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May 1, 2018

Board of Trustees
Toronto Catholic District School Board
80 Sheppard Avenue East
North York, Ontario
M2N 6E8

Attention: Ms. Barbara Poplawski, Chair

Dear Sirs/Mesdames:

**Re: Toronto Catholic District School Board
2018 Education Development Charges By-law**

We are the lawyers for Fairbank Self Storage Nominee Corp. ("Fairbank"), the registered owner of the property municipally known as 200 Fairbank Avenue. Our client is also a purchaser under an agreement of purchase and sale in regard to the property located at 1&2 Thora Avenue. Both properties are located in the City of Toronto.

We write to object to the proposed education development charges ("EDCs") by-law that is currently under consideration by the Board. Our principal concerns are twofold:

1. the proposed increase in the non-residential EDC from \$1.07 to \$8.02 per square foot of gross floor area is excessive; and
2. the July 1, 2018 implementation date of the EDC by-law and the increased rate fail to provide a transitional or phase-in period for development applications that were planned and initiated prior to the scheduled enactment of the EDC by-law.

The background facts supporting our objection are summarized below.

Background

Fairbank is in the business of developing self-storage facilities. The operation of this undertaking is recognized by Toronto Economic Development as an incubator for small businesses in Toronto.

Fairbank acquired ownership of 200 Fairbank Avenue on November 10, 2016. This is an industrial property that has been derelict for four years following a major fire that destroyed the building and the business operating therein.

On November 3, 2017, Fairbank submitted an application for site plan approval to the City of Toronto in regard to 200 Fairbank Avenue. The application seeks approval of a self storage facility of approximately 258,000 square feet together with flex office space. The City has not yet issued its Notice of Approval Conditions in respect of the site plan application, although such Notice is expected shortly. At the time Fairbank purchased 200 Fairbank Avenue, the applicable non-residential EDC was \$1.07 per square foot of gross floor area.

Fairbank entered into an agreement of purchase of sale to acquire 1&2 Thora Avenue on December 6, 2017. Since the early 1900s this site has operated as a salvage or junk yard and has been a blight on the area. The intended development of this property contemplates a self-storage facility of 126,000 square feet. City staff are very much encouraged that the proposed development will rejuvenate and foster redevelopment in the area. Fairbank has submitted to the Committee of Adjustment an application for a minor variance which is required to facilitate the self-storage development. The Committee is scheduled to hear the application on May 30, 2018.

Fairbank developed its pro formas/business plans for 200 Fairbank Avenue and 1&2 Thora Avenue anticipating a non-residential EDC of \$1.07 per square of gross floor area, or such reasonably greater rate that accounts for the increase in land values experienced in the City of Toronto since July 1, 2015 (the Board implemented the rate of \$1.07 effective July 1, 2015 by way of an amendment to its 2013 EDC by-law).

Objections

1. Land Values

A fundamental criteria in the calculation of an EDC is the market value of the land that a school board intends to acquire (during the prescribed fifteen year planning horizon that follows the coming into force of an EDC by-law) for the purpose of providing elementary and secondary pupil accommodation. While we acknowledge that land values have appreciated significantly in the City of Toronto since the Board passed the 2015 amendment to the 2013 by-law, such values have not increased at a rate that even approaches an eight-fold increase (\$1.07 to \$8.02 per square foot). Based on a review from a number of reliable third party sources, property values have increased by only a fraction of the increase contemplated by this change in the EDC rates.

In light of this discrepancy, we request that Board staff and consultants revisit the land values that purport to underlie the projected \$8.02 non-residential EDC with a view to achieving a more realistic rate that is reflective of recent market conditions.

2. Transition/Phase-In

The proposed increase in the non-residential EDC from \$1.07 to \$8.02 per square foot is extreme by any objective standard. Such greater rate will increase the EDCs on 200 Fairbank Avenue significantly, taking them from \$105,000 to \$791,000 and in the case of 1&2 Thora Avenue from \$134,000 to \$810,000 (after accounting for available demolition credits).

Developments such as these require significant commitments of capital, along with extensive and protracted planning with local municipal authorities, ward councilors, neighbourhood groups, contractors, partners and lenders. Fairbank officials could not reasonably have anticipated an immediate eight-fold increase in the EDCs as an additional burden when they were developing the business plans for these two projects. Countless other landowners and developers are no doubt in the same position.

Given the magnitude of the proposed increase in the non-residential EDC, we request that the Board incorporate into the EDC by-law a transitional provision that would grandfather concrete development applications that were planned and initiated prior to July 1, 2018. As an alternative, and at a minimum, we submit that the EDC by-law ought to provide for staggered non-residential EDC rates that are phased-in over the five-year term of the by-law, with the bulk of

the increases being implemented in years three, four and five, in order to avoid frustrating development proposals that were devised prior to the enactment of the EDC by-law.

Thank you for your consideration.

Yours truly,
Overland LLP

Chris Tanzola

Per: Christopher J. Tanzola
Partner

c. Client