RECORD OF PROCEEDING

CORPORATE SERVICES COMMITTEE
convening as a Tribunal under section 27 of Part IV of By-law C.P.-1496-244 to hear a complaint under section 20 of the *Development Charges Act*, 1997, S.O. 1997, c.27 by Janice and Patrick Greenside, the owners of 84 Dennis Avenue, regarding the development charges imposed by The Corporation of the City of London in connection with development on the land known as 84 Dennis Street.

July 17, 2018 – 12:55 PM
Council Chambers
London City Hall

PRESENT

Councillor J. Helmer, Chair
Councillor J. Morgan, Tribunal Member
Councillor P. Hubert, Tribunal Member
Councillor M. van Holst, Tribunal Member
Councillor J. Zaifman, Tribunal Member
B. Westlake-Power, Registrar
P. Kokkoros, Deputy Chief Building Official
A. Anderson, Solicitor II
P. Yeoman, Director, Development Finance
Patrick and Janice Greenside, Complainants
L. Kirkness, Agent for Complainants

CALL TO ORDER

The Chair called the Tribunal to order at 12:55 PM on July 17, 2018.

DECLARATIONS OF PECUNIARY INTEREST

None.

HEARING

Hearing before the Corporate Services Committee (CSC), convening as a Tribunal under section 20 of the *Development Charges Act*, 1997, S.O. 1997, c. 27, with respect to the development charge imposed by The Corporation of the City of London in connection with development on the land known as 84 Dennis Avenue.

1. Preliminary and Interlocutory Matters:

The Chair provided a brief overview and explanation of the Hearing process.

P. Kokkoros, Deputy Chief Building Official; P. Yeoman, Director, Development Finance and A. Anderson, Solicitor where in attendance on behalf of the City of London.

Patrick and Janice Greenside and L. Kirkness appeared on behalf of the Complainants Patrick and Janice Greenside.

2. Summary of the Evidence Received by the Tribunal:

The following attached documents were submitted as Exhibits at the Hearing:

Exhibit #1: Notice of Hearing dated June 29, 2018;

Exhibit #2:	Written complaint from Janice and Patrick Greenside, dated June 6, 2018 and date stamped in the Development and Compliance Services Office on June 7, 2018;
Exhibit #3:	Staff report dated July 17, 2018 from the Managing Director, Development and Compliance Services & Chief Building Official;
Exhibit #4:	PowerPoint presentation, dated July 17, 2018, from L. Kirkness, Agent for the Complainants;
Exhibit #5	PowerPoint presentation, dated July 17, 2018, from P. Kokkoros, Deputy Chief Building Official;
Exhibit #6:	Correspondence dated September 21, 2000, to Patrick and Janice Greenside, from A.M. DeCicco, Deputy Mayor, City of London;
Exhibit #7:	Correspondence dated September 18, 2000, to A.M. DeCicco, Controller, from P. & J. Greenside.

Mr. Kirkness presented the attached presentation noted as Exhibit #4, above, after introducing Patrick and Janice Greenside. Mr. Kirkness noted that he has been involved with this file for over 2 years. He stated that the Complainants recognize the need for and the importance of the development charges, but noted that the subject property has unique circumstances. Mr. Kirkness noted that there are special considerations that may not have been contemplated by the current Development Charges By-law.

Mr. Kirkness outlined the history of the property, which the Greenside's purchased in 1994, including the existing residence known as 82 Dennis Avenue, located to the west of the property that is the subject of the complaint. Mr. Kirkness indicated that the subject property was purchased with a restrictive covenant registered on title. Mr. Kirkness outlined the information related to the property, including its size and proximity to sewage treatment facility.

Mr. Kirkness advised as to the Greenside's discussion with the Ministry of the Environment in an effort to have the 100 metre setback from the sewage treatment facility reduced. Mr. Kirkness provided the Tribunal with a copy of a 1997 City of London Council resolution related to five conditions that were to be applied to the property and be satisfied in order for the restrictive covenant to be lifted from the title. He indicated that these conditions included: a subdivision agreement; an environmental warning to be registered on title; the preparation of a survey; the construction of curb, gutter and asphalt; and the payment of applicable development charges and fees in effect at the time of any application for a building permit. Mr. Kirkness outlined the costs that were incurred by the property owners, to satisfy two of the five conditions. Mr. Kirkness further noted that these conditions were completed in good faith, and that the City responsibilities were never completed.

Mr. Kirkness noted that development was permitted in other areas of the city, including areas in closer proximity to treatment facilities. He indicated that since 1997, the treatment plant has been changed to a pumping station, eliminating the requirement for warning clause for the property – and thus, the first conditions to further development would be considered irrelevant.

Mr. Kirkness summarized the activities undertaken by the Greensides since 2016, in anticipation of building a dwelling on the subject property. He indicated that these actions included: submission of an application for site plan approval, a neighbourhood character study, a land use compatibility report, servicing connection and application for a building permit. Mr. Kirkness concluded his

submission with a summary of completed costs to-date, and suggested that the Greensides would be willing to pay development charges at rates equal to those that had been applied in 1998 and 2000.

Councillor P. Hubert requested confirmation that the Greensides are not seeking relief from paying development charges, but rather are looking to pay at a lesser development charges rate. Mr. Kirkness confirmed that the Complainants are looking for a reduction to the rate being applied by the City.

Councillor M. van Holst inquired whether there was any information available as to why the City had not signed off on the conditions. Mr. Kirkness advised that he had no information as to why the City had not signed off on the conditions.

Councillor J. Morgan enquired as to whether the Complainants or Agent felt that the development charges now being applied were incorrectly determined or if there was an error in the application of the Development Charges By-law. Mr. Kirkness indicated that the calculations were not considered to be fair.

Mr. Kokkoros presented the attached presentation noted as Exhibit #5, above. Mr. Kokkoros outlined the background of the application process and history for the property, and noted that a building permit was issued on June 7, 2018.

Mr. Kokkoros noted that the current By-law does not provide for exemptions for the construction of new singe detached dwellings. He further noted that the Complainant indicates five reasons for appeal, but that none of these reasons provided as grounds for dismissal under the current By-law.

Mr. Kokkoros outlined the parameters, in accordance with the current Development Charges By-law, as to when development charges are payable. He indicated that in this circumstance, the proposed construction at 84 Dennis Avenue constitutes development and is subject to the fee outlined in the By-law for a single and semi-detached dwelling. He indicated that the subject property is located within the urban growth area.

Mr. Kokkoros outlined the provisions for exemption contained in the current By-law. Mr. Kokkoros noted that the construction of a new single detached dwelling would not be exempted from development charges.

Mr. Kokkoros outlined each reason given in the Complainants in support of the complaint and noted that none of the reasons (1997 solicitor opinion, 1997 development charge amount for a commercial property, 1997 City of London letter from Water & Sewer Engineering Department, costs incurred and paid by the Complainants to-date and property taxes paid to-date) provide for the applicable development charges to be waived or altered.

Mr. Kokkoros concluded that the construction of a single detached dwelling at the property located at 84 Dennis Avenue, is deemed to be development and is subject to a development charge in accordance with By-law C.P.-1496-244. The amount of the development charge calculated and applied with respect to the building permit issuance for 84 Dennis Avenue were correctly determined and no error in the application of the Development Charges By-law has occurred.

Councillor P. Hubert asked whether there has ever been a previous building permit application submitted to build a single detached dwelling at the subject property and whether a development charge receivable would have been created as a result of that application for building permit. Mr. Kokkoros noted that the development charges are payable at the time of building permit issuance, and that a building permit has just recently been issued for the subject property. He confirmed that there is no record of a previous building permit or permit application for the subject property.

Councillor M. van Holst inquired with respect to application of previously paid property taxes, asking when water and sewer charges were made separate from the property taxes. Mr. Kokkoros indicated that he was unable to provide information regarding the matter. Mr. Yeoman noted that the water and sewer charges were billed separately from property taxes prior to this time period. Councillor M. van Holst inquired as to why the conditions were not satisfied by the City. Mr. Kokkoros indicated that he had no information regarding that matter.

Councillor J. Zaifman inquired with respect to the discrepancy related to commercial vs. residential development charge noted for 1997, indicating that both commercial and residential have been referenced. Mr. Kokkoros noted that the application of the charge noted a charge applied to a property that was commercial, and was considered low because there was a demolition and reconstruction undertaken at the property.

The Chair asked whether the Complainants had any new information to present, based on the submissions and presentation made by Mr. Kokkoros on behalf of the City of London. Mr. Kirkness presented additional information related to a letter dated September 21, 2000 from the Deputy Mayor at the time, to the Complaintants. This letter is submitted as Exhibit #6. Mr. Kirkness noted the letter states that the Deputy Mayor would forward information to the City Engineer. Mr. Kirkness further presented a letter from the Complainants to A.M. DiCicco dated September 18, 2000. This letter was submitted as Exhibit #7.

The Chair asked the Tribunal Members if there was a need to go in closed session to receive legal advice regarding the matter. The Tribunal Members requested that the Tribunal go in closed session to receive legal advice with the following motion being:

> That the Tribunal convene, in Closed Session, to consider a matter pertaining to advice that is subject to solicitor-client privilege, including communications necessary for that purpose, regarding a complaint made by Janice and Patrick Greenside under Part IV of By-law C.P.-1496-244, as amended, the Development Charges By-law, in respect of the development charge imposed by The Corporation of the City of London in connection with development on the land known as 84 Dennis Avenue.

The Tribunal convened in Closed Session from 2:01 PM to 2:10 PM, with the following in attendance:

Members: Councillor J. Helmer (Chair), Councillors P. Hubert, J. Morgan, M. van Holst and J. Zaifman.

Others Present: A. Anderson, Solicitor and B. Westlake-Power, Registrar.

The Tribunal resumed in public session at 2:13 PM.

The following recommendation is passed.

