



To: Members of Hamilton-Wentworth District School Board

NOTICE OF SPECIAL BOARD MEETING
Monday, August 25, 2014
6:00 p.m.
71 Main Street West, Hamilton, Ontario
City Hall, Council Chambers

From: John Malloy, Director of Education

AGENDA

1. Call to Order
2. O Canada
3. Declarations of Conflict of Interest
4. Education Development Charges – Bylaw Adoption
5. Resolution Into Committee of the Whole (Private Session)
6. Meeting Resumes in Public Session
7. Adjournment



EXECUTIVE REPORT TO REGULAR BOARD

TO: BOARD

FROM: John Malloy, Director of Education

DATE: August 25, 2014

PREPARED BY: Daniel Del Bianco, Senior Facilities Officer

RE: Education Development Charges By-Law Adoption

Action Monitoring

Recommendation:

That the Board approve the following recommendations related to the adoption of the Education Development Charges By-Law.

1. That 100% of the total growth-related net education land cost identified in the Education Development Charges Background Study (Addendum #2, July 16, 2014) be recovered through the collection of Education Development Charges;
2. That 15% of the total growth-related net education land costs identified in the Education Development Charges Background Study (Addendum #2, July 16, 2014) be recovered through the imposition of Education Development Charges on non-residential development;
3. That there be no non-statutory residential exemptions in this Education Development Charges By-Law;
4. That there be non-statutory, non-residential exemptions as set out in Section 4 (b) of the By-Law and as detailed in the Background of this report;
5. That the grace period for the issuance of demolition credits be set at 2 years for residential and 5 years for non-residential uses and be included in the By-Law;
6. That the Board include a provision for permitting conversion credits in the By-Law;
7. That the Residential Education Development Charge be \$1,039 per dwelling unit and that the Non-Residential Education Development Charge be \$0.39 per square foot of gross floor area;
8. That the Board adopt an Education Development Charges By-Law in the form attached (Appendix A).

Rationale/Benefits:

The imposition of an Education Development Charges (EDC) By-Law for the Hamilton-Wentworth District School Board (HWDSB) provides the Board with an additional source of revenue to acquire school sites in areas where new residential development is resulting in or anticipated to result in accommodation pressures.

The collection of EDCs and subsequent acquisition of new school sites would be based on the Board's Long-Term Facilities Master Plan. Without this opportunity, site acquisitions would be part of the capital business case

request for funding to the Ministry of Education that could only be initiated when the Ministry announces a capital funding initiative.

As the proposed By-Law would enable the collection of EDCs from new residential and non-residential development across the City of Hamilton, the revenues collected may be used to acquire growth-related school sites across the Board's jurisdiction.

Background:

The HWDSB is proposing to adopt a successor EDC By-law on August 25, 2014 (Public Meeting #3). It is proposed that this successor By-Law, similar to the existing By-Law, apply to the City of Hamilton – the Board's entire jurisdiction. The public meetings to review the existing EDC policies (Public Meeting #1) and the Background Study for the successor By-Law (Public Meeting #2) were both held on June 16, 2014. Board staff met with industry stakeholders on April 15, and June 5, 2014 to discuss the proposed EDCs and the underlying methodology.

Under the EDC legislation, the Board is required to assess its growth-related needs resulting from new residential development over a 15-year planning horizon (2014-15 to 2028-29). Based on this assessment the Board has determined it will require \$61.5 million to address site acquisition costs, site development costs, associated financing costs, study costs and outstanding financial obligations over the next 15 years. If 85% of this total was recovered from new residential development, the EDC on residential development would be \$1,039 per residential unit. If the remaining 15% of this total was recovered from non-residential development, the EDC on non-residential development would be \$0.39 per square foot of non-residential gross floor area. The new EDC rates represent a slight decrease over the existing rates of \$1,040 per residential unit and \$0.39 per square foot of gross floor area of non-residential development.

EDCs are a primary source of funding site acquisition needs for a school board experiencing growth within its jurisdiction. The maximum term of an EDC by-law is 5-years. The proposed successor By-Law for the HWDSB is for the full 5-year term and will expire no later than August 31, 2019. Over the term of the By-Law the Board has the ability to review and amend the charge to account for market factors (i.e. property values, site development costs) that are trending higher or lower than what was used to calculate the proposed EDC rates.

