6
2010 DEVELOPMENT CHARGE BY-LAW AMENDMENT PROPOSED RATE INCREASES

(Regional Council at its meeting on June 25, 2010 received this Clause.

The Finance and Administration Committee recommends:

1. **Receipt of the communication from Ira T. Kagan, Kagan Shastri Lawyers, May 19, 2010, on behalf of Times Group Corporation; and**

2. **Adoption of the recommendations contained in the following report dated June 9, 2010, from the Commissioner of Finance.**

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council adopt the proposed Regional Development Charge rates outlined in this report in Tables 2 and 3.

2. The Commissioner of Finance be authorized to enter into a Memorandum of Understanding with the Building Industry and Land Development Association regarding the proposed phase-in of development charge rates, subject to the principles outlined in this report.

3. Subject to receipt of the Memorandum of Understanding referred to in Recommendation 2, executed by the Building Industry and Land Development Association prior to consideration of this item, Regional Council adopt the proposed phase-in of Regional Development Charges as outlined in this report in Tables 4 through 6 inclusive.

4. Regional Council implement the annual indexing for the general service components of the Regional Development Charge on June 25, 2010 in addition to the implementation of the final phase-in to full cost recovery for the non-residential components in accordance with the existing by-law.

5. Regional Council determine that no further public meeting is required pursuant to the *Development Charges Act, 1997*.

6. The Regional Solicitor be directed to prepare the necessary by-law amendment(s) to give effect to the proposed rate increases.

2. PURPOSE

A Statutory Public Meeting in accordance with the *Development Charges Act, 1997* was held on May 6, 2010. In accordance with provincial legislation a supporting background study must be available two weeks prior to the public meeting. The Background Study was made available on April 21, 2010. This report provides details regarding the issues raised during consultations with the development industry along with updates to the proposed rates and implementation of these rates.

3. BACKGROUND

Current review includes industry consultation

On April 22, 2010 Council formally approved a recommendation from the Finance & Administration Committee directing staff to proceed with a review of the hard service components (roads, water and sewer) to enact a revised DC By-law for these components in June 2010. The background study provides the basis for the quantum of the development charge. Staff have been meeting with industry representatives to review the background study and proposed rates.

Consultation with the development industry to date has identified a number of concerns with the proposed rates

An initial consultation was held with representatives of the Building Industry and Land Development Association ("BILD") on April 14, 2010 to discuss the DC by-law amendment and to confirm the timeline for further consultation. Several consultation meetings have already taken place with further meetings scheduled into early June to provide industry representatives with detailed information on infrastructure projects and costs as well as the rationale for key assumptions. Regional staff committed to working with BILD to provide the necessary information and facilitate dialogue regarding issues raised.

During these meetings industry representatives raised a number of issues related to the calculated development charges. The following summarizes the main issues raised during these meetings.

- Magnitude of the proposed increases
- Short time line for reviewing cost information
- Impact on units that have already been sold but for which DCs have not yet been paid
- Prepayment option not applicable to subdivisions
- Insufficient post-period benefit for water, sewer and roads

  - 7% water conservation assumption is too low
  - Transportation infrastructure will have some unused capacity beyond 2031
  - Water for Tomorrow program
- Should be some benefit to existing population for water and sewer
  - Decommissioning/replacement of existing capacity
  - Duffin Creek Phase 1&2 improvement costs
- Toronto & Peel water supply; magnitude of cost increases
- Unit cost increases for Roads
- Does not support policy directions i.e., Centres and Corridors
  - Concern about impact on high rise and mixed used development
- Non-residential rates already increased substantially with elimination of discount (especially retail)

Council also approved a pre-payment policy for residential infill, high-rise and non-residential development

At its April 22 meeting, Council also approved a policy whereby certain types of development (infill, high rise and non-residential) would be permitted to pre-pay development charges up to 6 months in advance of receiving a building permit.

4. ANALYSIS AND OPTIONS

Some minor adjustments to the proposed Water and Roads rates are warranted

During the industry consultations it was identified that the costs included in the Roads DC for mid-block crossings/flyovers represented the full cost of these works as opposed to only the Region share. Further adjustments were also made to a few water projects. The need for these changes was identified when detailed explanations for cost changes were prepared.

