

# TORONTO CATHOLIC DISTRICT SCHOOL BOARD EDUCATION DEVELOPMENT CHARGES (EDC) MEETING Public Session

## AGENDA November 15, 2018

**Barbara Poplawski, Chair**  
Trustee Ward 10

**Maria Rizzo, Vice Chair**  
Trustee Ward 6

**Ann Andrachuk**  
Trustee Ward 2

**Nancy Crawford**  
Trustee Ward 12

**Frank D'Amico**  
Trustee Ward 6

**Taylor Dallin**  
Student Trustee

**Jo-Ann Davis**  
Trustee Ward 9

**Michael Del Grande**  
Trustee Ward 7

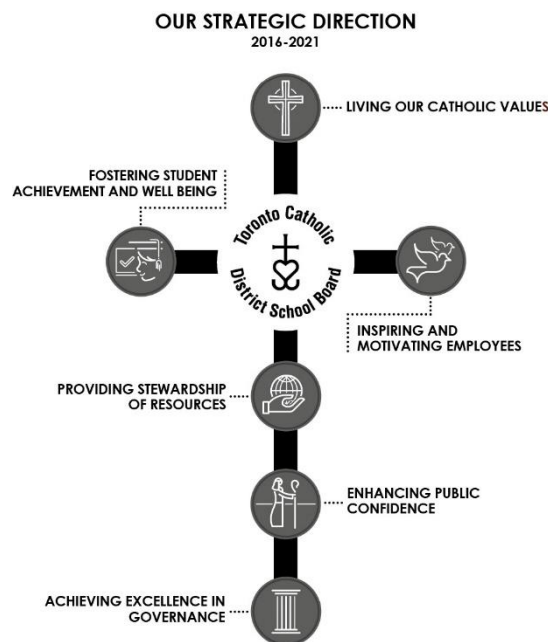
**Angela Kennedy**  
Trustee Ward 11

**Joseph Martino**  
Trustee Ward 1

**Sal Piccininni**  
Trustee Ward 3

**Garry Tanuan**  
Trustee Ward 8

**Joel Ndongmi**  
Student Trustee



### MISSION

*The Toronto Catholic District School Board is an inclusive learning community uniting home, parish and school and rooted in the love of Christ.*

*We educate students to grow in grace and knowledge to lead lives of faith, hope and charity.*

### VISION

*At Toronto Catholic we transform the world through witness, faith, innovation and action.*

**Recording Secretary: Sophia Harris, 416-222-8282 Ext. 2293**

**Assistant Recording Secretary: Sonia Tomaz, 416-222-8282 Ext. 2298**

**Rory McGuckin**  
Director of Education

**Barbara Poplawski**  
Chair of the Board



**AGENDA**  
**EDUCATION DEVELOPMENT CHARGES (EDC) MEETING**  
**OF THE**  
**TORONTO CATHOLIC DISTRICT SCHOOL BOARD**  
**PUBLIC SESSION**

**Barbara Poplawski, Chair**

**Maria Rizzo, Vice Chair**

Thursday, November 15, 2018

7:00 P.M.

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Pages

1. **Call to Order**
2. **Memorials and Opening Prayer**
3. **Singing of O Canada**
4. **Roll Call & Apologies**
5. **Approval of the Agenda**
6. **Reports from Private Session**
7. **Notices of Motions**
8. **Declarations of Interest**
9. **Approval and Signing of Minutes of the Previous Meeting Held October 11, 2018** 1 - 6
10. **Presentations**
  - 10.a **Education Development Charges By-Law Adoption - Cynthia Clarke, Quadrant Advisory Group ((Refer Item 17a)**

11. Delegations
12. Consideration of Motions for which previous notice has been given
13. Unfinished Business from Previous Meetings
14. Matters recommended by Statutory Committees of the Board
15. Matters referred/deferred from Committees/Board
16. Reports of Officials for the Information of the Board of Trustees
17. Reports of Officials Requiring Action of the Board of Trustees
  - 17.a Education Development Charges By-Law Adoption (Refer Item 10a) 7 - 31
18. Listing of Communications
19. Inquiries and Miscellaneous
20. Updating of Pending Lists
  - 20.a Master Pending List and Rolling Calendar
  - 20.b Annual Report
21. Closing Prayer
22. Adjournment

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# MINUTES OF THE EDUCATION DEVELOPMENT CHARGES (EDC) MEETING PUBLIC SESSION

