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February 24, 2022

Mayor and Members of Council
Corporation of the City of Guelph
1 Carden Street
Guelph, ON, N1H 3A1

Attention: Mr. Stephen O'Brien, City Clerk

Dear Sirs/Mesdames:

**Re: 2 Quebec Street, City of Guelph
Complaint Against Education Development Charges ("EDC")**

We are the lawyers for the Upper Grand District School Board (the "Public Board") and the Wellington Catholic District School Board (the "Catholic Board"). The Public Board and the Catholic Board (referred to collectively as the "Boards") are the respondents to the above noted EDC complaint filed by Steeves & Rozema Enterprises (the "Complainant").

City Council is scheduled to hear the complaint on Monday February 28, 2022, at 4:00 P.M.

We write to oppose the complaint.

Summary of Complaint

We understand that the Complainant has objected to the payment of EDCs in the amount of \$39,774.00, which the Boards have imposed in connection with the conversion of second floor commercial space in the above property to fourteen rental apartments. The grounds the Complainant relies upon can generally be summarized as follows:

1. the value of the land that underlies the quantum of the EDCs was incorrectly determined;
2. there was an error in the application of the EDC by-laws;
3. the EDC By-laws fail to provide a credit for previously assessed fees on the commercial space that is being converted to rental apartments; and
4. the EDC by-laws are inconsistent with policies of the City's Official Plan ("OP") and Section 16 thereof which provides that no by-law may be passed that does not conform to the OP.

It is the Boards' position that none of the grounds raised by the Complainant have merit nor do they fall within the prescribed criteria upon which a complaint may be made under Section 257.85 of the *Education Act*. We address each of the Complainant's arguments below.

Background Facts

The Complainant will be converting second floor commercial space in the subject property to fourteen rental apartments. Each of the apartment units fits the definition of "dwelling unit" under Section 1(f) of the Boards' respective 2019 EDC by-laws (i.e. the unit is self-contained and

includes kitchen and washroom facilities). I note that the definition of “dwelling unit” found in Section 1(f) of the Boards’ EDC by-laws (see below) specifically includes a dwelling unit or units in an apartment building.

“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, single detached dwelling, stacked townhouse and townhouse;

EDCs of \$2,841.00 are payable for each of the fourteen dwelling units. The EDC of \$2,841.00 per dwelling unit is comprised of the Public Board’s charge of \$2,222.00 per dwelling unit and the Catholic Board’s charge of \$619.00 per dwelling unit. The total EDC payable for the fourteen dwelling units is \$39,774.00 (14 units x \$2,841.00).

EDC By-laws

The EDC by-laws of the Public Board and the Catholic Board are attached as Schedules “A” and “B”, respectively.

The EDC by-laws of the Boards are the same in all material respects.

Section 8 of each EDC by-law imposes an EDC against each dwelling unit that will be constructed. As noted above, the EDC of the Public Board is \$2,222.00 per dwelling unit while the Catholic Board’s EDC is \$619.00 per dwelling unit.

The EDC by-laws do not impose EDCs against non-residential development.

The EDCs are payable upon the issuance of a building permit that relates to residential development in accordance with Section 11 of the EDC by-laws.

Section 10 of the EDC by-laws provides a credit against the payment of an EDC where a dwelling unit was destroyed by fire or demolition and was replaced on the same site with another dwelling unit, provided the building permit for the replacement dwelling unit was issued within four years of the date the prior dwelling unit was destroyed or became uninhabitable.

The EDC by-laws do not provide a credit or exemption against the payment of EDCs where a non-residential development or the non-residential space within a building is demolished or destroyed and replaced with a dwelling unit(s), because the EDC by-laws do not impose a non-residential EDC.

Education Act

Section 257.85 of the *Education Act* prescribes the three grounds of complaint that a complainant may rely upon to challenge an EDC (see Schedule “C”). They are as follows:

- (i) the amount of the education development charge was incorrectly determined;
- (ii) a credit is or is not available to be used against the education development charge, or that the amount of a credit was incorrectly determined; or

- (iii) there was an error in the application of the education development charge by-law.