RECOMMENDATION:

That, after convening as a tribunal under section 27 of Part IV of By-law C.P.-1496-244 to hear a complaint under section 20 of the *Development Charges Act 1997, S.O. 1997, c. 27*, by Janice and Patrick Greenside, the owners of the property located at 84 Dennis Avenue, regarding the development charges being appealed, for the erection of a new single detached dwelling on the subject property, as detailed in the attached Record of Proceeding, on the recommendation of the Tribunal, the complaint BE DISMISSED on the basis that the Tribunal finds that the amount of the development charge being applied were correctly determined and no error occurred in the application of the Development Charges By-law.

ADJOURNMENT

The Tribunal adjourned at 2:24 PM.

EXHIBIT '1'

300 Dufferin Avenue
P.O. Box 5035
London, ON
N6A 4L9

June 29, 2018

Patrick & Janice Greenside
26-869 Whetherfield Street
LONDON ON
N6H 0A2

Dear Mr. and Mrs. Greenside:

Re: Development Charges Appeal – 84 Dennis Avenue

Further to your email exchange with Linda Rowe, Deputy City Clerk, June 10 – 13, 2018, notice is hereby given that the development charges complaint, with respect to the calculation of development charges and the application of the development charge by-law for the property located at 84 Dennis Avenue, will be heard by the Corporate Services Committee on Tuesday, July 17, not before 12:45 PM.

This meeting will be held in the Council Chambers, 2nd Floor, City Hall, 300 Dufferin Avenue, London.

You will be given the opportunity to make representations to the Corporate Services Committee at this meeting about the complaint. A copy of the staff report associated with this matter is attached hereto for your reference.

If you have any questions regarding this hearing, please contact Barb Westlake-Power at 519 661-2489, Ext. 5391.

Barb Westlake-Power
Deputy City Clerk

Attachment

c. L. Kirkness, Laverne@kirknessconsultinginc.ca
P. McLeod, phil@philipmcleod.ca
B. Card
A. Anderson
G. Kotsifas
P. Kokkoros
Chair and Members, Corporate Services Committee

The Corporation of the City of London
Office: 519.661.2489 ext. 5396
Fax: 519.661.4892
lrowe@london.ca
www.london.ca

EXHIBIT '2'

The Corporation of the City of London
300 Dufferin Avenue
P.O. Box 5035
London, Ontario
N6A 4L9

June 6, 2018

RECEIVED
JUN 07 2018
Development & Compliance Services

Attention – Development and Compliance Services &
Finance and Corporate Services Departments

Re: **Greenside Property 84 Dennis Avenue**
Building Permit / Development Charge Fee's

We are writing this letter in response to the concerns that we have relative to the Development Charge Fee of $30,435 which we were required to pay, in order to obtain a building permit for the new home that we are now going to build on our lot at 84 Dennis Avenue, in Lambeth.

In June of 1994 we acquired the subject site, together with other lands, from the Sullivan family. Since this date we have attempted (on numerous occasions) to acquire permission from the city to build on our lot, but we were continually turned down. Although, we received Council's approval in to build on the lot (subject to conditions) we were never able to obtain a building permit for our property.

Now, after 24 years of owning and maintaining this property, including property taxes, the city has finally granted us permission to build on our lot. This is mainly due to the fact that the former Southland STP is now a Pumping Station.

We definitely appreciate the fact that the city has granted us approval to finally build on our property, but do not feel that Development Charges/Fees of $30,435 are warranted for a number of reasons; therefore, we would like to appeal the levying of these fees.

First and foremost, as noted in the attached letter to us from our then solicitor, Mr. Barry Card from McCarthy Tetrault, dated November 10, 1998 (page 2 – last paragraph), and I quote –

"It would be nice to have Council agree that the amount of the charge for the connection to the Southland should be nil in view of the fact that you (our lot) is within the original service area for the Southland."

Secondly, it should be noted that the Development Charges imposed on April 29, 1997 to Southside Construction for the construction of the new Tim Horton's located along Colonel Talbot Road (Highway #4) in Lambeth was only $6,228.72 (see attached letter from the City), despite being a commercial property.

During this same year Development Charges provided to us by Rob Watson and Leo Kent, from the city's engineering department, for residential properties totalled $5,821.00 more or less.

Thirdly, in August of 1997 a letter was sent out by the City of London's Water & Sewer Engineering Department to all of the property owners within the potential service area of the Southland Plant offering them sewer and servicing capacity for their residential or commercial property. The amount of these servicing/development charges were $23,000 per home, and this cost was usually recovered as a lump sum or in 10 annual installments including interest. Commercial properties were designated for higher sewage flows than homes and should expect a higher charge?

Fourthly, we have paid for all surveying costs in order to provide the required road frontage for our lot, as well as curbing along both side of the road, and the cost to bring storm, sanitary and water services to our property line.

Lastly, we have paid over 24 years of property taxes on this lot and have received no services at all from the city for these levies.

In light of the foregoing, we hope that the city will seriously reconsider their decisions to impose any type of Development Charges and/or Fees for our lot, seeing as we were within the original service area for the former Southland STP.

Janice and Patrick Greenside
84 Dennis Avenue
London, Ontario
(519) 601-6158

APPENDIX 'B'

Kirby Oudekerk, P.Eng.
Environmental Services Engineer
Wastewater Treatment Operations
City of London

109 Greenside Avenue
London, ON N6J 2X5
P: 519.471.1537 | Cell: 226.448.4359 | Fax: 519.661.0199
koudeker@london.ca | www.london.ca

This email is significant in that it removes the need for an environmental warning clause to be registered on title.

Matters that need to be attended to in order to be issued a building permit
With respect to the Council resolution of Dec 16, 1997, items a), b) and e) are no longer applicable, leaving the 2 items as follows:

a) Item (c) – a survey plan be registered on title at owners expense;
b) Item (d) – the construction of curb, gutter and asphalt to local standards be constructed along the frontage of the subject lands at owners expense;
c) Item (e) – the payment of all applicable Development Charge by owner is offset by the letter of November 10, 1998 from the Greenside's solicitor (page 2, last paragraph) indicating that in his opinion that the amount of charge for the connection to the Southland should be nil in view of the fact that the lot is within the original service area for the Southland WWT facility. See ATTACHMENT 6.

The above matters could form part of a Development Agreement that could also address the requirements of a Servicing Agreement as per ATTACHMENT 2 which would attend to the following matters:

d) Item 1 – 5% cash in lieu payment for park land dedication be paid by owner; See ATTACHMENT 7 – A Letter dated December 7, 1998 from our solicitor (Barry Card) to us, indicating that he met with Vic Cote (former Director of Planning) and that Mr. Cote agreed that in the absence of anyone who could make a determination whether or not the park dedication had been imposed, that staff should be taking the position that we should be given the "benefit of the doubt" and that consequently, the cash-in-lieu requirement will be dropped;
e) Item 2 – that Dennis avenue be extended to the east limit of the building lot be completed by owner;
f) Item 3 – the extended portion be properly named by bylaw (by the City);
g) Item 4 – 0.3 m reserve be lifted by City;

McCarthy Tétrault
BARRISTERS & SOLICITORS · PATENT & TRADE-MARK AGENTS

SUITE 2000, ONE LONDON PLACE
255 QUEENS AVENUE, LONDON, ONTARIO, CANADA N6A 5R8
FACSIMILE (519) 660-3599 · TELEPHONE (519) 660-3587

Direct Line: (519) 660-7235
Internet Address: *bcard@mccarthy.ca*
Our File 153576-201347

November 10, 1998

Patrick and Janice Greenside
82 Dennis Avenue
London, Ontario
N6P 1B5

Dear Mr. and Mrs. Greenside:

Re: <u>82 Dennis Avenue, London</u>

I confirm that we had our in-camera audience with Planning Committee on Monday, November 9, 1998. The result of this session was simply a recommendation from Planning Committee to Council that no action be taken with respect to our request for assistance in settling the terms of the subdivision agreement.

The discussion lasted for approximately half an hour after a late start. Mr. Jardine said that he was in a bit of a rush because he had to go to his regular Committee meeting, however, before he departed, he managed to tell the Committee that we were trying to back out of the original Council approval (making a reconsideration necessary). He also said that the conditions being proposed by staff are perfectly consistent with what Council had been approved. Despite clear proof that in fact staff were asking for work that went much beyond the scope of what Council had approved, there was no inkling of support or encouragement from the Committee. This particular Planning Committee is now into its 12th and final month. It has been a particularly useless Committee. Initially, I thought the problem was that there were three new Councillors on the Committee and that things would improve as the year wore on. I suspect that you observed from the absence of probing questions that things have not improved very much. The Committee still believes everything it is told by staff. It takes no initiative to correct problems that emerge from the actions of staff. Yours was a prime example. I gather that unless something different happens at Council, you will not be proceeding with a plan to build on the new lot.

During our discussion of these various issues, Mr. Coté came forward with a map. Mr. Coté said that the map showed that in fact the lot next to 82 Dennis Avenue was not in the service area for the Southland Plant. I asked Mr. Coté about the date of his map. It was clearly printed on the map that it was drawn in 1998. I suggested that it might be more instructive to see what the original service drawing in the 1960's said for the Plant. The Chairman of the Planning Committee, Councillor Polhill, asked me if I was accusing staff of altering their records to disadvantage the Greensides. I told Councillor Polhill that I was suggesting that the person who had drawn the map had been given bad information about the service boundary. After all, the primary purpose of the map was to show features connected with Mr. Lansink's request for permission to expand the Southland Plant.

I suggest that you call Councillor Walker immediately to try to arrange for her to speak to this matter at Council. We know there is some support. Both Susan Eagle and Ben Veel have expressed support for our position. I suspect that part of the problem at Planning Committee was the fact that Councillor Walker had made arrangements for the matter to appear on the Planning Committee Agenda. The Committee seemed to resent this. You may recall that several minutes were taken up by questions and answers regarding the appropriateness of Planning Committee dealing with this matter. Walker has had a bit of a falling out with some members of Council recently as the result of her criticism of the Mayor and it may be that we were caught in the crossfire. It will be difficult to convey this information to Councillor Walker who has been very supportive and helpful throughout the process. Perhaps there is no need to get into political issues as Councillor Walker herself is probably very much aware of what is going on.