**THURSDAY, OCTOBER 11, 2018**

## **PRESENT:**

### **Trustees:**

J. A. Davis, Chair  
G. Tanuan, Vice Chair  
A. Andrachuk  
N. Crawford  
M. Del Grande – via Teleconference  
A. Kennedy  
J. Martino  
S. Piccininni  
B. Poplawski  
M. Rizzo

### **Staff:**

R. McGuckin  
D. Koenig  
L. Noronha  
T. Robins  
A. Della Mora  
S. Camacho  
M. Loberto  
J. Yan  
  
S. Harris, Recording Secretary  
S. Tomaz, Assistant Recording Secretary

**External Guest:** A. Robertson, Parliamentarian

**4. Roll Call and Apologies**

An apology was extended on behalf of Trustee D'Amico who was unable to attend the meeting.

**5. Approval of the Agenda**

MOVED by Trustee Tanuan, seconded by Trustee Kennedy, that the Agenda, as amended to include the Addendum, be approved.

Results of the Vote taken, as follows:

**In favour**

**Opposed**

Trustees Andrachuk  
Crawford  
Davis  
Kennedy  
Martino  
Piccininni  
Poplawski  
Rizzo  
Tanuan

The Motion was declared

CARRIED

**7. Declarations of Interest**

There were none.

Trustee Rizzo left the horseshoe at 7:19 pm.

**10. Presentation**

MOVED by Trustee Andrachuk, seconded by Trustee Tanuan, that Items 10a) and 10b) be adopted as follows:

**10a) Presentation 2018-2013 EDC By-Law Policy Review; and**

**10b) EDC Policy Review – Toronto Catholic District School Board – Cynthia Clarke, Director, Quadrant Advisory Group received.**

Results of the Vote taken, as follows:

**In favour**

**Opposed**

Trustees Andrachuk  
Crawford  
Davis  
Kennedy  
Martino  
Piccininni  
Poplawski  
Tanuan

The Motion was declared

**CARRIED**

Trustee Rizzo returned to the horseshoe at 7:22 pm.

Trustee Del Grande joined via teleconference at 7:25 pm.

**9. Delegations**

MOVED by Trustee Martino, seconded by Trustee Kennedy, that Items 9a) and 9b) be adopted as follows:

- 9a) Toronto Chapter of the Building Industry and Land Development (BILD) Association regarding Education Development Charges (EDCs) – Written submission received; and**
- 9b) Goodmans LLP regarding Proposed EDC October 1, 2018 Addendum to EDC Background Study – Written Submission received.**

Results of the Vote taken, as follows:

**In favour**

**Opposed**

Trustees Andrachuk  
Crawford  
Davis  
Del Grande  
Kennedy  
Martino  
Piccininni  
Poplawski  
Rizzo  
Tanuan

The Motion was declared

CARRIED

**15. Staff Reports**

MOVED by Trustee Andrachuk, seconded by Trustee Tanuan, that Item 15a) be adopted as follows:

**15a) TCDSB Education Development Charges By-Law Renewal** received.

Results of the Vote taken, as follows:

**In favour**

**Opposed**

Trustees Andrachuk  
Crawford  
Davis  
Del Grande  
Kennedy  
Martino  
Piccininni  
Poplawski  
Rizzo  
Tanuan

The Motion was declared

CARRIED

**19. Resolve into FULL BOARD to Rise and Report**

MOVED by Trustee Martino, seconded by Trustee Piccininni, that the meeting resolve into FULL BOARD to Rise and Report.



Results of the Vote taken, as follows:

**In favour**

**Opposed**

Trustees Andrachuk  
Crawford  
Davis  
Del Grande  
Kennedy  
Martino  
Piccininni  
Poplawski  
Rizzo  
Tanuan

The Motion was declared

CARRIED

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SECRETARY

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CHAIR



REPORT TO

REGULAR BOARD

## EDUCATION DEVELOPMENT CHARGES BY-LAW ADOPTION

*Wealth gained hastily will dwindle, but whoever gathers little by little will increase it...Proverbs 13:11*

Created, Draft	First Tabling	Review
November 6, 2018	November 15, 2018	<a href="#">Click here to enter a date.</a>

M. Loberto, Superintendent of Planning and Development

### RECOMMENDATION REPORT

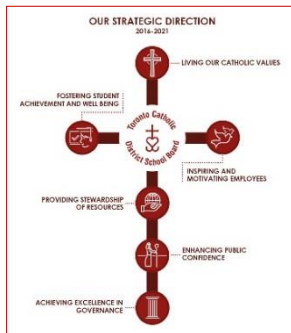
**Vision:**

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Rory McGuckin  
Director of Education

