,128.00)	\$ 16,064.00	\$ (32,128.00)
Charge For Lodging House	12	\$ 7,723.00	\$ 92,676.00	\$ 3,861.50	\$ 46,338.00
Exemption Apartment Credits	-1	\$ 7,723.00	\$ (7,723.00)	\$ 3,861.50	\$ (3,861.50)
Total			\$ 52,825.00		\$ 10,348.50

From a property tax perspective, Columbia International College would contribute approximately \$70,000 in municipal property taxes, assuming 198 units. This would pay back the foregone DC revenue of \$571,824 in approximately 8 years.

The additional property taxes from the 665-675 Fennel Avenue East conversion (existing \$3,800, revised 12 x \$500 = \$6,000) would be approximately \$2,200 annually. This would pay back the foregone DC revenue in approximately 21 years.

Staffing: None.

Legal: Staff's recommendations require that the City's current DC By-laws (09-144, 09-145) be amended. This process involves public notice (20 days prior to public meeting) and a 40 day appeal period. Staff are recommending that, to avoid duplication, the amendments contained within this report be included with the general water/wastewater DC review which will be effective July 6, 2011.

HISTORICAL BACKGROUND (Chronology of events)

Development Charges Complaint #1

Columbia International College - Student Residences – 768 Sanatorium Rd.

Columbia International College (CIC) requested by letter dated September 7, 2010, (refer to Appendix A of Report FCS11028) that Development Charges on their proposed student residence development on Sanatorium Road be waived. They are most concerned with the impact that the DC liability will have on their financial viability. At the full residential facility rate, the DC liability for their proposed 198 units would be \$1,263,208 (includes Education DC's of \$119,560). In addition, various green initiatives which have been adopted for the building, reduce the impact of the building on City Services, as well as, the fact that publicly funded and not-for-profit educational institutions face substantially reduced development charges. Under the City's current DC By-laws, a for-profit educational institution pays full development charge rates, while publicly funded universities and other post-secondary schools, offering a degree or diploma recognized by the Province of Ontario, pay only the transit portion on Development Charges on academic and teaching space and McMaster University receives a 50% discount on student residences. Similarly, not-for-profit elementary and secondary schools pay only the transit portion of Development Charges on academic and teaching space.

Another example of how the City has treated student residences for development charge purposes are the developments at Redeemer University College. Redeemer is considered a publicly funded university for DC purposes and pays only PILs for property tax purposes. In the year 2000, Redeemer received building permits for student residences and paid education DC's only.

In order to determine the financial impact of DC's on the proposed student residence development, staff analyzed a Pro-Forma Income Statement (refer to Appendix B of Report FCS11028) provided by CIC. The operating expenses presented to staff have been determined as reasonable for a development of that size. The depreciation and interest expense taken together (\$1.63 million) are a reasonable representation of a 30-year financing charge at 4.5%. The pro-forma income statement in Appendix B of Report FCS11028 illustrates that there is a negative cash-flow for the development assuming that a significant part of the cost was financed. The private college tuition fees must provide for a positive cash flow or the equity stake in the residence building must be substantial for this project to be financially sustainable.

Residential Facility DC rate comparisons to other municipalities with significant university developments have also been provided (refer to Table 2 of Report FCS11028), determining that Development Charges are a significant expense for private student residence construction and very cost prohibitive for such developments

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– taking into consideration that private schools pay current value property taxes. The staff recommendation achieves DC treatment consistency for private educational institutions and public institutions.

Table 2 of Report FCS11028 also illustrates that, even with staff's recommended 50% reduction, the Residential Facility rate would be greater than Toronto's (even though rental revenue would be much higher in Toronto) and comparable to London.

	Hamilton	London	Toronto	Waterloo
2011 City DC's per unit	\$ 7,723	\$ 4,595	\$ 3,195	\$ 8,075
Private School (prev.by-law)	\$ 1,143,648	\$ 900,802	\$ 600,336	\$ 1,582,812
Public School (University)	\$ 571,824	\$ 597,427	exempt	exempt

Student Residences

As a result of an appeal by McMaster University of the City's 1999 DC By-law and subsequent resolution, McMaster University was exempted from all DC's (except education). During this By-law period, Redeemer University College developed student residences and was exempt from municipal DC's. In the 2004 City DC By-law, Council exempted university developments that were for academic purposes only. Student residences would have to pay 100% DC's.

In 2005, staff report FCS05063a, endorsed by Council, provided McMaster University with a 50% discount for Development Charges on the development of student residences. The report was very specific in that it only provided the discount to McMaster University. Mohawk College is considered an agent of the Crown, and therefore exempt from DC's based on legal precedence.