In any event, we are looking for 10 votes in favour of directing staff to prepare an agreement that simply carries out the instructions that Council has given without changing requirements or applying conditions which are irrelevant.

The second objective is to move the City Solicitor out of the approval process if this can be accomplished without a reconsideration.

It would be nice to have Council agree that the amount of the charge for the connection to Southland should be nil in view of the fact that you are within the original service area for Southland. This one will have to be manoeuvred skilfully to avoid the reconsideration problem, however, I think it has more promise because Council would simply be making a determination that no charge was applicable.

Is it any wonder the City is such a [illegible]

Yours very truly,

McCarthy, Tétrault

Per:

Barry R. Card

BRC/jmh

cc: Tim Ryall 970429

THE CORPORATION OF THE CITY OF LONDON

V.A. COTE
Commissioner of Planning & Development

R. CERNIMARA, P.ENG
Director of Building Controls

BUILDING DIVISION
DEPARTMENT OF PLANNING & DEVELOPMENT

300 DUFFERIN AVENUE
P.O. BOX 5035
LONDON, ONT N6A 4L9

IN REPLY PLEASE REFER TO
OUR FILE NO. SP-95185
ATTENTION M. Henderson
TELEPHONE 661-4861

April 29, 1997

Phone for Pick-up:672-6191

Southside Construction
c/o R.Tome & Associates Inc
51 Wimbledon Crt.
LONDON, ON. N6C 5C9

Dear Romano:

Re: Site Plan Approval at 4530 Colonel Talbot Road

Site Plan Approval is granted conditional upon the completion of the attached development agreement in accordance with City procedures.

The Commissioner of Environmental Services and City Engineer estimates the following claims and revenues for the project.

Urban Works Reserve Fund

Estimated Claim — NIL

Development Charges

Urban Works Reserve Fund
Estimated Revenue (Jan 2, 1997 rates)
(based on 164 sq. m @ $17.33 per sq. m) — $2,842.12

City Services and Hydro Fund
Estimated Revenue (Jan 2, 1997 rates)
(based on 164 sq. m @ $20.65 per sq. m) — $3,386.60

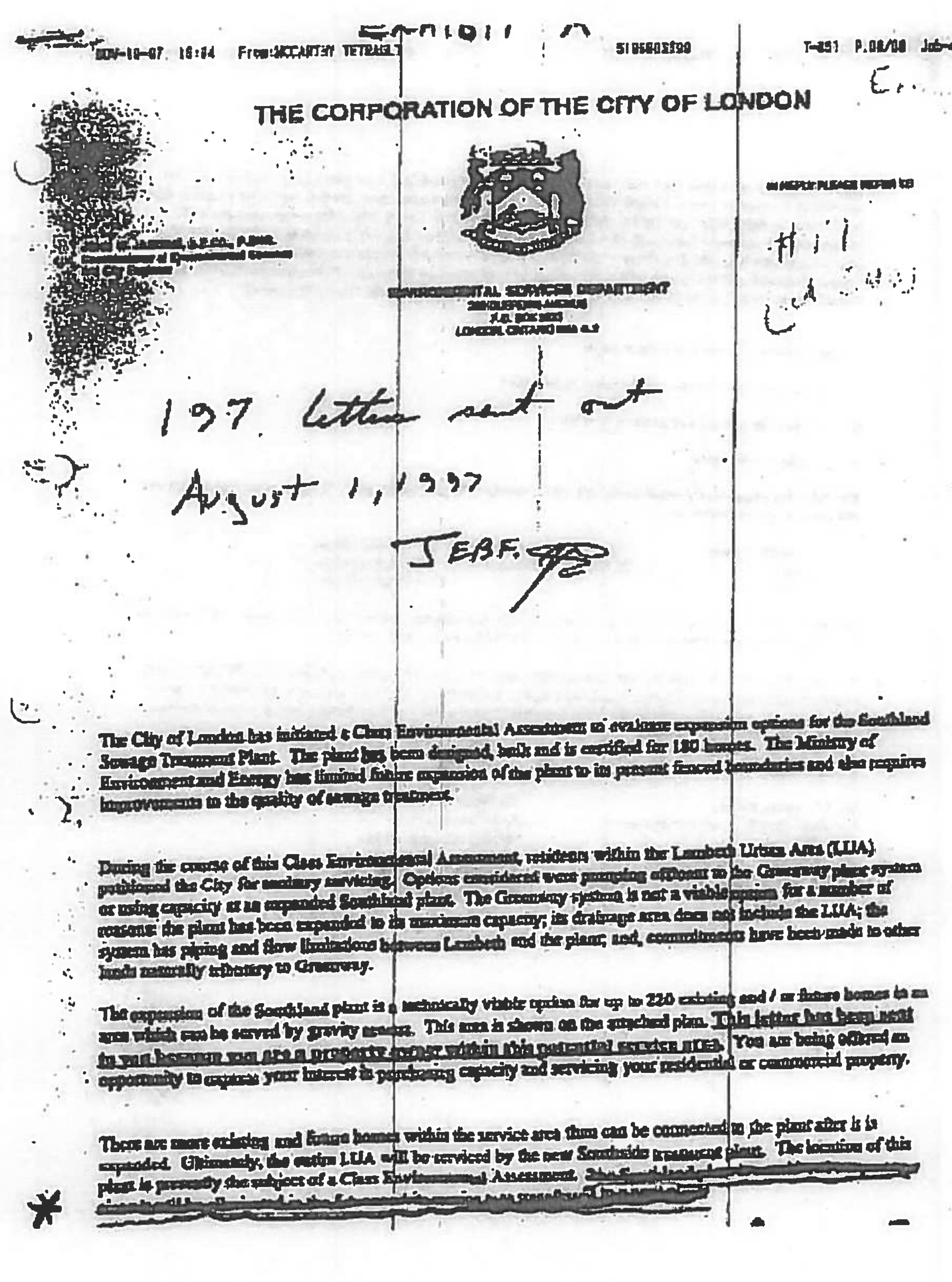
Total Estimated Development Charges — $6,228.72

Please note that this estimate includes a reduction of 117 square metres of floor area in recognition of the proposed demolition of the existing building.

Please note that the claims and revenues are estimates only based upon information received and interpreted by the City Engineer's Department at the time of initial application. The purpose of these estimates is to generally monitor the balance of the Development Funds. The final determination whether development charges are applicable and the amount of development charges will be made by the Building Division prior to issuance of the building permit.

FAX: (519) 661-5104 - Inspections/Permits
FAX: (519) 661-5033 - Combined Site Plan

Information Relative to the New TIM HORTON'S SITE!



NOV-10-97 16:04 From:MCCARTHY TETRAULT 5196602300 T-851 P.08/08 Job-481

THE CORPORATION OF THE CITY OF LONDON

IN REPLY PLEASE REFER TO

ENVIRONMENTAL SERVICES DEPARTMENT

197 letters sent out
August 1, 1997
JEBF

The City of London has initiated a Class Environmental Assessment to evaluate expansion options for the Southland Sewage Treatment Plant. The plant has been designed, built and is certified for 180 homes. The Ministry of Environment and Energy has limited future expansion of the plant to its present fenced boundaries and also requires improvements to the quality of sewage treatment.

During the course of this Class Environmental Assessment, residents within the Lambeth Urban Area (LUA) petitioned the City for sanitary servicing. Options considered were pumping effluent to the Greenway plant system or using capacity at an expanded Southland plant. The Greenway system is not a viable option for a number of reasons: the plant has been expanded to its maximum capacity; its drainage area does not include the LUA; the system has piping and flow limitations between Lambeth and the plant; and, commitments have been made to other lands naturally tributary to Greenway.

The expansion of the Southland plant is a technically viable option for up to 220 existing and / or future homes in an area which can be served by gravity sewers. This area is shown on the attached plan. This letter has been sent to you because you are a property owner within this potential service area. You are being offered an opportunity to express your interest in purchasing capacity and servicing your residential or commercial property.

There are more existing and future homes within the service area than can be connected to the plant after it is expanded. Ultimately, the entire LUA will be serviced by the new Southside treatment plant. The location of this plant is presently the subject of a Class Environmental Assessment.

Specific methods are within the Local Improvement Act and the Municipal Act for arranging, constructing and recovering the cost for new municipal services. This results in every property owner that has a pipe placed in front of it becoming financially responsible. From a technical perspective, piping within the service area cannot be dispersed (gaps or blocks bypassed). For these reasons, it is important for the City to determine the interest of existing residents in purchasing sanitary servicing in order to assess both the desire and technical feasibility of this option. Remaining plant capacity, after existing resident commitments are made, will become available for new home development. The purpose of the upcoming public meeting is to describe this in more detail.

Use an expanded plant can be in three ways:

- all by existing homes and commercial properties
- some by existing and some by new homes
- all by new homes

The following estimate of average household cost is provided for your information. It assumes the first option with 200 existing homes connected:

treatment plant	$2,000,000 / 200 homes =	$10,000 / home
sewers	$2,700,000 / 200 homes =	$13,500 / home
total		$23,500 / home

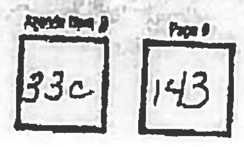
This cost is usually recovered as a lump sum or in 10 annual installments including interest. Commercial properties are designed for higher sewage flows than homes and should expect a higher charge.

A Public Information Meeting to review the options described above will be held on August 19, 1997, at 7:00 p.m. at the Lambeth Community Centre, 7112 Beattie Street. Presentations will be given on: plant expansion options considered; allocation of plant capacity; and, a review of the next steps in the process. Questions will be answered by the project consultant and staff.