Table 1 provides updated infrastructure costs after making adjustments for items discovered during the industry consultations.

Table 1
Infrastructure Capital Costs

	2010 DC Background Study	Revised	Difference
Water - Total Gross Costs	$1,765.8 M	$1,762.9 M	($2.9 M)
Water – Post Period Benefit	$325.2 M	$325.0 M	($0.1 M)
Water – Costs Attributable to Development	$1,440.6 M	$1,437.9 M	($2.7 M)
Roads - Total Gross Costs	$4,843.8 M	$4,694.6 M	($149.2 M)
Roads – Benefit to Existing	$661.8 M	$639.4 M	($22.4 M)
Roads – Costs Attributable to Development	$2,828.0 M	$2,701.2 M	($126.8 M)

The above adjustments result in revised development charge rates as follows.

Table 2
Proposed Residential Regional Development Charges
($/unit)

Rate Component	Single & Semi-Detached	Multiple Unit Dwelling	Apartments 2 or more bedroom	Apartments Less than 2 bedrooms
Water	$7,599	$6,297	$4,748	$3,062
Sewer [1]	$11,999	$9,943	$7,497	$4,835
Roads	$9,548	$7,912	$5,965	$3,847
Total Hard Services	$29,146	$24,152	$18,210	$11,744
Revised increase vs. current rates	$7,846	$6,501	$4,900	$3,161
Total DCs (all services)	**$31,964**	**$26,443**	**$19,917**	**$12,867**

[1] Rates do not apply to the Nobleton community.

As part of the on-going review, we have recently discovered that one of the data elements in the calculation related to the number of new housing units may have picked up incorrect data. We are now verifying the calculation and formula, however if validated, the overall charge for residential in Table 2 would be over-stated by several hundred dollars.

The change will not result in any loss of revenue as the current estimate would actually generate more revenue than the total costs allocated to growth. Any change will be forwarded to Council in a separate communication.

Table 3
Proposed Non-Residential Regional Development Charges

Rate Component	$ Per Square foot of GFA: Industrial / Office / Institutional	$ Per Square foot of GFA: Retail	$ Per Square Metre of GFA: Industrial / Office / Institutional	$ Per Square Metre of GFA: Retail
Water	$4.02	$4.06	$43.27	$43.70
Sewer [1]	$6.33	$6.49	$68.14	$69.86
Roads	$4.22	$14.24	$45.43	$153.28
Total Hard Services	**$14.57**	**$24.79**	**$156.84**	**$266.84**
Revised increase vs. current rates	$5.86	$6.55	$63.09	$70.50
Total DCs (all services)	**$15.64**	**$27.92**	**$168.36**	**$300.53**

[1] Rates do not apply to the Nobleton community.

Implementation of rates is proposed to be phased-in over next two years

Through the consultation process, a better understanding was gained of the impact of the proposed development charge rate changes on the development industry. In particular, the industry raised concerns about green fields subdivision developments where units have already been sold but for which DCs had not yet been paid.

DCs for such developments are paid at the time the local subdivision agreement is executed. The timing of draft plan approvals of subdivisions and the related subdivision agreement can be affected by the Region’s allocation process, whereby allocation is granted to allow the development of residential units once the required water and sewer infrastructure is in place.

An amendment is required to address infrastructure costs associated with the provincial Growth Plan

This Development Charge amendment is being driven by the significant increased costs of providing the infrastructure required to accommodate the increased population and employment assigned to the Region in the Province’s *Places to Grow* legislation. The need to revisit development charge rates upon completion of the master plan updates was directed as part of the approval of the 2007 DC by-law by Regional Council in June of 2007. Consultation meetings with the development industry took place as part of the master plan update process and total infrastructure costs were discussed with the development industry prior to the approval of the Master Plans in November 2009. However, the specific timing of the rate increase was not known until April 2010, when Council approved a report proposing rate increases for June 2010.

A six-month phase in period to recover approximately 90% of roads, water and sewer estimates is recommended

The development industry has indicated that this tight timeline, coupled with the magnitude of the proposed increase, is particularly challenging for those developments where units have been sold but execution of the subdivision agreement is still pending. The Region introduced an option to prepay development charges in April 2010 for in-fill residential, high rise and non-residential development. This option did not include residential subdivisions (green field developments). In light of the raised concerns and to help minimize the number of appeals of this rate increase, it is proposed that the residential rate increase be phased in, as outlined in Table 4.