To qualify to adopt an EDC By-law, at the jurisdiction-wide level, the Board's projected 5-year average enrolment at either the elementary or secondary panel must exceed the available pupil space on the appropriate panel or the Board must have a deficit balance in its EDC account. The Board qualifies for EDCs as a result of a deficit balance in its EDC account.

The Board is required to have policies in place that, in subsequent by-laws, could potentially result in operating savings to be used to offset the future EDC (Education Development Charges: School Sites and Operating Budget Policy) and/or could potentially result in the reduction of acres required to address growth-related pupil needs as a result of alternative accommodations for school facilities (Education Development Charges: Alternative Accommodations for School Facilities Policy). Both of these policies were adopted by the Board on April 28, 2014.

To adopt an EDC By-law, the Minister of Education must have approved the Board's 15-year enrolment projections and the number of sites identified in the Background Study. The request for this approval was submitted to the Ministry of Education on May 26, 2014, with addendums issued on June 23, 2014 and July 16, 2014.

As part of the approval for the original EDC By-Law adopted on June 17, 2013, staff was directed to "explore the feasibility of non-statutory residential exemptions for not-for-profit housing over the term of the by-law and

return to the Board with a recommendation". ⁴⁻³ Appendix-B of this report outlines the potential impact of approving any non-statutory exemption. The rationale for not recommending any non-statutory residential exemptions includes the following:

- Providing an exemption from the payment of EDCs to one specific organization may open the door to other similar organizations requesting an exemption.
- The City of Hamilton has direct access to the property tax base to support its position on exempting Federally/Provincially/Municipally funded Not-For-Profit housing as well as those exemptions the City considers on a case-by-case basis. The HWDSB's only financial support comes from the Province.
- The shortfall in the required EDC amount to support the acquisition of identified sites would have to be addressed through the Board's other funding envelopes.
- The Province has limited funding available to address needs across 72 school boards. It is unlikely that the Province would provide funding to address growth-related site acquisition needs when the Board has access to Education Development Charges to pay for new school sites needed as a result of new development.
- Other EDC Boards have considered similar requests but determined that there are no savings in other financial envelopes to address the shortfall created by a non-statutory exemption.

Unlike Development Charges, Education Development Charges must only be used to pay for the acquisition and preparation of land needed to provide school accommodation for students as a result of growth-related pressures experienced through new residential development. Unlike the City of Hamilton, the School Board's only access to revenue is through the Province.

HAMILTON-WENTWORTH DISTRICT SCHOOL BOARD**EDUCATION DEVELOPMENT CHARGES BY-LAW NO. *****

A by-law for the imposition of education development charges in the City of Hamilton

WHEREAS

1. Section 257.54(1) of Division E of the *Education Act* (the “Act”) enables a district school board to pass by-laws for the imposition of education development charges against land undergoing residential and non-residential development if there is residential development in its area of jurisdiction that would increase education land costs.
2. The Hamilton-Wentworth District School Board (the “Board”) has determined that the residential development of land to which this by-law applies increases education land costs.
3. The Board has referred its estimates of the total number of new elementary and secondary pupils and its estimates of the number of elementary and secondary school sites used to determine the net education land costs to the Minister of Education for approval, and such approval was given on [DATE] in accordance with section 10 of Ontario Regulation 20/98.
4. The Board has conducted a review of its education development charge policies and held a public meeting on [DATE] with notice issued in accordance with section 257.60 of the Act.
5. The Board has given notice and held public meetings on [DATE] and [DATE], in accordance with section 257.63(1) of the Act and permitted any person who attended the public meeting to make representations in respect of the proposed education development charges.
6. The Board has determined in accordance with section 257.63(3) of the Act that no additional public meeting is necessary in respect of this by-law.