Analysis

The complaint does not satisfy any of the above grounds because:

- (i) the amount of the EDC was correctly determined - that is, the combined EDC of the two Boards of \$2,841.00 was correctly applied to each of the fourteen apartment units as each apartment comprises a “dwelling unit” as defined in the EDC by-laws and is therefore subject to EDCs at these rates;
- (ii) the Boards’ EDC by-laws do not provide a credit where non-residential space is converted to dwelling units, nor did any of the Boards’ previous EDC by-laws provide such a credit. The reason for this is that none of the Boards’ previous or current EDC by-laws have imposed an EDC against non-residential development. This means that the Complainant, and any previous owners of the subject property, did not pay an EDC in respect of the commercial space which the Complainant now intends to convert to the fourteen apartment units. In other words, EDCs will not be paid more than once for the same building or part of a building. As a result, a credit is not warranted.
- (iii) the EDC by-laws were correctly applied – although the Complainant alleges that the by-laws were incorrectly applied, they have failed to identify or describe any error in the application of the EDC by-laws to this development.

The Complainant also argues that the value of the land that underlies the quantum of the EDCs was incorrectly determined. This not a valid ground of complaint under Section 257.85 of the *Education Act*. Rather, such a challenge can only be raised in the context of an appeal to the Ontario Land Tribunal against the EDC by-laws under Section 257.65 of the *Education Act*. The Boards passed their respective EDC by-laws on May 15, 2019, and the applicable appeal period expired on June 24, 2019. The Complainant did not appeal the EDC by-laws within the statutory appeal period nor at any other time and thus cannot now challenge a fundamental component that underlies the by-laws. A complaint, in contrast to an appeal, provides a much narrower scope of review and must deal with an EDC by-law as it was enacted. That is to say, an EDC by-law cannot be revised or amended in the context of a complaint.

The Complainant further argues that the EDC by-laws are inconsistent with policies of the City’s OP and Section 16 thereof which provides that no by-law may be passed that does not conform to the OP. This argument is also without merit for several reasons. First, OP conformity, or lack thereof, is not one of the prescribed grounds of complaint under Section 257.85 of the *Education Act*. Second, such a challenge could only be raised, if at all, in the context of an appeal against the EDC by-laws under Section 257.65 of the *Education Act*. As noted above, the Complainant did not appeal the EDC By-laws to the Ontario Land Tribunal. Third, there is not a requirement in the *Education Act* that an EDC by-law conform to the OP policies of an upper or lower tier municipality. Fourth, while the City’s OP applies to the City and its local boards, it does not apply to nor bind the Boards.

Section 257.85(7) of the *Education Act* directs that after hearing the evidence and submissions of the parties, the Council may dismiss the complaint or rectify any incorrect determination or error that was the subject of the complaint. Based on the foregoing, it is the Boards’ position that the imposition of EDCs in this case was correctly done, and there was not an incorrect determination or error of any kind.

In sum, we respectfully request that City Council dismiss the complaint in its entirety and confirm the EDCs imposed by the Boards.

We will be attending the hearing of the complaint on behalf of the Boards on February 28, 2022, at 4:00 P.M.

Yours truly,
Overland LLP

A handwritten signature in black ink, appearing to read "B. Teich", with a long horizontal flourish extending to the right.

Brad Teichman
ABT:as

c: Ruchika Angrish, Upper Grand District School Board
Tracy McLennan, Wellington Catholic District School Board
Laura M. Gurr, Counsel to the Complainant

SCHEDULE “A”

UPPER GRAND DISTRICT SCHOOL BOARD
EDUCATION DEVELOPMENT CHARGES BY-LAW, 2019
WELLINGTON COUNTY

A by-law for the imposition of education development charges

WHEREAS section 257.54 (1) of the *Education Act* provides that a district school board may pass by-laws for the imposition of education development charges against land in its area of jurisdiction undergoing residential development if there is residential development in the area of jurisdiction of the district school board 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 *Education Act*;

AND WHEREAS the Upper Grand District School Board has referred to the Minister of Education the following estimates for approval:

- (i) the total number of new elementary school pupils and new secondary school pupils; and
- (ii) the number of elementary school sites and secondary school sites used to determine the net education land costs;

which estimates the Minister of Education approved on May 2, 2019, in accordance with section 10 of Ontario Regulation 20/98;

AND WHEREAS the Upper Grand District School Board has satisfied the conditions prescribed by section 10 of Ontario Regulation 20/98 in order for it to pass an education development charge by-law;

AND WHEREAS the Upper Grand District School Board has conducted a review of its education development charge policies and held a public meeting on April 24, 2019, in accordance with section 257.60 of the *Education Act*;

AND WHEREAS the Upper Grand District School Board has given a copy of the education development charge 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;

