

**Report to
Rapport au:**

**Planning Committee
Comité de l'urbanisme
9 May 2019 / 9 mai 2019**

**and Council
et au Conseil
22 May 2019 / 22 mai 2019**

**Submitted on April 23, 2019
Soumis le 23 avril 2019**

Submitted by

Soumis par:

Lee Ann Snedden

Director / Directrice

Planning Services / Services de la planification

**Planning, Infrastructure and Economic Development Department / Direction
générale de la planification, de l'infrastructure et du développement économique**

Contact Person

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Ward: BAY (7) / BAIE (7)

File Number: ACS2019-PIE-PS-0048

SUBJECT: Development Charges - 2720 Richmond Road

OBJET: Redevance d'aménagement – 2720, chemin Richmond

REPORT RECOMMENDATIONS

That Planning Committee recommend that Council allow the development charges complaint in respect of 2720 Richmond Road in part and, of the \$27,407.03 paid in Education Development Charges and of the \$367,356.34 paid in

Municipal Development Charges, authorize the refund of \$10,155.88 in Education Development Charges and \$136,126.64 in Municipal Development Charges.

RECOMMANDATIONS DU RAPPORT

Que le Comité de l'urbanisme recommande au Conseil d'accueillir en partie la plainte sur les redevances d'aménagement relativement au 2720, chemin Richmond et, sur les 27 407,03 \$ payés en redevance d'aménagement scolaire et les 367 356,34 \$ payés en redevance d'aménagement municipale, d'autoriser le remboursement de 10 155,88 \$ en redevance d'aménagement scolaire et de 136 126,64 \$ en redevance d'aménagement municipale.

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; or
- c) there was an error in the application of the Development Charge By-law.

The *Education Act*, Section 257.85 contains a similar provision with respect to complaints being filed by an owner in respect of development charges imposed by a school board. In both instances, complaints concerning municipal or education development charges, the complaint is determined by the Council of the municipality, subject to an appeal to the Local Appeal Planning Tribunal.

BASIS OF COMPLAINT

The complaint is by the Conseil des écoles publiques de l'Est de l'Ontario (CEPEO) in respect of the property at 2720 Richmond Road. The letter received from the solicitor for the complainant is attached as Document 1. The basis of the complaint is the view of the CEPEO that the building is owned by and used for the purposes of the CEPEO and is therefore by statute and the wording of the development charge by-laws not subject to municipal nor education development charges.

DISCUSSION

NEW BUILDING AREA

2720 Richmond Road, being the former Grant School, has for heritage reasons (ACS2018-PIE-RHU-0005, approved by Council April 11, 2018) and waiver of option and the sale of the property (ACS2018-CSD-CRE-0004, approved by Council March 28, 2018) been before Council on a number of past occasions.

The *Development Charges Act* provides the following in Section 3 (and the same exemption is found in the *Education Act*, Subsection 257.54(5)):

1. No land, except land owned by and used for the purposes of a municipality or a board as defined in Subsection 1 (1) of the *Education Act*, is exempt from a development charge by reason only that it is exempt from taxation under Section 3 of the *Assessment Act*.

There are thus two tests that must be met to qualify for the exemption set out above:

1. The land must be owned by a municipality or board as defined in the *Education Act*; and
2. The land must be utilized for the purposes of a municipality or board as defined in the *Education Act*.

2720 Richmond is owned by the CEPEO. However, as set forth in the legislation above, the fact that lands are owned by a school board, or a municipality, is not sufficient to render a building exempt from development charges. The building must also be used for the purposes of the school board or a municipal government. Thus, the dispute in this case is centred on whether the land is being utilized for the purposes of the school board.

The building permit in this case was obtained for the construction of two new buildings, joined by a link being a total of 10,715 square feet in size. The purposes for the new building area are gymnasium/community centre hall, a stage area, 2 change rooms, a full kitchen and a link to the existing building. The development charges imposed for the complete project, inclusive of the new building area and the revisions to the existing building were:

Municipal	\$367,356.34
Ottawa Carleton Catholic	\$5,787.82
French Public	\$3,745.06
French Catholic	\$9,022.19
Ottawa Carleton District	\$8,851.96
Total	\$394,763.37

The purpose provision set out in the *Education Act*, Section 0.1 states:

Strong public education system

0.1 (1) A strong public education system is the foundation of a prosperous, caring and civil society.

Purpose of education

(2) The purpose of education is to provide students with the opportunity to realize their potential and develop into highly skilled, knowledgeable, caring citizens who contribute to their society.