If you require further information, please contact:

Mr. J.V. Lucas, P.Eng.
Manager Water & Sewer Engineering
City of London
P.O. Box 5035
LONDON, Ontario, N6A 4L9
Tel: (519)661-5537

Mr. Hisham N. Slim, P. Eng.
Project Manager
Dillon Consulting Limited
P.O. Box 426, Station B
LONDON, Ontario N6A 4W7
Tel: (519) 438-6192



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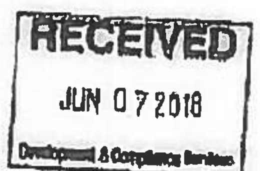
Direct Line: (519) 660-7235
Internet Address: beard@mccarthy.ca

November 11, 1997

DELIVERED

Chairman and Members
Environment and Transportation Committee
The Corporation of the City of London
City Hall, 3rd Floor
300 Dufferin Avenue
London, Ontario
N6A 4L9



Dear Sir/Madam:

Re: 82 Dennis Avenue

I am writing to you on behalf of my clients, Patrick and Janice Greenside.

At its meeting of November 3, 1997, City Council resolved:

"That approval in principle be given to the removal of the restrictive covenant on the property at 82 Dennis Avenue on the understanding that the Environment and Transportation Committee at its meeting on November 17, 1997 will develop and will recommend to the Council at its meeting on November 24, 1997, the conditions to be applied to the lifting of the restrictive covenant at this site."

I was advised by the Committee Secretary on November 11, 1997 that I should submit all written material by no later than 2:00 p.m. on November 13, 1997. Given that the staff recommendation is not available until the close of business on Friday, November 14, 1997, it is necessary to anticipate what the staff position will be:

1. Mr. Jardine advised me on November 11, 1997 that his intention was not to write a new report, because his view of the matter had not changed. He said that he would be resubmitting his previous report. He did, however, alert me to the possibility that the City Solicitor would submit a report.

Agenda Item # 33c Page # 145

McCarthy Tétrault

Chairman and Members November 11, 1997

The May clause was more to the point; clause (a) required a "subdivision agreement" which deals with the road dedication issue. I had recommended to the Committee on October 27, 1997 that the original clause (d) (the focus of the discussion) be replaced by a clause (d) which says:

(d) the construction of curb, gutter and asphalt to prevailing local standards along the frontage of the subject lands.

This is reasonable because:

1. The Department reported to the Committee on April 23, 1997 that "The addition of one dwelling unit would not require any additional works", beyond road improvements, and

2. The south side of the street, as demonstrated through many photographs in the past, widens into the parking lot. We are not talking about the construction of an entirely new street, simply the extension of curb and gutter for the existing "street".

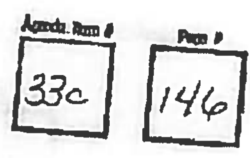
As to the capacity issue, I am providing an extract from the recapitulation sheet for the Southland Plant when it was approved by Westminster in February, 1961. Capacity was calculated on the basis of 12 present and 2 future lots, so there was capacity available for Block A. The recapitulation also indicates the sewer work was to be paid for by the "owners".

Consequently, I respectfully request that the following conditions be imposed as a condition for approval to extend Dennis Avenue and to construct a dwelling:

(a) a subdivision agreement be prepared and registered on title, at the owner's expense;

(b) an environmental warning be registered on title at the owner's expense to provide notice to subsequent purchasers of 82 Dennis Avenue that occasional sound and odour nuisances may occur, in a form satisfactory to the Commissioner of Legal Services & City Solicitor;

(c) a survey plan be prepared and registered on title, at the owner's expense; and



McCarthy Tétrault

Chairman and Members

November 11, 1997

(d) the construction of curb, gutter and asphalt to prevailing local standards along the frontage of the subject lands.

Yours very truly,

McCarthy, Tétrault

Per:
Barry R. Card

EXHIBIT 'E'

BRC/jmh
Encls.

LOCATION INFORMATION

SEWER DESIGN, MATERIALS AND ESTIMATE OF COST

STREET	FROM	TO	Description of Sewer	Appurtenances	Total Cost of Materials	Total Cost of Labor
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

RECAPITULATION

[illegible]	[illegible]
GRAND TOTAL	4156

APPLICATION CHECKED BY

GENERAL INSTRUCTIONS

[illegible]

APPENDIX 'C'

From: Patrick Greenside [ ]
Sent: Sunday, June 10, 2018 6:24 PM
To: Rowe, Linda <LRowe@London.ca>
Subject: Complaint to Council - Development Charges for 84 Dennis Avenue, London

Good morning Linda,

Re: Appeal of Development Fees/Charges
Greenside Lot - 84 Dennis Avenue
Permit #: 18 019227 000 00 RD

Further to our conversation of Thursday June 7, 2018.

As you are aware, we picked up the aforementioned building permit for our residential building lot located at 84 Dennis Avenue, in London, on Thursday June 8, 2018 and when we did we were charged development costs/fees totalling $30,435.00. We paid the required fees but we immediately informed staff that we would like to appeal the paying of these fees for the reasons that are noted on the attached letter that is addressed to both Development and Compliance and to the City of London Finance and Corporate Services Department.

After handing our appeal to staff within the building permit we had the opportunity to speak with Mr. Angelo DiCicco - Manager of Plans Examination, and advised him of same and provided him with a copy of the exact same information that we supplied to you (attached letter), which highlights our position and the rational for us not paying Development Charges/Fees.

Please be advised that we respectfully submit our appeal to complain to London City Council on the following grounds:

(a) the amount of the development charge was incorrectly determined; and
(b) there has been an error in the application of the development charge by-law. 1997, c.27, s. 20 (1).

Please be advised that Pat is away and out of town during the week of June 11th to 15th, but we will both be available anytime after next week to meet with staff, if they so desire.

Many thanks for your time and co-operation in this matter, it is very much appreciated.

Patrick & Janice Greenside

EXHIBIT '3'

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE
FROM:	G. KOTSIFAS, P.ENG. MANAGING DIRECTOR, DEVELOPMENT AND COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL
SUBJECT:	DEVELOPMENT CHARGE COMPLAINT 84 DENNIS AVENUE MEETING HELD ON JULY 17, 2018

RECOMMENDATION

That, on the recommendation of the Managing Director, Development and Compliance Services & Chief Building Official, the Development Charges complaint submitted by Janice and Patrick Greenside, owners of the property situated at 84 Dennis Avenue, **BE DISMISSED.**

BACKGROUND

A complaint letter from Janice and Patrick Greenside (Greensides), with respect to Development Charges paid for the erection of a new single detached dwelling (hereinafter referred to as 'complaint'), was received on June 7, 2018 and is included in Appendix 'A' of this report. Supporting documentation to the complaint letter was also submitted and is included in Appendix 'B'.

The aforementioned letter makes mention of various reasons as to why the imposed Development Charges should be waived. The following reasons have been listed:

1. Reference to a November 10, 1998 letter from their solicitor indicating that *"It would be nice to have Council agree that the amount of the charge for the connection to Southland should be nil in view of the fact that you are within the original service area for Southland".*

2. During 1997, City staff provided a Development Charge amount for residential properties of $5,821.00 "*more or less*".

3. Reference to an August 1997 letter sent by the City of London's Water & Sewer Engineering Department with respect to "*servicing/development charges in the amount of $23,000 per home*".

4. The owners have paid surveying costs for the road frontage as well as curbing and the costs to "*...bring storm, sanitary and water services to our property line*".

5. For the past 24 years property taxes were paid on the lot and no services were received from the City "*for the above levies*".

Subsequent to the submission of the complaint letter, the Greensides contacted the City's clerk's office via email and indicated that the basis of their complaint was on the following grounds:

"...(a) the amount of the development charge was incorrectly determined; and
(b) there has been an error in the application of the development charge by-law. 1997, c.27, s. 20 (1)...."

Both are valid grounds of complaint as per s. 28 of the By-law. A copy of the email correspondence is provided in Appendix 'C'.

A building permit application was received on May 22, 2018 for the construction of a new single detached dwelling. The building permit was issued on June 7, 2018, at which time the assessed Development Charges of $30,435.00 were paid.

ANALYSIS

On May 22, 2018 a building permit application was submitted for the construction of a new single detached dwelling at 84 Dennis Avenue. Staff assessed the amount of Development Charges due based on Development Charges By-law C.P.-1496-244 (DC By-law).

The property is situated inside the City's urban growth boundary and in accordance with the DC By-law, the DC amount for the construction of a new single detached dwelling is $30,435.00.

Is the construction of a new single detached dwelling unit subject to payment of Development Charges?

Part II s.4 of the DC By-law requires the owner of a building that develops or redevelops the land to pay Development Charges.

"...4. Owner to Pay Development Charge
The owner of any land in the City of London who develops or redevelops the land or any building or structure thereon shall, at the time mentioned in section 6, pay Development Charges to the Corporation calculated in accordance with the applicable rate or rates in Section 1 as described in section 8."

The DC By-law further defines 'development' as:

"... the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of changing the size or usability thereof, and includes all enlargement of existing development which creates new dwelling units or additional non-residential space and includes work that requires a change of use building permit as per Section 10 of the Ontario Building Code; and "redevelopment" has a corresponding meaning;

The construction of a new single detached dwelling unit constitutes the creation of a new dwelling unit and thus is considered as development.

How was the Development Charge amount calculated?

The DC By-law provides Tables in Schedules 1-A through 1-F that depict either the amount due or the rate to be applied to the gross floor area of buildings.

The DC amount for new single and semi-detached dwelling units situated inside the urban growth boundary is as follows:

City Services charges: $27,926.00
Urban works charges: $ 2,509.00

Total DC amount: $30,435.00

The full DC amount above was paid by the permit applicant just prior to building permit issuance.

The owners, at the time of building permit pick up, indicated that they have previously paid for certain services, prior to the building permit application date. There is no provision in the DC By-law to waive the DC charge based on the fact that costs for any infrastructure were previously paid by the owner.

Development Charges By-law C.P.-1496-244 and Grounds for Complaints

The DC By-law in PART IV, s.28 provides the following (depicted in italicized bold font below). Accordingly, staff's position is also provided under each sub-clause.

28. Grounds of Complaint

(a) the amount of the development charge was incorrectly determined;

Staff determined the DC amount due based on the provisions of the DC By-law for the construction of a new single detached dwelling. The DC amount for the construction of a new single detached dwelling, in accordance with the DC By-law is $30,435.00 and was correctly determined.