NOW THEREFORE THE HAMILTON-WENTWORTH DISTRICT SCHOOL BOARD
HEREBY ENACTS AS FOLLOWS:

PART 1**APPLICATION****Defined Terms**

1. In this by-law,
 - (a) “Act” means the *Education Act*, R.S.O. 1990 c. E2, as amended from time to time;

- (b) “agricultural building” means a building or structure located on an agricultural property which is necessary or ancillary to an active farm or agricultural operation including barns, tool sheds and silos and other farm related structures for such purposes as sheltering of farm related machinery and equipment used as part of a bona fide farming or agricultural operation but shall not include:
- i. a dwelling unit or other structure used for residential accommodation; or,
 - ii. any buildings or parts thereof used for other commercial, agri-touristic, industrial or institutional purposes qualifying as non-residential development;
- (c) “Board” means the Hamilton-Wentworth District School Board;
- (d) “development” includes redevelopment;
- (e) “dwelling unit” means a room or suite of rooms used, or designed or intended for use by one person or persons living together in which culinary and sanitary facilities are provided for the exclusive use of such person or persons, and shall include, but is not limited to, a dwelling unit or units in an apartment, group home, mobile home, duplex, triplex, semi-detached dwelling, row house, single detached dwelling, stacked townhouse and townhouse;
- (f) “education land costs” means costs incurred or proposed to be incurred by the Board,
- (i) To acquire land or an interest in land, including a leasehold interest, to be used by the Board to provide pupil accommodation;
 - (ii) To provide services to the land or otherwise prepare the site so that a building or buildings may be built on the land to provide pupil accommodation;
 - (iii) To prepare and distribute education development charge background studies as required under the Act;
 - (iv) As interest on money borrowed to pay for costs described in paragraphs (i) and (ii); or
 - (v) To undertake studies in connection with an acquisition referred to in paragraph (i).
- (g) “education development charge” means charges imposed pursuant to this by-law in accordance with the Act;
- (h) “existing industrial building” means an existing building used for or in connection with,
- (i) manufacturing, producing, processing, storing or distributing something,

- (ii) research or development in connection with manufacturing, producing or processing something,
- (iii) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production or processing takes place,
- (iv) office or administrative purposes, if they are,
 - (A) carried out with respect to manufacturing, producing, processing, storage or distribution of something, or
 - (B) attached to the building or structure used for that manufacturing, producing, processing, storage or distribution;
- (i) “gross floor area” means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls and, for the purpose of this definition, the non-residential portion of a mixed-use building is deemed to include one-half of any area common to the residential and non-residential portions of such mixed-use building or structure;
- (j) “local board” means a local board as defined in the *Municipal Affairs Act*, R.S.O. 1990, c. M.46, other than a district school board defined in section 257.53(1) of the Act;
- (k) “mixed use” means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential uses, regardless of zoning designation;
- (l) “municipality” means the City of Hamilton constituted under the *City of Hamilton Act*, 1999 S.O. 1999 c.14 Schedule C.
- (m) “non-residential use” means lands, buildings or structures or portions thereof used, or designed or intended for all uses other than residential use, and includes, but is not limited to, an office, retail, industrial or institutional use;
- (n) “Regulation” means Ontario Regulation 20/98, as amended, made under the Act;
- (o) “residential use” means lands, buildings or structures used, or designed or intended for use as a dwelling unit or units, and shall include a residential use accessory to a non-residential use and the residential component of a mixed use or of an agricultural use.

2. Unless otherwise expressly provided in this by-law, the definitions contained in the Act or the Regulation shall have the same meanings in this by-law.

3. In this by-law where reference is made to a statute, a section of a statute, or a regulation, such reference shall be deemed to be a reference to any successor statute, section or regulation.

Jurisdiction

4.

- (a) Subject to section 4(b), this by-law applies to all lands in the geographic limits of the City of Hamilton;
- (b) This by-law shall not apply to lands that are owned by and are used for the purpose of:
 - (i) the municipality or a local board thereof;
 - (ii) a district school board;
 - (iii) a public hospital receiving aid under the *Public Hospitals Act* R.S.O. 1990, c. P.40;
 - (iv) a university, community college or a college of applied arts and technology established under the *Ontario Colleges of Applied Arts and Technology Act 2002*, S.O. 2002 c.8 Schedule F or a predecessor statute;
 - (v) Metrolinx, or a predecessor or successor corporation identified under the *Metrolinx Act, 2006* S.O. 2006, c.16 as amended from time to time (“GO Transit”);
 - (vi) every place of worship that is used primarily as a place of public worship and land used in connection therewith, and every churchyard, cemetery or burial site, if they are exempt from taxation under section 3 of the *Assessment Act*; and.
 - (vii) non-residential agricultural buildings.

