

PROVINCIAL ISSUES

In the past, this concept was debated and was not successful, specifically due to concerns over verifying voter eligibility and the ‘one person, one-vote’ concept. Residential property tax payers currently have the right to vote both in the municipality where they reside, as well as in another municipality where they own property as a non-resident owner. They may only vote as a property elector for one piece of property in any municipality, regional district or school district. We recommend that a business who is paying business class property taxes, where the owner of the business is not a resident of the municipality, be permitted to have one vote on the same terms as residential property tax payers. In other words, if you have a business in one municipality and are a resident in another, you may vote in both jurisdictions.

The limited participation by business in the past has also been interpreted as insufficient public support to warrant the change. Business should have the right to vote, regardless of the preliminary number of businesses who choose to exercise that right.

Further to this concern, the Chamber also believes that the need for business to be represented in municipal elections has increased dramatically since 1998. Local governments are expected to provide an ever increasing range of services through downloading from senior levels of government. The expansion of services provided by local government has a direct impact on the ability to meet the needs of the business community. Local governments are responsible to provide the foundation for economic growth as this is a key factor in a business’ ability to attract workers, service customers, and expand their businesses. While these services are also of significant importance to the residents of a community the significant difference is that residents of a community have the ability to hold their elected representatives to account through the exercise of their democratic right to vote— business has no such right.

THE CHAMBER RECOMMENDS

That the Provincial Government allow business a voice in municipal elections by working with the business community to introduce a business vote for business property tax payers where the business operator does not reside in the same municipality where the business property is located.

Submitted by the Greater Langley, Kelowna and Terrace Chambers of Commerce

Supported by the Cranbrook Chamber of Commerce

The Policy Review Committee supports this resolution

55. REMOVING UNCERTAINTY FROM COMMUNITY AMENITY CONTRIBUTIONS

Issue

Community amenity contributions (CACs) are becoming a feature of development in the Lower Mainland. They have grown immensely, and seem poised to continue. The amount of CACs taken by the municipal sector can be high and it is growing. In a City of Vancouver report, it is noted that in “...2011 approvals of additional density secured approximately \$180 million in public benefit commitments.”²²⁷ In 2014, one project was required to pay \$148 million in community amenities. Along the Cambie Corridor, the CAC charges are \$45 per square foot or \$33,750 for a 750 square foot apartment. According to the Union of BC Municipalities, in 2000, developer contributions (Development Cost Charges and CACs) to municipalities were \$100 million province-wide. This increased to \$720 million in 2010.²²⁸

227 City of Vancouver. 2011 Annual Report on Public Benefits Secured Through Approvals of Additional Density, <http://former.vancouver.ca/ctyclerk/cclerk/20120612/documents/cfsc-1b.pdf>.

228 Union of BC Municipalities. Strong Fiscal Futures: A Blueprint for Strengthening BC Local Governments’ Finance System, http://www.ubcm.ca/assets/Resolutions~and~Policy/Policy/Finance/LocalGovernmentFinance_Report_Web_Final.pdf, pg. 98.

PROVINCIAL ISSUES

When CAC's are negotiated and unpredictable, they can cause a number of issues:

- Affecting affordability by increasing the costs of development;
- Creating barriers to entry for small developers who don't have the capacity to amortize these costs and manage the process, and so reduce the diversity of development projects;
- Causing proliferation of red tape, as every municipality seems to want to take a unique approach to CACs;
- Can be treated as general revenue meaning the benefit is not always felt where the development is taking place;
- Risks creating the perception of abuse because the process is not transparent; and
- There is also a lack of equity and consistency with regard to how the CACs are negotiated.

Both affordability and economic development can be impacted by CACs. In terms of affordability, the province notes that when large CACs are extracted, developers are forced to lower their bids for land and/or raise the price of units built. Many land vendors will not accept lower prices and will effectively remove their land from the market. This shrinks the supply of available, developable land and the number of units that can be built. As well as the direct cost of the CACs, limiting the supply of land and housing units in a province that is projected to grow 1.3% annually (1.6% in the Lower Mainland) undermines housing affordability in British Columbia indirectly, which is already the most unaffordable province in Canada.

CAC negotiations can delay the construction of new projects and jobs. MNP Consulting, in 2013, outlined the economic impacts that the development industry has in B.C.²²⁹ Table 1-1 summarizes the economic impacts as a whole.

Table 1-1: BC Property Development Industry – Total Economic Impacts (2012)

	Output (\$ millions)	GDP (\$ millions)	Employment (FTEs)	Federal Tax (\$ millions)	Provincial Tax (\$ millions)	Municipal Tax (\$ millions)
Direct	20,400	8,166	106,876	639	670	634
Indirect and Induced	14,664	8,812	114,668	850	553	159
Total	35,064	16,978	221,544	1,489	1,223	793

Because this tax is paid by a very small constituency, and has mostly indirect effects, the risk of exploitation is high and the need for careful implementation is clear.

Why CACs

Distinct from DCCs, CACs are attached to re-zoning applications. They are justified as necessary to support a range of facilities that are excluded from consideration in DCCs, including new parks, community facilities, public art, affordable housing, daycare, etc. CACs mean these are paid for by development, not by the tax base. They are, in many cases, explicitly a way for the municipality to acquire some of the value created by up-zoning of property.

