
Development Charge Complaint – 130 Britannia Road

ACS2020-PIE-GEN-0007

Bay (7)

Report recommendation

That Planning Committee recommend that Council dismiss the development charge complaint in respect of 130 Britannia Road.

The complainant, as represented by the following three persons, requested the City accept the Development Charge complaint in respect of 130 Britannia:

- Wendy Burnham, retired lawyer and mother of the complainant, suggested the City had made two mistakes in its handling of the Development Charge for 130 Britannia: first, it did not interpret subsection 9.(1) of the By-law correctly, with the result that both severed lots became eligible for one credit; and, second, it then applied a first-come, first-served test to deny the credit to the complainant, a test that is unlawful because it is not set out in the by-laws the Province requires. She suggested the credit was rightfully to be given to 130 Britannia, per the wording in subsection 9.(1) of the By-law, as it was the site where a house was demolished and a new one to be built, with no increase in dwelling units. She said the City's approach failed to focus on the site, as 9.(1) directs, and instead focused on the parent parcel, which led to the anomalous situation that the City granted a credit to site 136, which had an increase of 1 dwelling unit, and denied the credit to site 130, which had no increase in dwelling units - contrary to the intention of the By-law.
- Rhys Hill, the complainant and owner of 130 Britannia Road, submitted that the City denied a credit to 130 Britannia on the basis that the credit is provided to the first building permit issued - that is, it applied a 'first-come, first-served' test to deny eligibility for the credit - and that to use such a rule is improper and unlawful. He noted there is no language in the City's By-law to support the use of such a

test and that such a test would be inconsistent with the *Development Charges Act*. He spoke to the detrimental impacts on property owners of the City's use of an unwritten, unofficial policy, the 'first-come, first-served' test, that staff have not been able to justify upon his requests for clarification, noting it creates uncertainty and tension among neighbours, affects property value and can create unforeseen financial hardship.

- Krystal Cochrane, wife of Rhys Hill and co-owner of 130 Britannia, spoke to the adversities they experienced while trying to navigate City services after unknowingly acquiring a \$30K Development Charge because of the way the City implements its policies without providing a clear understanding for residents or clear direction for its own staff. She referenced previous conversations with City staff in the Building department who had confirmed their understanding, and the understanding of the person who had sold them the lot, that the development credit would be applied to their lot, consistent with the By-law, only to subsequently receive conflicting information and a \$30K Development Charge. She spoke of the stress and financial impact this has caused. She also spoke to further difficulties they experienced to uncover how and to whom they could escalate their complaint, and in determining what to expect from this meeting.

Tim Marc, Senior Legal Counsel-Planning, Development & Real Estate, Innovative Client Services department, responded to questions.

Ward Councillor T. Kavanagh was present and took part in discussion.

Motion N° PLC 2020-28/3

Moved by: Councillor S. Moffatt

That Planning Committee recommend that Council accept the development charge complaint in respect of 130 Britannia Road.

CARRIED on a division of 7 yeas and 1 nay and, as follows:

YEAS (7): Councillors L. Dudas, T. Tierney, J. Leiper, S. Moffatt, A. Hubley, Vice-chair G. Gower, Chair J. Harder

NAYS (1): Councillor R. Brockington

The report Carried as amended by the foregoing motion with Councillor Brockington

dissenting.

Direction to staff:

That staff be directed to look for the earliest opportunity to review the Development Charge Bylaw to see where it might need update or clarification in respect of the credit allocation process.