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September 16, 2022
File No.: 218183.00967/11889

Neil M. Smiley
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By Email

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

Attention: Corporate Services Committee c/o Najah Kishawi-Support Clerk nkishawi@london.ca

Dear Sirs/Madams:

Re: Letter of Complaint/Protest in respect of the Development Charges (City Services) being required by the City of London to be paid in connection with the issuance of Building Permit 21-030285 concerning the development of property owned by UniFirst Canada Ltd. located at 2365 Innovation Drive, City of London (the “Property”)

We act on behalf of UniFirst Canada Ltd. (“**UniFirst**”) in connection with its development of an industrial laundering and cleaning facility at the above-noted Property (the “**Project**”). Under a Customer Invoice dated Friday September 9, 2022, a copy of which is attached as Schedule A (the “**Customer Invoice**”), the City of London has invoiced UniFirst’s contractor, Arco/Murray International Construction Company, ULC, for payments, including Development Charges, that it requires be paid prior to the issuance of a building permit arising from Building Permit Application No 21-030285 for the Project.

UniFirst does not agree with, and this letter shall serve as notice of UniFirst’s complaint and protest (“**Notice of Complaint**”) in respect of the imposition for the Project of a Development Charges Rates applicable to “Commercial Development” as defined under City of London By-law No. C.P. 1551-227 (the “**DC By-Law**”). It is UniFirst’s respectful submission that its use of the Property should attract/invoke the Development Charges Rate for “Industrial Development” as provided for in the DC By-law. Accordingly, in accordance with Section 20 of the Development Charges Act, 1997 and Section 26 of the City of London’s DC By-law, we hereby file, on behalf of UniFirst as “Complainant”, the within Notice of Complaint to the City of London under Part IV of the DC By-law.

1. The Complainant: UniFirst Canada, Ltd.
2. Address of Service for Complainant: 3067 E. Commerce, San Antonio, TX 78220
Attention: Rick Montgomery Email: RMontgomery@unifirst.com
3. Grounds for Complaint: The amount of the development charge was incorrectly determined; and or there was an error in the application of the DC By-law as summarized below:

(i) UniFirst operates as an industrial launderer, whereby it will use the premises primarily for receiving from an industrial depot, bulk soiled uniforms and other industrial wear, which it industrially launders and has delivered for re-use to the industrial user. Other industrial processing occurs such as labelling and dyeing.

(ii) The building use proposed for the Project does NOT conform to the definition of a “Commercial Development” as set out in the DC By-law since it is not one of the listed uses in paragraph (a) of the definition of Commercial Development. The building will in no way be used for “retail purposes including.....articles or things for sale or rental directly to the public...” as provided for in paragraph (b) of the said definition. There are absolutely no sales at retail of any product or service to the public and no transactions of any sort will be occurring in the premises of a nature contemplated by paragraph (a) or (b) of the definition of “Commercial Development”. Moreover, there will be no delivery to the general public from the facility.

(iii) While “laundries” is a listed purpose in paragraph (b) of the definition of “Commercial Development”, it needs to be read in the context of the paragraph it resides in, such that the retail purpose is “for sale or rental directly to the public”. The word “laundries” is intended to mean public-facing laundromats or similar operations serving the public, not industrial laundering facilities. UniFirst processed a Minor Zoning Variance for this Project to make this distinction of its use within its Light Industrial zoning designation.

(iv) Pursuant to the definition in the DC By-law of “Industrial Development”, paragraph (b): (a) UniFirst will receive raw materials and semi-processed goods (garments, mats, etc. manufactured by UniFirst and others) to the Property and process (wash, dye, label, etc.) and package these materials and goods to provide to industry (not the general public); and (b) UniFirst will also store and distribute such goods and materials which includes “operation of a truck terminal, warehouse”. Again, this does not include retail sale of goods to the public.

(v) UniFirst is classified as an “Industrial Launderer” under NAICS Code 812332 and SIC Code 7218. These are industrial classifications, not commercial.

(vi) The Property is zoned for “Industrial” uses not retail/commercial uses and the Building Occupancy classification of Group F, Division 2 is “Medium Hazard Industrial Occupancies” (per Building Code §9.10.2).

(vii) With no retail activity by way of sale or rental to the public intended to take place at the Property, it is discriminatory and prejudicial to impose, for the purposes of development charges payable under the DC-Law, a classification of “Commercial Development” in respect of the Project which will have the effect of increasing the applicable development charges by \$544,671, being the difference between the rate applicable to “Industrial Development” of \$1,352,366 and the rate applicable to “Commercial Development” of \$1,897,037.

