



Adam A. Donaldson @adamadonaldson

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Coming up at 6 pm, council will sit as tribunal again in a matter of disputed development charges. More deets:



City Council Preview – What's on the Agenda for the May 29 Meeting?

Another meeting of city council where city council isn't being city council. In another instance where our favourite local government has to exercise their semi-legal powers to hear a case of...

<https://guelphpolitico.ca/2024/05/17/city-council-preview-whats-on-the-agenda-for-the-...>

Mayor Guthrie has called the meeting to order.

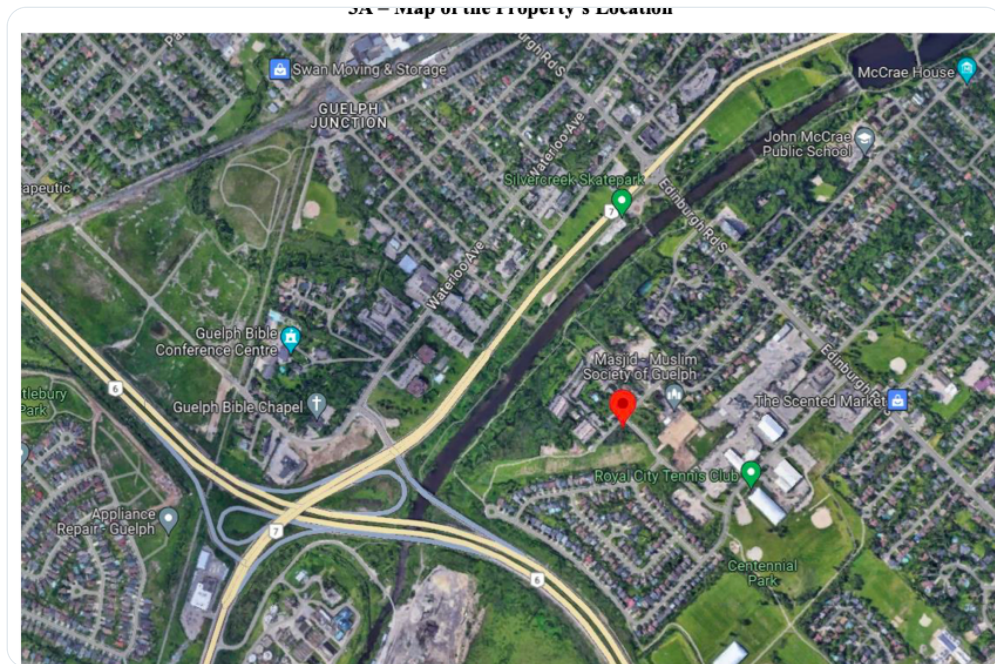
Guthrie notes that we don't often have one of these, but it is an option open to developers under the Development Charges Act. Justin Black, Robson Carpenter LLP, agent for 300 Water St Inc, is bringing the complaint.

Carpenter says that there was an incorrect amount and an error in an application of the DC bylaw. Council can either dismiss the complaint, or choose to make amends as they see fit.

Allison Thornton, Associate Solicitor, will represent the City.

Carpenter starts. He says 300 Water St Inc is part of Spruce Living group of companies, which is new and created with the intention of creating as many residential units they can. Their focus is detached, semi and townhomes in Guelph.

300 Water is now six separate addresses, a vacant property, and it was acquired for development: 6 town home units fronting on Water St. When they were issued permits, they were required to pay full rate of all 6, \$228,552.



They believe they should have got 25% discount and only paid \$171,414 as per the changes to the DC Act brought by the provincial gov't to support the development of more rental housing.

3 main qualifications for the discount:

- Units for rent
- must contain four or more residential units
- units in question have to have at least 3 bedrooms (for full 25%)

Carpenter says there's no definition in the DC Act for "purpose built rental", and this is an area of contention between his clients and the City. A surveyor letter for the separation says that the owners intent is to sell lots, but Carpenter says this is a mistake.

He says that there are six separate units owing to the fact that they each needed their own separate hydro hook-ups. To connect all six in tandem would require a transformer, which would have been cost prohibitive.

Carpenter also says this project has secured financing through the CMHC's MOI select program, which is only available to rental developments. They're in the process of finalising the 40-year amortisation period.

Lastly, Carpenter says there was an agreement entered into btw client and City which prevent them from selling units unless they paid back 25% plus interest and would have been on title to the property. He says land registry office should see that note.

Carpenter says they've done a similar agreement in Waterloo for a condo there where they answered the same complaint.

Downer asks about zoning requirements for severance. Carpenter says w/o severance, it would have been one whole property and then have to go thru zoning bylaw amendment. Had to do with number of units.

Caron asks about rental rate, are these affordable? Carpenter says 300 Water is not designated affordable, and the CMHC program doesn't require it. They do have people

moving into 4 of the 6 in the net month.

Busuttil asks if they can register through Tarion at a later date. Carpenter says it's theoretically possible, but the is typically done before construction begins if the intention is to make these units for sale.

Busuttil asks about the CMHC financing. Carpenter says they wen through MLI select program, which is financing through a bank but secured by CMHC but at a lower interest rate. Requires that a lot of conditions are met on a points based system, more points the better.