(b) whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined, or;

During the processing of the building permit application, there was no information made available with respect to whether any credit was available to be used towards the DC payment due and as such, staff determined that there is no credit available.

(c) there was an error in the application of this by-law.

While the complaint letter (Appendix 'A') does not indicate that an error was made in the application of the DC By-law, this is indicated in a subsequent email communication to the City's clerk's office (Appendix 'C'). It is staff's position that no error was made in the application of the current DC By-law.

Analysis of reasons provided to waive the DC amount as submitted in the complaint letter

Each of the reasons given to waive the DC charges is analyzed below:

- **Reference to a November 10, 1998 letter from their solicitor, indicating that "*...It would be nice to have Council agree that the amount of the charge for the connection to Southland should be nil in view of the fact that you are within the original service area for Southland*".**

This is a letter addressed to the Greensides from their solicitor summarizing an "*in-camera audience*" with the Planning Committee on November 9, 1998. The letter provides some direction in terms of strategy as to what is required to gain council's support. The last paragraph states:

"It would be nice to have Council agree that the amount of the charge for the connection to Southland should be nil in view of the fact that you are within the original service area for Southland".

This presumably refers to the fact that the property in question should not have been included in the discussions to expand the capacity of the Southland Sewage Treatment Plant and that the property should've been considered in the original service area for the plant.

The letter makes no reference to Development Charges and refers to "*charge for the connection....*". Presumably, the "connection" refers to the installation and connection charges for a sanitary sewer on Dennis Avenue.

There is no provision in PART V (Exemptions and Exceptions) of the DC By-law to waive DC charges based on the above reason.

- **During 1997, City staff provided a Development Charge amount for residential properties of $5,821.00 "*...more or less*".**

This item pertains to the DCs due back in 1997. There is no provision in the current DC By-law to waive DC charges based on this reason. Presumably, it was listed for DC amount comparison purposes only.

- **Reference to an August 1997 letter sent by the City of London's Water & Sewer Engineering Department with respect to "*...servicing/development charges in the amount of $23,000 per home*".**

The third reason refers to a letter sent out (Aug. 1, 1997) by the City's Water & Sewer Engineering Department with respect to a City initiated Class Environmental Assessment to explore the possibility of expanding the Southland Sewage Treatment Plant to serve approximately 220 homes from 180. The letter notes that the City is trying to determine the interest of existing residents in terms of purchasing "sanitary servicing". It further states that the average household costs were estimated to be $23,500 per home.

Despite the complaint letter making reference to "servicing/development charges", the letter sent by the City makes no reference to Development Charges. During the processing of the building permit application and the issuance of the building permit, Building Division staff was not provided with any evidence that the sanitary sewer and treatment plant fees were indeed paid. Even if that were the case, there is no provision in the current DC By-law to waive the entire amount of DC charges for the construction of a new home.

- **The owners have paid surveying costs for the road frontage as well as curbing and the costs to "*...bring storm, sanitary and water services to our property line*".**

This fourth reason to waive the DCs refers to the fact that surveying costs for the road frontage as well as curbing and the costs to "*...bring storm, sanitary and water services to our property line*" were paid. The current DC By-law has no provision to waive DC charges solely based on the fact that the owners have paid for the infrastructure stated.
Building Division staff was not provided with any evidence of payment, nor documentation clarifying the type of sanitary, water and stormwater servicing work performed and paid for by the complainant.

A review of City data sources has provided the following regarding servicing on Dennis Avenue:

- the stormwater sewer (local) was installed in 1958;
- the watermain (local) was installed in 1961;
- the sanitary sewer (local) was installed in 1999.

Although the sanitary sewer is a relatively recent construction, the work was not completed through a Local Improvement assessed to all benefitting property owners. Several property owners of existing houses on Dennis Avenue subsequently paid frontage fees under the Sewer By-law to connect into the Municipal System.

It should be further noted that DCs do not fund local infrastructure; rather, DCs are applied to new development to pay for infrastructure with regional benefits (e.g., trunk sewers) and applicable treatment capacity (e.g., stormwater management facilities and wastewater treatment facilities). Based on all available information, prior to the payment of DCs for 84 Dennis Avenue, no funding had been provided to the City as a financial contribution to these growth costs.

- **For the past 24 years property taxes were paid on the lot and no services were received from the City for the above levies.**

The fifth reason listed refers to the fact that property taxes have been paid for the past 24 years with receipt of "no services at all from the city for these levies". The DC By-law makes

no mention of property tax payment and has no provisions to waive DC charges based on the fact that property taxes have been paid. Additionally, water and sewer costs are not funded through taxes, but rather separately through water and sewer rates. As the property has not been connected to the water and sewer system, the complainant has not been financially contributing to the water or sewer system.

Staff maintains that the DC amount was properly determined under the By-law in force and effect at the time of the building permit application submission, and therefore recommends dismissal of the complaint.

CONCLUSION

The letter submitted by Janice and Patrick Greenside provides five reasons why the entire DC amount charged on the construction of a new home at 84 Dennis Avenue should be waived. Staff has reviewed the reasons stated in the complaint letter and is of the opinion that the DC By-law was correctly administered and has correctly imposed the DC amount of $30,435.00.

There is no provision in the current DC By-law that permits the waiving of the DC charges for the construction of a new single detached dwelling unit at 84 Dennis Avenue.

It is the Chief Building Official's opinion that the Development Charges were correctly determined and that the complaint filed by Janice and Patrick Greenside should be dismissed.

Staff wants to acknowledge the assistance provided by Aynsley Anderson, Solicitor II.

PREPARED BY:	RECOMMENDED BY:
[signature]	[signature] for
P. KOKKOROS, P. ENG. DEPUTY CHIEF BUILDING OFFICIAL, DEVELOPMENT AND COMPLIANCE SERVICES	G. KOTSIFAS, P.ENG. MANAGING DIRECTOR, DEVELOPMENT AND COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL

PK:pk

c.c. Angelo DiCicco-Manager of Plans Examination
Aynsley Anderson, Solicitor II
Paul Yeoman-Director, Development Finance
Building File.

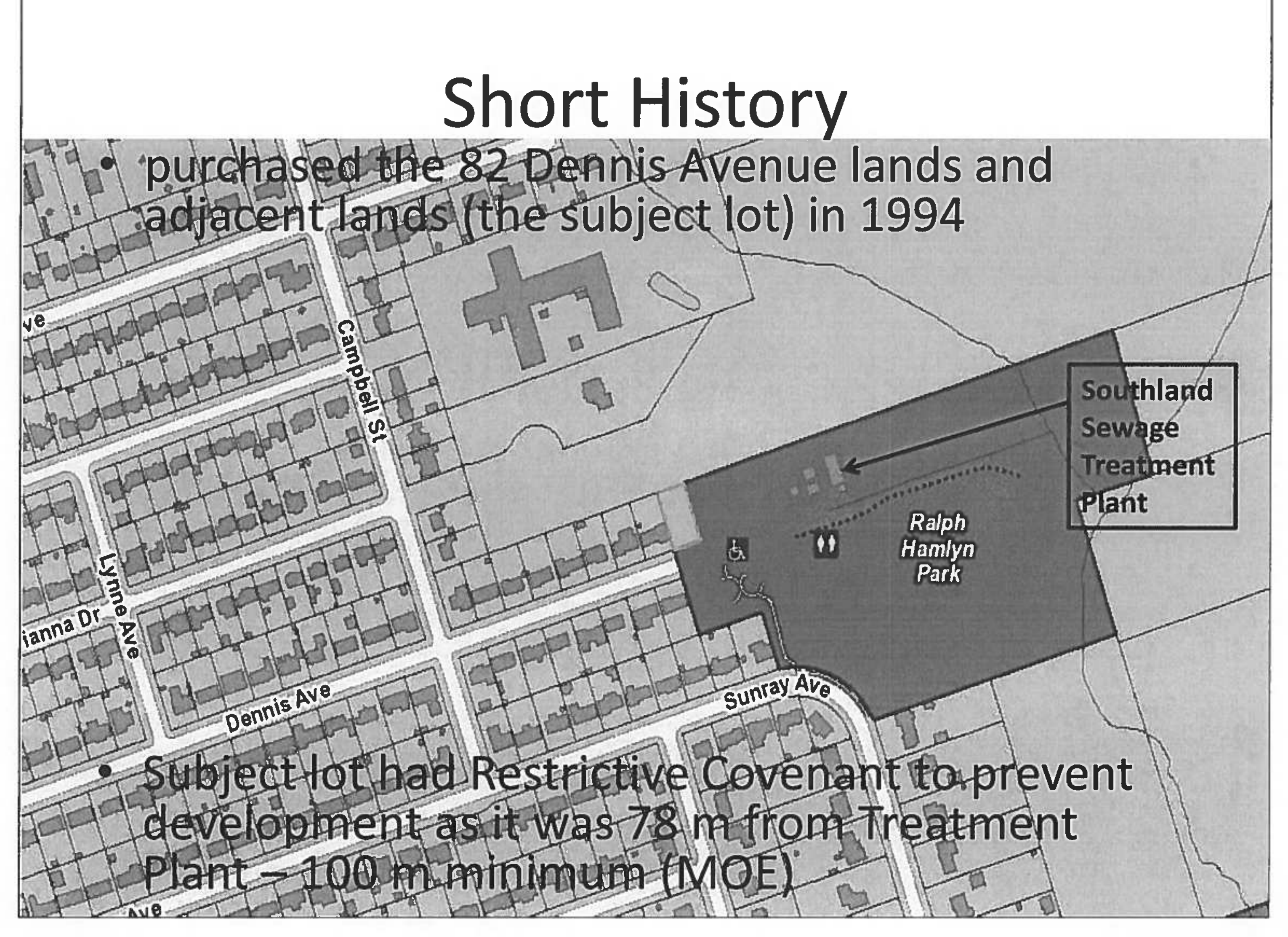
EXHIBIT '4'