D. Koenig  
Associate Director  
of Academic Affairs

T. Robins  
Acting Associate Director  
of Planning and Facilities

L. Noronha  
Executive Superintendent  
of Business Services and  
Chief Financial Officer

## **A. EXECUTIVE SUMMARY**

On June 28, 2018, the Ministry approved the TCDSB's Education Development Charges (EDC) Regulation Estimates. On June 29, 2018, the Board of Trustees approved a one- year By-law, TCDSB EDC By-law No. 190, in order to avoid a gap in EDC fund collection (the "Interim EDC By-law"). The Interim EDC By-law now in place will not raise sufficient funds to support the acquisitions of required properties that the TCDSB is contractually committed to acquiring over the next 12 months. Therefore, on September 13, 2018, the Board of Trustees directed TCDSB staff to begin the process of enacting a new EDC By-law as soon as possible.

This report recommends that the Board adopt an EDC By-law having a five-year term applying jurisdiction-wide (i.e. a singular rate applied throughout the City of Toronto) EDC rates, as required by O. Reg. 438.18, based on policy considerations detailed in the body of this report.

The primary purpose of any Board in implementing EDC charges is to provide a source of funding for new school sites and expansions of land or site services to accommodate enrolment growth generated by new housing development in the City of Toronto.

This report recommends the adoption of a successor EDC By-law based on the EDC related policies outlined in this report.

*The cumulative staff time required to prepare this report was 20 hours*

## **B. PURPOSE**

The purpose of this report is to identify and establish a set of Education Development Charges (EDC) related policy considerations on which to base a decision to adopt a successor EDC By-law, and provide a draft EDC By-law for Trustees to consider for adoption.

## **C. BACKGROUND**

1. In early 2018, the Toronto Catholic District School Board (TCDSB) began the process of replacing its Education Development Charges (EDC) By-law

before it was set to expire on June 30, 2018. The TCDSB completed all necessary steps as mandated by the Education Act and was prepared to pass a successor By-law at a meeting of the Board of Trustees held on June 14, 2018.

The Board was unable to pass the proposed By-law because the Ministry of Education did not approve the TCDSB's estimates of pupil counts and school sites as required by *O. Reg. 20/98* and set out in the TCDSB's submission to the Minister of Education dated April 17, 2018 (the "EDC Regulation Estimates").

2. The Ministry of Education subsequently advised the TCDSB that it would not be in a position to approve the EDC Regulation Estimates until a new Minister was appointed. As mandated by the Premier on June 26, 2018, the Ministry of Education advised the TCDSB that it would only approve the EDC Regulation Estimates if the TCDSB passed a one-year EDC By-law at the rates that were in place prior to June 30, 2018: \$1,493 per dwelling unit and \$1.07 per square foot of gross floor area for residential and non-residential developments respectively.
3. On June 28, 2018, the Ministry approved the TCDSB's EDC Regulation Estimates. On June 29, 2018, the Board of Trustees approved a one-year By-law, TCDSB EDC By-law No. 190, in order to avoid a gap in EDC fund collection (the "Interim EDC By-law"). There were no appeals of the Interim EDC By-law.
4. However, the Interim EDC By-law now in place will not raise sufficient funds to support the acquisitions of required properties that the TCDSB is contractually committed to acquiring over the next 12 months. Therefore, on September 13, 2018, the Board of Trustees directed TCDSB staff to begin the process of enacting a new EDC By-law as soon as possible.

Board staff have been discussing the EDC shortfall with Ministry staff in preparation for Capital Land funding requests for the TCDSB's committed acquisitions. The Ministry is receptive, however have not made any funding commitments to date.

5. Section 257.62 of the *Education Act* states "*an Education Development Charge By-law may be passed only within a period of 365 days following the completion of the Education Development Charges Background Study.*" The

EDC background study was completed on April 17, 2018 and the replacement of the Interim EDC By-law is scheduled to take place within 365 days of completion of the original Background Study. As such, the report addendum dated October 1, 2018 relies on the same mid-2018 to mid-2033 housing forecast and Review Area constructs; the same 15-year student enrolment projections; and the same school site values. In order to rely upon the TCDSB submission dated April 17, 2018, the TCDSB must replace interim By-law No. 190 prior to its expiry on July 4, 2019.