AND WHEREAS the Upper Grand District School Board has given notice and held public meetings on April 24, 2019 and May 15, 2019, in accordance with section 257.63(1) of the *Education Act* and permitted any person who attended the public meetings to make representations in respect of the proposed education development charges;

AND WHEREAS the Upper Grand District School Board has determined in accordance with section 257.63(3) of the *Education Act* that no additional public meeting is necessary in respect of this by-law;

NOW THEREFORE THE UPPER GRAND DISTRICT SCHOOL BOARD HEREBY ENACTS AS FOLLOWS:

PART I

APPLICATION

Defined Terms

1. In this by-law,
 - (a) “Act” means the *Education Act*, R.S.O. 1990, c.E.2, as amended, or a successor statute;
 - (b) “agricultural use” means lands, buildings or structures used, or designed or intended for use for the purpose of a *bona fide* farming operation including, but not limited to, animal husbandry, dairying, fallow, field crops, removal of sod, forestry, fruit farming, horticulture, market gardening, pasturage, poultry keeping and any other activities customarily carried on in the field of agriculture;
 - (c) “Board” means the Upper Grand District School Board;
 - (d) “County” means the County of Wellington and includes the City of Guelph;
 - (e) “development” includes redevelopment;
 - (f) “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, single detached dwelling, stacked townhouse and townhouse;
 - (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) “education development charge” means charges imposed pursuant to this by-law in accordance with the Act;
 - (i) “local board” means a local board as defined in the *Municipal Affairs Act*, other than a board defined in section 257.53(1) of the Act;
 - (j) “mixed use” means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential uses;
 - (k) “non-residential use” means lands, buildings or structures or portions thereof used, or designed or intended for use for other than residential use or agricultural use, and includes, but is not limited to, an office, retail, industrial or institutional use;
 - (l) “*Planning Act*” means the *Planning Act*, R.S.O. 1990, c. P.13, as amended;
 - (m) “Regulation” means Ontario Regulation 20/98, as amended, made under the Act;
 - (n) “residential development” means lands, buildings or structures developed or to be developed for residential use.
 - (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. In this by-law where reference is made to a statute or a section of a statute such reference is deemed to be a reference to any successor statute or section.

Lands Affected

- 3.
- (1) Subject to sections 3(2) and 3(3), this by-law applies to all lands in the County.
 - (2) This by-law shall not apply to lands that are owned by and are used for the purposes of:
 - (i) the County or a local board thereof;
 - (ii) a municipality or a local board thereof;
 - (iii) a board as defined in section 257.53(1) of the Act;

- (iv) a public hospital receiving aid under the *Public Hospitals Act*, R.S.O. 1990, c. P.40.
- (3) In accordance with section 19 of the University of Guelph Act, 1964, S.O. 1964 c. 120, property vested in the University of Guelph and any lands and premises leased to and occupied by the University are exempt from education development charges under this by-law so long as the same are actually used and occupied for University or University related purposes, those purposes being set out in section 3 of the University of Guelph Act, 1964, as amended.

Approvals for Development

- 4. (1) Education development charges shall be imposed against all lands, buildings or structures undergoing residential development if the development requires one or more of the following:
 - (a) the passing of a zoning by-law or of an amendment thereto 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 9 of the *Condominium Act, 1998*;
or
 - (g) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.
- (2) In respect of a particular development an education development charge will be collected once, but this does not prevent the application of this by-law to future development on the same property.
- 5. The Board has determined that the residential development of land to which this by-law applies increases education land costs.

Categories of Development and Uses of Land Subject to Education Development Charges

- 6. Subject to the provisions of this by-law, education development charges shall be imposed upon all categories of residential development.

7. Subject to the provisions of this by-law, education development charges shall be imposed upon all residential uses of land, buildings or structures.

PART II

EDUCATION DEVELOPMENT CHARGES

Residential Education Development Charges

8. Subject to the provisions of this by-law, an education development charge per dwelling unit shall be imposed upon the designated categories of residential development and the designated residential uses of land, 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. The education development charge per dwelling unit shall be in the following amounts for the periods set out below:
 - (i) May 20, 2019 to May 19, 2020 - \$1,867.00;
 - (ii) May 20, 2020 to May 19, 2021 - \$2,167.00;
 - (iii) May 20, 2021 to May 19, 2024 - \$2,222.00.

