

**Report to
Rapport au:**

**Planning Committee / Comité de l'urbanisme
August 23, 2016 / 23 août 2016**

**and Council / et au Conseil
August 31, 2016 / 31 août 2016**

**Submitted on August 9, 2016
Soumis le 9 août 2016**

**Submitted by
Soumis par:
John L. Moser,
General Manager / Directeur général,
Planning, Infrastructure and Economic Development Department / Service de
planification, d'Infrastructure et de Développement économique**

**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
(613) 580-2424, 21444, Timothy.Marc@ottawa.ca**

Ward: KNOXDALE-MERIVALE (9)

File Number: ACS2016-PIE-PGM-0141

SUBJECT: Development Charges Complaint – 60 Camelot Drive

**OBJET: Plainte relative aux redevances d'aménagement – 60, promenade
Camelot**

REPORT RECOMMENDATION

That Planning Committee recommend that Council dismiss the development charges complaint under the *Development Charges Act* in respect of 60 Camelot Drive.

RECOMMANDATION DU RAPPORT

Que le Comité de l'urbanisme recommande au Conseil de rejeter la plainte relative aux redevances d'aménagement concernant le 60, promenade Camelot aux termes de la *Loi sur les redevances d'exploitation*.

BACKGROUND

The *Development Charges Act*, Section 20 provides that a complaint may be filed by an owner in respect of the development charges imposed in for 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 charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined; or
- (c) there was an error in the application of the Development Charge By-law.

BASIS OF COMPLAINT

The letter received from the complainant is attached as Document 1. The basis of the complaint is that the development application for the three storey office building should have been processed to approval earlier such that the building permit would have been issued at an earlier date so that the development charges would have been imposed at a lesser rate.

DISCUSSION

The building permit was issued on February 26, 2016. The municipal development charges imposed were in the amount of \$505,152.34 at the rate of \$19.82 per square foot. The complainant's position is that the municipal development charges should have been imposed in the rate in effect on May 12, 2014, that being \$14.48 per square foot (for a total of \$369,051.76).

In respect of the due date for payment, the *Development Charges Act*, Subsection 26(1) states:

26. (1) A development charge is payable for a development upon a building permit being issued for the development unless the Development Charge By-law provides otherwise under Subsection (2).

(Subsection (2) states that in the case of development by way of plan of subdivision, development charges can be required to be paid earlier, upon execution of a subdivision agreement).

The provision above from the *Development Charges Act* is reflected in the City of Ottawa Development Charges By-law, By-law 2014-229, which states:

16. (1) Subject to Subsection (2), the development charge shall be calculated as of and shall be payable on the date the first building permit is issued in relation to a building or structure on land to which the development charge applies.

(Subsection (2) concerns phased building permits)

The City of Ottawa Development Charges By-law does provide for a transitional rate in respect of certain developments by way of site plan, entitling an applicant who complies with the requirements to the rates, subject to indexing, in effect prior to the enactment of the new by-law. The transitional rules require that a site plan agreement in respect of the development in question be executed by September 1, 2015. The site plan agreement in respect of 60 Camelot Drive was executed on December 22, 2015, subsequent to this date.

It is therefore the opinion of staff that the development charges were properly imposed in this case.

RURAL IMPLICATIONS

There are no rural implications to the recommendation in this report.

CONSULTATION

The *Development Charges Act* requires that 14 days notice of the report coming before Committee be provided to the complainant. Such notice has been given.

COMMENTS BY THE WARD COUNCILLOR

Councillor Egli is aware of this item.

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 Municipal Board.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with the recommendation in this report.

FINANCIAL IMPLICATIONS

There are no direct financial implications associated with dismissing the development charge complaint.

In the event that that the complaint is not dismissed and a reduction ensues, there are no direct financial implications if the reduction is within Section 20 of the *Development Charges Act* (DCA). If the reduction is not within Section 20 of the DCA, the reduction would constitute an exemption and would be funded from the DC Exemption provision within the 2016 Operating Budget, in accordance with the DC policy.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

TERM OF COUNCIL PRIORITIES

No term of Council priorities are impacted by this report.

SUPPORTING DOCUMENTATION

Document 1 Development Charges Complaint

DISPOSITION

The office of the City Clerk and Solicitor will advise the complainant of Council's decision.

Document 1 – Development Charges Complaint



April 4, 2016

City of Ottawa

Attention: City Clerk and Solicitor – Mr. Rick O'Connor
 Cc: Tim Marc (Corporate Development & Environmental Law Board)
 Gary Baker (Planning and Growth Management)

RE: Development Charges Application Number: A14-002010

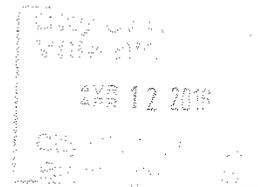
I am writing this letter to advise the City of Ottawa that we have paid our developmental fees of \$505,152.34 under protest. (Section 20 of the Development Charges Act) We feel strongly and with a great amount of frustration that since we originally applied for site plan application in 2014 until the time we received approval in November of 2015, we have reasonable grounds for appeal and should be subject to the fee of \$369,000.00.