6. The original intent in adopting a new EDC By-law on November 15th was to adopt higher EDC rates that could be supported by the April 17, 2018 EDC Background Study analysis (i.e. as amended). This proposed action did not require secondary approval of the Regulation Estimates by the Minister of Education: The Board was eligible to adopt higher EDC rates and thereby close the funding gap consistent with the 15-year growth-related net education land cost requirements established in the Study.
7. However, on October 12, 2018, the Province enacted O. Reg. 438/18, which required, amongst other limitations, that school boards with existing EDC By-laws could not increase the By-law rates in place as of August 31, 2018. Additional changes to the legislative provisions include:
  - Limits the ability of boards to change the areas in their By-laws that are subject to EDCs;
  - Alter the residential and non-residential shares or adopt differentiated residential rates if it would have the effect of increasing any of the EDC rates beyond the August 31<sup>st</sup> 2018 ‘cap’;
  - Restricts additional boards from becoming eligible to pass a new EDC By-law;
  - Streamlines some of the requirements to be included in the required background study, including removing the need to adopt policy resolutions concerning any operating surpluses or alternative accommodation arrangements that could be used to reduce the EDC rates (although the Regulation removed the requirement to provide an explanation where a school board excludes available and surplus capacity in the calculation, which was an important element of the previous legislative requirements to development community stakeholders).

8. On October 15, 2018, the Ministry of Education issued Memorandum B15: ‘Temporary Cap on Education Development Charge Rates’ indicating that it is the government’s intention to undertake a review of the EDC policy framework and that further details will follow in the coming weeks. No additional information has been provided to date on the timing or structure of the proposed consultation process.

A TCDSB staff member has been assigned to the Ministry Committee examining EDC Legislation.

9. There are several immediate concerns for school boards. The delay in the timing of future capital approvals, along with the ‘pause’ on EDC rate increases creates a double shortfall in EDC funding, and there is uncertainty as to how this funding deficiency will be addressed. That is, building permits continue to be issued during the ‘EDC’ pause. The pupils generated by the construction and subsequent occupancy of these new residential units will need to be held in temporary accommodation awaiting Capital Priorities funding approval for new pupil place construction. It is unknown whether EDC boards be able to recover the retrospective growth-related site needs through the imposition of education development charges.
10. As well, where the EDC by-law capped rates are lower than the successor by-law ‘calculated’ rates, an additional shortfall in funding net education land costs will ensue. With both of these shortfalls in funding growth-related site needs be paid for from the imposition of higher EDC rates or from the tax base as a Land Priorities approval. Finally, the shortfall created in funding short-term land requirements places additional stress on internal working capital and impedes a board’s ability to access external financing for this purpose.
11. The EDC calculation is based on new pupils generated by housing units within the bylaw area, for which building permits will be issued over the next fifteen-year period and for which additional school accommodation is required within the City of Toronto.
12. The Board undertook the background analysis respecting growth projections, pupil enrolment forecasts, determination of growth-related pupil place requirements, site costing, and the appropriate EDC forms.

13. The TCDSB has conducted meetings with stakeholders, responded to a review of the Board's EDC submission by the Building Industry and Land Development Association (BILD), undertaken a secondary review of the EDC submission and made minor modifications to the charge as a result. The Board conducted Policy Review public meetings on October 11th and 18th, and the public meeting to review the proposed 'capped' charges on October 18th. The Board will be seeking additional input from the public and give consideration to all submissions received prior to the passage of its initial Education Development Charges Bylaw. The Board intends to give consideration to the passage of the EDC Bylaw on November 15th unless there is good reason to delay further.

#### **D. EVIDENCE/RESEARCH/ANALYSIS**

1. The following sets out the key policy decisions typically made by the Board in advance of adopting a new By-law. However, O. Reg. 438/18 restricts several of the policy decisions. A list of the policy decisions and the implications of each under the new Regulation are discussed below.
  - What by-law term is proposed by the Board; five years, or something less?
  - What level of EDC charge does the Board wish to impose, given that the Board is entitled to recover less than 100% of the net education land costs?
  - Is there a need to conduct any further public meetings in advance to adopting the new by-law?
  - Are the charges to be applied on an area-specific or jurisdiction-wide basis?
  - What portion of the net education land costs are to be recovered from residential and non-residential (e.g. industrial, commercial and institutional) development?
  - Does the Board wish to exempt any residential or non-residential development? If so, how does the Board propose to fund the shortfall?
  - Does the Board wish to provide any demolition or conversion credits beyond that specified in the legislation?
  - Is there any need to consider a phase-in of the charge or to grandfather the EDC rates applicable to any development applications that are in process of being approved by the City of Toronto?



