



## **Addendum to the Development Charges Complaint Committee Agenda**

Meeting Room 1-H  
Regional Headquarters Building  
605 Rossland Road East, Whitby

**Friday, September 13, 2019**

**9:30 AM**

---

### **2. Development Charges Complaints**

#### **A) Correspondence from Mr. Dave Paterson**

Pages 2 - 4

Re: The Royal Ashburn Golf Club  
995 Myrtle Road West  
Town of Whitby



Town of Whitby  
Office of the Town Clerk  
575 Rossland Rd E, Whitby  
L1N 2M8

Re: Development Charge Appeal

In response to appeal of the Development charges at Royal Ashburn Golf Club (Corr. #2019-659), in accordance to section 20(3) of the *Development Charges Act, 1997, S.O. 1997, c. 27* (the Act) please review the evidence to substantiate the claim.

Under the *Development Charges Act, 1997, S.O* there is not a section that speaks to seasonal business. The nature of our buildings are ancillary to our existing business and designed to complement our existing business. The seasonal nature of our business only allows a 4-6 month period of operation and should not be subjected to the same charge. The Development Charges Act speaks to residential development and does not apply to ancillary use that is seasonal in nature.

In our case we feel it is prudent on council to consider the following conditions of our development.

1. Rural property not subject to municipal servicing
2. Seasonal operation (Revenue generating ability 4-6 months of the year)
3. Ancillary buildings that will not increase traffic on the road network, but lends to reduce traffic. Our project also does not require any servicing to the road system as it relates to ingress and egress.
4. No access to municipal transportation
5. We are not developers with the ability to pass Development Charges to the end user. We are simply trying to grow our business with the positive outcome being additional employment and increased economic contribution to our municipality.

Under the development charge act, the development charge was calculated at \$104.13 as a retail commercial per square metre charge. It is understood that these charges apply to the following section:

**As stated: 2019, c.9, Sched. 3, s. 2.**

(4) A development charge by-law may impose development charges to pay for increased capital costs required because of increased needs only for the following services:

1. Water supply services, including distribution and treatment services.
2. Waste water services, including sewers and treatment services.
3. Storm water drainage and control services.
4. Services related to a highway as defined in subsection 1 (1) of the *Municipal Act, 2001* or subsection 3 (1) of the *City of Toronto Act, 2006*, as the case may be.
5. Electrical power services.
6. Policing services.
7. Ambulance services.
8. Fire protection services.
9. Toronto-York subway extension, as defined in subsection 5.1 (1).
10. Transit services other than the Toronto-York subway extension.

3 (1) Paragraph 4 of subsection 5 (1) of the Act is amended by striking out “The estimate also must not include an increase in the need for service that relates to a time after the 10-year period immediately following the preparation of the background study unless the service is set out in subsection (5)” at the end.

*I have added section 3(1) as The Regions Master Plan does not speak to any development north of Brawley Rd. before 2031.*

Due to the location of our property we do not require any of the above mentioned services except for items 6, 7, 8 which relate to Police, Ambulance and Fire Protection Services.

Below outlines a section of the Act that speaks to the challenges we face and provides an opportunity for council to review and amend the by-law so as to suit the different needs of different areas within a municipality. Please review the section below.

**Development Charges Act 1997, S.O. Section 2 (11)(1)**

**Area rating, prescribed municipalities, services and criteria**

(11) The following rules apply to a municipality that is prescribed for the purposes of this subsection:

1. With respect to a service that is prescribed for the purposes of this subsection, the council shall pass different development charge by-laws for different parts of the municipality.

Lastly, I would like to highlight the Memorandum prepared on April 10, 2010 to Gordon Petch From Zaid Sayeed **RE: *Onus on Municipality to Justify Development Charges***. It cites the case study between *Whiteley v. Guelph (City)*, 14 M.P.L.R. (3d) 146, 39 O.M.B.R. 444. (O.M.B.).

The memorandum states it is the municipalities responsibility to prove and justify the development charges. To quote the memorandum; "When a By-law, or the specific application of a charge, is appealed to the Ontario Municipal Board (the "Board"), the Board will examine the Study and the By-law, and "the municipality must be able to justify a charge and satisfy the Board on an appeal that the development triggers a need for services which results in increased capital costs."

It later goes on to state; "Additionally, appeals brought before the Board still refers broadly to the issue of whether a Study has reasonably forecasted and calculated increased capital costs required because of the increased needs for services arising from development in addition to an issue-by-issue analysis."

In closing I do not want to see this matter escalate to the OMB/Board but I believe the points made provide a strong argument towards why the development charges in our case should be reviewed and treated separately than what a formal developer in an urban setting would incur when commencing on a project. In our case we were not aware of the development charges until the building Permit was to be issued which was too late as our own budget for the project did not include a Development Charge of nearly \$73,000.00.

We understand that Council has the ability to review the development charges and has the ability to treat each appeal on a case by case basis and has the ability to create additional by-laws as required ***Development Charges Act, 1997 S.O Section 2(8)***. It is my hopes that you will consider the argument and on appeal will be granted.

I thank you for your consideration,

Dave Paterson



The Royal Ashburn Golf Club