

PATTON CORMIER & ASSOCIATES

LAWYERS

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May 22, 2015
Via Email & Courier

Mayor Brown and Members of Council

City of London
300 Dufferin Avenue
London, ON N6A 4L9

Dear Mayor and Councillors:

Re: **Report of Planning and Environment Committee
Development Charges and Grant Program
Downtown and Old East Village CIP Areas**

The current Development Charge By-law ("DC") establishes an exemption for residential development in the Downtown and this provision has been successful in encouraging Downtown residential development over the last number of years. Examples include Tricar Developments, Crich Developments, and most recently Rygar Corporation. Because of this exemption Ayerswood Development Corporation acquired and is moving forward with a large residential development at the northwest corner of King Street and Clarence Street.

On Tuesday, May 19, 2015 the Planning and Environment Committee ("PEC") was asked to consider a new approach using a Grant system to govern possible "exemption" of development charges on residential development in the Downtown.

We have now been retained by a number of London based development companies, all of which have current and active plans for residential development in the Downtown. These plans are developed based on the current By-law provisions of an exemption for residential development and not a grant based system.

While our clients are interested to learn more about the proposed system of a DC Grant Program the new program must be one which maintains the clarity and certainty of the incentives which have achieved success for the City and which provide for the continued growth and enhancement of the Downtown.

Since the May 19, 2015 PEC meeting we have had the opportunity to discuss the matters with several clients all of whom have either filed Applications for large residential projects in the Downtown or who are preparing for major residential developments amounting to many hundreds of millions of dollars in exciting new projects.

These builders include: Ayerswood Development Corporation, Rygar Corporation, Southside Group of Companies, the Tricar Group, and Farhi Holdings Corporation. Our clients have identified specific parts and provisions of the proposed DC Grant Program which will undermine the benefits and detract from the effectiveness of the current system.

It is important for any business to “know the rules” and how they will apply to the business enterprise. The key to the success of the current DC exemption has been its clarity and certainty. Those who are prepared to make multi-million dollar investments in the Downtown or in the Old East Village need certainty in how the grant based program will operate.

Unfortunately the proposed By-law’s “Residential Development Charge Grant Program” creates a number of problems, questions and concerns including as follows:

2 Funding

In the first sentence of this clause “*subject to funding availability*” conflicts with the assurances given in the balance of the clause and introduces uncertainty. Uncertainty is never a sound basis for encouraging or facilitating private or public investments.

2a) Program Expiration

Any change to the program to reduce or discontinue DC Grants must be publicly advertised at least one year in advance. Decisions about major developments cannot rely upon a Grant Program that can end as provided in this section. Decisions as to substantial investments in the Downtown or Old East Village are made long before the stage of formal application for a grant.

5) Eligibility of Grant (owner)

There is no clear statement of what is included in “must meet all conditions detailed ... including”.

6) General Terms of the Grant (4th and 5th bullet points)

These two clauses introduce ambiguity by requiring proposed land uses and works to be in conformity with “other planning requirements” and “City guidelines”. No applicant having approved zoning and site plan (which have already incorporated relevant planning requirement and guidelines) should be subject to the uncertainty of a further determination or interpretation of requirements or guidelines at the Grant Application Stage.

Section 9b) “Complete” Application

This includes the open-ended request for “Any or other information that may be deemed necessary by the Managing Director, Planning and City Planner or designate.” Proprietary information should either not be required or not be made available to the public or other proponents or applicants for development.

9c) Final Determination of Grant Approval

This clause includes the statement "The final determination as to the number of residential units eligible for funding under the DC Grant Program will be made by the Managing Director, Planning and City Planner or designate." This is unacceptable. It means that rather than a clarity and certainty there is a discretion given to a municipal employee to determine how many units are eligible for a grant to a builder. This will undermine the reliance the private sector and financial institutions must have in the availability and integrity of the Grant Program.

Further, the Program Guidelines do not contain a process which provides an Applicant an opportunity to address Council if an Applicant is not satisfied with the Grant process.

It is important for London that its Downtown and Old East Village continue to be supported by a meaningful, effective, predictable and transparent DC system.

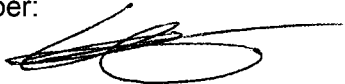
These are some items that Council must carefully consider if it intends to, or feels the need to, replace the current fair and workable provisions of the present DC By-law.

Accordingly, we ask on behalf of our clients that Council refer this By-law back to Staff for further necessary and detailed consideration and discussions with our clients, as well as others, presently involved with considering financial investments in residential developments in the Downtown and Old East Village.

Yours truly

PATTON CORMIER & ASSOCIATES

per:



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cc: *Tricar Developments - via email*
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Ayerswood Development Corporation - via email
Southside Group of Companies - via email
Farhi Holdings - via email