DCC by-laws must be approved by the province and are allowed only to cover specific costs. There is a detailed provincial *Development Cost Charge Best Practices Guide* for municipalities and the industry that is over 100 pages.

CACs arise through municipal discretionary powers in re-zonings. Councils have the right to review the impacts of projects when assessing them and what developers offer to mitigate those impacts. This

229MNP Consulting, June 2013. Economic Impacts of the B.C. Property Development Industry,

<http://www.udi.bc.ca/sites/default/files/publications/policy/UDI%20Economic%20Impact%20Study%20Final%20Report.pdf>

PROVINCIAL ISSUES

discretionary power has evolved into CACs. There is no legislation or detailed best practices guide for CACs, so there are a variety of municipal policies and approaches. They are set on a fixed rate, or negotiated individually.

Fixed Rate CACs

The methodology for establishing the fixed rate CACs varies. The development industry supports needs based assessment:

- The impacts of growth are identified;
- The community infrastructure (beyond DCCs) needed to mitigate those impacts is determined;
- The costs of this community infrastructure is estimated; and
- Costs per unit, or per square foot for developers is established.

For example, Coquitlam charges a \$3 per square foot CAC, based on this approach, for a community centre in the Burquitlam area that was identified by the community as a need. Surrey conducts a similar needs assessment for new development areas through its Neighbourhood Concept Plan process.

More problematic are revenue-based approaches: “land value increase” and “land lift”. The land value increase approach is determined by the per square foot value of land in an area and the project is charged a percentage (e.g. 35%, 50%, 65%, 75%, or 100%) of that value for the additional density allowed. The land lift approach uses the increase in land value from a re-zoning. Again, the municipality takes a percentage of the increase in value. The land lift calculation is particularly difficult to assess and negotiate, as developer pro formas can be several pages long with dozens of line items, each one debatable in terms of its value. In many instances the developer and/or the land vendor is not allowed any share of the benefits of a re-zoning. Neither approach links development impacts with the fees charged.

Negotiated CACs

CACs that are fixed rate are preferred for their transparency and timeliness, whereas negotiated approaches can be problematic because of the risk and time they add to a project. It has been reported that some projects have taken multiple years of negotiations with municipal staff to determine the suitable zoning and on/offsite amenity contributions. Negotiations for small projects have also been difficult due to lengthy negotiations with municipalities on CACs.

The negotiations are often highly subjective and inconsistent on a square footage basis. In some municipalities, a comparison of major projects has resulted in negotiated CAC's ranging from \$6 to \$38 per square foot, without reasonable explanation for the differences.

Additionally, due to a lack of standards, there have been municipal council decisions on CACs that are not necessarily in the best interest of the community and its amenity needs.

Province's Guide on CACs

In March 2014, the province released a high-level guide called *Community Amenity Contributions: Balancing Community Planning, Public Benefits and Housing Affordability*. It addresses the legality of CACs and their impacts on housing affordability. The guide also includes recommended best practices.

The province is concerned about the legality of some municipal CAC approaches, as there is no clear legislated authority to charge CACs. In addition, section 931 of the *Local Government Act*, “... includes a number of restrictions on fees, charges and taxes that can be imposed on development applications. One provision of particular importance to rezoning applications is subsection (6).

- (6) 'A local government, the City of Vancouver or an approving officer must not
(a) impose a fee, charge or tax, or

PROVINCIAL ISSUES

(b) require a work or service be provided

(c) unless authorized by this Act, by another Act or by a bylaw made under the authority of this Act or another Act.”

The guide recommends that local governments pre-zone areas with density bonusing. Under Section 904 of the *Local Government Act*, municipalities are allowed to do this to fund growth related amenities. With density bonusing, zoning bylaws are written to allow “... a developer to build either to the “base” density or to a higher level of density, if they provide certain amenities or affordable housing, or meet other specified conditions.” Some local governments are wary of using this power because it limits the flexibility they enjoy through the rezoning process.

The province’s guide directs local governments to ensure that their density bonusing and CAC policies:

- Are a planning tool, not a revenue tool, and that CACs be modest;
- Follow the principles of the Development Cost Charge approach, in which growth impacts, and amenities/capital infrastructure to mitigate those impacts are determined and cost out, so clearer financial targets for projects can be determined; and
- Not base CACs on ‘land lift’.

The development industry and business groups generally support the targeted density bonusing/CAC approach in the Province’s Guide. Nevertheless, there is no assurance that the guide will be followed, or little assurance regarding how the province will monitor if local governments are following the guide.

All of the above point to the need for a complete overhaul of the CAC rules and the need for provincial government intervention.

THE CHAMBER RECOMMENDS

That the Provincial Government:

1. Introduce a robust ongoing monitoring program to ensure that its *Community Amenity Contributions: Balancing Community Planning, Public Benefits and Housing Affordability Guide* is being followed; and report its findings every year;
2. To the extent that non-compliance is identified create, in consultation with stakeholders, legislation on CACs and similar mechanisms that;
 - a. ensure compliance with the Guide in implementation including transparency and mechanism will be adhered to; and
 - b. minimize the affect on affordability/viability for all redevelopment sites; and
3. Develop with stakeholders a detailed Best Practices Guide for CACs and density bonusing similar to the *Provincial Development Cost Charge Best Practices Guide* that would support the above legislative framework.

Submitted by the Greater Vancouver Board of Trade

The Policy Review Committee supports this resolution