Based on our time line that I have outlined, we feel that the increase in fee could have been avoided and feel discriminated by the process. At no time were we given notification that there would be increases in development charges or given any option to pay the existing rate which we were originally assessed at of \$369,000.00. We would have gladly paid this amount if we knew that we were subject to this type of increase. At worst case if we did not proceed with the project, I'm sure there is a process for a refund back to the developer. As far as we were concerned this whole process should have been straight forward, since we went through the same process when we built on the property at 50 Camelot (next door) from site plan application to construction. In our opinion the problem today is with the City of Ottawa's lengthy and exhausting process which is very difficult to deal with when common sense does not seem to exist any longer even though the city requires full payments for the application process, building permit fees and all sorts of other costs along with the letters of credits that are required prior to any construction. One important fact that should be noted is that at no time did we encounter any issues when dealing with the city staff that were assigned to our file and that from our perspective they were doing their job. All this being said attached is the sequence of events that leads us to writing this letter and expressing our frustration

Sequence of Events

Feb19/14	Applied for Site Plan Application Fee paid (\$24,993.78) at the time for a full public consultation/City Council approval Dealing with Simon Deiaco/Mary Dickinson (See attached Application)
April 17/14	Cheque to City of Ottawa for Building Permit (\$24,000)

50 Camelot Drive, Nepean, Ontario K2G 5X8
 T. 613.224.9437 F. 613.224.1255



Application Number established A14-002010
(See attached application)

May 12/14 Received fee issuance summary for development and school fees of \$369,051.96
(See attached application)

April 1/14 Letter from Cody Oram to Mary Dickinson (Engineering review)
-requesting a response to the list provided
-At the time we responded to all comments with the exception of item #5 -to re-use existing sewer services ,policy-must be PVC piping and CCTV inspected
-We had existing survey drawings on file and from our surveyor (Annis O'Sullivan) indicating locations of all existing laterals on the property at 50 &60 Camelot We built at 50 Camelot using existing laterals with no issues at the time with the city.
During this process we had met all conditions with the exception of providing the CCTV inspection. We had asked if we could make this request a condition of the site plan agreement since, in our opinion, once we excavated to tie in to existing services we could then provide an inspection report to the city. The city had 2 issues ,one being that the existing lateral was a clay pipe which is longer used by city standards and this issue was addressed by providing a poly lining which was approved and the second issue being the camera work to confirm the use of existing services . In our opinion it was felt at the time that once we excavated to find the existing services and did the camera work, if they were found to be unacceptable we had no choice but to apply for a road cut permit and tie into the mains with new laterals. For us this would not pose any problems to us since it would not affect construction of the building.
The City Engineering department would not move on their position of having the existing laterals CCTV inspected to confirm that they were acceptable.
We found this last issue to be the most frustrating since by the time we wanted to commence construction in early fall to install the site service we did not get a "Commence work order notification till January 26,2016

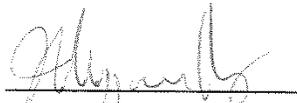
-Following the commence work order was a Building Permit Invoice Summary with a new amount for development charges of \$505,152.34.

-Correspondence went back and forth between myself and Mike Levasseur (Zoning Plan Examiner), and was told of the new rates that had come into effect as on September 1, 2015, which by the way we had never been given any notice that an increase was going to be effective of September 1, 2015 or no option to perhaps prepaying the existing fee at the time of \$369,000.00.

I spoke with Simon Deiacco to try and get a better understanding of the increases and he understood our position and frustration and at no time during the process were we stalling on supplying the information requested by the city

In summary this whole process with the City of Ottawa has been a frustrating one and we feel that the City of Ottawa is just not open for business. We are a small developer ,have been in business over 32 years ,always paid our taxes .We had this last vacant parcel on Camelot that we choose to develop since we were able to secure a tenant for 50% of the space in the building at a market negotiated rent, however with all the added costs right from site plan application process and city requirements which added costs for consultants to development charges and all other costs the city requires along with installing our services during the winter months this has added considerable costs to our project and this is something we will never get back Today's red tape and bureaucracy takes the enjoyment out of the whole process, and it makes your re-think your position of doing any future Projects in the Ottawa region.

Respectfully,



John Mazzarello

CHELLO Building Corporation

SECTION 2 APPLICATION TYPE AND FEES

For more information please review the **Criteria for Identifying Site Plan Control Application Types**.

Please visit the City's website for additional information on **Site Plan Control**.

Fees must be paid in full at the time of application submission.

Please select and fill in only one of the three options for fee payment below.