Busuttil asks how long the rate is locked in. Carpenter says it's based on five-year renewals, but its a more prolonged investment on a 40 year term given amortisation provisions.

I keep saying Carpenter when I mean Black. Apologies.

Allt asks for confirmation about paying back the 25% if the property is sold. Black says that's correct, if the City takes them up on it. Believes that they can be successful at OLT w/o the agreement, but he thinks it gives the City some room for certainty.

O'Rourke if they've submitted CMHC docs with the City. Black says no, but docs are available. The brokers have been arranging that, and there should at least be a signed commitment letter.

Billings asks about the agreement in Waterloo. Black says the Waterloo building was a condo, 200 units, it meant technically each could be sold separately, but the developer intended to retain units and keep it as a rental. They changed their mind and sought reduction in DCs.

Downer asks if Spruce living it committed to the CMHC mortgage or can they get another mortgage in the future that gets them out of having a rental development? Black says the condition is that the owner can't sell with this mortgage, not in the terms.

Black says they could theoretically get out of it, but that would come with "staggeringly high" penalties.

O'Rourke asks if the expectation is that all the units will be leased by Sept. Black says that's the goal.

Billings asks if an unfavourable decision is reached tonight means the next stop is the OLT? Black says they could go that way.

Guthrie says does it matter where the mortgage is coming from if they're looking at the three tests? Black says no.

Guthrie: Is there a disagreement on the number of bedrooms in each unit?

Black: No.

Black notes that the issue here is that the ONgov did not make it clear what qualifies as a "purpose built rental"

So the issue? Staff don't think this is a purpose built rental b/c there's no definition. Staff believe that a developments with separate utilities like this don't meet the typical consideration for a PBR development.

Guthrie asks about the commitment of the developer. Black says that he believes in his clients and acknowledges that there are all kinds of developers in this world, and he believes Spruce means what they say. They've got six projects on the go now.

Now on to Thornton with City's presentation. She says there's a calculation error in the complaint, City portion is \$211,506, so 25% off that \$52k. She says there's no provision anywhere to add back the education DC which accounts for the rest.

Thornton says the building permit was issued before the new DC bylaw, but the question today is how the Act intends purpose built rental. There are 6 separately conveyable as-of-right units, so this is a subsidy since the rate is based on costs of servicing.

The Official Plan has condo control provisions, if this is built one lot, and got a zoning change to get one building on one lot, then there would be security of condo conversion provisions and that this would be rental indefinitely. They went thru Adjustment Comm instead.

Thornton says that if council today applies the subsidy, then they will have to take the developers word for it on any multi-residential unit. The city would have to monitor 120 units over 10 years, and they idea is that things have to monitor themselves.

"Purpose built rental" is one building on one lot, Thornton says. This is a precedent setting case, and this Weill mean opening the door to 25% discount to every multi-residential development in the city. CoA was asked for 6-separate ownership units, and they got it.

Allt asks if this is moving the goal posts. Thornton says yes, if there's a shared wall on 6 lots, and they apply this discount, it's a new precedent. She also notes that the City's new DC bylaw was not appealed.

Allt ask if this will become onerous for the city. Thornton says it will become onerous, expensive or both.

Allt asks about paying back the \$52k if they break faith. Thornton says that they've have to monitor those amounts and at some point someone might decide that the economics are in their favour.

Allt: So we'd have to monitor every real estate sale?

Thornton: Yeah.

Caton asks if the developer can undo what they've done? Thornton says yes, theoretically, they could go through a ZBA.

Guthrie says he's trying to make a decision based on this file and whether it meets the test. Could the developer make a submission as six different developments vs one? Thornton says not, it's got to be four units in one dev with 3 bedrooms or more.

Guthrie asks why Waterloo would enter into a similar agreement? Thornton says she can only speculate, either it's just easier to subsidise rentals, or they're afraid of the OLT. If you don't fight for it, you give it away, and she'll go to OLT if she has to.

Guthrie asks about definition of statute. Thornton says there's not time horizon in the legislation because the intention was to use the condo conversion protections to make sure that no one was getting discounts for building rental units and then putting them up for sale.

O'Rourke asks about some of the definitions in the 2019 bylaw and Thornton says they've got to be careful b/c that version was in effect before the Bill 23 changes. These are 6 separate properties though they are all connected.

Rebuttal from Black: He notes that the permits are for 6 units, though there are potential for basement apartments in the future. He affirms that this meets the requirements, and doesn't know what another rental is if not "purpose built".

He says looking at the wording, they don't have to compromise, they can go to the OLT and get a ruling without one but they're trying to give assurance to the City. This is a precedent, but they can make it favourable in trying to promote rental housing.

To get here, Black says, you have to meet the strict wording of the legislation, and not every condo will have an intention to rent. He says this is a unique situation b/c they're bringing clear intent to rent. Without agreement, this is as of right.

Thornton says that there's some stuff coming out of Black's rebuttal that she can't respond to. Guthrie says he's going to uphold her objection and asks Black to wrap it up.

Council will now move into closed session to make a decision. Stand by for a follow-up.



Council is coming out of closed.

Guthrie says they came to a decision, they're not going to say, but a written decision will be sent within the timeline. He thanks everyone for their submissions.

That's a wrap for this tribunal.



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