



TO: Mayor and Members of Council

FROM: Barb Cribbett, Treasurer
Andy Taylor, Commissioner of Corporate Services

PREPARED BY: Jennifer Nelson, Manager Development Finance

DATE OF MEETING: 2006-01-17

SUBJECT: Development Charge Complaint – 1629397 Ontario Inc

RECOMMENDATION:

THAT the report titled “Development Charge Complaint – 1629397 Ontario Inc” be received;

AND THAT Council determine that the development charges were correctly calculated on the one bedroom plus den units;

AND THAT Council determine that the development charges were correctly applied to the one bedroom plus den units;

AND FURTHER THAT Council dismiss the complaint received from 1629397 Ontario Inc.

BACKGROUND:

In accordance with section 20(1) of the Development Charges Act, 1997, “a person required to pay a development charge, or the person’s agent, may complain to the council of the municipality imposing the development charge that,

- (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 the development charge by-law.”

1629397 Ontario Inc sent a letter of complaint to Council (Appendix A), under section (a) and (c) above, as it pertains to the development charges applicable on the “one bedroom plus den” units in their Parkview Towers development. These units were assessed at the two bedroom and greater apartment rate (\$5,204/unit), and the complainant believes that these units should have been assessed at the one bedroom apartment rate (\$3,307/unit).

The Town Wide Hard and Town Wide Soft By-Laws (2004-222 and 2004-223) define a

bedroom as “any habitable room of a minimum six square metres used, designed or intended for use, as sleeping quarters and includes a den, study, loft or other similar area.” In addition, Schedule “B” - Schedule of Development Charges (Appendix B) included in both by-laws identifies the development charge by dwelling unit and clearly states that the 2 bedroom or larger apartment rate includes a one bedroom plus den.

“One bedroom plus den” units have been assessed at the 2 bedroom or larger apartment rate since the Town’s first development charge by-laws were enacted in 1994. The practice of charging these units at the 2 bedroom and greater apartment rate has been consistently applied since that time.

As the by-law clearly defines a den as a bedroom and Schedule “B” clearly identifies that the 2 bedroom and larger apartment rate includes a one bedroom plus den unit, Staff is of the opinion that the amount of the development charge was correctly determined and that development charge by-law has been applied correctly.

FINANCIAL CONSIDERATIONS:

The application submitted for this development was for a total of 357 units, of which 49 units were considered one bedroom plus den. The total Town of Markham development charges paid for this development was \$1,615,012, including Town Wide Hard charges of \$527,132 and Town Wide Soft charges of \$1,087,880.

The reassessment of 49 units from the 2 bedroom apartment rate to the one bedroom rate would result in a refund of \$92,953, as shown in the chart below.

Unit Type	Town Wide Hard	Town Wide Soft	Total DC's
2 Bedroom and Larger	\$1,644	\$3,560	\$5,204
1 Bedroom	\$1,177	\$2,130	\$3,307
Difference			\$1,897
# of Units			49
Total Possible Refund			<u>\$92,953</u>

ENVIRONMENTAL CONSIDERATIONS:

Not Applicable

ACCESSIBILITY CONSIDERATIONS:

Not Applicable

ENGAGE 21ST CONSIDERATIONS:

Not Applicable

BUSINESS UNITS CONSULTED AND AFFECTED:

Legal Department was consulted and is in agreement with Staff's position.

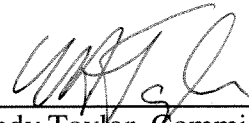
ATTACHMENTS:

Appendix A – letter of complaint from 1629397 Ontario Inc

Appendix B – Schedule "B" Schedule of Development Charges

per. 

Barb Cribbett, Treasurer



Andy Taylor, Commissioner of
Corporate Services

1629397 Ontario Inc
330 Highway # 7 East, PH3
Richmond Hill, Ontario
L4B 3P8
Tel: 905-882-6286 Fax: 905-882-1573

September 27, 2005

His Worship the Mayor and Members of Council
Town of Markham
101 Town Centre Boulevard
Markham, Ontario
L3R 9W3

Dear Sirs and Madame:

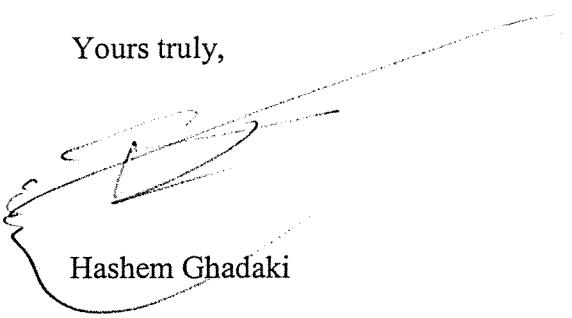
Re: Complaint made under section 20 of the Development Charges Act
Parkview Towers, Leitchcroft Community, Markham

On September 16th, 2005 1629397 Ontario Inc. paid \$ 2,211,202.00, under protest, in respect of its high-rise residential development (Parkview Towers, Blocks 41-43, Leitchcroft community). We believe that that charge was incorrectly determined and that there was an error in the application of the Town's Development Charge By-laws (2004-222 and 2004-223, the Town Wide Hard Services and Town Wide Soft Services By-laws). Many of the units in the apartment buildings are one bedroom units that were charged the higher (two-bedroom) rate. We understand that certain rooms in the units were treated as a second bedroom when they ought not to have been. These rooms do not have a window or closet or even a door. My architects tell me that a window is required in order for a room to qualify as a bedroom. Without the window or closet (or door for that matter), these areas were neither designed nor intended to be used for sleeping. These rooms do not increase the level of service that the Town would provide and are, in that respect, no different than a living room or dining room (which the Town does not treat as a second bedroom). The one-bedroom units are only one-bedroom and should have been charged that lower (one-bedroom) rate. We ask that the Town reconsider the charge and issue the appropriate refund.

I can be reached at:

1629397 Ontario Inc.
330 Highway #7 East, PH3
Richmond Hill, Ontario
L4B 3P8

Yours truly,



Hashem Ghadaki

Schedule "B"

SCHEDULE OF DEVELOPMENT CHARGES

I. General

The Development Charges set out in this schedule are the base charges only. These charges will be increased or decreased based upon an inflation adjustment to be calculated semi-annually without amendment to this by-law as of the first day of January and the first day of July in accordance with section 15 of this by-law.

II. Town-Wide Soft Services Development Charges

Type of Residential Unit	Dollars per Dwelling Unit
Single detached dwelling or semi-detached dwelling	\$4,618
Townhouses and Multiple Unit Dwellings (excluding apartments)	\$3,628
Apartments:	
- 2 bedroom or larger apartment (including one bedroom plus den)	\$3,284
- bachelor and one bedroom apartment	\$1,965

III. Development Charge for Non-Residential Development

For all non-residential development, the charge shall be payable based upon the square metres of non-residential gross floor area:

\$2.95/m²