Each of the foregoing policy decisions is discussed below.

2. **Term of the By-law:** The Education Act permits a school board to pass an EDC by-law with a maximum term of five years. A five-year term provides the maximum flexibility since a board has the power to amend the by-law or pass a new by-law at an earlier point, if necessary. *Staff recommend that an EDC by-law having a five-year term be adopted. Having a five-year by-law term should enable the TCDSB to adopt the ‘calculated rates’ once the policy review consultation process is completed at the Ministry level.*
3. **Recovery of Net Education Land Costs:** *O. Reg. 20/98* section 7 paragraphs 9 (iii) and 10 (vi) restrict a board to a maximum of 100% recovery of the “net” growth-related education land costs from residential and non-residential development.
  - One of the most significant considerations in the legislative treatment of education development charges is that there is no tax-based funding source to make up the shortfall where full cost recovery is not achieved. Further, there is a limited pool of funds available to the Ministry of Education to pay for land acquisition and site development expenditures in situations where the costs are not eligible to be funded through the imposition of education development charges. Finally, many of the revenue sources under the existing education capital funding model are “enveloped” and are therefore not available to be used for purposes other than that for which they were legislatively intended.
  - The new Regulation inhibits a board’s ability to achieve 100% recovery of the net education land costs, at least in the short term. Therefore, *Staff recommend that TCDSB seek to recover 100% of the net growth-related education land costs.*
4. **Additional Public Meeting Requirements:** the TCDSB has undertaken stakeholder consultation processes during the Spring and the Fall of 2018, and has complied with the requirement to:
  - Conduct a review of the education development charge policies;
  - Conducted at least two public meetings in accordance with the legislation (the TCDSB has conducted three public meetings);



- Ensure that adequate information is made available to the public by providing notice in the local newspaper and posting the EDC background study and meeting notice on the Board’s website;
- Demonstrated that the Board qualifies to adopt a successor EDC by-law and has completed an education development charges background study, and
- Has forwarded all of the background information necessary and has received approval of the Regulation Estimates from the Minister of Education on June 28th.

*Staff recommend that no further public meetings are required in advance of considering adoption of a successor by-law adoption.*

5. **Jurisdiction-wide or Area Specific Application of the By-law:** the existing “in force” EDC by-law is applied on a City-wide uniform basis (with the exception of the Railway Lands as required in the legislation). The rationale for this decision is primarily based on the premise that:

- A jurisdiction-wide approach is more consistent with the way in which education services are provided by the Board;
- A jurisdiction-wide charge affords more flexibility to the Board to meet its long-term accommodation needs;
- Uniform application of education development charges is more congruent with the education funding model as a whole;
- Money from an education development charges account may be used only for growth-related net education land costs attributed to or resulting from development in the area to which the education development charge by-law applies (section 16 of *O. Reg. 20/98*). Therefore, monies collected in one by-law area could not be spent outside of that by-law area and this is particularly problematic given school choice at the secondary level.
- *O. Reg. 438/18* prohibits a school board from altering the areas subject to EDCs.

*Staff recommend that the Board adopt jurisdiction-wide (i.e. a singular rate applied throughout the City of Toronto) EDC rates, as required by the legislation.*

6. **Percentage of Net Education Land Costs to be borne by Residential and Non-residential Development:** Section 7 paragraph 8 of *O. Reg. 20/98* requires that, “the board shall choose the percentage of the growth-related net education land cost that is to be funded by charges on residential development and the percentage, if any, that is to be funded by charges on

*non-residential development.” “The percentage that is to be funded by charges on non-residential development shall not exceed 40 percent.”*

However, the new Regulation only allows a change in the residential/non-residential percentage where it derives a charge that is equal to, or lower than the current rates. Altering the shares would naturally increase one of the rates (i.e. the residential or the non-residential rate) which would have to be ‘capped’. Increasing one side of the equation and capping the other side of the equation could invite an appeal of the by-law.

*Staff recommended that the by-law rates continue to be based on 75% residential and 25% non-residential shares.*

7. **Should the EDC Bylaw include any Non-Statutory Residential or Non-residential Exemptions:** The legislation provides for specific residential and non-residential statutory exemptions. Statutorily-exempt development is excluded from the determination of the EDC rates, so that the foregone revenue is not passed on to non-exempt development.