Conclusion:

In light of the grounds cited above and such further grounds that may be asserted on the hearing of the complaint before the City of London’s Corporate Services Committee, City Council or on a further appeal, we respectfully submit that: (i) the amount of the Development Charge for the Project was incorrectly determined; and/or (ii) there was an error in the application of the DC By-law as set out in Section 20 of the Development Charges Act, 1997 and Section 27(1) and 27(2) in the DC By-law. The proposed use for an industrial laundering facility, not offering for sale or

rental directly to the public, is not properly characterized as a Commercial Development but more appropriately, should be classified as an Industrial Development for the purposes of calculating the applicable development charge under the DC By-law.

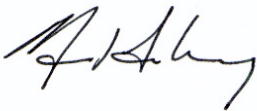
In order to continue with the Project and not cause any further delays, our client requires to urgently procure its building permit. Accordingly, it is contemporaneously paying under protest the amount of \$1,897,037 identified in its Customer Invoice in respect of Development Charges for the Project as it is of the view the applicable development charge amount should be \$1,352,366, being the development charge applicable to "Industrial Development". In dispute under this Notice of Complaint and being protested is the payment of the amount of \$544,671 under the Customer Invoice, which amount Unifirst requests be refunded as part of the determination of its complaint, together with interest as contemplated by Section 25 of the Development Charges Act, 1997.

In accordance with Section 20 of the Development Charges Act, 1997 and Section 30 of the DC By-law, we request that the City and/or its Corporate Services Committee hold a hearing into the within complaint, provide Unifirst (and the undersigned) notice of the hearing and an opportunity to make representations.

Please provide UniFirst and the undersigned with notice of any future proceedings in connection with this complaint.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP



Neil M. Smiley

NMS/kh

cc. Peter Kokkoros, Director, Building and Chief Building Official Building Division, Planning and Economic Development, City of London – pkokkoro@london.ca
Rick Montgomery, UniFirst Corporation – Rick_Montgomery@unifirst.com
Will Shaffer, EEC Environmental – WShaffer@eecenvironmental.com

SCHEDULE A
CUSTOMER INVOICE



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

Customer Invoice

Friday, September 9, 2022

RE: Permit Application 21-030285 2365 Innovation Drive Dry Cleaning and Laundry Depot Erect

STEVE LANE
ARCOMURRAY INTERNATIONAL CONSTRUCTION COMPANY, ULC
3110 WOODCREEK DR DOWNERS GROVE IL 60515 USA

The review of your permit is now complete. The table below itemizes applicable fees that must be paid in full before the permit can be issued. Fees included in Sub-total 1 must be paid within five (5) business days from the date of this notice. Failure to do so will result in cancellation of the permit application, in accordance with the provisions of the Building By-law. The development charges amount shown below is subject to adjustment based on the rates in effect the day the permit is being issued (See Note below).

Payment can be made by cheque or online using your financial institution's banking service. Payments by cheque can be mailed or delivered to the City Hall Building Division.

If you are submitting payment using an online banking service, please follow the steps below:

- 1) Check box to indicate payment option selected (Fee Subtotal 1 or Total Fees) and save this document.
- 2) Using your email program, click "Reply to All", attach the saved document and click "Send".

| | |
|--------------------------|----------|
| Permit Fee | |
| Construction Water Fee | \$987.94 |
| Water Meter Fee (Remote) | |

| | |
|--------------------------|-----------------|
| Fees Sub-total 1: | \$987.94 |
|--------------------------|-----------------|

☐ PAID

| | |
|-------------------------------------|----------------|
| Development Charges (City Services) | \$1,897,037.50 |
|-------------------------------------|----------------|

| | |
|--------------------------|-----------------------|
| Fees Sub-total 2: | \$1,897,037.50 |
|--------------------------|-----------------------|

| | |
|--------------------|-----------------------|
| Total Fees: | \$1,898,025.44 |
|--------------------|-----------------------|

☐ PAID

Note: Per section 4 of the Development Charges By-law: "...For all development types, unless application is made under a Site Plan or a Zoning By-law Amendment, a Development Charge under section 2 shall be calculated on the date a building permit is issued under the *Building Code Act*...", the fees provided above, unless the application is made under a Site Plan or a Zoning By-law Amendment, must be paid prior to January 1st. Fees paid after January 1st would be reassessed and adjusted based on the Development charge rates in effect after January 1st.

Please disregard this notice if payment has already been made

Miguel Mendoza, Plan Examiner
(519) 661-2489 Ext 5079

The Corporation of the City of London
Building Division, Room 708
300 Dufferin Ave. London ON N6A 4L9
Office: 519-661-4555

www.london.ca