

- 2. 813 SHEFFORD ROAD – EDUCATION DEVELOPMENT CHARGE**
813, CHEMIN SHEFFORD – REDEVANCES D'AMÉNAGEMENT
SCOLAIRES

COMMITTEE RECOMMENDATION

That Council sustain the Education Development Charges Complaint of the Ottawa Community Ice Partners in respect of the development at 813 Shefford and find that the Education Development Charges in the amount of the \$134,994.32 paid in respect of the development are not applicable.

RECOMMANDATION DU COMITÉ

Que le Conseil donne suite à la plainte déposée par le groupe Ottawa Community Ice Partners concernant les redevances d'aménagement scolaires associées au projet du 813, chemin Shefford, et d'établir que les redevances d'aménagement scolaires d'un montant de 134 994,32 \$ versées relativement à l'aménagement ne sont pas applicables.

DOCUMENTATION / DOCUMENTATION

1. City Clerk and Solicitor's report dated 21 January 2014
(ACS2014-CMR-LEG-0001).

Rapport du Greffier et Chef du contentieux daté le 21 janvier 2014
(ACS2014-CMR-LEG-0001).

Report to/Rapport au :

Planning Committee
Comité de l'urbanisme

and Council / et au Conseil

January 21, 2014
21 janvier 2014

Submitted by/Soumis par : M. Rick O'Connor, City Clerk and Solicitor / Greffier et
Chef du contentieux

*Contact Person / Personne ressource: Tim Marc, Senior Legal Counsel, City Clerk and
Solicitor Department / Conseiller juridique principal, Bureau du greffier municipal et chef
du contentieux*

Tim.Marc@ottawa.ca / 613-580-2424, ext. / poste 21444

BEACON HILL-CYRVILLE (11)

Ref N°: ACS2014-CMR-LEG-0001

SUBJECT: 813 SHEFFORD ROAD – EDUCATION DEVELOPMENT CHARGE

**OBJET : 813, CHEMIN SHEFFORD – REDEVANCES D'AMÉNAGEMENT
SCOLAIRES**

REPORT RECOMMENDATION

That Planning Committee recommend that Council sustain the Education Development Charges Complaint of the Ottawa Community Ice Partners in respect of the development at 813 Shefford and find that the Education Development Charges in the amount of the \$134,994.32 paid in respect of the development are not applicable.

RECOMMANDATION DU RAPPORT

Que le Comité de l'urbanisme recommande au Conseil de donner suite à la plainte déposée par le groupe Ottawa Community Ice Partners concernant les redevances d'aménagement scolaires associées au projet du 813, chemin Shefford, et d'établir que les redevances d'aménagement scolaires d'un montant de 134 994,32 \$ versées relativement à l'aménagement ne sont pas applicables.

BACKGROUND

The City has received a complaint, attached as Document 1 to this report, pursuant to the *Education Act*, section 257.85 in respect of the question of education development

charges owing for the redevelopment that is taking place at 813 Shefford Road, known as the Sensplex East project. The complaint was filed within the timelines required by the Act.

The process for dealing with Education Development Charges complaints was approved by Council on September 14, 2005 and is set forth in Document 2 to this report.

BASIS OF COMPLAINT

The *Education Act*, subsection 257.54(5) provides as follows:

Limited exemption

(5) No land, except land owned by and used for the purposes of a board or a municipality, is exempt from an education development charge under a by-law passed under subsection (1) by reason only that it is exempt from taxation under section 3 of the *Assessment Act*

This provision is repeated in each of the School Board's development charge by-laws. The basis of the Sensplex East development charge complaint is that it is land owned by and used for the purposes of a municipality and therefore is not subject to Education Development Charges.