A two-year phase in period is recommended for non-residential (industrial, office, institutional and retail)

The non-residential sector has experienced significant development charge rate increases with the elimination of discounting as part of the 2007 DC By-law. As part of the phase-in to full cost recovery, Industrial/Office/Institutional rates have increased by over 20% each year since 2007 and would be at full cost recovery as of June 18, 2010. Retail rates have also increased by approximately 100% since the 2007 By-law was implemented. In light of these rate increases and given that the Region's non-residential development charges are already relatively high compared to neighbouring municipalities, it is proposed that non-residential rates be phased in as outlined in Table 4.

In the May 6, 2010 report to the Finance and Administration committee staff recommended that the annual indexing of development charge rates for 2010 be deferred from June 18, 2010 to June 25, 2010 to coincide with the implementation of the proposed amended roads, water and sewer rates. As a result of the consultations with industry that have occurred since the release of the 2010 Development Charge Background Study, staff is now proposing that the new rates be phased-in according to the following schedule.

Table 4
Proposed Phase In of Regional Development Charges

Timing	Residential	Non-Residential
June 25, 2010	Minimal increases to roads, water and sewer to maintain current total due to indexing of general services of -2.42%	Phase in of rates as per current by-law plus indexing of -2.42%
September 24, 2010	Increase Roads, Water & Sewer by approximately 25%	No change in rates
January 10, 2011	Increase Roads, Water & Sewer such that new rates at approximately 90% of proposed	No change in rates
June 18, 2011	Indexing only	• Add $2.00 per square foot to the Industrial / Office / Institutional (IOI) charge and $3.00 to the retail charge • Indexing would apply to all non-residential rates
June 2012	Roads, Water & Sewer to full cost with implementation of new DC By-law	Roads, Water & Sewer to full cost with implementation of new DC By-law

The revised rates would be as follows.

Table 5
Proposed Residential Phase-In
($/unit)

	June 25, 2010	September 24, 2010	January 10, 2011
Single & Semi-Detached	$24,181	$26,181	$31,180
Multiple Unit Dwelling	$19,993	$21,593	$25,793
Apartments - 2 or more bedroom	$15,054	$16,254	$19,353
Apartments - Less than 2 bedrooms	$9,732	$10,532	$12,532

Table 6
Proposed Non-Residential Phase-In
($/square foot)

	June 25, 2010	June 18, 2011 (excluding indexing)	Balance to be considered in 2012 by-law review
Industrial / Office / Institutional	$11.58	$13.58*	$2.06
Retail	$22.87	$25.87*	$2.05

* Rate is also subject to indexing.

Full details by rate component can be found in Attachments 1 through 4 to this report. The rate details in these attachments are subject to change depending on the results of the calculation verification described in the Analysis and Options section.

A Memorandum of Understanding (MOU) between the Region and BILD is being prepared which confirms that the Region will phase-in the rates in accordance with Tables 4 through 6 inclusive subject to BILD agreeing not to appeal the by-law amendment.

Other issues will be addressed with the next full update of the DC By-law

This review has been limited to a review of the implications of the *Places to Grow* forecast on the Region's infrastructure requirements in addition to any significant cost changes for existing projects. All other issues, including those identified in Section 3 above, will be reviewed when the full Region-wide DC By-law, which expires in June 2012, is updated. The MOU with BILD obligates the Region to continue meaningful dialogue with BILD to better understand details of the development charge components.

5. FINANCIAL IMPLICATIONS

The amended DC by-law is premised on recovery of $6 billion of infrastructure costs over 20 years. The average recovery of approximately $300 million per year will vary with market conditions. With the proposed phase-in, it is estimated that there could be a delay in DC collections, with the Region collecting approximately $460 million in revenue until June 2012 as opposed to $560 million based on the full rates assuming current growth forecasts are achieved. This estimate is based on non-residential development as per the forecast in the 2010 DC Background Study and residential growth as per anticipated subdivision approvals. The estimate also presumes that any by-law appeals do not result in an adjustment. Should actual growth differ from these forecasts, the estimate of delayed revenue would also differ. Any revenue shortfalls will be captured in the calculation of the 2012 by-law update.