In June 2010, Columbia International College submitted plans to the City for a new student residence. After meeting with staff and learning of the amount of Development Charges that would be applicable to the project, members of CIC met with the Ward Councillor and submitted a letter in August to his attention requesting that the DC's be either reduced or waived completely.

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In order to allow the project to proceed, while staff prepared a report for Council, CIC has entered into a DC Deferral Agreement for the full amount of the charges (5 year agreement, interest at the City's external debenture rate, payments can be made at any time during the 5 year period). The project's expected occupancy date is scheduled for December 2011.

Development Charges Complaint #2

**Conversion of 2 Apartment Units to 12 Residential Facility Units
667-675 Fennell Ave E.**

In September 2010, staff received a request (refer to Appendix C of Report FCS11028) for a reduction of Development Charges at 667–675 Fennell Avenue East. The owner is seeking to convert 2 apartment units to a 12 unit rooming house. The proposed lodging facility at 667 Fennell Avenue East faces a current City DC liability of \$52,825, an Education DC liability of \$5,490 and GO-Transit DC liability of \$443. The DC liability is based on current City DC policies including credits for existing units. Assuming a 10% net profit margin (\$30 per unit per month and 0 vacancies), it would take the owner 21 years of profits just to pay the DC liability. From a property tax perspective, the additional property taxes from this conversion (existing \$3,800, revised 12 x \$500 = \$6,000) would be a net of approximately \$2,200 annually.

Staff have reviewed the application of the current DC By-laws with regards to the conversion of units at 667-675 Fennell Avenue East and compared the DC liabilities that would exist in other communities (refer to Table 3 of Report FCS11028).

Residential Facility

In 2003, the property at 667 Fennell Avenue East was purchased and, at the time, was a 2 storey commercial building. In 2005, building permits were obtained to convert the 2nd floor of the building into two apartments. Converting the commercial space to two apartments did not result in additional development charges being required (the value of the commercial credits exceeded the development charges of the apartment units).

Following a complaint in 2009, City By-law Officers determined that the apartments were instead being operated as rooming houses rather than apartments and required the owner to seek the appropriate licensing and permits for such a use.

In July 2010, the Building Department received a retroactive application to convert two apartments into a 12 room lodging house. On September 9th, a letter was issued from the Building Department to notify the owner of the applicable fees that were required to be paid prior to the issuance of the permit.

POLICY IMPLICATIONS

Any changes to current DC policies will require amendments to be made to the DC By-law. In order to amend the DC By-law, the following process must take place according to the 1997 Development Charges Act:

- A Public Meeting would need to be held concerning the amendment. This meeting could be held prior to the regular scheduled General Issues Committee (GIC) meeting.
- 20 days public notice will be given prior to this meeting.
- This proposed amendment will be made available to the public 14 days prior to the meeting.
- At the Public Meeting, people may make representations concerning the amendment.
- The amendment would be subject to a 40 day appeal period whereby appeals can be made to the Ontario Municipal Board (OMB).
- The following City By-laws would be amended:
 - 09-144 effective July 6, 2009, expires July 6, 2011.
 - 09-143 approved on July 6, 2009, expires July 6, 2014.

RELEVANT CONSULTATION

Planning and Economic Development Department
Legal Services Division, City Manager's Office

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Residential Facility DC rate comparisons assuming a 198 unit development to other municipalities have also been provided (refer to Table 2 of Report FCS11028) determining that Development Charges are a significant expense for profit universities or colleges and very cost prohibitive for such developments – especially when considered that CIC pay current value property taxes. The staff recommendations balance out the fact that private institutions pay market-value property taxes, while public institutions have a favourable property tax status.

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Comparison of Student Residence Costs for similar residences:

TABLE 2
Comparative DC liability - 198 Unit Student Residence (assuming existing policies)
(excluding Education DC's)

	Hamilton	London	Toronto	Waterloo
2011 City DC's per unit	\$ 7,723	\$ 4,595	\$ 3,195	\$ 8,075
Private School (prev.by-law)	\$ 1,143,648	\$ 900,802	\$ 600,336	\$ 1,582,812
Public School (University)	\$ 571,824	\$ 597,427	exempt	exempt

TABLE 3
Comparative DC Liability - Apartment to Lodging Home Conversion (existing policies)
12 lodging rooms (credit for 2 apartments)

	Hamilton	London	Toronto	Waterloo
DC's Payable	\$ 52,825	\$ 94,560	\$ 21,158	\$ 23,760

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Alternative: 50% DC Exemption for residential facilities.