Patrick and Janice Greenside at 84 (was 82)Dennis Avenue, Lambeth

Corporate Services Committee

July 17, 2018

Short History



- purchased the 82 Dennis Avenue lands and adjacent lands (the subject lot) in 1994
- Subject lot had Restrictive Covenant to prevent development as it was 78 m from Treatment Plant – 100 m minimum (MOE)

84 Dennis Avenue property

84 Dennis

Google

82 Dennis

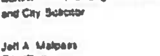
1994-1997

- Greensides were in pursuit of a Building permit for a single detached residence.
- Worked with MOE to resolve GUIDELINE of 100m separation distance.
- Retained lawyer to assist, whom proposed a servicing agreement and warning clause – all agreeable to MOE

Council Resolution of 1997

THE CORPORATION OF THE CITY OF LONDON

R. A. P[illegible], Q.C.
Comm[illegible] of Legal Services
and City Solicitor



Jeff A. Malpass
City Clerk

Suite 308, City Hall
300 Dufferin Avenue
P.O. Box 5035
London, ON N6A 4L9

Telephone (519) 661-4530
Fax (519) 661-4892

LEGAL SERVICES DEPARTMENT

OFFICE OF THE CITY CLERK

December 16, 1997

J. W. Jardine
Commissioner of Environmental Services & City Engineer

I hereby certify that the Municipal Council, at its session held on December 15, 1997 resolved:

21 That, notwithstanding the recommendation of the Commissioner of Environmental Services & City Engineer, the restrictive covenant on lands owned by Mr. P. Greenside at 82 Dennis Avenue adjacent to the Southland Sewage Treatment Plant BE REMOVED, subject to the following conditions:

(a) a subdivision agreement be prepared and registered on title, at the owner's expense;

(b) an environmental warning be registered on title at the owner's's expense to provide notice to subsequent purchasers of 82 Dennis Avenue that occasional sound and odour nuisances may occur, in a form satisfactory to the Commissioner of Legal Services & City Solicitor ;

(c) a survey plan be prepared and registered on title, at the owner's expense;

(d) the construction of curb, gutter and asphalt to prevailing local standards along the frontage of the subject lands; and

(e) the payment by the owner of all applicable Development Charges and fees in effect at the time of any application for a building permit and the payment by the owner to the City of a proportional share of the cost of required upgrades to expand the Southland Sewage Treatment Plant as determined by the Commissioner of Environmental Services and City Engineer at the time of any application for a building permit. (59.3.1) (21/1/ETC) (AS AMENDED)

Jeff A. Malpass
City Clerk

This Council Resolution of Dec. 1997 stated

21. That , notwithstanding the recommendation o f the Commissioner of Environmental Services & City Engineer, the restrictive covenant on lands owned by Mr. P. Greenside at 82 Dennis Avenue adjacent to the Southland Sewage Treatment Plant BE REMOVED, Subject to the following

conditions: (5 conditions)

2 of the 5 Council conditions

(a) a subdivision agreement be prepared and registered on title, at the owner's expense;

(b) an environmental warning be registered on title at the owner's expense to provide notice to subsequent purchasers of 82 Dennis Avenue that occasional sound and odour nuisances may occur, in a form satisfactory to the Commissioner of Legal Services & City Solicitor;

Greensides complied but City Staff did not complete either of these conditions

3rd and 4th of 5 Council conditions

c) a survey plan be prepared and registered on title, at the owner's expense;

Completed by Greensides in 1998-2000

(d) the construction of curb, gutter and asphalt to pre vailing local standards along the frontage of the subject lands; and

Completed by Greensides in 1998-2000

5th of 5 Council conditions

(e) the payment by the owner of all applicable Development Charges and fees in effect at the time of any application for a building permit and the payment by the owner to the City of a proportional share of the cost of required upgrades to expand the Southland Sewage Treatment Plant as determined by the Commissioner of Environmental Services and City Engineer at the time of any application for a building permit. *Greensides were prepared to complete if building permit issued and would have owed $5821 in 1998 or $8111 in 2000.*

Greensides $$ costs for 2 conditions

- Surveying - $3616
- Services and road works - $3035
- Legal fees to work with the City to complete the first two conditions - $20,000, but still were never completed.

Total costs $26,651

... and still no building permit was issued.

Property taxes paid since 1994 to date = $11,500

Conclusion

- The Greensides in good faith completed the 2 conditions and were prepared to pay the $5821 or the $8111 DC .
- Of the 5 conditions, 2 were the responsibility of the City Staff and were not completed which prevented the issuance of a building permit.
- Greensides “gave up” on the advice of lawyer.

Greensides wonder why 2 conditions were never completed???

- Development was permitted in other areas of the City within 100 m of Pottersburg STP.
- Development was permitted in other areas of the City and Warning Clauses were used.
- The separation distance guideline was provided by MOE and it had no objection to the issuance of a building permit if the Warning Clause was applied to the title.

2000 through to 2016

- Greensides monitored the situation and ultimately found that the Treatment Plan would become a Pumping Station
- No WARNING CLAUSE would be required.
- No subdivision agreement would be required.
- Therefore, the first two conditions were essentially irrelevant and need not be considered any longer.

2016 to present

- Greensides have:

1. made application for Site Plan Approval because it was considered infill development
2. Prepared a Neighbourhood Character Study
3. Prepared a Land Use Compatibility Report
4. Arranged for the servicing connection with City staff
5. Made application for a Building Permit and are building their family retirement home now.

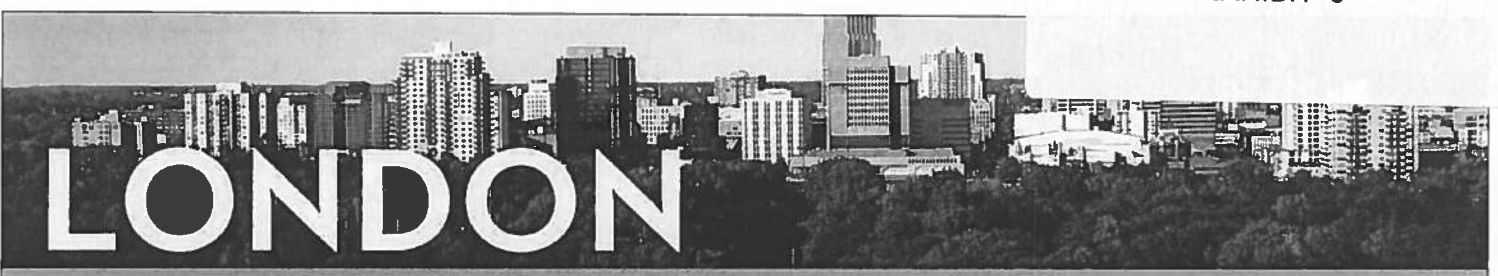
Total costs =$50,000

Current Greenside Position on DCs

- Prepared to pay the $5821 amount which reflects the DC charge of 1998 when they completed their conditions....
- Willing to consider the 2000 rate at $8111.

It being noted that $50,000 approximately has already been spent as shown on previous slides and meeting the requirements of an infill SPA application.

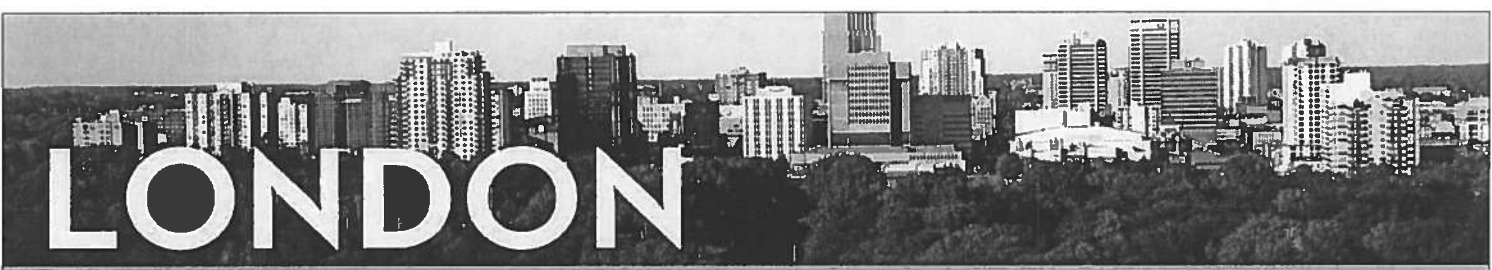
EXHIBIT '5'



84 DENNIS AVENUE

Development Charges Complaint
Corporate Services Committee Tribunal

July 17, 2018

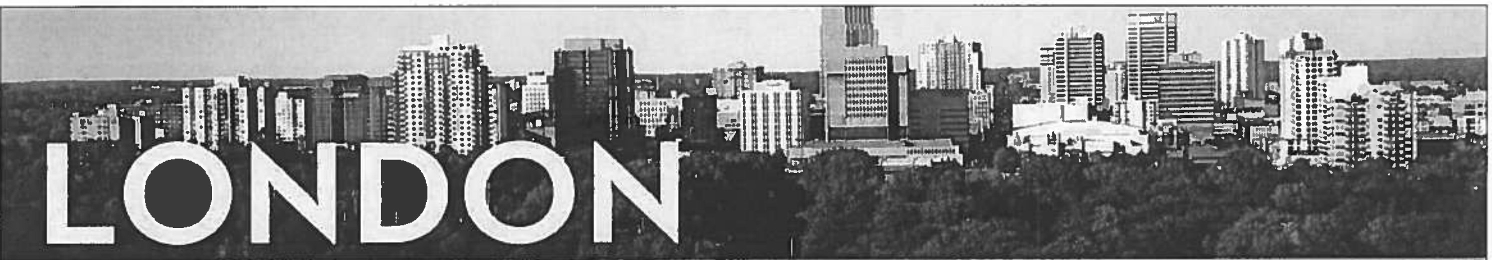


BACKGROUND

A building permit application was submitted for the construction of a new single detached dwelling on a vacant lot at 84 Dennis Avenue. The permit application was submitted on May 22, 2018 and the building permit was issued on June 7, 2018.