Exemptions from Residential Education Development Charges

9. (1) In this section,
 - (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;
 - (ii) “other residential building” means a residential building not in another class of residential building described in this section;
 - (iii) “semi-detached or row dwelling” means a residential building consisting of one dwelling unit having one or two vertical walls, but no other parts, attached to another structure;
 - (iv) “single detached dwelling” means a residential building consisting of one dwelling unit that is not attached to another building.
- (2) Subject to sections 9(3) and (4), education development charges shall not be imposed with respect to,

- (i) the enlargement of an existing dwelling unit that does not create an additional dwelling unit;
 - (ii) the creation of one or two additional dwelling units in an existing single detached dwelling; or
 - (iii) the creation of one additional dwelling unit in a semi-detached dwelling, a row dwelling, or any other residential building.
- (3) Notwithstanding section 9(2)(ii), education development charges shall be imposed in accordance with section 8 if the total gross floor area of the additional unit or two additional dwelling units exceeds the gross floor area of the existing single detached dwelling.
- (4) Notwithstanding section 9(2)(iii), education development charges shall be imposed in accordance with section 8 if the additional dwelling unit has a gross floor area greater than,
 - (i) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; or
 - (ii) in the case of any other residential building, the gross floor area of the smallest dwelling unit already contained in the residential building.
- 10. (1) Education development charges 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 section 10(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 4 years after,
 - (i) the date the former dwelling unit was destroyed or became uninhabitable; or
 - (ii) 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 section 10(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.

PART III
ADMINISTRATION

Payment of Education Development Charges

11. Education development charges are payable in full to the area municipality in which the development takes place on the date a building permit is issued in relation to a building or structure on land to which this education development charge by-law applies.
12. The treasurer of the Board shall establish and maintain an educational development charge account in accordance with the Act, the Regulation and this by-law.

Payment by Services

13. Notwithstanding the payments required under section 11, and subject to section 257.84 of the Act, the Board may, by agreement, permit an owner to provide land for pupil accommodation in lieu of the payment of all or a part of the education development charges.

Collection of Unpaid Education Development Charges

14. Section 349 of the *Municipal Act, 2001* applies with necessary modifications with respect to an education development charge or any part of it that remains unpaid after it is payable.

Motion to Review the By-law

15.
 - (1) Where it appears to the Board that the land values underlying the education development charge calculation are indicating 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.
 - (2) Where it appears to the Board that the land values underlying the education development charge calculation are indicating 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.

Date By-law In Force

16. This by-law shall come into force on May 20, 2019.

Date By-law Expires

17. This by-law shall expire five years after the date it comes into force, unless it is repealed at an earlier date.

Repeal

18. The Upper Grand District School Board Education Development Charges By-law, 2014 (Wellington County) is hereby repealed on the date this by-law comes into force.

Severability

19. In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction to be *ultra vires*, such provision, or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all other provisions of this by-law shall remain in full force and effect.

Interpretation

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


Short Title

21. This by-law may be cited as the Upper Grand District School Board Education Development Charges By-Law, 2019 (Wellington County).

ENACTED AND PASSED this 15th day of May, 2019.



Chairperson



Director of Education and Secretary

SCHEDULE “B”

WELLINGTON CATHOLIC DISTRICT SCHOOL BOARD
EDUCATION DEVELOPMENT CHARGES BY-LAW No. 2019-01
WELLINGTON COUNTY

A by-law for the imposition of education development charges

WHEREAS section 257.54 (1) of the *Education Act* provides that a district school board may pass by-laws for the imposition of education development charges against land in its area of jurisdiction undergoing residential development if there is residential development in the area of jurisdiction of the district school board 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 *Education Act*;

AND WHEREAS the Wellington Catholic District School Board has referred to the Minister of Education the following estimates for approval:

- (i) the total number of new elementary school pupils and new secondary school pupils; and
- (ii) the number of elementary school sites and secondary school sites used to determine the net education land costs;

which estimates the Minister of Education approved on May ●, 2019, in accordance with section 10 of Ontario Regulation 20/98;

AND WHEREAS the Wellington Catholic District School Board has satisfied the conditions prescribed by section 10 of Ontario Regulation 20/98 in order for it to pass an education development charge by-law;

AND WHEREAS the Wellington Catholic District School Board has conducted a review of its education development charge policies and held a public meeting on April 24, 2019, in accordance with section 257.60 of the *Education Act*;

AND WHEREAS the Wellington Catholic District School Board has given a copy of the education development charge 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;