While the legislation permits a school board to grant additional non-statutory exemptions for both residential and non-residential development, there is no funding source currently available under the new funding model to absorb the cost of providing non-statutory exemptions.

In addition, by-law administration and collection of the charge, and the ability to treat all development applications in a fair and equitable manner, are complicated by the granting of non-statutory exemptions.

A 2007 legal opinion provided to the TCDSB, suggests that a school board must absorb the cost of exemptions voluntarily granted by the board to any non-statutory development (i.e., the board would not be in a position to make up the lost revenue by increasing the charge on the other non-exempt non-residential development under the legislation).

*Staff recommend that the EDC Bylaw continue to provide for only the standard mandatory residential exemptions.*

8. **Should the By-law Apply a Differentiated Residential EDC rate:** *O. Reg. 20/98* enables a board to vary the EDC rates to consider differences in size

(e.g. number of bedrooms, square footage) of dwelling units or occupancy (permanent or seasonal, non-family households or family households) although the latter (i.e. occupancy) could change over time.

Section 7 paragraph (9) of *O. Reg. 20/98* states that, “the board shall determine charges on residential development subject to the following,

- i. the charges shall be expressed as a rate per new dwelling unit,*
- ii. the rate shall be the same throughout the area in which charges are to be imposed under the by-law, ...”*

Despite this, a board may impose different charges on different types of residential development (differentiated residential EDC rates), based on the percentage of the growth-related net education land costs to be applied to residential development that is to be funded by each type. The restrictions noted above would also apply in the case of differentiated residential EDC rates.

The new Regulation requires by-law adopted rates either equal to or lower than the rates in-force as of August 31st. When differentiated rates are created, high density rates would fall below the ‘capped’ EDC rates; medium density either slightly higher or lower than the capped rates and low density higher than the capped rates.

***For the same reasons outlined in the discussions respecting residential and non-residential shares, staff recommend that the TCDSB not entertain differentiated residential rates at this time.***

9. **Demolition and Conversion Credits:** Section 4 of *O. Reg 20/98* prescribes a replacement dwelling unit exemption.

Section 4 states that “*a board shall exempt an owner 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.*”

However, “*a board is not required to exempt an owner 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.”*

The Board’s proposed EDC by-law extends the exemption period to three years instead of the required two years in recognition of the complexity of development within the City of Toronto.

Section 5 of *O. Reg. 20/98* deals with exemptions for the replacement of non-residential buildings. Similar provisions apply with respect to the replacement of non-residential gross floor area (GFA), except that the credit is only applied to the extent that the amount of new floor space is equivalent to the GFA of the floor space being replaced. The grace period for the replacement of non-residential GFA is five years.

There are no legislative provisions specifically dealing with conversion of use. However, the EDC Guidelines, section 4.1, states that, “Board by-laws may include provisions for credits for land use conversion. Typically, this situation would arise if an EDC is paid for one type of development and shortly thereafter (the period of time defined in the board’s EDC by-law), the land is rezoned and a new building permit issued for redevelopment (to an alternate land use). EDC by-laws may include provisions for providing credits in this situation to take into account the EDC amount paid on the original development (generally by offsetting the EDC amount payable on the redevelopment).” The 2013 TCDSB EDC by-law provides a credit equal to the amount of the charge originally paid on the space that is being converted.

***Staff recommend that the Board adopt a 3-year demolition grace period for residential uses and a 5-year demolition grace period for non-residential uses, consistent with the draft by-law before the Board. Further, staff recommend that the Board approve the EDC bylaw provision permitting conversion credits, consistent with historical practice.***

## 10. The Proposed EDC Rates

*Staff recommend a residential charge of \$1,493 per dwelling unit and non-residential charge of \$1.07 per square foot of gross floor area, consistent with the current legislative requirements.*

### **E. STAFF RECOMMENDATIONS**

1. That the Education Development Charges Submission prepared by Quadrant Advisory Group Limited, submitted to the Ministry of Education for approval, and approved by the Minister be received.
2. That the following EDC related policy considerations for a successor By-law be adopted:
  - a. A recovery rate of 100% of the Board's net education land costs through EDC's;
  - b. EDC By-law with a term of 5 years;
  - c. EDC By-law, a residential charge of \$1,493 per dwelling unit and non-residential charge of \$1.07 per square foot of gross floor area;
  - d. A single, jurisdiction-wide EDC By-law
  - e. Calculation of the charge for the EDC By-law be based on 25% of the net education land costs funded by non-residential development and 75% by residential development;
  - f. Differentiated residential rates not be approved at this time;
  - g. EDC By-law to provide a 3-year demolition grace period for residential uses and a 5-year demolition grace period for non-residential uses, consistent with the draft by-law before the Board;
  - h. EDC By-law provision permitting conversion credits, consistent with historical practice;

3. That the Board approve an Education Development Charges By-Law as contained in Appendix 'A' of this report, based on policy considerations in Recommendation #2 above.

