



REPORT TO

REGULAR BOARD

EDUCATION DEVELOPMENT CHARGES COMPLAINT – 55, 61-63 CHARLES STREET EAST

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

Created, Draft	First Tabling	Review
January 14, 2020	January 23, 2020	Click here to enter a date.

M. Loberto, Superintendent of Planning and Development

RECOMMENDATION REPORT

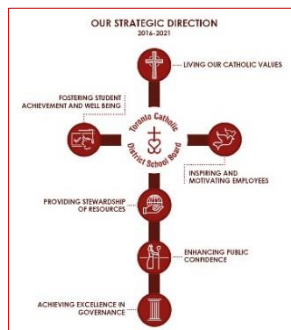
Vision:

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

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.



Rory McGuckin
Director of Education

D. Koenig
Associate Director
of Academic Affairs

L. Noronha
Associate Director of Facilities,
Business and Community
Development, and
Chief Financial Officer

A. EXECUTIVE SUMMARY

This report recommends that the Toronto Catholic District School Board (TCDSB) not pursue an appeal to the Local Planning Appeal Tribunal (LPAT) regarding the City Council decision to refund the \$179,300 of Education Development Charges (EDC) paid by MOD Developments for the project at 55, 61-63 Charles Street East.

Section 10 of the Board's EDC By-law contains an exemption from the payment of EDCs for each dwelling unit that is replaced on an existing site, so long as the building permit for the replacement units is obtained no less than three years after the demolition permit is issued in respect of the units that have been replaced.

In this case, a unique situation arose where MOD Developments was required to obtain a building permit for the new development prior to being issued a demolition permit due to a requirement to preserve the existing 100 rental residential units on the property. Because the demolition permit was sought after approval of the building permit, the City of Toronto applied EDCs to all 648 units without applying the replacement exemption for the 100 replacement units.

MOD Developments made an application to Toronto City Council pursuant to Section 257.85 of the *Education Act* seeking an amendment of both the applicable development charges and the EDCs applied due to the "reverse order" of the building permit and the demolition permit. The full refund of all EDCs and development charges respecting the 100 replacement units was approved by City Council on December 19, 2019.

While the Board has the right to appeal the City Council decision to the LPAT, in consultation with external legal counsel, staff recommend not pursuing an appeal of this matter. The exemption relates to the preservation of rental housing, and that but for the unique circumstances related to the order of the applications, MOD developments would have been entitled to the replacement exemption and would have never been obligated to pay EDCs in respect of the 100 replacement units in the first place.

The cumulative staff time required to prepare this report was 6 hours

B. BACKGROUND

1. *All new residential development in the City of Toronto is subject to the payment of EDCs by the developer for new dwelling units in accordance with TCDSB EDC By-law No. 194.* EDCs are payable by the developer upon issuance of a building permit.
2. *The Board's EDC By-law contains an exemption from the payment of EDCs for each dwelling unit that is replaced on an existing site.* This exemption is contained in Section 10 of the Board's EDC by-law, so long as the building permit for the replacement units is obtained no less than three years after the demolition permit is issued in respect of the units that have been replaced.
3. *MOD Developments is proposing a redevelopment of the properties located at 55, 61-63 Charles Street East, which includes the replacement of the existing rental units on site.* The project entails the demolition of two existing multi-unit residential buildings comprising 100 rental dwelling units for the development of a high-rise residential building comprised of 648 dwelling units. The 100 existing rental units are being replaced on the site as part of the redevelopment.
4. *MOD was required to obtain a building permit prior for the new development to the issuance of a demolition permit, which resulted in the non-application of the EDC replacement exemption.* This unique situation arose due to a requirement to preserve the existing rental residential units until spring 2020, and a further obligation to provide off-site rental accommodation as part of the redevelopment. The building permit was issued on October 31, 2019 with application for a demolition permit being made on November 12, 2019. Because the demolition permit was sought after approval of the building permit, the City of Toronto Building Permit office applied EDCs to all 648 units without applying the replacement exemption for the 100 replacement units.

C. EVIDENCE/RESEARCH/ANALYSIS

1. *MOD Developments made an application to City Council pursuant to Section 257.85 of the Education Act seeking an amendment of both the applicable Development Charges and the EDCs applied due to the "reverse order" of the building permit and the demolition permit.* City staff

recommended a full refund of all EDCs and development charges respecting the 100 replacement units (The EDC charges for the 548 new units on the site have been paid). The ED refund amount is \$179,300. The recommendation was approved by City Council on December 19, 2019.

In the opinion of the Board's legal counsel, this decision was in keeping with the intention of the EDC by-law. However, the law on EDC complaint hearings does not permit a municipal council to overturn an EDC calculation based on discretionary factors

2. ***While the TCDSB has the right to appeal City Council's decision, with a deadline of January 27, 2020, in consultation with legal counsel, staff do not recommend pursuing an LPAT appeal on this matter.*** The decision to not pursue an appeal maintains the intent of the EDC By-law. But for the unique reversal of building and demolition permits in this case, MOD Developments would have been entitled to an EDC credit for the 100 replacement rental units. This decision also supports the policy objective of preserving rental housing, which is becoming increasingly important given housing affordability issues throughout the City of Toronto. Seeking to appeal City Council's decision could appear to be a challenge to the City's policy aims at preserving rental housing during redevelopment.

In addition, the costs and risk of litigating a hearing at the LPAT with no guarantee of recovering any EDC funds makes an appeal a less than prudent economic decision.

D. STAFF RECOMMENDATIONS

1. That the Board not pursue an appeal to the Local Planning Appeal Tribunal of the City of Toronto Council decision to refund \$179,300 of Education Development Charges paid by MOD Developments for the project at 55, 61-63 Charles Street East.
2. That the decision to not pursue an appeal of this matter is based on the unique facts of this case, and does not constitute a waiver of enforcing EDC payment obligations in any future case where the replacement exemption is raised by a developer.