AND WHEREAS the Wellington Catholic District School Board has given notice and held public meetings on April 24, 2019 and May 15, 2019, in accordance with section 257.63(1) of the *Education Act* and permitted any person who attended the public meetings to make representations in respect of the proposed education development charges;

AND WHEREAS the Wellington Catholic District School Board has determined in accordance with section 257.63(3) of the *Education Act* that no additional public meeting is necessary in respect of this by-law;

NOW THEREFORE THE WELLINGTON CATHOLIC DISTRICT SCHOOL BOARD
HEREBY ENACTS AS FOLLOWS:

PART I

APPLICATION

Defined Terms

1. In this by-law,
 - (a) “Act” means the *Education Act*, R.S.O. 1990, c.E.2, as amended, or a successor statute;
 - (b) “agricultural use” means lands, buildings or structures used, or designed or intended for use for the purpose of a *bona fide* farming operation including, but not limited to, animal husbandry, dairying, fallow, field crops, removal of sod, forestry, fruit farming, horticulture, market gardening, pasturage, poultry keeping and any other activities customarily carried on in the field of agriculture;
 - (c) “Board” means the Wellington Catholic District School Board;
 - (d) “County” means the County of Wellington;
 - (e) “development” includes redevelopment;
 - (f) “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, single detached dwelling, stacked townhouse and townhouse;
 - (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) “education development charge” means charges imposed pursuant to this by-law in accordance with the Act;
 - (i) “local board” means a local board as defined in the *Municipal Affairs Act*, other than a board defined in section 257.53(1) of the Act;
 - (j) “mixed use” means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential uses;
 - (k) “non-residential use” means lands, buildings or structures or portions thereof used, or designed or intended for use for other than residential use or agricultural use, and includes, but is not limited to, an office, retail, industrial or institutional use;
 - (l) “*Planning Act*” means the *Planning Act*, R.S.O. 1990, c. P.13, as amended;
 - (m) “Regulation” means Ontario Regulation 20/98, as amended, made under the Act;
 - (n) “residential development” means lands, buildings or structures developed or to be developed for residential use.
 - (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. In this by-law where reference is made to a statute or a section of a statute such reference is deemed to be a reference to any successor statute or section.

Lands Affected

3. (1) Subject to sections 3(2) and 3(3), this by-law applies to all lands in the County.
- (2) This by-law shall not apply to lands that are owned by and are used for the purposes of:
- (i) the County or a local board thereof;
 - (ii) a municipality or a local board thereof;
 - (iii) a board as defined in section 257.53(1) of the Act;

- (iv) a public hospital receiving aid under the *Public Hospitals Act*, R.S.O. 1990, c. P.40;
 - (v) Metrolinx.
- (3) In accordance with section 19 of the University of Guelph Act, 1964, S.O. 1964 c. 120, property vested in the University of Guelph and any lands and premises leased to and occupied by the University are exempt from education development charges under this by-law so long as the same are actually used and occupied for University or University related purposes, those purposes being set out in section 3 of the University of Guelph Act, 1964, as amended.

Approvals for Development

4. (1) Education development charges shall be imposed against all lands, buildings or structures undergoing residential development if the development requires one or more of the following:
- (a) the passing of a zoning by-law or of an amendment thereto 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 9 of the *Condominium Act, 1998*;
or
 - (g) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.
- (2) In respect of a particular development an education development charge will be collected once, but this does not prevent the application of this by-law to future development on the same property.
5. The Board has determined that the residential development of land to which this by-law applies increases education land costs.

Categories of Development and Uses of Land Subject to Education Development Charges

6. Subject to the provisions of this by-law, education development charges shall be imposed upon all categories of residential development.
7. Subject to the provisions of this by-law, education development charges shall be imposed upon all residential uses of land, buildings or structures.

PART II

EDUCATION DEVELOPMENT CHARGES

Residential Education Development Charges

8. Subject to the provisions of this by-law, an education development charge per dwelling unit shall be imposed upon the designated categories of residential development and the designated residential uses of land, 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. The education development charge per dwelling unit shall be in the following amounts for the periods set out below:
 - (i) May 20, 2019 to May 19, 2020 - \$617.00;
 - (ii) May 20, 2020 to May 19, 2024 - \$619.00.

Exemptions from Residential Education Development Charges

9. (1) In this section,
 - (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;
 - (ii) “other residential building” means a residential building not in another class of residential building described in this section;
 - (iii) “semi-detached or row dwelling” means a residential building consisting of one dwelling unit having one or two vertical walls, but no other parts, attached to another structure;
 - (iv) “single detached dwelling” means a residential building consisting of one dwelling unit that is not attached to another building.