PART II

EDUCATION DEVELOPMENT CHARGES

5. Subject to the provisions of this by-law, the Board hereby designates all categories of residential development and non-residential development and all residential and non-residential uses of land, buildings or structures as those upon which education development charges shall be imposed.

Residential Education Development Charges—Qualifying Development

6. (1) In accordance with the Act and this by-law, and subject to sections 8 and 9, the Board hereby imposes an education development charge against land undergoing residential development or redevelopment in the area of the by-law if the residential development or redevelopment requires any one of the following actions:

- (a) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*;
- (b) the approval of a minor variance under section 45 of the *Planning Act*;
- (c) A conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
- (d) the approval of a plan of subdivision under section 51 of the *Planning Act*;
- (e) a consent under section 53 of the *Planning Act*;
- (f) the approval of a description under section 50 of the *Condominium Act*; or
- (g) the issuing of a permit under the *Building Code Act, 1998* in relation to a building or structure,

where the first building permit issued in relation to a building or structure for below ground or above ground construction is issued on or after the date the by-law comes into force.

(2) In respect of a particular development or redevelopment an education development charge will be collected once, but this does not prevent the application of this by-law to future development or redevelopment on the same property. For greater certainty, an education development charge will be imposed on any additional dwelling unit to be built on the property that is not exempted under sections 8 and 9 of this by-law, and for which an action referred to in subsection (1) is required.

Residential Education Development Charge—Rate

7. Subject to the provisions of this by-law, the Board hereby imposes an education development charge of **\$[AMOUNT]** per dwelling unit upon the designated categories of residential development and the designated residential uses of lands, buildings, or structures, including a dwelling unit accessory to a non-residential use, and, in the case of a mixed-use building or structure, upon the dwelling units in the mixed-use building or structure.

Residential Education Development Charges—Exemptions

8. As required by subsection 257.54(3) of the Act, an education development charge shall not be imposed with respect to:
- (a) the enlargement of an existing dwelling unit or;
 - (b) the creation of one or two additional dwelling units in existing residential buildings as prescribed in section 3 of the Regulation as follows:

NAME OF CLASS OF RESIDENTIAL BUILDING	DESCRIPTION OF CLASS OF RESIDENTIAL BUILDINGS	MAXIMUM NUMBER OF ADDITIONAL DWELLING UNITS	RESTRICTIONS
Single detached dwellings	Residential buildings, each of which contains a single dwelling unit, that are not attached to other buildings	Two	The total gross floor area of the additional dwelling unit or units must be less than or equal to the gross floor area of the dwelling unit already in the building
Semi-detached dwellings or row dwellings	Residential buildings, each of which contains a single dwelling unit, that have one or two vertical walls, but no other parts, attached to other buildings	One	The gross floor area of the additional unit must be less than or equal to the gross floor area of the dwelling or unit already in the building
Other residential buildings		One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the smallest dwelling unit already in the building

9. (1) An education development charge under section 8 shall not be imposed with respect to the replacement, on the same site, of a dwelling unit that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it uninhabitable.

(2) Notwithstanding subsection (1), education development charges shall be imposed in accordance with section 8 if the building permit for the replacement dwelling unit is issued more than two years after,

- (a) the date the former dwelling unit was destroyed or became uninhabitable; or
- (b) if the former dwelling unit was demolished pursuant to a demolition permit issued before the former dwelling unit was destroyed or became uninhabitable, the date the demolition permit was issued.

(3) Notwithstanding subsection (1), education development charges shall be imposed in accordance with section 8 against any dwelling unit or units on the same site in addition to the dwelling unit or units being replaced. The onus is on the applicant to produce evidence to the satisfaction of the Board, acting reasonably, to establish the number of dwelling units being replaced.

(4) Subject to section 15, an education development charge shall be imposed under section 8 where a non-residential building or structure is replaced by or converted to, in whole or in part, a residential building or structure.

Non-Residential Education Development Charges—Qualifying Development

10. (1) In accordance with the Act and this by-law, and subject to sections 12 and 13 the Board hereby imposes an education development charge against land undergoing non-residential development or redevelopment in the area of the by-law which has the effect of increasing existing gross floor area of such development if the non-residential development or redevelopment requires any one of the following actions:

- (a) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*;
- (b) the approval of a minor variance under section 45 of the *Planning Act*;
- (c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
- (d) the approval of a plan of subdivision under section 51 of the *Planning Act*;
- (e) a consent under section 53 of the *Planning Act*;
- (f) the approval of a description under section 50 of the *Condominium Act*; or
- (g) the issuing of a permit under the *Building Code Act, 1998* in relation to a building or structure,

where the first building permit issued in relation to a building or structure for below ground or above ground construction is issued on or after the date the by-law comes into force.