Partners in education sector

(3) All partners in the education sector, including the Minister, the Ministry and the boards, have a role to play in enhancing student achievement and well-being, closing gaps in student achievement and maintaining confidence in the province's publicly funded education systems.

The provincial funding announcement of December 15, 2017 states the following:

The former Grant Alternative School at 2720 Richmond Road will be renovated and expanded to provide French-speaking families with employment and training programs, social services, legal and immigration services, child care and before- and after-school programming, health services and more, all under one roof.

- Ontario is providing up to \$8.95 million to support this new community hub for Coopérative multiservices francophone de l'Ouest d'Ottawa in partnership with Conseil des écoles publiques de l'Ést de l'Ontario.

- This investment aligns with the government's commitment to support [community hubs](#) and make it easier to access multiple services under one roof.

The provincial website provides the following information in respect of community hubs:

What is a community hub

A community hub makes it easier for local residents to access the health, social, cultural, recreational and other resources they need together in one spot. It can be located in a physical building or accessed through a digital service.

Community hubs serve as a central access point, which:

- offer services in collaboration with different community agencies and service providers
- reduce administrative duplication
- improve services for residents and are responsive to the needs of their communities

Whether in a high-density urban neighbourhood or an isolated rural community, each hub is as unique as the community it serves and is defined by local needs, services and resources.

Community hubs can be but are not required to be associated with a school board. As such it is the opinion of staff that community hubs provide services that go beyond the purposes set forth in Section 0.1 of the *Education Act* and do not fall within the exemption from development charges set forth in the *Development Charges Act* and the *Education Act* in respect of school boards. As a result it is the advice of staff that the development charge complaint in respect of the new building area should be dismissed.

EXISTING BUILDING AREA

The current development charges by-law provides in Section 7 the following exemption:

- (j) Non-residential use building permits not resulting in the creation of additional gross floor area;

While Section 9 of the by-law was amended in 2014 to exclude from the entitlement to a credit the situation where redevelopment involving a demolition of a previously exempt non-residential building occurs, such exclusion did not apply to the conversion of an existing building (this is proposed to be modified in the 2019 Development Charges

By-law). As a result, upon review of this matter, it is the opinion of staff that the redevelopment of the existing building, which includes the classroom space, is entitled to a development charges credit. As a result, it is the recommendation of staff that the CEPEO is entitled to the following development charge refunds:

Municipal	\$136,126,64
Ottawa Carleton Catholic	\$
French Public	\$
French Catholic	\$
Ottawa Carleton District	\$
Total	\$146,282,52

POSITION OF SCHOOL BOARDS

The other three School Boards have concurred with the position being taken by the CEPEO that development charges are not payable in respect of 2720 Richmond Road. It may be that, as a non-profit government entity, the education development charges paid by the CEPEO in respect of 2720 Richmond Road to the other three school boards could be returned by them to the CEPEO, as effectively a grant, by the other School Boards. However, given the similarity of the language between the *Development Charges Act* and the *Education Act*, it is staff's opinion that the same principles apply with respect to the applicability of development charges under both *Acts* and therefore the education development charges as well as the municipal development charges are properly due in respect of the development at 2720 Richmond Road.

RURAL IMPLICATIONS

There are no rural implications to this report.

CONSULTATION

The applicable legislation requires that two weeks notice of a hearing into a development charges complaint be given to the complainant and the school boards. This notice was given on Thursday, April 25, 2019.

COMMENTS BY THE WARD COUNCILLOR

Councillor Kavanagh is aware of this report.

LEGAL IMPLICATIONS

Following Council's consideration of this complaint, notice of the decision will be sent to the complainant and the other three school boards. Each of these has the ability to appeal Council's decision to the Local Planning Appeal Tribunal.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications.

FINANCIAL IMPLICATIONS

There are no direct financial implications associated with the recommendation. In the event that the development charges complaint is not dismissed and a reduction is approved, the proposed \$146,282.52 reduction corrects the amount of DCs collected under the *Development Charges Act*. As approved by Council through the 2014 Development Charges Policy and Framework (ACS2014-CMR-ARA-0004) report, the loss of Development Charge funds collectable under an exemption must be reimbursed. An operating budget provision has been established to address the requirement of the Policy.

ACCESSIBILITY IMPACTS

There are no accessibility impacts.

TERM OF COUNCIL PRIORITIES

No term of Council priorities are impacted by this report.

SUPPORTING DOCUMENTATION

Document 1 Development charges complaint filed by the solicitor for the Conseil des écoles publiques de l'Est de l'Ontario.

DISPOSITION

The Office of the City Clerk and Solicitor will advise the complainant and the other three school board's of Council's decision.