- (2) Subject to sections 9(3) and (4), education development charges shall not be imposed with respect to,
 - (i) the enlargement of an existing dwelling unit that does not create an additional dwelling unit;
 - (ii) the creation of one or two additional dwelling units in an existing single detached dwelling; or
 - (iii) the creation of one additional dwelling unit in a semi-detached dwelling, a row dwelling, or any other residential building.
 - (3) Notwithstanding section 9(2)(ii), education development charges shall be imposed in accordance with section 8 if the total gross floor area of the additional unit or two additional dwelling units exceeds the gross floor area of the existing single detached dwelling.
 - (4) Notwithstanding section 9(2)(iii), education development charges shall be imposed in accordance with section 8 if the additional dwelling unit has a gross floor area greater than,
 - (i) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; or
 - (ii) in the case of any other residential building, the gross floor area of the smallest dwelling unit already contained in the residential building.
10. (1) Education development charges 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 section 10(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 4 years after,
 - (i) the date the former dwelling unit was destroyed or became uninhabitable; or
 - (ii) 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 section 10(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.

PART III

ADMINISTRATION

Payment of Education Development Charges

11. Education development charges are payable in full to the area municipality in which the development takes place on the date a building permit is issued in relation to a building or structure on land to which this education development charge by-law applies.
12. The treasurer of the Board shall establish and maintain an educational development charge account in accordance with the Act, the Regulation and this by-law.

Payment by Services

13. Notwithstanding the payments required under section 11, and subject to section 257.84 of the Act, the Board may, by agreement, permit an owner to provide land for pupil accommodation in lieu of the payment of all or a part of the education development charges.

Collection of Unpaid Education Development Charges

14. Section 349 of the *Municipal Act, 2001* applies with necessary modifications with respect to an education development charge or any part of it that remains unpaid after it is payable.

Motion to Review the By-law

15.
 - (1) Where it appears to the Board that the land values underlying the education development charge calculation are indicating 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.
 - (2) Where it appears to the Board that the land values underlying the education development charge calculation are indicating 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.

Date By-law In Force

16. This by-law shall come into force on May 20, 2019.

Date By-law Expires

17. This by-law shall expire five years after the date it comes into force, unless it is repealed at an earlier date.

Repeal

18. The Wellington Catholic District School Board Education Development Charges By-law No. 2014-01 is hereby repealed on the date this by-law comes into force.

Severability

19. In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction to be *ultra vires*, such provision, or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all other provisions of this by-law shall remain in full force and effect.

Interpretation

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

Short Title

21. This by-law may be cited as the Wellington Catholic District School Board Education Development Charges By-Law No. 2019-01.

ENACTED AND PASSED this 15th day of May, 2019.


Chairperson


Director of Education and Secretary

SCHEDULE “C”

Complaints about Education Development Charges

Complaint to council of municipality

257.85 (1) An owner, the owner's agent or a board, may complain to the council of the municipality to which an education development charge is payable that,

- (a) the amount of the education development charge was incorrectly determined;
- (b) a credit is or is not available to be used against the education development charge, or that the amount of a credit was incorrectly determined; or
- (c) there was an error in the application of the education development charge by-law. 1997, c. 31, s. 113 (5).

Time limit

(2) A complaint may not be made under subsection (1) later than 90 days after the day the education development charge, or any part of it, is payable. 1997, c. 31, s. 113 (5).

Form of complaint

(3) The complaint must be in writing, must state the complainant's name, the address where notice can be given to the complainant and the reasons for the complaint. 1997, c. 31, s. 113 (5).

Parties

- (4) The parties to the complaint are the complainant and,
 - (a) the board if the complainant is the owner or the owner's agent; or

(b) the owner if the complainant is the board. 1997, c. 31, s. 113 (5).

Hearing

(5) The council shall hold a hearing into the complaint and shall give the parties an opportunity to make representations at the hearing. 1997, c. 31, s. 113 (5).

Notice of hearing

(6) The clerk of the municipality shall mail a notice of the hearing to the parties at least 14 days before the hearing. 1997, c. 31, s. 113 (5).

Council's powers

(7) After hearing the evidence and submissions of the parties, the council may dismiss the complaint or rectify any incorrect determination or error that was the subject of the complaint.