On June 7, 2018 at the time of permit pick up, Building Division staff were advised that the owner is 'protesting' the payment of Development Charges and provided supporting documentation. The owner has indicated that the Development Charge of $30,435 is not warranted.

The current DC By-law (C.P. -1496-244) provides no exemption from DC payments for the construction of a new single detached dwelling and the DC charges were assessed in accordance with the provisions of the By-law.



June 7, 2018- Received letter from Janice and Patrick Greenside providing five reasons why the DCs are not warranted:

1. Reference to a letter from their solicitor with an opinion related to Council's decision from 1997.
2. Reference to a 1997 Development Charge amount for a commercial property.
3. Reference to an August 1997 letter sent by the City of London's Water & Sewer Engineering Department.
4. The owners have paid costs for curbing, storm, sanitary and water services to the property line.
5. The fact that for the past 24 years property taxes were paid on the lot.

DC By-law provides the following "Grounds of Complaint":

s.28

(a) the amount of the development charge was incorrectly determined;

(b) whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined, or;

(c) there was an error in the application of this by-law.

While none of the reasons provided in the complaint letter make reference to the above-mentioned 'grounds of complaint', a subsequent email to the clerks' office stated that (a) and (c) are grounds of complaint.

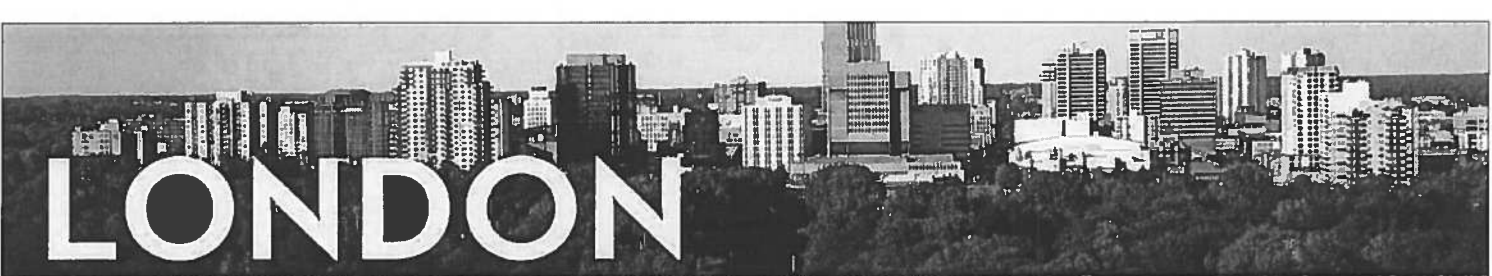
Are Development Charges payable?

4. "Owner to Pay Development Charge"

The owner of any land in the City of London who develops or redevelops the land or any building or structure thereon shall, at the time mentioned in section 6, pay Development Charges to the Corporation calculated in accordance with the applicable rate or rates in Schedule 1 as described in section 8.

In accordance with the DC By-law, "*development*":

*"means the **construction, erection** or placing of one or more **buildings or structures on land** or the making of an addition or alteration to a building or structure that has the effect of changing the size or usability thereof, and includes all enlargement of existing development which **creates new dwelling units** or additional non-residential space and includes work that requires a change of use building permit as per Section C.1.3.1.4 of the Ontario Building Code ; and redevelopment has a corresponding meaning;"(emphasis added)*



How was the Development Charge amount determined?

The construction/erection of a new single detached dwelling is considered as development.

CITY OF LONDON DEVELOPMENT CHARGE RATES

Development Charges By-Law – C.P.-1496-244 (By-Law effective AUGUST 4TH, 2014)
RATES EFFECTIVE UNTIL DECEMBER 31, 2018[1]

TOTAL CHARGES INSIDE URBAN GROWTH AREA

		Single & Semi Detached (per dwelling unit)	Multiples / Row Housing (per dwelling unit)	Apartments with < 2 bedrooms (per dwelling unit)	Apartments with > = 2 bedrooms (per dwelling unit)	Commercial (per square metre of gross floor area)	Institutional (per square metre of gross floor area)	Institutional with 50% Reduction[2] on City Services Charge	Industrial[3] (per square meter of gross floor area)
1	City Services Charges[1]	$27,926	$20,934	$12,990	$17,531	$242.66	$140.08	$70.04	$179.30
2	Urban Works Charges	$2,509	$1,895	$1,172	$1,579	$34.75	$9.33	$9.33	$3.94
3	TOTAL	$30,435	$22,829	$14,162	$19,110	$277.41	$149.41	$79.37	$183.24

TOTAL CHARGES OUTSIDE URBAN GROWTH AREA

		Single & Semi Detached (per dwelling unit)	Multiples / Row Housing (per dwelling unit)	Apartments with <2 bedrooms (per dwelling unit)	Apartments with > = 2 bedrooms (per dwelling unit)	Commercial (per square metre of gross floor area)	Institutional (per square metre of gross floor area)	Institutional with 50% Reduction[2] on City Services Charge	Industrial[3] (per square meter of gross floor area)
1	City Services Charges [1]	$17,362	$12,959	$8,058	$10,885	$168.26	$102.09	$51.05	$80.98
2	Urban Works Charges [1]	$0	$0	$0	$0	$0	$0	$0	$0
3	TOTAL	$17,362	$12,959	$8,058	$10,885	$168.26	$102.09	$51.05	$80.98

Notes:

[1] On Building Permits applied for after January 01, 2018, also, see s 10 of the DC Bylaw

[2] This rate applies only to: 1) Hospitals under the Public Hospitals Act, 2) Universities and Colleges under the Ministry of Colleges and Universities Act, 3) Lands, buildings or structures used or to be used for a place of worship or for the purposes of a cemetery or burial ground, 4) Other land used for not-for-profit purposes defined in and exempt from taxation under section 3 of the Assessment Act.

[3] Industrial development charges are administered through the Industrial Lands Community Improvement Plan.

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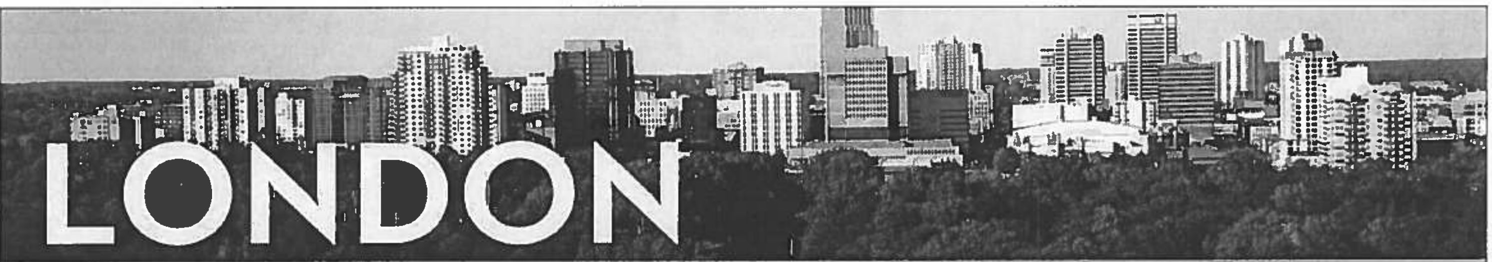

DC By-law Exemptions/ Exceptions

The complaint letter indicates that the DCs imposed are not warranted.

Part V of the DC By-law provides for exemptions and exceptions.

35. City And School Boards Exempt
36. Certain Developments Exempt
    - Dwelling unit additions to existing
    - Parking structures
    - Non-residential farm buildings
    - Buildings for seasonal use only –no municipal infrastructure
    - Temporary garden suites
    - Air supported structures- not for profit only
37. Industrial Use Exemptions
38. Water Service Charges, Sewer Rates – provision for avoiding duplication of DC charges
39. Development Outside Urban Growth Area (CS only)

The construction of a new single detached dwelling is not exempt from the imposition of Development Charges.

Analysis of reasons given in complaint letter

1. Reference to a letter from the owners' solicitor with an opinion related to Council's decision from 1997.

- Letter summarized an "*in-camera audience*" with the Planning Committee on November 9, 1998.
- Provided direction - strategy to gain council's support.
- Refers to connection charge ; not to Development Charges

There is no provision in PART V (Exemptions and Exceptions) of the DC By-law to waive DC charges based on the above reason.

2. Reference to a 1997 Development Charge amount for a commercial property.

- This reason refers to DCs charged in 1997, under a different DC By-law.
- DCs charged to a commercial building and the residential DCs applicable at the time.

- There is no provision in the current DC By-law to waive DC charges based on this reason.

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3. Reference to an August '97 letter sent by the CoL's Water & Sewer Engineering Dept.

- City initiated Class Environmental Assessment to explore the possibility of expanding the Southland Sewage Treatment Plant
- Interest of existing residents in terms of purchasing "sanitary servicing".
- Costs quoted were not related to Development Charges.

- There is no provision in the current DC By-law to waive DC charges based on this reason.

4. Owners state costs paid for curbing, storm, sanitary and water services to the property line.

- Evidence not produced with submission of complaint letter.
- Existing infrastructure along Dennis Avenue:
  - Water - 1961
  - Storm sewer – 1958
  - Sanitary sewer - 1999
- Lateral piping placement costs vs Development Charge payment.

- There is no provision in the current DC By-law to waive DC charges based on this reason.

5. Property taxes paid on the lot over the past 24 years.

- Water and sewer costs not funded through taxes - but rather separately through water and sewer rates.
- The (vacant) property has not been connected to the water and sewer system.
- No financial contribution to the water or sewer system.

- There is no provision in the current DC By-law to waive DC charges based on this reason.

CONCLUSIONS

-The construction of a new single detached dwelling is considered as 'development'.

- The DC amount of $30,435 was correctly determined and payable at time of building permit issuance.

-Considering the grounds of complaint per s.28 of the DC By-law, staff opines that:

(a) the amount of development charge was not incorrectly determined, and
(b) there was no error made in the application of the By-law

Staff respectfully requests the complaint be DISMISSED.