(2) In respect of a particular development or redevelopment an education development charge will be collected once, but this does not prevent the application of this by-law to future development or redevelopment on the same property. For greater certainty, an education development charge will be imposed on any additional gross floor area to be built on the property that is not exempted under sections 12 and 13 of this by-law, and for which an action referred to in subsection (1) is required.

Non-residential Education Development Charges—Rate

11. Subject to the provisions of this by-law, the Board hereby imposes an education development charge of **\$[AMOUNT]** per square foot of gross floor area of non-residential development upon the designated categories of non-residential development and the designated non-residential uses of land, buildings or structures and, in the case of a mixed use building or structure, upon the non-residential uses in the mixed-use building or structure.

Non-Residential Education Development Charges—Exemptions

12. As required by section 257.55 of the Act, if a development includes the enlargement of a gross floor area of an existing industrial building, the amount of the education development charge that is payable in respect of the enlargement is determined in accordance with the following rules:

- (a) if the gross floor area is enlarged by 50 per cent or less, the amount of the education development charge in respect of the enlargement is zero;
- (b) If the gross floor area is enlarged by more than 50 per cent, the amount of the education development charge in respect of the enlargement is the amount of the education development charge that would otherwise be payable multiplied by the fraction determined as follows:
 - (i) Determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement;
 - (ii) Divide the amount determined under paragraph 1 by the amount of the enlargement.

13.

- (a) As required by section 5 of the Regulation and, subject to paragraphs (b) and (c) below, an education development charge under section 10 shall not be imposed with respect to the replacement, on the same site, of a non-residential building that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it unusable.
- (b) Notwithstanding paragraph (a), an education development charge shall be imposed in accordance with section 10 against any additional gross floor area of any non-residential development on the same site in excess of the gross floor area of the non-residential building or structure being replaced, subject to the following calculation:

If the gross floor area of the non-residential part of the replacement building exceeds the gross floor area of the non-residential part of the building being replaced, the exemption applies with respect to the portion of the education development charge calculated in accordance with the following formula:

$$\text{Exempted portion} = \frac{\text{GFA (old)}}{\text{GFA (new)}} \times \text{EDC}$$

where,

“Exempted portion” means the portion of the education development charge that the Board is required to exempt;

“GFA (old)” means the gross floor area of the non-residential part of the building being replaced;

“GFA (new)” means the gross floor area of the non-residential part of the replacement building;

“EDC” means the education development charge that would be payable in the absence of the exemption;

- (c) The exemption in paragraph (a) does not apply if the building permit for the replacement building is issued more than five years after:
 - (i) the date the former building was destroyed or became unusable; or
 - (ii) if the former building was demolished pursuant to a demolition permit issued before the former building was destroyed or became unusable, the date the demolition permit was issued.
- (d) An education development charge shall be imposed in accordance with section 11 where the residential building or structure is replaced by or converted to, in whole or in part, a non-residential building or structure;

14. The education development charge to be imposed in respect of mixed use development shall be the aggregate of the amount applicable to the residential development component and the amount applicable to the non-residential development component.

- (a) Where it appears to the Board that the land values underlying the education development charge calculation are predicting higher costs than the Board is generally experiencing over a period of time sufficient to show the discrepancy with a reasonable degree of assurance, the Board shall consider a motion to study amending the By-law to increase the charge.
- (b) Where it appears to the Board that the land values underlying the education development charge calculation are predicting lower costs than the Board is generally experiencing over a period of time sufficient to show the discrepancy with a reasonable degree of assurance, the Board shall consider a motion to study amending the By-law to reduce the charge.