Pros: Would promote development of high-density residential facilities.

Cons: There could be a significant loss of DC revenue which would be somewhat mitigated by increased property tax revenues.

Staffing Implications: None.

Legal Implications: None.

Policy Implications: Any changes to current DC policies will require amendments to be made to the DC By-law. The amendment process is outlined above.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Skilled, Innovative & Respectful Organization

- ◆ More innovation, greater teamwork, better client focus
- ◆ Council and SMT are recognized for their leadership and integrity

Financial Sustainability

- ◆ Financially Sustainable City by 2020
- ◆ Effective and sustainable Growth Management
- ◆ Generate assessment growth/non-tax revenues

Social Development

- ◆ Everyone has a home they can afford that is well maintained and safe

Healthy Community

- ◆ Plan and manage the built environment
- ◆ Adequate access to food, water, shelter and income, safety, work, recreation and support for all (Human Services)

APPENDICES / SCHEDULES

- Appendix "A" – Columbia International College Development Charges Complaint Letter dated September 7th, 2010.
- Appendix "B" – Columbia International College Pro-Forma Income and Expense Statement for the proposed student residence development at 768 Sanatorium Rd.
- Appendix "C" – Development Charges Complaint Letter from the owner of 667-675 Fennell Avenue East.
- Appendix "D" – Letter from the solicitors of McMaster University dated September 12, 2005 stating that McMaster is in agreement with a 50% DC rate on student residences (subject to a deferral agreement) on a "without prejudice basis".



COLUMBIA
INTERNATIONAL
COLLEGE

September 7, 2010

Councilor Terry Whitehead
City of Hamilton,
71 Main St.
Hamilton, Ontario.

Dear Councilor Whitehead

New Residence
Development Charges

Further to our recent discussion we would like to ask the City of Hamilton's consideration to the waiver of development charges that will be levied on the 4 story residence building currently under construction on "Columbia" Sanatorium site.

An estimate of the standard development charges for this type facility consisting of 196 suites for the residence of our International student is approximately \$1,250,000. It remains our contention that these fees should be waived or reduced for a number of reasons.

The building was initially planned around a LEED certified building system; however, after much deliberation, it was determined that we would take on as many major initiatives without applying for the registration. The costs of those initiatives are itemized below. It is our understanding these certified buildings do receive or qualify for special consideration when development charges are rendered.

Herewith is our explanation or rationale behind the above request:

- A various number of "green initiatives" have been adopted in the construction of this building which has resulted in an additional construction cost and are outline below:

-The building will be controlled by a "state of the art" Building Automation System (BAS) to optimize operation and maximize energy conservation. The BAS will automatically control the start/



stop schedule of lights and HVAC equipment and maintain reduced temperature of the various zones during unoccupied periods.

Contractors Cost is in excess of \$335,000

-HVAC equipment such as chillers, rooftop units, compressors, and pumps will be of high efficiency type. Rooftop units will feature free cooling economizers and zone temperature control, all ASHRAE 90.1-2004 compliant.

Total Contractors Cost is \$740,000

-The building pumps and cooling tower will be equipped with variable speed drives (VFD) to minimize energy use and to closely match the actual building load profile.

Total Contractors Cost is \$162,000

-The HVAC system meets the requirements of ASHRAE Standard 62.1-2004, Ventilation for Acceptable Indoor Air Quality and an Indoor Air Quality Plan is in effect during construction.

-Low emitting materials will be used in construction eg. Adhesives and Sealants/Paints and Coatings/Carpet/Composite Wood and Laminate.

-Roofing materials with high reflectivity and emissivity will be used

-Building design will minimize cross-contamination of regularly occupied areas

- A various number of conservation initiatives have been adopted in the construction of this building which resulted in additional construction costs and are outlined below:

-Storm water treatment systems designed to remove 80% of the average annual post-development total suspended solids (TSS) and 40% of the average annual post-development total phosphorus (TP) based on the average annual loadings from all storms less than or equal to the 2 year/24 hr. storm.

-Two rainwater storage cisterns will be provided for site irrigation.

-The design of the HVAC, plumbing and electrical systems meets or surpasses the requirements of ASHRAE Standard 90.1-2004 Energy Conservation Standard for Buildings.