It is estimated that approximately $8.7 billion of infrastructure will be required to service growth within York Region to the year 2031 to support the *Places to Grow* growth forecast. Development charges are a major source of the capital funding for the Region's growth-related capital program. The proposed increases are necessary to ensure that the growth-related capital costs are borne by the development creating the need for these works.

6. LOCAL MUNICIPAL IMPACT

Development charges are a significant source of funding for the Region's growth-related capital programs. The completion of these capital infrastructure works facilitates the co-ordinated build-out of proposed developments within the local municipalities.

The proposed phase-in of development charges should help alleviate pressure on the local municipalities to process subdivision agreements and site plan applications.

7. CONCLUSION

The Draft 2010 DC Background Study has been prepared in accordance with the *Development Charges Act, 1997*, and forms the basis of the statutory Public Meeting held May 6, 2010. It is recommended that Council approve the Draft 2010 Development Charge Background Study and the Development Charge rates calculated on the basis outlined in the Draft Background Study and amended in this report and that a by-law be presented to Council to give effect to these recommendations to be enacted on June 25, 2010.

For more information on this report, please contact Kelly Strueby, Director Business Planning & Budgets at Ext. 1611.

(The four attachments referred to in this clause are attached to this report.)

Rates effective: June 25, 2010

Rates effective: June 25, 2010

	RESIDENTIAL				NON-RESIDENTIAL			
	Single and Semi-Detached	Multiple Unit Dwelling	Apartments		Per Square Foot of Gross Floor Area		Per Square Metre of Gross Floor Area	
			2 or more Bedroom	Less than 2 Bedrooms	Industrial / Office / Institutional	Retail	Industrial / Office / Institutional	Retail
Hard Services								
Water	$4,390	$3,636	$2,741	$1,769	$2.47	$2.61	$26.59	$28.09
Sewer *	$9,553	$7,916	$5,969	$3,850	$4.60	$5.20	$49.52	$55.97
Roads	$7,420	$6,150	$4,637	$2,990	$3.44	$11.93	$37.03	$128.42
Subtotal - Hard	$21,363	$17,702	$13,347	$8,609	$10.51	$19.74	$113.14	$212.48
General Services								
Transit	$441	$352	$260	$179	$0.20	$0.66	$2.15	$7.10
Subway	$1,367	$1,133	$854	$550	$0.62	$2.11	$6.67	$22.71
Police	$289	$230	$170	$116	$0.18	$0.20	$1.94	$2.15
EMS	$61	$49	$36	$25	$0.01	$0.01	$0.11	$0.11
Growth Studies	$31	$25	$19	$14	$0.02	$0.02	$0.22	$0.22
Long Term Care	$194	$156	$115	$78	$0.00	$0.00	$0.00	$0.00
Public Health	$56	$45	$32	$21	$0.01	$0.01	$0.11	$0.11
Public Works	$73	$60	$44	$29	$0.03	$0.12	$0.32	$1.29
Subtotal - General	$2,512	$2,050	$1,530	$1,012	$1.07	$3.13	$11.52	$33.69
GO Transit **	$306	$241	$177	$111	$0.00	$0.00	$0.00	$0.00
Total	**$24,181**	**$19,993**	**$15,054**	**$9,732**	**$11.58**	**$22.87**	**$124.66**	**$246.17**
Nobleton	$8,206	$7,356	$5,148	$3,545	$ 5.60	$ 5.60	$ 60.28	$ 60.28

Notes:
*1 - Rates do not apply to the Nobleton Community. Nobleton rates will be indexed effective September 21, 2010.
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Rates in the above table (except GO Transit) are subject to indexing on June 18, 2011.