Application for New Development

- 1. Manager Approval, Public Consultation \$19,903.78
- 2. Two Stage Site Plan Process (Initial Fee) \$12,586.00
- 3. Manager Approval, No Public Consultation \$6,181.78
- 4. Site Plan for Street Townhouse not Previously Approved through Subdivision Process \$3,003.00
- 5. Rural based, Small Scale, No Public Consultation \$652.00

PLUS Initial Engineering Design Review and Inspection Fee (only if 1, 2, or 3 above is selected)

- Value of Infrastructure and Landscaping < \$50,000 \$1,000.00
- Value of Infrastructure and Landscaping \$50,000 to \$300,000 \$5,000.00
- Value of Infrastructure and Landscaping > \$300,000 \$10,000.00

PLUS Initial Conservation Authority Fee (only if 1 or 2 above is selected)

- Central Planning Area - Wards 7, 8, 9, 12, 13, 14, 15, 16, 17, 18. \$90.00
- Remainder of City \$880.00

OR

- Revision of an Existing Application
- Manager Approval, Public Consultation \$18,777.17
- Manager Approval, No Public Consultation \$3,889.17
- Staff Approval \$3,003.00
- Rural based, Small Scale, No Public Consultation \$652.00

(Initial Engineering Design Review and Inspection fee and Initial Conservation Authority fee not applicable)

OR

- Extension of an Existing Application
- Manager Approval, No Public Consultation (more than 12 months) \$3,889.17
- Staff Approval (less than 12 months) \$3,003.00
- Rural based, Small Scale, No Public Consultation \$652.00

(Initial Engineering Design Review and Inspection fee and Initial Conservation Authority fee not applicable)

Are multiple Applications being submitted?

Yes No

Each planning fee will be reduced by 10% if two or more planning applications are submitted at the same time and for the same lands. Committee of Adjustment, Conservation Authority, and Engineering Design Review and Inspection fees are not subject to this reduction. If "Yes" is checked, the fee will be adjusted accordingly.

Fees Total: **\$24,993.78**

HELLO BUILDING CORPORATION

CITYOTTAWA City of Ottawa

Feb 19/14 Cheque No. 003264

Invoice No	Inv.Date	PO Number	Reference	Audit No	Gross Amt	Disct/HB	HST/GST	Net Amt
60 CAMELOT	Feb19/14	N/A	13-100	PJ0177	24,993.78	0.00	0.00	24,993.78
					24,993.78	0.00	0.00	24,993.78



CITY OF OTTAWA
INVOICE / FACTURE

Invoice Number /
Numéro de la facture
04465-2014
Application Number /
Numéro de la demande
A14-002010
Date
2014-Apr-17

Fee Description / Description des frais

Construction

24,000.00

Invoice Total / total de la facture

24,000.00



Notes / notes

HELLO

Location / emplacement

60 CAMELOT DR

*Project 13-108
Code 1240.*

Invoiced To / facturé à

HELLO BUILDING CORPORATION
15 ANTARES DR. BAY 2
NEPEAN, ON
K2E 7Y9

[Faint signature]
JM

** See Credit of \$7579.45*



FEEES ISSUANCE SUMMARY

Report: RPTC_OT_DEV0117
Run On: 12 May 2014 at: 14:39:25

Application number: A14-002010
Address: 60 CAMELOT DR
Rate Category: NON-RESIDENTIAL
Education Fees Units: 0
Education Fees Sq.ft.: 25,487.00

Applicable Fees:

Fee Type	Charge Amount
Development Charges	\$369,051.76
Ottawa Carleton Catholic (English Separate)	\$8,665.58
French Public	\$5,607.14
French Catholic (French Separate)	\$10,194.80
Ottawa Carleton District (English Public)	\$13,253.24
	\$406,772.52

Comments: 1st floor 789.96 m² = 8503 ft²
2nd floor 788.52 m² = 8488 ft²
3rd floor 789.29 m² = 8496 ft²

Fee Issuance last update:

Date: 12-May-2014
Updated by: LEVASSEUR, MIKE
Action: Calculated

Use Record(s):

Use Status	Use Type	Dwelling Units	Rooming Units	Total floor area
Commercial	Office	0	0	25487



Building Permit Invoice Summary

RPTC_OT_DEV0083

Application Number: A14-002010
 Address: 60 CAMELOT DR

Application Date: 2014-Apr-17

Applicant/Agent: ARC ASSOCIATES
 Business (613) 274-3330
 dkane@arcassociates.ca
 Property Owner: CHELLO BUILDING CORPORATION
 Business (613) 224-9033

Pickup Location: Ben Franklin

	Amount Due	Amount Exempted	Amount Paid	Balance Owning
Construction	\$16,420.05	\$0.00	-\$24,000.00	-\$7,579.95
<i>Sub-Total:</i>	<u>\$16,420.05</u>	<u>\$0.00</u>	<u>-\$24,000.00</u>	<u>-\$7,579.95</u>
<i>Total:</i>	<u>\$16,420.05</u>	<u>\$0.00</u>	<u>-\$24,000.00</u>	<u>-\$7,579.95</u>

Outstanding Fees:

Item Name	Amount
Development Charges	\$505,152.34
Ottawa Carleton Catholic (English Separate)	\$8,665.58
French Public	\$5,607.14
* French Catholic (French Separate)	\$10,194.80
Ottawa Carleton District (English Public)	\$13,253.24
Construction Additional	\$1,759.89
Sub-Total	<u><u>\$544,632.99</u></u>
Total Amount Outstanding	<u><u>\$537,053.04</u></u>

Deferred Charges: N/A

25,487.55 = 3310.34 increase