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July 24th, 2018

Jay Allen
Shield Storage Centres Inc.

Re: Development Charge Relief Request and Discussion

I am writing in reply to your letter dated July 10th, 2018, which requests development charge (DC) relief in respect of your development at 221 Main St., Bobcaygeon. Specifically, you have asked the City of Kawartha Lakes to treat your commercial development as though it were a rural industrial use of land for the purpose of quantifying the DCs applicable to the development.

If the City were to treat the subject development as though it were an industrial use in the Rural-Other Service Area instead of a commercial use in the Urban-Other Service Area, the impact on the DC calculation would have two distinct components as follows, where figures are based on 2018 DC rates:

1. The water and sewage DCs would become inapplicable, reducing the total DC rate from \$187.64/m² to \$72.55/m².
2. The Rural-Other industrial DCs would become applicable, further reducing the total DC rate from \$72.55/m² to \$32.75/m².

Together, these represent a total reduction of \$154.89/m², or approximately 82.5%.

In essence, the request for this reduction is grounded in the rationale that the servicing impact on the City of the subject development is (i) minimal or non-existent respecting water and wastewater services, (ii) invariant to the location of the development and (iii) identical to that of a rural industrial development of the same scale. Let me address this rationale by referencing relevant sections of the DC By-Law.

The DC By-Law defines commercial use as follows (underlining added for emphasis):

“commercial” means lands, buildings or structures or any part thereof used, designed or intended to facilitate the buying or selling of commodities or services, including those that relate to self-service and other storage facilities, hotels, inns, motels and boarding, lodging, rooming houses and recreational lodging and all those that are non-residential in nature but excluded from all other types of non-residential land, structures and buildings otherwise defined herein.

Hence, the subject development is unquestionably commercial in nature for the purpose of DCs. I note that this holds regardless of how the land under the development might be zoned.

The DC By-Law defines the water and sewer service areas as follows, respectively:

“water service area” means the union of all land serviced by a City water system, that being all land on which development is subject to mandatory connection to a City water system intended to service the development.

“sewer service area” means the union of all land serviced by a City wastewater system, that being all land on which development is subject to mandatory connection to a City wastewater system intended to service the development.

As you have noted, as the land in question is serviced by water and wastewater systems, it is clearly within the water and sewer service areas for the purpose of DCs. In fact, your letter confirms the property in question is already connected to water and wastewater services.

I furthermore note that subsection 3.03 of the DC By-Law states:

Development Charges Independent of Specific Need or Benefit: The development charges related to a development as determined pursuant to this by-law shall apply without regard to the specific increase in need for municipal services required by, or the specific municipal service benefits conferred to, any individual or particular development.

In other words, subsection 3.03 implies DCs are determined on an average cost basis, meaning DC rates applicable to a type of development within a given service area do not vary according to development-specific servicing impacts. While the subject development would be expected to exert below-average demands on the City's water and wastewater systems, other developments are associated with average or higher demands.

If DCs were subject to every conceivable variation in anticipated demands on or benefits from municipal services, the City would be inundated with requests similar to yours and the Chief Building Official would have the impossible task of determining precisely the amount of DCs to levy in accordance with the myriad of ways in which developments might differ. This would introduce considerable subjectivity and uncertainty into the determination of DCs. Given a DC is an upfront, one-time payment, it is unrealistic to expect DC rates can be structured to reflect anticipated municipal servicing impacts in every particular case.

Moreover, the Chief Building Official is not permitted to contravene the DC By-Law. In particular, he or she is not permitted to grant special exemptions, such as that you have requested, unauthorized by the DC By-Law. In accordance with the DC By-Law, neither City staff nor City Council is authorized to grant the DC relief you have requested.

Should you have any further questions or concerns, please do not hesitate to contact me.

Sincerely,

Adam Found, PhD, PLE
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