Rates effective: September 24, 2010

Rates effective: September 24, 2010

	RESIDENTIAL				NON-RESIDENTIAL			
	Single and Semi-Detached	Multiple Unit Dwelling	Apartments		Per Square Foot of Gross Floor Area		Per Square Metre of Gross Floor Area	
			2 or more Bedroom	Less than 2 Bedrooms	Industrial / Office / Institutional	Retail	Industrial / Office / Institutional	Retail
Hard Services								
Water	$5,214	$4,296	$3,236	$2,099	$2.47	$2.61	$26.59	$28.09
Sewer *	$10,182	$8,419	$6,346	$4,101	$4.60	$5.20	$49.52	$55.97
Roads	$7,967	$6,587	$4,965	$3,209	$3.44	$11.93	$37.03	$128.42
Subtotal - Hard	$23,363	$19,302	$14,547	$9,409	$10.51	$19.74	$113.14	$212.48
General Services								
Transit	$441	$352	$260	$179	$0.20	$0.66	$2.15	$7.10
Subway	$1,367	$1,133	$854	$550	$0.62	$2.11	$6.67	$22.71
Police	$289	$230	$170	$116	$0.18	$0.20	$1.94	$2.15
EMS	$61	$49	$36	$25	$0.01	$0.01	$0.11	$0.11
Growth Studies	$31	$25	$19	$14	$0.02	$0.02	$0.22	$0.22
Long Term Care	$194	$156	$115	$78	$0.00	$0.00	$0.00	$0.00
Public Health	$56	$45	$32	$21	$0.01	$0.01	$0.11	$0.11
Public Works	$73	$60	$44	$29	$0.03	$0.12	$0.32	$1.29
Subtotal - General	$2,512	$2,050	$1,530	$1,012	$1.07	$3.13	$11.52	$33.69
GO Transit **	$306	$241	$177	$111	$0.00	$0.00	$0.00	$0.00
Total	**$26,181**	**$21,593**	**$16,254**	**$10,532**	**$11.58**	**$22.87**	**$124.66**	**$246.17**
Nobleton	$8,206	$7,356	$5,148	$3,545	$ 5.60	$ 5.60	$ 60.28	$ 60.28

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Rates effective: January 10, 2011

Rates effective: January 10, 2011

	RESIDENTIAL				NON-RESIDENTIAL			
	Single and Semi-Detached	Multiple Unit Dwelling	Apartments		Per Square Foot of Gross Floor Area		Per Square Metre of Gross Floor Area	
			2 or more Bedroom	Less than 2 Bedrooms	Industrial / Office / Institutional	Retail	Industrial / Office / Institutional	Retail
Hard Services								
Water	$7,274	$6,029	$4,515	$2,924	$2.47	$2.61	$26.59	$28.09
Sewer *	$11,754	$9,739	$7,320	$4,729	$4.60	$5.20	$49.52	$55.97
Roads	$9,334	$7,734	$5,811	$3,756	$3.44	$11.93	$37.03	$128.42
Subtotal - Hard	$28,362	$23,502	$17,646	$11,409	$10.51	$19.74	$113.14	$212.48
General Services								
Transit	$441	$352	$260	$179	$0.20	$0.66	$2.15	$7.10
Subway	$1,367	$1,133	$854	$550	$0.62	$2.11	$6.67	$22.71
Police	$289	$230	$170	$116	$0.18	$0.20	$1.94	$2.15
EMS	$61	$49	$36	$25	$0.01	$0.01	$0.11	$0.11
Growth Studies	$31	$25	$19	$14	$0.02	$0.02	$0.22	$0.22
Long Term Care	$194	$156	$115	$78	$0.00	$0.00	$0.00	$0.00
Public Health	$56	$45	$32	$21	$0.01	$0.01	$0.11	$0.11
Public Works	$73	$60	$44	$29	$0.03	$0.12	$0.32	$1.29
Subtotal - General	$2,512	$2,050	$1,530	$1,012	$1.07	$3.13	$11.52	$33.69
GO Transit **	$306	$241	$177	$111	$0.00	$0.00	$0.00	$0.00
Total	**$31,180**	**$25,793**	**$19,353**	**$12,532**	**$11.58**	**$22.87**	**$124.66**	**$246.17**
Nobleton	$8,206	$7,356	$5,148	$3,545	$ 5.60	$ 5.60	$ 60.28	$ 60.28

Notes:
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Rates in the above table (except GO Transit) are subject to indexing on June 18, 2011.

