

# 2014 Education Development Charges By-Law

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## Recommendations

It is recommended the Board:

- 1) determine that no further public meeting with regard to the passage of the 2014 Education Development Charges By-law is necessary;
- 2) determine that the percentage of growth-related net education land cost that is to be funded by education development charges on residential development be 90% and on non-residential development be 10%; and,
- 3) pass the 2014 Education Development Charges By-law in the form attached.

## Background

On May 12, 2014, the Board held public meetings to review its Education Development Charge (EDC) policies and to consider the proposed new EDC by-law for the Region of Peel. The Board's current by-law expires on July 1, 2014. The proposed by-law repeals the existing by-law effective July 1, 2014.

At the public meetings on May 12, 2014, Cynthia Clarke, Vice President, Enterprise Asset Management, Ameresco Inc. made a presentation concerning the EDC background study that firm had prepared on behalf of both the Board and the Dufferin-Peel Catholic District School Board (DPCDSB).

The Board has received submissions from WeirFoulds LLP, counsel to the Building Industry and Land Development Association (BILD).

The Board has submitted information to the Ministry of Education and awaits the approval of the Minister of the estimates of projected pupils and the number of school sites used by the Board in calculating the proposed charge. Such approval is a condition to the passing of the new by-law.

Board staff has worked throughout with staff of the DPCDSB to ensure, to the extent possible, that there will be consistency in the preparation and administration of the EDC by-laws of both boards. The DPCDSB also plans to pass a new EDC by-law on May 27, 2014, effective July 1, 2014.

Attached to this Report is a draft by-law which staff recommends the Board pass at its meeting on May 27, 2014. When Ministerial approval is obtained, the date of such approval should be inserted into the second recital of the by-law.

## **ISSUES TO BE DECIDED BY THE BOARD**

### **1. Recovery of Net Education Land Costs**

The Board is permitted to recover up to 100% of the net education land costs expected to be incurred by the Board in purchasing school sites. The Board's current by-law is based on 100% recovery of these costs.

Staff and legal counsel recommend the Board continue with this practice. The Board has conducted a review of its budget for operating surplus which could be used to finance net education land costs and has determined that the amount available is zero. There is no other source for recovery of these costs.

### **2. Percentage of Net Education Land Costs to be Borne by Non-Residential Development**

The Board could choose to impose no education development charge on non-residential development or could determine to recover up to 40% of the estimated net education land costs from non-residential development. The Board currently imposes a non-residential charge based on 10% recovery from non-residential development.

While imposing no non-residential charge would make administration of the by-law simpler, staff and legal counsel recommend the Board continue with its current practice of charging 10% to non-residential development since this represents a compromise in allocating the charge between residential and non-residential development, which seems to be acceptable to the development community at large.

**This allocation will result in a residential charge of \$3,224 per dwelling unit (currently \$1,595 per dwelling unit) and a non-residential charge of \$0.45 per square foot/\$4.84 per square metre (currently \$0.32 per square foot/\$3.44 per square metre).**

### **3. Non-Statutory Residential Exemptions**

Other than exemptions for minor housing intensification and municipally owned and operated housing, there are no mandatory exemptions for residential development. The proposed by-law provides that a credit be given for education development charges if a residence is constructed on a property within 3 years of demolition of a previous dwelling (the statutory minimum period for the demolition credit is 2 years). The extension of the demolition period is in response in part to the delegation made to the Board sometime ago to waive the 2 year requirement in the case of a particular homeowner who felt that the municipality involved had not processed the application for a building permit for the replacement dwelling unit as expeditiously as the homeowner would have liked.

Given that the Board has no source of funding should it grant a non-statutory exemption for residential development, staff and legal counsel recommend the Board create no further exemptions, subject only to the extension of the demolition credit period from 2 to 3 years.

### **4. Differentiated Residential EDC**

The Board is permitted to differentiate the residential education development charge by housing type. Typically, the categories of housing type are single family, medium density and apartments (sometimes divided into large and small apartment units). Ameresco Inc. has calculated that differentiated charges would be \$5,159 (single family), \$3,300 (medium density) and \$653 (high density).

No request has been made to the Board to impose a differentiated residential charge. Staff and legal counsel recommend that the Board continue with its current practice of one residential charge.

## **5. Non-Statutory Non-Residential Exemptions**

Pursuant to the provisions of the *Education Act* and regulations, the Board is required to exempt non-residential development consisting of the enlargement of the gross floor area of an industrial building up to 50% and also is required to provide a credit for a replacement non-residential building destroyed by fire, demolition or otherwise. Non-residential development on municipally owned land is also statutorily exempt. In addition, by virtue of their status as Crown agencies or as a result of their enabling statutes, the Board is required to exempt publicly funded universities, community colleges and Metrolinx.

The Board has chosen to grant exemption from EDCs only to public hospitals and non-residential agricultural buildings.

In view of the constraints on the Board for alternative funding, staff and legal counsel recommend the Board continue its practice of exempting only public hospitals and non-residential agricultural buildings (in addition to those categories of non-residential development which it is required to exempt by statute or otherwise).

## **6. Demolition Credits**

The Board is required to give a demolition credit for a replacement of a dwelling unit destroyed by fire, demolition or otherwise, provided that the building permit for the replacement dwelling is issued within 2 years of the date of destruction by fire, demolition of the dwelling. The minimum grace period for demolition credits for non-residential development is 5 years. The 2009 by-law passed by the Board contains a grace period of 10 years and staff and legal counsel recommend the Board not change this grace period.

## **7. By-law Term**

Staff and counsel recommend the term of the by-law be 5 years (commencing on July 1, 2014). The Board will be entitled to repeal the by-law before 5 years if it so chooses and will also be entitled to amend the by-law once a year to increase the amount of the charge or to remove or reduce the scope of an exemption.

## **PUBLIC INPUT RECEIVED BY THE BOARD**

### **Building Industry and Land Development Association (BILD)**

In a letter dated May 12, 2014, WeirFoulds LLP acting on behalf of BILD, provided comments on three issues:

- 1. BILD contends that the Board did not make appropriate use of capacity in existing schools to accommodate pupils from new development.*

After review, Board staff have determined that the calculations of the charge should be amended somewhat to reflect available capacity to accommodate students from new development.

- 2. BILD contends that the Board should not include existing students when calculating new growth requirements.*

On review and on the basis of legal advice as to the requirements of the EDC Regulation 20/98, Board staff recommend the Board agree with the position taken by BILD. The proposed charge has been calculated accordingly.

3. *Pupil Yields – BILD has pointed out that the pupil yields used to calculate the charge have increased significantly from 2009.*

This increase has been justified and no adjustment to the charge is proposed.

Attached is a copy of: (i) the May 12, 2014 WeirFoulds LLP letter acting on behalf of BILD addressed to the Board and (ii) a copy of the Board's May 27, 2014 response to WeirFoulds LLP acting on behalf of BILD. The Board's response to BILD is consistent with the Board's three comments listed above.

Taking into account the foregoing, the proposed 2014 education development charge calculated by Ameresco Inc. is \$3,224 per residential unit and \$0.45 per square foot of non-residential development. The Addendum to the April 4, 2014 Background Study Report provides further details of the changes made in the calculation of the charge. The Background Study and Addendum can be accessed on the Board's website:

<http://peelschools.org/trustees/boardpolicies/edc/Pages/default.aspx>.

## **ADDITIONAL PUBLIC MEETING**

Staff recommends no further public meeting is necessary since any amendments to the proposed by-law made since the May 12, 2014 public meetings are minor in nature.

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