

## Legislation Details (With Text)

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<b>File #:</b>	17-G-060	<b>Version:</b>	1	<b>Name:</b>	
<b>Type:</b>	Referral Item	<b>Status:</b>		Received	
<b>File created:</b>	3/15/2017	<b>In control:</b>		City Council	
<b>On agenda:</b>	3/27/2017	<b>Final action:</b>		3/27/2017	
<b>Title:</b>	DEVELOPMENT CHARGES COMPLAINT HEARING- KIM AND CONAL DERDALL (WARD 8)				

Mayor Lehman requested that the complainant(s) and/or their representatives identify themselves.

Kim and Conal Deraldall identified themselves and explained they were representing themselves.

Mayor Lehman requested that the City's representative(s) identify himself.

Mr. Peter Krysiak, Legal Counsel identified himself.

Ms. Deraldall provided evidence in support of her complaint. She discussed the details concerning the timelines associated with their purchase of 10 Centre Street as a derelict property, the decision to turn off the water in December of 2010 and the issuance of a demolition permit. She commented that at the time the demolition permit was issued in 2011, they were advised that a development charge credit was available. Ms. Deraldall advised that when they attempted to close the permit, they were required to re-excavate the front lawn to address the sewer pipe. Ms. Deraldall noted that it was at this time, that they were informed verbally that they had 60 months from the closing of the demolition permit for the development charge credit to be available. She discussed the information that she and her husband had learned during the process and that the requirement for a building permit to be issued within 60 months of the property becoming vacant was not expressly identified in any of the documents from the City or in discussions with City staff until they applied for their building permit in December of 2016.

Ms. Deraldall also noted that Bill 204, Promoting Affordable Housing Act, 2016, that is not yet in effect, if implemented, would not allow for the imposition of a development charge related to the creation of a second dwelling unit. She asked whether the legislation would create the potential to alleviate the development charges for their new building with two rental units. Ms. Deraldall commented that they are building units that they feel suit Barrie and they are excited to contribute to Barrie's urban community. She concluded by requesting a waiver of all of the development charges applicable or a partial waiver and noted that the process had been both challenging and confusing.

Members of General Committee asked a number of questions of Mr. and Mrs. Deraldall and received responses. The members of General Committee sought and obtained clarification from staff on matters raised by the Deraldalls.

Mr. Krysiak presented evidence on behalf of the City of Barrie. Mr. Krysiak explained the grounds under which a complaint may be filed in accordance with Section 20 of the Development Charges Act, noted that the complaint fell under Section 20 (1) (b) and the decisions available to the Committee. He advised that the provision in the City of Barrie by-law allows for a credit for each unit formerly located on the property and advised that since only one unit had been previously located on the property, only a single credit was available. Mr. Krysiak discussed the basis of the complaint, noting that it was a matter of timing. He stated that the building became unoccupied on December 10, 2010 and as a result, the credit was available until December 10, 2015. As the owner had not applied for a building permit until December 12, 2016, their application was outside of the 60 month timeframe established in the City's by-law. Mr. Krysiak requested that the complaint be dismissed as the provisions within the City's by-law for a credit had not been met and the Deraldall's had not provided compelling proof to support their position that any delay was caused by the City. He commented

regarding the precedent that could be set by granting a credit to the Deraldls.

Members of General Committee asked a number of questions of Mr. Krysiak, the Deraldls and City staff and received responses.

Mr. and Mrs. Derald requested clarification regarding the grounds for a complaint and submitted that they felt their situation met all three grounds. They also reiterated their comments associated with their understanding of the timelines associated with the eligibility for a development charge credit. Mr. and Mrs. Derald requested clarification of paragraph six of Staff Report FIN004-17 in relation to the provisions of the City's Development Charge By-law.

Staff advised Mr. and Mrs. Derald that Section 9 b) of the City's Development Charge by-law established the timeline for development charge credits.

Members of General Committee asked further questions of Mr. and Ms. Derald and received responses.

City staff provided information related to the Community Improvement Plan grants that may be available to the Deraldls depending upon the rental rates associated with their proposed units.

Mr. Krysiak provided a closing submission on behalf of the City identifying the deadline to meet the requirements of the City's Development Charges By-law was missed and the lack evidence to support the Derald's claim that they were misinformed regarding the timelines. He commented that Mr. and Mrs. Derald did not qualify for a credit under the By-law.

