

PATTON CORMIER & ASSOCIATES

LAWYERS

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March 24, 2014
File No. 33107

The Corporation of the City of London
City Hall
300 Dufferin Avenue
London, ON

Attention: **Chair and Members, Planning and Environment Committee**

Dear Chair and Members:

Re: **Planning and Environment Committee Item # 20**
Development Charges Grant Program Downtown Area

We are the lawyers for Rygar Corporation ("Rygar").

Rygar in 2012 commenced the work on a property assembly and planning for an apartment development in the downtown located at the northwest corner of Fullarton and Talbot Streets. As would be expected, Rygar undertook due diligence investigations on many issues including zoning and the City Development Charges By-law. As a result of its findings, Rygar retained Richmond Architects and numerous other consultants and commenced studies for its development plans. It also held preliminary meetings with City staff. In August 2013 the principals of Rygar along with its architects and planners attended a Pre-Application Consultation with City Staff, which included senior members of the Planning Staff and other City departments. At that Pre-Application Consultation meeting it was clear that the City Planning Department and other departments were enthused to see this development proposal come forward and willing to properly assist in the Pre-Application process, as well as answering questions necessary for the Zoning By-law Amendment Application to be accepted as complete and put before City Council. Further, City employees including those in the Planning Department detailed the various incentives available to assist this development and advised that the project would not be subject to residential development charges. The project, as it was advanced, contained 248 apartment units, in addition to ground floor commercial uses and some floors of office uses.

In February 2014 Planning staff did indicate to Rygar that possible changes to the Development Charges By-law for the whole City were being reviewed but advised that changes to Development Charges affecting Rygar were not anticipated. The City Staff asked Rygar to provide a letter setting forth in its position on the impact of Development Charges on the Rygar project. Rygar provided this letter date February 24, 2014 clearly stating that if the incentive of no Development Charges were

removed on its development the project would be cancelled. A copy of the letter dated February 24, 2014 is attached hereto.

On February 18, 2014 the Planning Staff Report was presented to Planning Committee offering resounding support for the development and the rezoning. Absent in the Planning Staff Report was any mention of any anticipated or expected change to the Development Charges By-law affecting Rygar's development. Rygar has moved forward with its architects and other consultants in anticipation of construction starting in the Fall of 2014.

In addition, Rygar has also moved forward with acquiring a heritage property directly abutting to the north, 479-483 Talbot Street. These heritage townhomes would be restored and a portion of the rear of these properties incorporated into the Rygar development. Rygar is also actively pursuing a second complementary apartment tower on the same block. This matter has been discussed on previous occasions with Planning Staff.

It is therefore a complete surprise for Rygar to now learn of the recommendation by the City Planner that Development Charges be levied on this project. The straightforward and simple fact is that the impact of Development Charges will result in the development not proceeding as it will result in millions of dollars of unanticipated costs that bring into question the viability of the project. As Committee and Council will know, Rygar is the only current residential development Application in the Downtown.

The information that is contained in the development charge exemption has benefitted the Downtown for over sixteen (16) years, recognizing the economic factors and forces facing Downtown development over that period.

The Report and Recommendation now before the Committee causes Rygar to question not only the soundness of the Recommendation but also the timing of its release.

Rygar requires certainty. It cannot accept uncertainty. It asks that the Planning and Environment Committee and Council at its next meeting wholly reject the Recommendation even to circulate for public review and comment any changes to the imposition of Development Charges in the downtown for residential development.

Yours truly

PATTON CORMIER & ASSOCIATES

per:



Alan R. Patton

ARP/dr

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Att.

cc: *Client*

Rygar Corporation Inc.

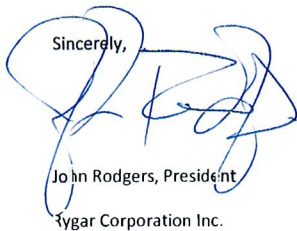
It has now come to my attention that there is a review taking place of the Development Charges bylaw, and the Downtown Rehabilitation and Redevelopment Grant Program.

We are tremendously excited about bringing this landmark development to London. I must advise that if the incentive programs mentioned above are no longer available to this project we will be forced to cancel the project as the financial viability of the project will disappear.

We hope that you will consider this information when deliberating on the fate of these incentive programs.

Thank you very much.

Sincerely,

A handwritten signature in blue ink, appearing to read 'John Rodgers', written over the word 'Sincerely,'.

John Rodgers, President

Rygar Corporation Inc.

Rygar Corporation Inc.

February 24, 2014

Mr. Joe Fontana, Mayor, City of London

Mr. Joe Swan, Councillor, City of London

Ms. Cathy Saunders, City Clerk

Ms. Joni Baechler, Chair, Planning Committee

Mr. Martin Hayward, Managing Director, Corporate Services and Treasurer, and Chief Financial Officer

Mr. Art Zuidema, City Manger

Mr. George Kotsifas, Managing Director, Development and Compliance Services and Chief Building Official

Dear Madams and Sirs;

Re Development Charges Bylaw and Community Improvement Plan

As many of you know, Rygar Corporation Inc. recently brought a proposal forward to planning committee for the development of an \$80,000,000 mixed use commercial and residential development to be built at the corner of Talbot Street and Fullarton Street.

I would first like to commend the planning staff for their efforts in working with us to bring this development forward. They were firm in protecting the city interests but fair and cooperative in their dealing with us in finding solutions to make this development happen.

There were two factors that make this development viable. One is the waiver of development charges on the residential portion of this development and the other is the incentive offered in the Downtown Rehabilitation and Redevelopment Grant Program. Without both of these incentive programs this development would not be economically viable.

Although there may appear to be several vacant parcels of land in the downtown area, ownership is controlled by only a few individuals or corporations making the availability of developable land scarce and very expensive. When we were able to assemble this property and complete our budgeting, it became clear the economic feasibility of this project was dependent on both of the incentives offered for downtown development.