Credit—Conversion

15. This section applies where an education development charge has been paid within the preceding eighteen month period in respect of development on land and the land is being redeveloped, except where sections 8 and 9, or sections 12 and 13, as the case may be, shall apply:

- (a) The education development charge payable in respect of the redevelopment shall be calculated under this by-law;
- (b) The education development charge determined under paragraph (a) shall be reduced by a credit equivalent to the education development charge previously paid in respect of the land, provided that the credit shall not exceed the education development charge determined under paragraph (a);
- (c) Where the redevelopment applies to part of the land, the amount of the credit shall be calculated on a proportionate basis having regard to the development being displaced by the new development. By way of example, if 20% of the non-residential gross floor area of a non-residential building is being displaced by residential development through conversion, the residential education

development charge on the applicable number of units shall be calculated under section 7 of the by-law, and the credit shall be the education development charge originally paid on the gross floor area being converted, subject to the limit in paragraph (b);

- (d) In no event shall the amount of the credit exceed the amount of education development charges payable hereunder.

Credit—Payment by Services

16. Subject to the requirements of the Act, the Board may by agreement permit an owner to provide land in lieu of the payment of all or any portion of an education development charge. In such event, the treasurer of the Board shall advise the treasurer of the municipality of the amount of the credit to be applied to the education development charge. In no event shall the amount of any such credit exceed the amount of education development charges payable hereunder.

PART III

ADMINISTRATION

Payment of Education Development Charges

17. The education development charge in respect of a development is payable to the municipality on the date that the first building permit is issued in relation to a building or structure on land to which the education development charge applies.

18. All education development charges payable shall be paid by cash, certified cheque or bank draft.

19. The Treasurer of the Board shall establish and maintain an education development charge account in accordance with the Act, the Regulation and this By-Law.

20. Withdrawals from the education development charge account established under section 19 above, shall be made in accordance with the Act, the Regulation and this By-Law.

Collection of Unpaid Education Development Charges

21. In accordance with section 257.96 of the *Act*, section 349 of the *Municipal Act, 2001* S.O. 2001, c.25 applies with necessary modifications with respect to an education development charge or any part of it that remains unpaid after it is payable.

Date By-Law In Force

22. This by-law shall come into force on **[DATE]**

Expiration

23. This by-law shall expire on **[DATE]** unless it is repealed at an earlier date.

Severability

24. Each of the provisions of this by-law are severable and if any provision hereof should for any reason be declared invalid by a court or tribunal, the remaining provisions shall remain in full force and effect.

Capital Projects

25. Nothing in this by-law shall be construed so as to commit or require the Board to authorize or proceed with any particular capital project at any time.

Short Title

26. This by-law may be cited as the Hamilton-Wentworth District School Board Education Development Charges By-law No. ***.

ENACTED AND PASSED this [DATE].

Chairperson

Director of Education and Secretary

Hamilton-Wentworth District School Board

Not for Profit and Affordable Housing Development Report

February 3, 2014



Enhancing Our Living and
Learning Communities

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Introduction

At its June 17, 2013 Board Meeting, the Hamilton-Wentworth District School Board (HWDSB) Trustees adopted the following resolution: “That there be no non-statutory residential exemptions in this EDC by-law; however, staff be directed to explore the feasibility of non-statutory residential exemptions for not-for-profit housing over the term of the by-law and return to the Board with a recommendation prior to August 2014.”. Ameresco Asset Sustainability Group Inc. (the Consultant) has been requested by HWDSB staff to provide information on not-for-profit housing within the City of Hamilton.

Prior to the adoption and implementation of the Board’s June 17, 2013 Education Development Charge By-law, the City of Hamilton Chapter of Habitat for Humanity requested that any building permit applications for residential housing made by the organization be exempt from Education Development Charges.

Given that there are multiple providers of not-for-profit housing with the City of Hamilton, the Consultant has sourced information from the Housing Services Division, Community and Emergency Services Department of the City of Hamilton regarding the major not-for-profit housing providers in the City of Hamilton, the average number of units developed by them and whether or not they are currently exempt from Development Charges by the City of Hamilton. It should be noted that Habitat for Humanity is not considered to be a major not-for-profit housing provider within the City of Hamilton.

Non-statutory exemptions result in a shortfall in the total amount of funds to be collected through Education Development Charges. As a result, the Board may be required to address the shortfall through other funding envelopes.