- All plumbing fixtures will be of the water saver type. Lavatory faucets in common use areas shall be of the electronic "no touch" type to maintain level of hygiene and minimize potable water usage.**
- A high efficiency large capacity outdoor grease interceptor will be provided for the kitchen area. The large wet storage capacity of the interceptor ensures adequate wastewater retention time is achieved for maximum contaminant removal efficiency.**
- The lighting system will feature energy saving light fixtures, namely a combination of LED fixtures with electronic ballast.**
- Building construction is not on environmentally sensitive land.**
- All residences and common areas are smoke free**
- An easily accessible area that serves the entire building will be dedicated to the separation, collection and storage of materials for recycling. All normal waste materials are compacted and removed by contract with Waste Services Inc., eliminating the need for City pickup.**
- While the new residence is in close proximity to 2 public bus lines (.25 mi.), the College transports all students to classes under separately negotiated arrangements, eliminating HSR usage during the core hours.**
- Covered storage facilities for securing bicycles for a minimum of 15% of the occupants will be installed.**
- We are seriously considering the solar electric (PV) service which is / could be mounted on our roof and provide additional electrical power to the grid. The estimated capital cost of these solar panels and inverters will be in excess of \$1,000,000.**
- We have re-routed a number of city services which, although required due to an easement, have nevertheless improved the aged water / gas and electrical services that were part of that easement. The total cost was in excess of \$278,000.**

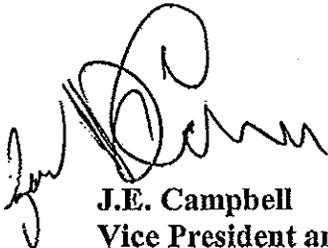
- We have been led to believe that there are other buildings similar to this construction that have had all or the major portion of their development charges reduced and this is due in part to the fact the buildings was LEEDs engineered and various construction materials have been used that are environmentally acceptable. We were not able to move this building towards a full LEEDs certification however the Engineer and Architect both agree we have so many of the same items in that we would easily qualify as a LEEDS certified building if we deemed it necessary.
- We are aware that the development charges for other educational institutions in the City of Hamilton have been substantially reduced and we would expect to be treated in the same manner.

In conclusion we have performed a very serious analysis of the various construction costs and the reasons for our requests and we ask that our request be given due consideration.

Columbia is the largest private secondary boarding school in Canada with residences for international students. Our residences will provide a home away from home for international students from over 60 countries around the world. Current enrollment is in excess of 1200 students. The majority of our students remain at Columbia for over one year and many end up remaining in Hamilton to extend their education either at McMaster or Mohawk College. Columbia receives no government funding of any sort and remains a for profit enterprise and pays commercial property taxes on our 5 owned buildings in Hamilton.

Thank you and we will await your response to our request.

Yours sincerely



J.E. Campbell
Vice President and General Manager

Professional Sources:

**El-Hamzawi Engineering Ltd
Mechanical & Electrical Consulting Engineers**

**Kathryn Vogel, Architect
Dip. Arch., OAA, MRAIC, Dip.Arch.Tech. Leeds ®**

Regulatory Sources:

**ASHRAE: American Society of Heat Refrigeration and Air Conditioning
Engineers**

MNECB: Model National Energy Code for Buildings

**cc Rose Caterini
City Clerk,
City of Hamilton**

**cc Joe Spiler,
Manager-Capital Budgets and Development
City of Hamilton**

October 1, 2010

COLUMBIA INTERNATIONAL COLLEGE

CHEDMAC RESIDENCE -PHASE 3

PRO FORMA INCOME AND EXPENSE STATEMENT

RESIDENCE INCOME	\$ 1,868,400
MEAL PLAN INCOME	298,944
	<hr/>
	\$ 2,167,344
 EXPENSES:	
Depreciation	\$ 933,000
Insurance	15,135
Bank Charges	75,000
Interest	700,000
Utilities	270,000
Professional Fees	5,000
Property Taxes	70,000
Repairs and Maintenance	100,000
Salaries and Benefits	280,000
Office Expenses	6,000
Permits and Development Charges (Current Portion)	316,027
	<hr/>
	\$ 2,770,162
 INCOME (LOSS) FROM OPERATIONS/BEFORE INCOME TAXES	 \$ (602,818)

COLUMBIA INTERNATIONAL COLLEGE

CHEDMAC RESIDENCE -PHASE 3

NOTES TO STATEMENT ABOVE:

-Revenues are based on new residence occupancy of 346 female students over a 10 month academic period.

-Depreciation has been based on the total cost of building construction estimated at \$28 million and amortized over a 30 year period.

-For the purposes of this statement, Permit/Development Charges and related fees are based on a 5 year deferral arrangement, and notwithstanding the results of the College's application before the City to have these fees reduced or eliminated.

-Property taxes based on our Pine residence assessment (\$66M) plus upward adjustment for the additional 4th floor of the new residence.

