



Dear Corporate Services Committee,

Re: Complaint Regarding the Mis-Application of the Development Charges By-Law

In accordance with the City of London's Development Charges by-law Sect. 26, this letter is being submitted as a formal appeal and complaint under section 20 of the Development Charges Act.

This letter will appeal the DC Fees assessed to EVE Park Buildings A (permit #21-009953), B (permit #21-009956), C (permit #21-009959) and D (permit #21-009961), on the grounds that there was an error by the City in the application of the DC by-law.

First, we wish to acknowledge and thank Mr. Kyle Wilding and his team for their ongoing support with the various challenges we've faced in bringing this project to permit. The City of London employs many exceptional staff for whom we have utmost respect, and whom we truly have enjoyed working with.

For the benefit of the Committee, EVE Park is an 84-home development consisting of 4 stacked-townhome buildings which are nearly identical to one another and are being built in sequential (alphabetical) order. The first two of these (Phase 1) have just begun construction: building A first, then B is starting imminently. There is a webcam broadcasting our progress live at <https://eveparklivestream.cpdf.ca/stream.html>. The City has been helping us with this project for several years now, having approved our Zone Change request on Dec. 10, 2019, and our Development Agreement on Feb. 17, 2021, and of course there were many meetings and consultations prior to those approvals as well. It has been quite a journey to get this far! We have continued to work towards building permits over the past ~18 months, with many delays.

The City of London's e-permits website shows that our building permit applications were made and accepted (ie: deemed complete) on Apr. 20, 2021. We understood that this initiated the typical internal review processes wherein we were pleased to be supported by many professional and courteous staff across the City's various departments, who both provided technical reviews and process advice / guidance along the way. The City's website includes several useful documents as well, such as a DC rates brochure explaining the rules in place as of when we applied, which states:

"The DC is calculated the day a complete application is received and is frozen for a period of up to two years. If a building permit has not been issued within the two year frozen period, the DC rate will revert back to the rate in effect on the date the building permit is issued"
(https://london.ca/sites/default/files/2021-12/CofL_2021_DcRatesBrochureDigital_Web.pdf, pg. 1, green dialogue box on the top right).

Further, Sect. 4 of the DC By-law states that for development types under a Site Plan Application or Zoning By-Law Amendment, the DC is calculated at the day a complete application is received.

Based on these references and on advice we received repeatedly from City staff, our team was assured that our DC rate was fixed as of Apr. 20, 2021 (for all four of our buildings) and would not change until Apr. 2023. The same brochure later goes on to say that the DC fee is calculated and due for payment on the day



the building permit is issued, but we were assured by City staff that the earlier clause (promising to freeze the DC fee amount for two years) would be applied to our project, and that the DC would only be recalculated if not paid within the two-year frozen period. We paid our permit application fees and submitted complete packages for all four buildings at that time simply to ensure that the DC rate would remain fixed, even though we were planning to build our buildings sequentially over a period of 18-24 construction months and did not truly need our permits for all four buildings at that time. City staff had encouraged us that this was a wise approach, and we were happy to comply.

We continued to work with city staff towards obtaining our building permits, and London experienced ongoing increases in application/construction activity, overwhelming City staff and resulting in many further delays. While the two-year DC freeze period would typically be more than adequate to get the project to permit and get the DC paid, COVID and other challenges have made it difficult for the City to keep up to typical work flows, and this exceptionally challenging two years has been punishingly difficult for everyone. We were in regular contact with various City staff, but our building permit was ultimately not approved until June 1, 2022 (>14 months after application). We had been advised by City staff on Dec. 19, 2021, that our Foundation Permit was ready for building A (#21-009953), but the permit itself was never issued, and we, as a new developer in the region, misunderstood and believed that our permit was issued and waiting for us to pick it up. At that point we had already experienced 36 weeks of delays in reviewing our applications and had missed the 2021 construction season, so we opted to wait out the winter (avoiding winter heating costs and complications with pouring concrete during freezing weather) and pursue construction in the spring of 2022. We were also confident that we had secured our DC rate when our application was deemed complete and we had paid our building permit fee, and that we did not need to pay the DC until we were ready to pick up the building permits. The DC amount was understood at that time to be approximately \$485,000 per building, which clearly is a large enough sum that we did not wish to pay until we were ready to begin construction.

Additionally, our project team and the industry have all been very busy all the while, navigating lockdowns, supply chain disruptions, significant cost increases, and more. The delays we have experienced over the past year have been far from typical and have truly cost our project tens of millions of dollars: our 2019 construction budget has since nearly doubled (to about \$70MM including soft costs, from closer to \$40MM in 2019). We hold the City of London staff in the highest respect for their professionalism: they are truly a lovely team to work with. Yet the City has been responsible for delays in our project which caused us to miss the 2021 construction season, and inflation since that time means that the City's delays have directly resulted in significant cost increases to our project, so we believe it is only right and fair that the City should honour the DC rate set in 2021, and follow the language quoted above from the City's own website, promising that our DC fee would be frozen as of Apr. 20, 2021, for a period of two years. If the two year freeze period were to be calculated instead from the date when our Site Plan Application was submitted in 2019, we would then ask the Committee to consider the exceptional nature of the intervening years since that time and the delays caused by the City's inability to keep up to work flow demands, and extend the freeze period by another year (to at least Dec. 2022, or preferably to Apr. 2023) to make up for the cost impacts which the City's delays have already imposed on our project.



This letter is submitted as a formal appeal to the Corporate Services Committee for your intervention, and we would humbly request that you direct that the Development Charges due and payable by EVE Park be re-assessed at the 2021 levels, for all four buildings which had submitted complete Building Permit applications, and that those DC fee amounts be fixed and honoured until Apr. 20, 2023. If we, EVE Park London LP, do not pay the DC by Apr. 20, 2023, then we will expect that the applicable rates would update to the rates then in force, and would ask no further consideration.

And finally, we wish to advise the Corporate Services Committee that we did in fact pay the DC fee for buildings A and B at the higher (2022) rate even though we do not agree with the assessment, because we could not afford a further delay to our construction schedule. We therefore ask the Committee to instruct that, after reassessing the DC amount payable, that the surplus amounts paid on our account be either refunded or be allocated to offset DC fees payable for our upcoming buildings C and D.

Please do not hesitate to contact me directly to discuss this further at your earliest convenience. I will expect to delegate to the Committee at your next earliest convenience to present this request formally. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Derek Satnik".

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