

Subject: Development Charge Complaint - 3420 Baskins Beach Road

File Number: ACS2022-PIE-BCS-0003

Report to Agriculture and Rural Affairs Committee on 1 September 2022

and Council 21 September 2022

**Submitted on August 22, 2022 by John Buck, Chief Building Official, Planning,
Real Estate and Economic Development Department**

Contact Person: Terri Hunt, Acting Manager, Permit Approvals

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Ward: West Carleton-March (5)

**Objet : Plainte relative aux redevances d'aménagement – 3420, chemin
Baskins Beach**

Dossier : ACS2022-PIE-BCS-0003

Rapport au Comité de l'agriculture et des affaires rurales

le 1er septembre 2022

et au Conseil le 21 septembre 2022

**Soumis le 22 août 2022 par John Buck, Chef du service du code de bâtiment,
Direction générale de la planification, de l'immobilier et du développement
économique**

**Personne ressource : Terri Hunt, Gestionnaire par intérim, Approbation des
permis**

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Quartier : West Carleton-March (5)

REPORT RECOMMENDATION

That the Agriculture and Rural Affairs Committee recommend that Council dismiss the development charge complaint in respect of 3420 Baskins Beach Road.

RECOMMANDATION DU RAPPORT

Que le Comité de l'agriculture et des affaires rurales recommande au Conseil de rejeter la plainte relative aux redevances d'aménagement liées au 3420, chemin Baskins Beach.

BACKGROUND

The *Development Charges Act*, Section 20 provides that a complaint may be filed by an owner in respect of the development charges imposed by a municipality in respect of a project on the basis that:

- a) The amount of the development charge was incorrectly determined;
- b) Whether a credit is available to be used against the development charges, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined;
- c) There was an error in the application of the Development Charge By-law.

Basis of Complaint

The Development Charge complaint and background documentation to the complaint is attached as Document 1 to this report.

The Claimant has owned the subject property since 1988. At the time the property was acquired, an exemption certificate was obtained stating that the property was exempt from Regional Development Charge. A copy of the certificate is attached as part of Document 1.

An inquiry was made to City staff on February 26, 2021. At that time, the staff person confirmed that the property was exempt from municipal development charges. When representatives of the owner applied for a building permit later that year, they were advised that municipal development charges in the amount of \$18,866 were owing. The Claimant takes the position that:

It is not reasonable to provide written confirmation in such an important matter and not have the trust in the City officials that it is binding.

DISCUSSION

Required servicing payments for municipal costs outside a subdivision, prior to the passage of the first *Development Charges Act* (DCA) on November 23, 1989, went by various names including lot development levies or fees. In this case, the letters the claimant has in her possession are dated March 16, 1989 and February 10, 1989. These dates are prior to the passage of the first DCA. After the passage of the DCA, previous “lot development fee” payments made to a municipality were considered Section 14 credits and could be used to offset a portion of the cost of new development charge payments made after the passage of the first municipal development charge by-laws that replaced the prior lot development fee regime.

On March 1, 1998, the revised DCA was proclaimed. This DCA imposed significant limitations on the amount municipalities could charge for growth-related contributions from landowners, however, the credit provisions of Section 14 of the former DCA, which had addressed prior existing “lot development fee” payments were not brought forward into the revised DCA. The amended legislation put in place transition provisions so that prior servicing payments would not be available for crediting against development charge payments on an indefinite basis. Specifically, the Regulations required those who paid capital contributions (lot development fees) prior to October 28, 1991 but who had not applied for building permits had to apply for recognition of a Section 14 credit for their prepaid capital contributions.

The application had to be made between March 1, 1998 and March 1, 1999. As a result of representations made by the development industry to the Province, the opportunity to apply for a Section 14 credit was extended. All landowners or persons entitled to Section 14 credits were to make application to the municipality by October 31, 1999.

This approach recognized that many of the former lot development fee servicing payments, made prior to the passage of the first municipal DC By-law, were received at a time when municipalities were responsible for funding fewer services and when the Provincial government provided annual grants to pay for capital infrastructure. The building permit application would have to have been received prior to October 31, 1999 or 22 years ago in order to receive a credit for the lot development fees paid back on March 7, 1989.

There is no provision in the City's development charge by-law requiring the recognition of an exemption certificate.

RURAL IMPLICATIONS

This property is located within the rural area.

CONSULTATION

The applicable legislation requires that two weeks' notice of a hearing into a development charges complaint be given to the complainant. This notice was formally given on Thursday August 18, 2022.

COMMENTS BY THE WARD COUNCILLOR

The Ward Councillor is aware of this report.

LEGAL IMPLICATIONS

Following Council's consideration of this complaint, notice of the decision will be sent to the complainant. The complainant has the ability to appeal Council's decision to the Ontario Land Tribunal.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications associated with the recommendations of this report.

FINANCIAL IMPLICATIONS

There are no direct financial implications with the recommendation to dismiss the complaint. In the event the complaint is upheld, \$18,866 plus interest will be paid to the applicant. The payment will constitute a grant and will be funded from the Development Charges Exemption accounts, in accordance with the Development Charges policy.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

ECONOMIC IMPLICATIONS

There are no environmental implications associated with this report.

TERM OF COUNCIL PRIORITIES

There are no Term of Council priorities impacted by this report.

SUPPORTING DOCUMENTATION

Document 1 Development Charges Complaint

DISPOSITION

The Office of the City Clerk will advise the representative for the complainant of Council's decision.