Rates effective: June 18, 2011 (excluding indexing)

Rates effective: June 18, 2011 (excluding indexing)

	RESIDENTIAL				***NON-RESIDENTIAL***			
	Single and Semi-Detached	**Multiple Unit Dwelling**	**Apartments**		**Per Square Foot of Gross Floor Area**		**Per Square Metre of Gross Floor Area**	
			2 or more Bedroom	**Less than 2 Bedrooms**	**Industrial / Office / Institutional**	**Retail**	**Industrial / Office / Institutional**	**Retail**
Hard Services								
Water	$7,274	$6,029	$4,515	$2,924	$3.22	$3.47	$34.66	$37.35
Sewer *	$11,754	$9,739	$7,320	$4,729	$5.45	$5.97	$58.69	$64.26
Roads	$9,334	$7,734	$5,811	$3,756	$3.84	$13.30	$41.33	$143.16
Subtotal - Hard	$28,362	$23,502	$17,646	$11,409	$12.51	$22.74	$134.68	$244.77
General Services								
Transit	$441	$352	$260	$179	$0.20	$0.66	$2.15	$7.10
Subway	$1,367	$1,133	$854	$550	$0.62	$2.11	$6.67	$22.71
Police	$289	$230	$170	$116	$0.18	$0.20	$1.94	$2.15
EMS	$61	$49	$36	$25	$0.01	$0.01	$0.11	$0.11
Growth Studies	$31	$25	$19	$14	$0.02	$0.02	$0.22	$0.22
Long Term Care	$194	$156	$115	$78	$0.00	$0.00	$0.00	$0.00
Public Health	$56	$45	$32	$21	$0.01	$0.01	$0.11	$0.11
Public Works	$73	$60	$44	$29	$0.03	$0.12	$0.32	$1.29
Subtotal - General	$2,512	$2,050	$1,530	$1,012	$1.07	$3.13	$11.52	$33.69
GO Transit **	$306	$241	$177	$111	$0.00	$0.00	$0.00	$0.00
Total	**$31,180**	**$25,793**	**$19,353**	**$12,532**	**$13.58**	**$25.87**	**$146.20**	**$278.46**
Nobleton	$8,206	$7,356	$5,148	$3,545	$ 5.60	$ 5.60	$ 60.28	$ 60.28

Notes:

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Rates in the above table (except GO Transit) are subject to indexing on June 18, 2011.

Kagan Shastri LLP
LAWYERS

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File: 08322

May 19, 2010

By email
Chairman Bill Fisch and Members of Regional Council
Regional Municipality of York
Newmarket, Ontario
L3Y 6Z1

Attn: Denis Kelly, Clerk

Dear Chairman Fisch and Members of Council:

Re: Proposed Regional Development Charges By-law
Scheduled for the May 20, 2010 Council meeting

We are the solicitors for Times Group Corporation ("Times"). As council is aware Times develops and builds high density, mixed-use, sustainable communities in southern York Region, primarily in the Town of Markham. Times is a leader in green development and LEED Gold certified developments. Their projects have won many awards. Their communities are an excellent example of how York Region will strive to achieve its intensification target for the Growth Plan's 40% intensification target.

As members of council know, the cost of providing a family with a 1,600 ft^2 apartment unit is far more than a house of the same size on a small lot. Add to this the cost of LEED Gold development (which our client is committed to), and it makes it even more difficult to deliver the type and density of housing which York Region wants and deserves. Finally, with respect to its Markham Centre development, the cost of bringing services to the site (nearly 1km along Highway 7) is very substantial and yet this sewer is essential if York Region is to meet its planned growth along the Highway 7 intensification corridor.

Apartment development is a long-term project where important business decisions are made well before a single purchase occupies the first unit. Our client proceeded to purchase and obtain subdivision and zoning approval (for its 4,500 apartment unit, 450,000ft^2 office development) reasonably expecting that the existing Regional Development charge by-law would run its full term before being amended. That clearly is no longer the case.

In order for our client to be able to deliver on its first phase of apartments (nearly 600 units) at the most affordable price to the future regional purchasers, the proposed new regional development charges for high density development needs to be phased in over time. Our request is that if Regional Council determines that a new development charge by-law is required at this time that high density and office development be transitioned and subject to the existing rate for a period of at least one year.

Thank you for your kind consideration of this request. Kindly provide the writer with notice of your decision and passage of a new development charge by-law.

Yours very truly,

Ira Kagan

Ira T. Kagan

cc. Times Group Corporation

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