October 1, 2010

-----Original Message-----

From: Louie Milojevic [mailto:lm5322a@student.american.edu]

Sent: Tuesday, September 21, 2010 3:58 PM

To: Spiler, Joseph; Caterini, Rose; Duvall, Scott

Subject: 667-675 Fennell Avenue East (Diana Milojevic)

Dear Mr Spiler, Mrs. Caterini, and Mr. Duval,

I am writing to you on behalf of Diana Milojevic, and on the recommendation of Mr. Spiler, regarding a recently processed (but still unfinished) rooming house license for 667 Fennell Avenue East. The matter has been poorly handled by both the city and my mother Mrs. Milojevic. In order to avoid complicating the matter further in writing, I believe the details and urgency of the situation/project can best be addressed and resolved in a meeting. Mr Spiler has already explained to me that any meeting should have himself, Mrs. Caterini, and Mr. Duval. As such, I am flying in from Washington DC this week and would like to meet Thursday, Friday, or Monday at the latest. I apologize for the brevity of the email, but I'm certain Mr. Spiler or Diana can provide any further details. She can be reached at 905 664-4444.

Sincerely,
Louie Milojevic



Evans, Philp

Barristers and Solicitors

Reply to: Randall S. Bocock, Counsel

September 12, 2005

SENT VIA EMAIL AND REGULAR MAIL

City of Hamilton
City Hall, Finance and Corporate Services
71 Main Street West
Hamilton, Ontario
L8P 4Y5

Attention: Mr. Joseph Spiler, BA, CMA
Manager of Capital Budgets and Development

Dear Sirs:

Re: *Development Charges Act* and City of Hamilton Development Charges By-Law
No. 04-145 (the "DC By-Law")

And Re: City of Hamilton Draft Development Charges By-Law Amendment reflected in
Committee Report #FCS05063a)
Our File No. 414-5

As you know, we write as solicitors to McMaster University.

The purpose of this letter is to provide you, subject to the terms of this letter, with McMaster University's agreement to the terms of a proposed amendment to the DC By-Law.

We note that the terms of the proposed amendment to the DC By-Law provide that student residents on the University will be assessed at one-half the usual rate of current "residential facility" development charges. In addition, we note that in applying that amended by-law, a deferral agreement with respect to the new residence will be entered into to defer payment of such development charges over 30 years without interest. We emphasize that McMaster University's concurrence with the amendments to the DC By-Law is inextricably tied to this payment mechanism.



Evans, Philp

We also confirm that as part of this larger agreement, the City of Hamilton has agreed that the new sports complex to be located on the main campus will be exempt from development charges because of its use for academic purposes. We confirm that this resolution is also linked to the University's willingness to concur with the amended DC By-Law.

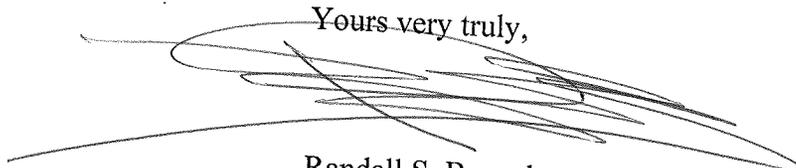
Moreover, the University wishes to place on the record that the City of Hamilton's interpretation of academic purposes has historically been narrowly focussed and the agreement of McMaster University to all of the foregoing is on an absolutely without prejudice basis to the assertion of McMaster University of its rights in future with respect to any other development on the University campus with the exception of buildings solely dedicated to student residences.

We trust the foregoing is of assistance to you and that as a result of your receipt of this letter, you will ensure:

- a) that the final building permits in respect of the sports complex are issued forthwith subject to compliance with other usual site development requirements; and,
- b) that building permits, when requested for the new residence, will be issued in accordance with the foregoing amended DC By-Law and the payment mechanism described above.

If you should have any questions, please do not hesitate to contact the writer.

Yours very truly,



Randall S. Bocock

RSB/tl

- cc:
- Ms. Karen Belaire, Vice-President (Administration), McMaster University
 - Mr. Roger Trull, Vice-President, University Advancement, McMaster University
 - Mr. Tony Cupido, Director, Physical Plant, McMaster University
 - Mr. Robert Dunn, Assistant Director, Physical Plant, McMaster University
 - Mr. Joseph Rinaldo, General Manager, Corporate and Finance Services, City of Hamilton
 - Mr. Timothy McCabe, Director of Development & Real Estate, City of Hamilton
 - Mr. Dio Ortiz, Chief Building Engineer, Building & Licensing Division, City of Hamilton