The Corporation of the City of London

EXHIBIT '6'

September 21, 2000

Patrick and Janice Greenside
82 Dennis Aveue
London On N6P 1B5

Dear Mr. and Mrs. Greenside:

I am in receipt of your package and your request to have the subdivision agreement prepared and registered. I also acknowledge that you have attached a cheque to the Corporation of the City of London for this reason.

These issues of registration are not handled by Members of City Council and therefore, I will be forwarding the entire package to Mr. John Jardine, Commissioner of Environmental Services & City Engineer.

Sincerely

Anne Marie DeCicco
Deputy Mayor

c.c. John Jardine, Commissioner of Environmental Services & City Engineer

EXHIBIT '7'

September 18, 2000

The Corporation of the City of London
300 Dufferin Avenue
London, Ontario
N6B 1Z2

Attention: Anne Marie DeCicco - Controller

Dear Anne Marie:

Re: 82 Dennis Avenue
London, Ontario

First of all we would like to take this opportunity to thank you for you for acting so promptly in getting city staff to act on our request to install sanitary servicing for the vacant residential lot which we own next to our existing residence in Lambeth. Although it cost us an additional $500.00 - $700.00 to have this service installed, after the City's Engineering staff ordered its removed from the contract drawings at the 11th hour, this service has now been constructed to the property line. Likewise, storm and water servicing were installed as well.

The December 15, 1997 Council Resolution calls for us to pay for the installation of curb, gutter and asphalt along the frontage of our vacant lot and we have fulfilled this condition as well (see attached photos). With the physical extension of the Dennis Avenue road allowance now complete we now have a fully serviced lot that has 70 feet of frontage on a newly paved road and it is zoned and designated "residential". We have a building plan chosen for our lot and we and our builder are anxious to commence construction. Furthermore, we have a family that is interested in purchasing our current residence.

However, before we can proceed with the construction of our new home we need to iron out three outstanding conditions. Those being:

(a) the preparation and registration of a survey plan for the lands to be dedicated as public highway (Re: extension of Dennis Avenue by By-Law),

(b) arrange for payment of our proportional share of the costs required to upgrade/expand the Southland STP, and

(c) registration of a warning clause on the title of our property

In regards to the preparation and registration of the survey plan, for those lands to be dedicated as public highway (Dennis Avenue extension), we have retained the services of Archibald, Gray & Mc Kay (Mr. Drew Annable) to carry out the required surveying. We have directed them to commence this work at their earliest convenience.

According to the attached letter from Mr. J.V. Lucas, Manager Water & Sewer Engineering (Exhibit A), the estimated cost to upgrade the treatment plant is $10,000.00 per household. He has advised that this cost is usually recovered as a lump sum or in 10 annual installments including interest. Our preference is to take advantage of the annual installment option. In light of this, we enclosed a cheque in the amount of $1,000.00 to cover the cost of our first installment.

Lastly, there is the issue of the warning clause on the title to our lot. Although we are of the opinion that this requirement is excessive, in light of the fact that the future of the Southland Plant is well publicized - it will eventually be demolished, we are still willing to co-operate and support this requirement.

As you may not be aware, the EA for the expansion of the Southland Plant stated, and I quote:

> "Any work or expansion to the Southland facility is to be considered as temporary, until such time as the "Southside" facility is constructed" (see Exhibit B).

The city was the proponent of this plant expansion and one could easily conclude that if this statement was not factual then we, our neighbours, and the rest of the residents of Lambeth were misled by this statement during the Southland EA process. It should also be noted that at most of the Public Information Centres for this plant expansion, the consultant (MM Dillon) often made reference to this fact and continued to rely on it, especially when things got heated or out of hand.

Furthermore, if the proposed expansion of this Plant was meant to be anything but temporary in nature then the City's letter of November 19, 1997 to all of the property owners within the service area of the Southland Plant (Exhibit A), and the statements/facts which the City relied upon in its letter to Mr. V. E. Danyla, from the Ministry of the Environment (Exhibit C), to support the proposed plant expansion, could be construed as a fabrication of the truth and/or misleading as well?

In our opinion, the facts and information contained in the Environmental Study Report for the Southland Sewage Treatment Plant expansion speak for themself. The proposed expansion of this plant is only a temporary measure. However, if one still doubts this then surely the facts and statements contained in the Southland PCP Upgrade and Expansion Report (Exhibit D - dated January 1999), the Final Environmental Study report for the new Southside Plant (Exhibit E), the London Development Institute report (Exhibit F) and the peer reviewed carried out by J.V. Morris (Exhibit F - dated March 2000),

as part of the Southside EA should put any of these doubts/concerns to rest. The bottom line is the expanded Southland Plant will eventually be demolished and/or decommissioned, once an alternative servicing method for the south end of the city has been identified.

As mentioned, although we believe that the requirement for an additional warning clause on the title to our vacant lot is excessive, we recognize and appreciate the city's concern relative to "temporary" liability, and that is why we have always supportive of the idea/requirement of putting an additional warning clause/agreement on the title to our property (at least until such time as the Southland Plant is demolished).

Subclause (b) of the December 17, 1997 Council Resolution calls for the registration of an environmental warning on the title to the property that we wish to build on (at our expense). This requirement is intended to provide notice to subsequent purchasers of 82 Dennis Avenue that occasional sound/odour nuisances may occur. According to the council resolution this clause is to be prepared and included within a subdivision agreement, in a form satisfactory to the Commissioner of Legal Services & City Solicitor. Unfortunately the City Solicitor refuses to approve any subdivision agreement that contains a warning even though he accepts that these are permitted.

We have no control over the mannerism in which the required warning clause is placed on the title to our property (ie Subdivision Agreement, Site Plan, Development/Servicing Agreement, Agreement of Purchase and Sale, etc…), however the council resolution requires a subdivision agreement, therefore that is the appropriate vehicle for the warning clause (see Barry Cards letter of June 9/98 - attached). The subdivision agreement is a product of staff requirements (not ours) and it has never been objected to by the legal services department (not surprising since it was modeled after a clause in a City of London site plan agreement) or the land registry office.

In light of the above requirement, the City has been offered a number of alternatives/options in which to indemnify themselves, if they truly feel that they are putting themselves at risk. These alternatives/options include, but are not limited to:

- The registration of a warning clause via a "Subdivision Agreement"
- The registration of a warning clause via a "Development Agreement"
- The registration of a warning clause via a "Servicing Agreement"
- The registration of a warning clause within a "Site Plan Agreement"
- Even Section 118 of the Planning Act also enables the Chief Building Official of the

  Municipality to register a "Warning Clause" on the title to lands where owners have elected to build next to a sewage treatment plant.

So as you can see there are many mechanisms available to staff that will allow them to indemnify themselves in the interim, that is until the Southland Plant is eventually demolished. However despite the obvious, they continue to deny and/or refuse to use any of the registration vehicles available to them.

For the record, the proposed expansion of the Southland Plant by an area developer, was turned down by the Ministry of the Environment on a number of occasions. However, after the City stepped in as the proponent they asked the Ministry to reconsider its position on the proposed plant expansion on the basis that the plant expansion was only temporary in nature and that it would eventually be demolished. Of particular interest is the following statement that the city makes under cover of its November 28, 1994 letter to Mr. Vic Danyla of the Ministry (Exhibit C), and I quote:

"The recently completed Sewage Servicing Study for the City of London recommended that a new treatment facility be constructed in the south end of the City. As part of this long-term plan, **the Southland Treatment Plant will be demolished. Until this happens, there is no justification to deny future growth within the newly adopted city limits if it is feasible to provide temporary sewage servicing**"

In light of the above statement, it is also our opinion that there is **no justification** for the City to deny us the opportunity to build a new home for our children, especially when it is feasible to provide them with temporary indemnification. They just have to choose which acceptable means of registration best fits their needs.

As you can see from the enclosed pictures we now have a fully serviced lot that fronts on a freshly paved road. Our lot is zoned and designated residential and we would like to proceed with the building of our new home. The survey for the road dedication will be available shortly and we have the cheque made out to cover our first installment for the plant expansion. Apart from this the only hurdle to overcome is warning clause.

Although we have continued to question the need for the required warning clause, we have continued to support the City's requirement for same. In the same token, we are sure that it is quite evident by now that we have demonstrated that the city does have the capability of registering the required warning clause in many different fashions. However, in order for us to move ahead on this matter the City's legal services department must be directed to choose a registration vehicle that best suits their needs.

In order to further support our case, we have taken the liberty of providing the Registrar, at the Land Registry Office in London, with a copy of the draft subdivision agreement which the city had prepared (as per the December [illegible]7, 1997 Council Resolution) in order to ascertain his position relative to its registration

On Friday September 15, 2000 the Registrar (Mr. Murray Smith) called us and advised that the subdivision agreement, which contains the Environmental Warning Clause that the City requires, can indeed be registered. We have enclosed a copy of the Subdivision agreement for your perusal and reference. He has also advised us that although they are not proponents of these types of registrations, these types of warnings regularly appear in site plans, development agreements, and in numerous subdivision agreements. He also noted that most of these types of registrations are made at the request of the City?

In order to fulfill councils will, and have the required warning clause registered, we will require your assistance in getting staff to do their part. Would you kindly use the appropriate channels necessary to have staff execute and complete the Subdivision Agreement that they have prepared so that we can have it registered. Should they not want to proceed in this manner, would you kindly have staff indicate which available registration vehicle (Site Plan Agreement, Development Agreement, etc…) best suits their needs. Lastly, if staff is still adamant about denying us a building permit then would you kindly direct them to issue a "Property Request" identifying the need to acquire our property (for public purposes) and we would be more than pleased to have the property appraised and enter into meaningful negotiations with the city in order that they can acquire the property in question and protect their interest/concerns relative to liability.

Your co-operation and assistance is greatfully appreciated.

Sincerely,

Patrick & Janice Greenside

cc: Concerned Citizens of Lambeth & Area
Attention: Mr. Jeff Paul - President

Mr. Steve Peters - M.P.P. (Elgin Middlesex)
Councillor Ben Veal
Councillor Susan Eagle
Controllor Orlando Zamprogna