

Complaint Pursuant to Section 20 of the *Development Charges Act, 1997*

April 6, 2024

TO: The Council of the City of Guelph
Guelph City Hall
1 Carden Street
Guelph, ON N1H 3A1

Via email to Stephen O'Brien, City Clerk – stephen.obrien@guelph.ca & Allison Thornton, Associate Solicitor - allison.thornton@guelph.ca

RE: Development Charges paid on January 8, 2024 for City of Guelph Building Permit #s 23 122495 000, 23 122499 000, 23 122502 000, 23 122504 000, 23 122505 000, and 23 122406 000 (the "Permits") for the development of a residential rental townhouse development on 300 Water Street, Guelph, ON N1G 1B8 (the "Property")

Owner/Complainant: 300 Water St Inc.

Address of Owner/Complainant: 70 Preston St, Guelph, ON N1H 3C1

We, Robson Carpenter LLP, are the lawyers for 300 Water St Inc. in relation to the development work on the Property. We have been asked to submit a complaint to the Council of the City of Guelph for the amount of development charges paid by 300 Water St Inc. for the development on the Property.

Background:

On January 8, 2024, 300 Water St Inc. paid Development Charges pursuant to the *Development Charges Act* to the City of Guelph in the amount of \$228,552.00 on account of the development of the Property and is looking for a return of \$57,138.00.

The development on the Property is intended to be a townhome development containing six (6) above-ground rental residential units each containing three (3) separate bedrooms (the "Development"). 300 Water St Inc. has the intention of leasing out all the residential units in the Development and therefore all six units are intended to be used as rented residential premises.

The Development meets the requirements in the *Development Charges Act* for a twenty-five percent (25%) reduction in the Development Charges payable for being a purpose-built rental building containing at least four (4) separate residential rental units.

300 Water St Inc.'s intention to lease all the residential units in the Development has been previously communicated to the City of Guelph staff. City of Guelph staff have denied the requested Development Charges reduction with the position that the Development is not a purpose-built rental.

The Development contains a building with four or more residential units of which all units are intended for use as rented residential premises as defined in the *Development Charges Act*.

300 Water St Inc. is hereby making a complaint pursuant to Section 20(1)(a) of the *Development Charges Act* to the City of Guelph on that basis the amount of the Development Charges paid to the City of Guelph

on January 8, 2024 on account of the Development Charges for the Development being incorrectly determined for not accounting for the reduction granted to purpose built residential buildings.

Reasons for the Complaint

Section 26.2(1.1) of the *Development Charges Act* came into force and was in effect on November 28th, 2022.

Rental housing development is defined in Section 1 of the *Development Charges Act* as:

“rental housing development” means development of a building or structure with four or more residential units all of which are intended for use as rented residential premises.

Section 26.2(1.1) of the *Development Charges Act* provides:

Discount, rental housing development

(1.1) In the case of rental housing development, the amount determined under subsection (1) shall be reduced in accordance with the following rules:

- 1. A development charge for a residential unit intended for use as a rented residential premises with three or more bedrooms shall be reduced by 25 per cent.*
- 2. A development charge for a residential unit intended for use as a rented residential premises with two bedrooms shall be reduced by 20 per cent.*
- 3. A development charge for a residential unit intended for use as a rented residential premises not referred to in paragraph 1 or 2 shall be reduced by 15 per cent.*

The Development is proposed to contain six (6) three-bedroom townhomes which are intended for use as rented residential premises.

Pursuant to Section 26.2(1.1) of the *Development Charges Act*, the Development Charges payable to the City of Guelph on account of the Development on January 8, 2024 should have been discounted by twenty-five percent (25%) on account of the number of three-bedroom residential units proposed for the Development for use as rented residential premises. Each three-bedroom residential unit is entitled to the 25% reduction in the payable Development Charges as per s.26.2(1.1)1. of the *Development Charges Act*. No such discount was provided.

The City of Guelph staff denied the request for a reduction in Development Charges payable on the basis that there was insufficient evidence to conclude the Development met the definition of “rental housing development” in the *Development Charges Act* despite 300 Water St Inc. providing the following evidence through various discussions with City staff:

1. 300 Water St Inc. is not getting the Development enrolled with Tarion which is a statutory requirement if 300 Water St Inc. wanted to sell a unit within the Development without first renting the unit;
2. 300 Water St Inc. has obtained financing from the Canada Mortgage and Housing Corporation (“CMHC”) through the MLI Select program (“MLI”); and

3. 300 Water St Inc. was willing to enter into an agreement with the City of Guelph to ensure that the Property was used as a residential rental development.

CMHC's financing through MLI required a rigorous application process that included the determination by CMHC that the Development was a multi-unit residential development promoting affordability, accessibility, and climate compatibility.