## TORONTO CATHOLIC DISTRICT SCHOOL BOARD

### EDUCATION DEVELOPMENT CHARGES BY-LAW 2018 NO. \_\_\_\_

#### PREAMBLE

1. Section 257.54(1) of the *Education Act* (the “Act”) enables a district school board to pass by-laws for the imposition of education development charges against land if there is residential development in its area of jurisdiction that would increase education land costs and the residential development requires one or more of the actions identified in section 257.54(2) of the Act.
2. The Toronto Catholic 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 will experience enrolment growth in the areas of the City of Toronto where it has no sites for new schools or where its existing sites cannot accommodate more students without an addition for which it will require funds for the acquisition of new school sites, expansion of existing school sites, servicing and site preparation of school sites, and other education land costs. The only available funding source for education land costs is education development charges.

The Board notes that without amendments to the Act and its regulations, the Board is legally constrained in its ability to acquire strata fee interests for the purpose of developing new school sites.

4. Section 257.54(4) of the Act provides that an education development charge by-law may apply to the entire area of jurisdiction of a board or only part of it.
5. 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 to the Ministry of Education for approval, and such approval was given on under section 10 of Regulation 20/98.
6. The Board has conducted a review of its education development charge policies and held public meetings on October 11 and October 18, 2018, in accordance with section 257.60 of the Act.
7. The estimated average number of secondary school pupils of the Board over the five years immediately following the day this by-law comes into force will exceed the total capacity of the Board to accommodate secondary school pupils throughout its jurisdiction on the day this by-law is passed.
8. The Board has given a copy of the education development charges background study relating to this by-law to the Minister of Education and to each school board having jurisdiction within the area to which this by-law applies in accordance with section 10 of Ont. Reg. 20/98.

9. The Board has therefore complied with conditions prescribed by section 10 of Regulation 20/98.
10. The Board has given notice and held public meetings on October 18, 2018 and November 15, 2018, in accordance with section 257.63(1) of the *Education Act* and permitted any person who attended the public meeting to make representations in respect of the proposed education development charges.
11. 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 TORONTO CATHOLIC DISTRICT SCHOOL BOARD HEREBY ENACTS AS FOLLOWS:

## **PART 1 - APPLICATION**

### **Defined Terms**

1. In this by-law,
  - a. “Act” means the *Education Act*,
  - b. “area of the by-law” means the City of Toronto resulting from the amalgamation effected on January 1, 1998 under the *City of Toronto Act, 1997 S.O. 1997, c.2*;
  - c. “Board” means the Toronto Catholic District School Board;
  - d. “development” means any activity or proposed activity in respect of land that requires one or more of the actions referred to in Sections 5 and 6 of this by-law, and includes redevelopment, expansion, extension or alteration, or any two or more of them, of a use, building or structure, except interior alternations to an existing building or structure which do not intensify the use of the building;
  - 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, a secondary dwelling unit, group home, mobile home, duplex, triplex, semi-detached dwelling, single detached dwelling, stacked townhouse and townhouse;
  - f. “education development charge” means charges imposed pursuant to this by-law in accordance with the Act;
  - g. “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); and
  - v. to undertake studies in connection with an acquisition referred to in paragraph (i).
- h. “existing industrial building” means a 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, 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 distributing of something, and
    - B. in or 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*, other than a district school board;
- k. “mixed use” means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential uses;

- l. “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;
  - m. “residential development” means lands, buildings or structures developed or to be developed for residential use;
  - n. “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.
  - o. “secondary dwelling unit” means a dwelling unit, whether contained within a single detached dwelling or a semi-detached dwelling, or ancillary to a single detached dwelling or a semi-detached dwelling, or ancillary to a single detached dwelling or a semi-detached dwelling including but not limited to a coach house, laneway suite or structure constructed above an existing garage or other structure separate from the primary dwelling unit, which:
    - i. comprises an area less than or equal to 33 percent of the gross floor area of the primary dwelling unit; and
    - ii. cannot be conveyed as a separate parcel from the primary dwelling unit.
2. Unless otherwise expressly provided in this by-law, the definitions contained in the Act or the regulations under the Act 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 will be deemed to be a reference to any successor statute, section or regulation.

