
Subject: Additional Information Regarding Development Charges at 4389 Beechwood Road, Niagara Falls

Report to: Corporate Services Committee

Report date: Wednesday, September 13, 2023

Recommendations

1. That Report CSD 42-2023 **BE RECEIVED** for information.

Key Facts

- The purpose of this report is to provide further information to the Corporate Services Committee (CSC) regarding a delegation to the August 9, 2023 CSC made by the property owner of 4389 Beechwood Road, Niagara Falls (“the property”) for an exemption of the Regional Development Charge (RDC) By-law demolition credit timeline.
- The property previously had a single detached dwelling that was razed by an explosion on July 30, 2008.
- The building permit for a single detached dwelling was issued by the City of Niagara Falls Building Department on December 22, 2021. Development charges were paid in full at the time of issuance at the 2021 rate of \$11,471.
- As per the RDC By-law in effect at the time of building permit issuance (By-Law 2017-98), a demolition credit eligibility period is 5 years from the date the building was demolished. For this property, the previous house was destroyed in July 2008, meaning that the eligibility period for demolition credit expired on July 30, 2013.
- The property owner has indicated that development on the lot was unable to proceed due to police and fire investigations took place regarding the explosion. These investigations concluded by 2010 and the property was sold to the current owner on February 25, 2020.

Financial Considerations

The property is ineligible to receive demolition credit under the RDC By-law in effect at the time of issuance, or the current RDC By-law 2022-71 as such there are no financial considerations associated with this report. Should Council elect to provide this exemption to the property owner, the RDC would be refunded by the amount of \$11,471

which represents the full amount collected in 2021. There are no existing grants programs and/or funding sources that would offer the applicant the relief that they desire. If any relief is provided the returned amount will need to be funded from the existing tax base to keep the RDC reserves whole as per the Development Charges Act.

Analysis

On July 30, 2008, a single detached dwelling located at 4389 Beechwood Road, Niagara Falls, was destroyed due to an explosion. The site was subject to an investigation by the Niagara Falls Fire Department which concluded on August 1, 2008. Based on staff's understanding after reviewing media reports, police and ministry investigations concluded in 2010. The lot remained vacant, and no building activity was undertaken by the owner at the time of the explosion from the date the previous home was razed in 2008 to the day the property was sold to its current owner on February 25, 2020.

The property's current owner applied for a building permit from the City of Niagara Falls on January 14, 2021. The permit was issued for a new single detached dwelling on December 22, 2021. The RDC By-law 2017-98 provided a 5-year eligibility period during which a RDC demolition credit can be granted which therefore would have expired July 30, 2013. The Niagara Falls Chief Building Official correctly did not provide the credit to the applicant as the permit was approximately 8 years beyond the eligibility period as specified in the RDC By-law. There is no provision with the RDC By-law that would allow the extension of the demolition credit for non-brownfield properties beyond the base 5-year period.

For reference, section 18 (a) for RDC By-law 2017-98 has been provided below which specifies that:

18. (a) If application is made for a building permit in respect of a parcel of land upon which a premise existed **within five years** prior to the date of such application, but which premise has been demolished or destroyed before the date of such application, then the **amount of development charges payable upon issuance of the said building permit shall be reduced by the net amount**, calculated pursuant to this By-law at the current development charge rates, that would be payable as development charges in respect of the demolished **or destroyed** premise, provided that such reduction shall not exceed the development charges otherwise payable. For purposes of this subsection,

“net” means the excess of the development charges for premises constructed, over the development charges for premises demolished or destroyed.

The property owner spoke in front of Niagara Falls City Council on February 7, 2023. Recognizing the similar provisions of their DC By-law, which also contains a five-year limitation on demolition credits, City staff recommended that the municipal portion of the development charges not be refunded. Ultimately the Niagara Falls City Council elected to refund the development charges paid despite the building permit being issued beyond five years since the previous home was razed by fire. A similar request to delegate to Regional Council was received on July 2, 2023, and the property owner delegated to Corporate Services Committee on August 9, 2023.

Alternatives Reviewed

Council may elect to provide the requested relief, however, this alternative is not recommended. Should Council grant the relief, it would fall outside of any existing grant programs and would be contrary to the explicit provisions of the RDC By-law 2022-71. Moreover, it would undermine the rationale for the expiration of the demolition credit, which is in part to incentivise property owners to move forward with construction plans without delay. As a result, other property owners would be more likely to keep their lands vacant for prolonged periods of time in hopes of obtaining relief from development charges, notwithstanding the applicable provisions of the RDC By-law in effect. Furthermore, if granted, the requested relief would be treated as a discretionary grant. As such, it would require funding from the existing tax base to keep the RDC reserves intact as per the requirements of the Development Charges Act. In effect, by approving the requested relief, Council would be requiring the general taxpayer to underwrite the cost of the owner’s delay in replacing the dwelling.

Relationship to Council Strategic Priorities

RDC are a major source of funding for growth projects in the capital budget. As such, RDC assist in achieving the strategic priorities of a fiscally responsible government.

Other Pertinent Reports

None

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Appendices

None