DISCUSSION

Details of Development

The construction taking place at 813 Shefford was approved by Council on December 19th, 2012 as a public private partnership. Together with the renovation of the existing ice surface at the J.B. Potvin arena, the project involves the construction of the following:

Item	Gross Floor Area per development charge by-law
1st floor	
Ice Surface, including related common areas such as changing rooms, hallways, ice plant, zamboni room, entrance, lobby, reception, tuckshop, canteen	104,250.47 sq.ft.
2nd floor	
Office (proposed Hockey Association	17,516.65 sq.ft.

offices, Physio Clinic, Sports Clinic, Office Hockey Training Centre)	
Restaurant (including washrooms and kitchen areas)	5586.01 sq.ft.
Total	127,353.13 square feet

The development charges that have been paid to the four School Boards are in the following amounts:

Ottawa Carleton Catholic	\$42,026.53
French Public	\$10,188.25
French Catholic	\$30,564.75
<u>Ottawa Carleton District</u>	<u>\$52,214.79</u>
TOTAL	\$134,994.32

The land upon which the facility is located is owned by the City of Ottawa and leased for a thirty year period to the Ottawa Community Ice Partners. At the expiration of the lease period, the City will own the facility.

The impetus to this project was set forth in the initial report to Council, considered and approved on April 11th, 2012, providing direction to staff to initiate a P3 process. The report stated:

The initial review of concepts for this site have led staff to conclude that there is insufficient funding in the approved City-funding capital program to deliver a facility that meets the intended objectives of expanding the availability of ice time, and creating a multipad facility in the east end of the City to support tournaments....

Because of the scale of the project contemplated at this location, as well as the great potential for this large and well located site, staff recommends that a Public-Private partnership be pursued as a solution to securing the financial resources to optimize the use of the site.

Consistent with the goal of the expanded facility being constructed to meet the recreational needs of the community identified by the City, the project was identified from the outset at the time of the April, 2012 Council consideration to be intended to be subject to a municipal capital facilities agreement as providing for

16. Municipal facilities used for cultural, recreational or tourist purposes.

as set forth in regulation respecting such facilities.

The space for the clinic and office uses, as well as the restaurant use, are typical accessory uses that are present in other recreational facilities operated for the City.

It is submitted that given the City's continued ownership of the land and the intended use of the facility that the project therefore comes with the wording of the exemption from Education Development Charges as being "land owned by and used for the purposes of ... a municipality" and that the project therefore should be held to be exempt from Education Development Charges.

TRANSIT DEVELOPMENT CHARGES

The rationale outlined for a development charge exemption above would equally apply to development charges imposed by the City. Transit Development Charges for the project in the amount of \$462,500 have however been collected in respect of the facility. This however can be considered to be a voluntary payment by the City made to the Transit Development Charge account due to the importance placed by Council on funding transit projects.

RURAL IMPLICATIONS

There are no specific rural implications associated with this report.

CONSULTATION

In accordance with the requirements of the *Education Act*, notice of this report coming forward to Planning Committee was provided 14 days in advance of the Committee meeting.

COMMENTS BY THE WARD COUNCILLOR(S)

Subject to the submissions and any evidence received at Committee, Councillor Tierney is in agreement and supports the report recommendation.

LEGAL IMPLICATIONS

Following Council's consideration of this complaint, notice of the decision will be sent to Ottawa Community Ice Partners and each of the four School Boards. The *Education Act*, section 257.87 provides that the decision of Council is subject to appeal to the Ontario Municipal Board. The City is entitled to seek party status but is not required to participate in such an appeal.

RISK MANAGEMENT IMPLICATIONS

There are no risk implications arising from this report.

FINANCIAL IMPLICATIONS

The \$134,994.32 Education Development charges have been expensed to 906236 Program Facilities Upgrades and remitted to the school boards. Approval of the recommendation will result in these charges being refunded to the City and credited to 906236 Program Facilities Upgrades.

In the event that the recommendation is not carried, the Ottawa Community Ice Partners will reimburse the City over the next three years.

ACCESSIBILITY IMPACTS

This facility is to meet the City's accessibility standards.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications related to this project.

TECHNOLOGY IMPLICATIONS

There are no technical implications associated with receiving this report.

TERM OF COUNCIL PRIORITIES

The consideration of this report is consistent with Strategic Objective GP2, in particular improving transparency and accountability.

SUPPORTING DOCUMENTATION

(Previously distributed to all members of Council and held on file with the City Clerk):

Document 1 – Education Development Charge Complaint – 813 Shefford

Document 2 – Process for consideration of Education Development Charge complaint

DISPOSITION

The City Clerk and Solicitor Department will advise the parties of the outcome of the complaint.