Background

For this analysis, not-for-profit (NFP) housing was identified as any development that was built with funding from one or a combination of three government funding programs. The three levels of Government programs are Federal, Provincial and Municipal. The City of Hamilton’s Development Charges by-law identifies projects funded from one or a combination of three government funding programs as follows:

“(f) any affordable housing project that is approved to receive funding from a senior level of government affordable housing programme or an approved City of Hamilton or CityHousingHamilton Corporation affordable housing programme, provided the development charge liabilities of the affordable housing project are not eligible for funding by senior levels of Government.”

“affordable housing project” means a development or redevelopment that provides housing and incidental facilities primarily for persons of low and moderate income.”

In June 2004, as part of the Development Charges By-Law #04-145, Council adopted an amendment to waive development charges for certain developments. Affordable housing projects in Hamilton that receive funding from Federal/Provincial housing supply programs, including the Community Rental Housing Program, are exempt from development charges provided that the development charge liabilities are not eligible for funding by senior levels of government. The City of Hamilton continues to include this waiver of development charges in its existing Development Charge By-law.

Not for Profit and Affordable Housing Providers in the City of Hamilton

In addition to legally conforming constructed affordable housing units, a considerable segment of affordable units belongs to the secondary housing market such as accessory apartments and even basement apartments. The City of Hamilton is not able to track or monitor such developments as most are converted properties where work was undertaken without benefit of a building permit. As a result, this segment is not included in this analysis.

There are few NFP developers in the City of Hamilton. City planners indicated that developers often build “one-off” projects, therefore the list of NFP developers is in a constant state of flux and can change at any given time. Some of the main NFP developers are: Homestead Christian Care, Good Shepherd Centres and CityHousing Hamilton. Owned and operated by the City, CityHousing Hamilton is considered the main affordable housing provider in Hamilton. The following section provides a summary of mandates for the main NFP providers.

Homestead Christian Care

Established in 1974, this organization assumes a Christian response to the needs of individuals with mental illness leaving Provincial institutions. Homestead Christian Care provides supportive housing to over 235 tenants in southern Ontario through its Hamilton and Oxford County Programs. Their housing options range from residential care with 24-hour on-site services through supported independent-living apartments. Their mission statement is, “Homestead Christian Care creates affordable housing communities that support people seeking health, wellness and belonging.” with three core values:

- 1) We value the inherent dignity of all people as image bearers of God;
- 2) We live out our Christian calling to love our neighbor as ourselves; and
- 3) Hope is the foundation of all of our actions.

Good Shepherd Centres

In response to the needs of the St. Vincent de Paul Society in the 1950s, the Little Brothers of Good Shepherd accepted the invitation to open a men's hostel in Hamilton in 1961. Through its mission commitment of "Never Stop Loving" and its willingness to be of service to those in need, Good Shepherd has grown to become the Greater Hamilton area's largest social service agency. For more than 50 years, Good Shepherd has met the needs of people with disabilities, allowing them to access services around the community.

Based on Good Shepherd's commitment to accessibility, its newest building, Good Shepherd Square is fully accessible under the AODA (*Accessibility for Ontarians with Disabilities Act*), providing accessible washrooms, large elevators, hands-free common doors, braille on signs to its clients.

CityHousing Hamilton

This provider is one of the largest NFP providers in the City and is owned and operated by the City of Hamilton. As of January 1, 2006, Hamilton Housing Corporation, Dundas Valley Non-Profit Housing Corporation, and the Municipal Non-Profit (Hamilton) Corporation were amalgamated into CityHousing Hamilton (CHH) Corporation. CHH consists of some 7,000 units in 1,265 properties housing over 13,000 residents. CHH is the 4th largest municipally controlled housing provider in Ontario. Asset value for CHH properties exceeds \$350 million. The annual operating budget for CityHousing Hamilton is approximately \$45 million with 121 full time staff. Its mission is to, "provide affordable housing that is safe, well maintained, cost effective and that supports the diverse needs of our many communities."

City Planners also identified a number of smaller NFP housing developers. Some of these developers are:

- Taras Shevchenko (24 units, 2004)
- St. Elizabeth Home Society (26 units, 2005)
- Hellenic Community of Hamilton and District (4 units, 2010), and
- Halam Park Co-operative Homes Inc (8 units, 2014+)

Development Charges

In June 2004, as part of the Development Charges By-Law #04-145, Hamilton City Council adopted an amendment to waive development charges for affordable housing projects in Hamilton that receive funding from Federal/Provincial housing supply programs, including the Community Rental Housing Program. These projects are exempt from development charges provided that the development charge liabilities are not eligible for funding by senior levels of government. This exemption continues under the City's current Development Charges by-law.

