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Regional Municipality of York
17250 Yonge St.,
Newmarket, Ontario
L4Y 6Z1

August 14, 2014

Attention Mr. D Kelly Clerk

BY E-MAIL

Dear Sir:

Re: Complaint under section 20 *Development Charges Act*, 1997 S.O. 1997 c. 27, as amended by Villa Royale Shopping Centre Inc. 286.56 m2 in respect to the redevelopment of existing commercial plaza at 9750 Weston Rd, Woodbridge.

This letter is written on behalf of Villa Royale Shopping Centre Inc. and relates to the above redevelopment and the development charges determined to be payable on the redevelopment under the Region's Development Charges Bylaw 2012-36 .

In accordance with subsection 20(3) of the *Development Charges Act*, 1997 S.O. 1997 c.27, as amended (the Act) I am the agent for Villa Royale Shopping Centre Inc. and can be contacted at the above address. This complaint, under section 20(1) of the Act, is that the amount of the development charge was incorrectly determined and/or that there was an error in the application of the development charges by-law (paragraphs (a) and (c) 20(1) of the Act).

The particulars of the reasons for the complaint are as follows:

The client obtained planning approval from the City of Vaughan's committee of Adjustment and planning staff for redevelopment for office use the space above three existing retail units and within the existing walls and under the existing roof of its shopping centre building at 9750 Weston Rd. The shopping centre was developed over 10 years ago when all applicable development charges were paid on the gross floor area of 2,787.00 m2 of retail space. The proposed redevelopment for office is for a gross floor area of 286.56 m2 .

Regional staff advised my client that the development charge for this redevelopment calculated under Schedule "F" of the Development Charges Bylaw must be at the Retail uses rate of \$ 405.67 per square metre of gross floor area and not at the Industrial/Office/Institutional rate of \$207.29 per square metre of gross floor area .

This advice appears to be based on the interpretation of the provisions of section 3.11 of the Development Charges By law namely :

Multiple Industrial/Office/Institutional and Retail Uses

3.11 In the case of lands, buildings or structures used or designed or intended for use for both industrial/office/institutional uses and retail uses, the development charges otherwise applicable to such development under both 3.9 and 3.10 shall be determined on the following basis:

(a) as between the industrial /office /institutional uses and retail uses ,the principal use of the development shall be that having the greater gross floor area ,such principal use being the use of 55% or greater of the total floor area. If no single use has 55% or greater of the total gross floor area, then the development charge payable on the total gross floor area shall be the average of the two non-residential charges payable.

(b) the development charge under either subsection 3.9 or 3.10 applicable to such principal use as determined under paragraph (a) ,shall be applied to the total non-residential gross floor area of the development

The error has occurred because staff are misinterpreting the provisions of section 3.11 of the bylaw. Staffs assert that "predominant use of the site as a whole will remain retail". That is not disputed but what is disputed is that the section can be used to determine that the proposed office development is retail development because it is part of the existing plaza.

The section should be interpreted in the context of the purpose of development charges. The Act under which the by law is passed in section 2 enables the municipality to "impose development charges against land to pay for increased capital costs required because of needs for services arising from development". The charges are collected before the building permit is issued so development is completed when the building is built. What is the development that creates the needs for services and development charges? In this case, it is the 286.56 m² of office space. The retail uses in the plaza which was developed at least 10 years ago when the building was built are not part of "the principal use of the development" under section 3.11. Section 3.11, in my opinion does not apply to this redevelopment which is if for Office only. If it is determined to be office then there is no dispute about the amount payable.

On behalf of Villa Royale Shopping Centre Inc. I look forward to a hearing before council on this complaint in accordance with the Act.

Yours Very Truly



M. Virginia MacLean, Q.C.

copy : client, R Beluz
Gabriel Szobel
William Hughes
Fabrizio Fillippazzo