#### **Lands Affected**

4.
  - a. Subject to section 4(b), this by-law applies to all lands in the area of the by-law;
  - b. This by-law shall not apply to lands that are owned by and are used for the purpose\_of:
    - i. a municipality or a local board thereof;
    - ii. a district school board;
    - iii. a public hospital receiving aid under the *Public Hospitals Act*;
    - iv. a publicly-funded university, community college or a college of applied arts and technology established under the *Ministry of Colleges and Universities Act*, or a predecessor statute;

- v. The Toronto Area Transit Operating Authority ("GO Transit");
- vi. a cemetery or burying ground that is exempt from taxation under section 3 of the *Assessment Act*;
- vii. non-residential uses permitted under s. 39 of the *Planning Act*.

## Part II - Education Development Charges

5.

(1) In accordance with the Act and this by-law, and subject to sections 9 and 10, 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 those actions set out in subsection 257.54(2) of the Act, namely:

- a. the passing of a zoning by-law or of an amendment to 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, 1992* in relation to a building or structure,

where the first building permit issued in relation to a building or structure for 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.

6.

(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 those actions set out in subsection 257.54(2) of the Act, namely:

- 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, 1992* in relation to a building or structure.

where the first building permit issued in relation to a building or structure for 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.

7. 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**

8. Subject to the provisions of this by-law, the Board hereby imposes an education development charge of \$ 1,493 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.

**Exemptions from Residential Education Development Charges**

9. 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 as prescribed in section 3 of Regulation 20/98 as follows:

<b>NAME OF CLASS OF RESIDENTIAL BUILDING</b>	<b>DESCRIPTION OF CLASS OF RESIDENTIAL BUILDINGS</b>	<b>MAXIMUM NUMBER OF ADDITIONAL DWELLING UNITS</b>	<b>RESTRICTIONS</b>
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 dwelling unit must be less than or equal to the gross floor area of the dwelling unit already in the building
Other residential buildings	A residential building not in another class of residential building described in this table	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

10.

(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 under section 8 if the building permit for the replacement dwelling unit is issued more than 3 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 under 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 13, 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**

11. Subject to the provisions of this by-law, the Board hereby imposes an education development charge of \$ 1.07 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.

### **Exemptions from Non-Residential Education Development Charges**

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 Regulation 20/98, subject to paragraphs (b) and (c), an education development charge under s. 11 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 under section 11 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:

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

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 5 years after,
- d. the date the former building was destroyed or became unusable; or

- e. 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;
  - f. Subject to section 16, an education development charge shall be imposed under section 11 where a 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.
- 15.
- 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 reduce 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 increase the charge.

### **Credits**

16. This section applies where an education development charge has previously been paid in respect of development on land and the land is being redeveloped, except where sections 9 and 10, and/or section 12 and 13 apply:
- a. The education development charge payable in respect of the redevelopment will be calculated under this by-law;
  - b. The education development charge determined under paragraph (a) will 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 permissions being displaced by the new development. For example, if 10% of 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 will be calculated under section 8 of the by-law, and the credit will be the education development charge originally paid on the gross floor area being converted subject to the limit in paragraph (b).



## **PART III - ADMINISTRATION**

### **Payment of Education Development Charges**

17. The education development charge in respect of a development is payable to the City of Toronto on the date that the first building permit for above ground construction is issued in relation to a building or structure on land to which the education development charge applies.
18. Education development charges shall be paid by cash, by certified cheque or by bank draft.
19. The Treasurer of the Board shall establish and maintain an education development charge reserve fund in accordance with the Act, the Regulations and this By-law.

### **Payment by Land**

20. 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 City of Toronto of the amount of the credit to be applied to the education development charge.

### **Collection of Unpaid Education Development Charges**

21. In accordance with section 257.96 of the Act, section 349 of the *Municipal Act*, 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 December 3, 2018.

### **Date By-law Expires**

23. This by-law shall expire on December 2, 2023, 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.

**Interpretation**

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 Toronto Catholic District School Board Education Development Charges, 2018 By-law No. \_\_\_\_\_.

ENACTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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Chair

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Director of Education and Secretary