Requested Relief

300 Water St Inc. requests City of Guelph Council grant a refund of the overpayment of the Development Charges paid on January 8, 2024 to the City of Guelph in the amount of \$57,138.00 on account of the Development is requested because of the failure of the City of Guelph to provide the discount provided by Section 26.2(1.1) of the Development Charges Act.

300 Water St Inc. makes this requested relief in good faith on the intention of providing new rental units within the City of Guelph. The development group to which 300 Water St Inc. is a part of is intending to develop numerous rental buildings within the City of Guelph to provide much needed residential rental units in the City of Guelph.

Robson Carpenter LLP on behalf of
300 Water St Inc.

Per:

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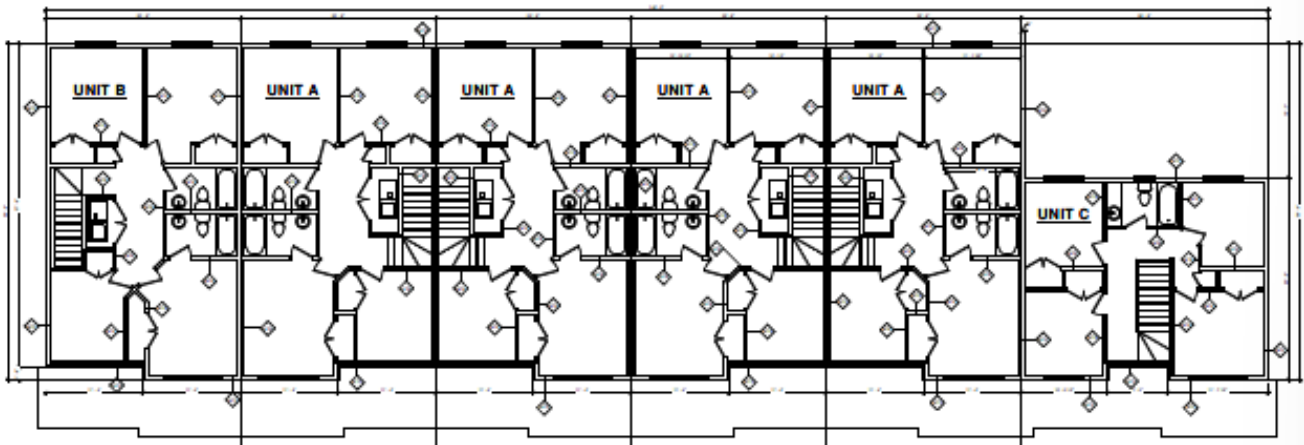
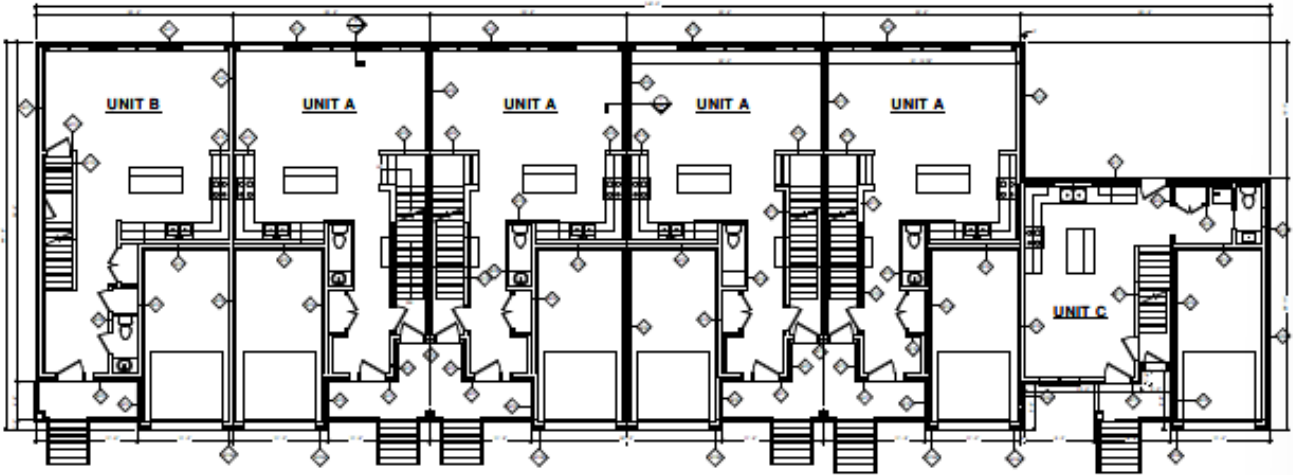
Name: Justin Black

Dated: 4/7/2024

Enclosures:

1. Appendix 1 - Building drawings
2. Appendix 2 - Site plan;

Appendix 1– Building Renderings



Appendix 2 – Site Plan

