

May 1, 2018

VIA EMAIL

Toronto Catholic District School Board  
80 Sheppard Avenue East  
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Attention: Ms. Sophia Harris, Board Recording Secretary

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File 16067.00017

Dear Chair and Board of Trustees:

**RE: Education Development Charges – Policy Review Public Meeting, May 2, 2018**

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We are solicitors for the Building Industry and Land Development Association ("BILD") regarding their interest in the Toronto Catholic District School Board's (TCDSB) proposed Education Development Charge ("EDC") By-law.

To date we have reviewed the proposed EDC Background Study that has been posted on the Board's website and have a number of significant concerns with respect to the methodology used and the interpretation of the *Education Act*, R.S.O. 1990, c. E.2, (the "Act") and the associated Regulations by School Board staff and their consultant. Additionally we have significant concerns that, unlike the usual practice with School Boards, the Land Appraisal Report upon which assumptions in the EDC Background Study rely, has not been made available to the public.

**BACKGROUND**

By way of background, BILD has historically and is currently involved in EDC reviews with a number of School Boards throughout the GTA. The TCDSB is the only School Board that is advancing the methodology that is used in this proposed EDC Background Study and is the only School Board that is choosing to interpret the legislation in a manner which, in our respectful opinion, is contrary to the wording of the legislation itself. We respectfully request that the

Trustees direct staff and their consultant to reconsider their proposed methodology within the EDC Background Study.

### **PRIMARY CONCERNS**

There are three key methodological approaches in the 2018 EDC Study that are, in our opinion, not consistent with the Act:

- The process by which each elementary and secondary review areas have been divided into two parts – one part that includes schools in areas “not impacted by growth” (“low growth” areas), and another for schools in areas that are impacted by growth (“high growth” areas). In determining the school site needs for a particular review area, the approach taken ignores capacity available in “low growth” area schools in a given review area. This approach, rather than utilize available capacity, would see new schools built, while the ‘low growth’ area schools remain underutilized.
- The EDC regulations are clear that only pupils generated by new housing units are to be factored into EDC calculations. However, the EDC Background Study takes existing pupil overages at ‘oversubscribed’ schools, and adds these existing pupils to the new pupils generated by new development over the 15-year forecast horizon in quantifying the number of proposed new school sites.
- Finally the EDC Background Study ignores the capacity available at leased school facilities in determining the need for additional school sites. The EDC Guidelines, prepared by the Ministry of Education, make it clear that space in leased schools is to be accounted for in EDC calculations.

Each of these approaches has the effect of dramatically inflating the calculated EDC rate beyond what, in our opinion, is warranted under the Act.

Finally, we request that staff and the consultants be directed by the School Board to released information that has been relied upon in coming to the conclusions in the proposed EDC Background Study. We have requested the following information:

- Agreements as it relates to 74 Wellesley Street West

- Detailed information on Site Preparation Costs, broken down by type of expenditure
- Detailed information on Study Costs
- A copy of the Land Appraisal Report
- Lease agreements with TDSB for secondary schools (the "Bill 30" schools)

We fairly acknowledge that we made the request for information on April 26, 2018 at our meeting with staff and their consultants, and that staff likely need additional time to compile the information. However we request to be provided with this information forthwith due to the compressed timeframe by which the Board is considering the proposed EDC By-law. Given that this information was used as source material for the EDC Background Study, staff should have the information readily available.

### **CONCLUSION**

BILD has a strong track record of having their concerns resolved as it relates to proposed EDC By-laws in numerous jurisdictions throughout the GTA, through open dialogue and the sharing of information. It is our hope that the same process will unfold in this EDC review.

Please do not hesitate to contact the undersigned if you have any questions or concerns.

Yours truly,

**WeirFoulds LLP**



Denise Baker

DB/mw

cc Client