It should be noted that Development Charges are exempt based on development rather than Developer/Organization. The City will exempt Development Charges to NFP new construction based on where funding (Federal, Provincial or Municipal) for the development was obtained. City staff did indicate however, that if a specific development is not exempt from Development Charges, Council may grant an exemption outside of the By-law when brought to the City's attention.

Education Development Charges

On June 17, 2013 the Hamilton-Wentworth District School Board approved the implementation of an Education Development Charge in the City of Hamilton. The new charge of \$1,040 per residential unit, or \$0.40 per square foot of non-residential development is applied to any permit application received by the City as of June 22, 2013 until the expiration of the Board's current by-law.

The Hamilton-Wentworth Catholic District School Board also has an Education Development Charge By-law in place within the City of Hamilton.

Both Boards' Education Development Charges apply to all building permits issued with the exception of statutory exemptions set out in each Board's Education Development Charge By-law.

Affordable Housing Development in Hamilton

City Planners provided data on affordable housing construction dating back to 2004. The following table shows that a total of 767 affordable housing units were constructed between 2004 and 2012. This accounts for approximately 100 units per year. As at the development of this report, only one affordable housing development was identified for future development, Halam Park Co-op, with 8 units scheduled for completion in 2014.

Affordable Housing Development, City of Hamilton (2004 to Present)

Year	Development	Address	Units
2004	Taras Shevchenko	190 Gage Ave S	24
2005	CityHousing Hamilton	557 Queenston Rd.	34
2005	Parc Central	450 Cumberland	75
2005	St. Elizabeth Home Society	307 John St S	26
2006	Valery - Residential Apartments	480 Stonechurch Rd. E.	63
2006	Spallacci Contracting	260 King St E	123
2006	Hellenic Community	37 Stratchona	39
2007	4 Bridgewater Court	4 Bridgewater Court	48
2009	Artist Live-Work	95 King St. E.	12
2009	Spallacci Contracting	255 West Ave N	27
2009	St. Thomas Lofts/Halton Heritage	40-44 Flamboro St	7
2010	Perkins Centre	1429 Main St. E	46
2010	Hellenic Community	37 Stratchona	4
2011	Royal Vista Gardens/815488 Ontario	1489 Upper Gage	59
2012	4 Bridgewater Court	4 Bridgewater Court	16
2012	Good Shepherd Square	398 King St W	156
2012	Habitat	19 Niagara Street	8
2014+	Halam Park Co-operative	85 Halam Ave	8

Source: City of Hamilton, Housing Services Division, January 2014

City of Hamilton staff indicate that Habitat for Humanity (Habitat) is considered to be a very small segment of the NFP development and consequently, the organization's building permits are independently assessed based on the origin of each project's funding (Federal/Provincial/Municipal).

Conclusions

While at different points in time both Boards have been approached by Habitat requesting an exemption to Education Development Charges, it is evident that there are a myriad of large and small NFP providers within the City of Hamilton that could approach the HWDSB for exemptions from Education Development Charges.

Unlike Development Charges, Education Development Charges must only be used to pay for the acquisition and preparation of land needed to provide school accommodation for students as a result of growth-related pressures experienced through new residential development. Unlike the City of Hamilton, the School Board's only access to revenue is through the Province.

As a result, the HWDSB should consider the following implications inherent in considering a non-statutory EDC exemption:

- Providing an exemption from the payment of EDCs to one specific organization may open the door to other similar organizations requesting an exemption.
- The City of Hamilton has direct access to the property tax base to support its position on exempting Federally/Provincially/Municipally funded Not-For-Profit housing as well as those exemptions the City considers on a case-by-case basis. The HWDSB's only financial support comes from the Province.
- The shortfall in the required EDC amount to support the acquisition of identified sites would have to be addressed through the Board's other funding envelopes.
- The Province has limited funding available to address needs across 72 school boards. It is unlikely that the Province would provide funding to address growth-related site acquisition needs when the Board has access to Education Development Charges to pay for new school sites needed as a result of new development.
- Other EDC Boards have considered similar requests but determined that there are no savings in other financial envelopes to address the shortfall created by a non-statutory exemption.