Ms. Derald provided a closing submission thanking the members of General Committee for their time and requested consideration be given to credits that may be available in the Derald's circumstance.

A member of General Committee put forward a motion that was discussed by the Committee. Members of the Committee provided their individual perspectives of the submissions provided by both parties.

Mayor Lehman noted that the Committee was acting in its capacity as a quasi-judicial body and as such would be required to address the specific grounds for a complaint under Section 20 of the Development Charges Act. He advised that the Committee was required to determine whether City staff had erred in the application of the provisions for development charge credits under the City's by-law. Mayor Lehman provided his perspective with respect to the submissions provided by both parties. (FIN004-17) (File: F21A)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
3/27/2017	2	City Council	Received	
3/21/2017	1	General Committee	recommended for consideration of adoption (Section "A")	

**DEVELOPMENT CHARGES COMPLAINT HEARING- KIM AND CONAL DERDALL (WARD 8)**

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Kim and Conal Derald identified themselves and explained they were representing themselves.

Mayor Lehman requested that the City's representative(s) identify himself.

Mr. Peter Krysiak, Legal Counsel identified himself.

Ms. Derdall provided evidence in support of her complaint. She discussed the details concerning the timelines associated with their purchase of 10 Centre Street as a derelict property, the decision to turn off the water in December of 2010 and the issuance of a demolition permit. She commented that at the time the demolition permit was issued in 2011, they were advised that a development charge credit was available. Ms. Derdall advised that when they attempted to close the permit, they were required to re-excavate the front lawn to address the sewer pipe. Ms. Derdall noted that it was at this time, that they were informed verbally that they had 60 months from the closing of the demolition permit for the development charge credit to be available. She discussed the information that she and her husband had learned during the process and that the requirement for a building permit to be issued within 60 months of the property becoming vacant was not expressly identified in any of the documents from the City or in discussions with City staff until they applied for their building permit in December of 2016.

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Members of General Committee asked a number of questions of Mr. and Mrs. Derdall and received responses. The members of General Committee sought and obtained clarification from staff on matters raised by the Derdalls.

Mr. Krysiak presented evidence on behalf of the City of Barrie. Mr. Krysiak explained the grounds under which a complaint may be filed in accordance with Section 20 of the *Development Charges Act*, noted that the complaint fell under Section 20 (1) (b) and the decisions available to the Committee. He advised that the provision in the City of Barrie by-law allows for a credit for each unit formerly located on the property and advised that since only one unit had been previously located on the property, only a single credit was available. Mr. Krysiak discussed the basis of the complaint, noting that it was a matter of timing. He stated that the building became unoccupied on December 10, 2010 and as a result, the credit was available until December 10, 2015. As the owner had not applied for a building permit until December 12, 2016, their application was outside of the 60 month timeframe established in the City's by-law. Mr. Krysiak requested that the complaint be dismissed as the provisions within the City's by-law for a credit had not been met and the Derdall's had not provided compelling proof to support their position that any delay was caused by the City. He commented regarding the precedent that could be set by granting a credit to the Derdalls.

Members of General Committee asked a number of questions of Mr. Krysiak, the Derdalls and City staff and received responses.

Mr. and Mrs. Derdall requested clarification regarding the grounds for a complaint and submitted that they felt their situation met all three grounds. They also reiterated their comments associated with their understanding of the timelines associated with the eligibility for a development charge credit. Mr. and Mrs. Derdall requested clarification of paragraph six of Staff Report FIN004-17 in relation to the provisions of the City's Development Charge By-law.

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Ms. Derdall provided a closing submission thanking the members of General Committee for their time and requested consideration be given to credits that may be available in the Derdall's circumstance.

A member of General Committee put forward a motion that was discussed by the Committee. Members of the Committee provided their individual perspectives of the submissions provided by both parties.

Mayor Lehman noted that the Committee was acting in its capacity as a quasi-judicial body and as such would be required to address the specific grounds for a complaint under Section 20 of the *Development Charges Act*. He advised that the Committee was required to determine whether City staff had erred in the application of the provisions for development charge credits under the City's by-law. Mayor Lehman provided his perspective with respect to the submissions provided by both parties. (FIN004-17) (File: F21A)