Ontario Land Tribunal
Tribunal ontarien de l'aménagement du territoire

ISSUE DATE: July 19, 2022

CASE NO(S).: OLT-22-002016
(Formerly DC190014)
OLT-22-001988
(Formerly DC190015)

PROCEEDING COMMENCED UNDER subsection 22(2) of the *Development Charges Act,* 1997, S.O. 1997, c. 30.

Appellant	Leitrim South Holdings
Referred by	City of Ottawa
Subject:	Development Charge By-Law No. 2019-158
Description:	DC By-law 2019-158 - Leitrim Stormwater Facilities
Reference Number:	By-Law 2019-158
Property Address:	4800 Bank Road
Municipality/UT:	Ottawa/Ottawa
OLT Case No:	OLT-22-002016
Legacy Case No:	DC190014
OLT Lead Case No:	OLT-22-002016
Legacy Lead Case No:	DC190014
OLT Case Name:	Leitrim South Holdings v. Ottawa (City)

PROCEEDING COMMENCED UNDER subsection 14 of the *Development Charges Act,* 1997, S.O. 1997, c. 27.

Appellant	2058280 Ontario Ltd.
Appellant	2356346 Ontario Inc.
Appellant	2536662 Ontario Inc.
Appellant	851 Industrial Storage Ltd Partnership GP Corp. and others
Referred by	City of Ottawa
Subject:	Development Charge By-Law No. 2019-156
Description:	New DC charges for the City of Ottawa and storm water facilities
Reference Number:	By-Law 2019-156
Property Address:	All lands within the City of Ottawa
Municipality/UT:	Ottawa/Ottawa
OLT Case No:	OLT-22-001988
Legacy Case No:	DC190015

OLT Lead Case No:	OLT-22-001988
Legacy Lead Case No:	DC190015
OLT Case Name:	BOMA v. Ottawa (City)

PROCEEDING COMMENCED UNDER subsection 14 of the *Development Charges Act,* 1997, S.O. 1997, c. 27.

Subject:	Development Charge By-Law No. 2019-158
Description:	New DC charges for the City of Ottawa and storm water facilities
Reference Number:	By-Law 2019-158
Property Address:	All lands within the City of Ottawa
Municipality/UT:	Ottawa/Ottawa
OLT Case No:	OLT-22-002005
Legacy Case No:	DC190016
OLT Lead Case No:	OLT-22-001988
Legacy Lead Case No:	DC190015
OLT Case Name:	BOMA v. Ottawa (City)

PROCEEDING COMMENCED UNDER subsection 14 of the *Development Charges Act, 1997,* S.O. 1997, c. 27.

Subject:	Development Charge By-Law No. 2019-162
Description:	New DC charges for the City of Ottawa and storm water facilities
Reference Number:	By-Law 2019-162
Property Address:	All lands within the City of Ottawa
Municipality/UT:	Ottawa/Ottawa
OLT Case No:	OLT-22-002006
Legacy Case No:	DC190018
OLT Lead Case No:	OLT-22-001988
Legacy Lead Case No:	DC190015
OLT Case Name:	BOMA v. Ottawa (City)

Heard: April 4, 5, 6, 7 and 8, 2022 by video hearing

APPEARANCES:

Parties	**Counsel**
City of Ottawa (“City”)	T. Marc
Minto Communities Inc. (“Minto”)	U. Melinz and C. McConkey
Caivan Barrhaven Conservancy Development Corporation (“Caivan”)	B. O’Callaghan

DECISION DELIVERED BY WILLIAM MIDDLETON AND ORDER OF THE TRIBUNAL

PART ONE: INTRODUCTION

[1] This matter concerns an appeal by Minto and Caivan pursuant to subsection 14 of the *Development Charges Act*, S.O. 1997, c. 27 ("DCA") to the City's Development Charge By-law 2019-156 ("DCB").

[2] The appeal to the Ontario Land Tribunal ("OLT" or "Tribunal") proceeded by video conference hearing ("VH") commencing on April 4, 2022 for a period of 5 days ending with final argument on April 8, 2022.

[3] The materials before the Tribunal included the following:

a. Joint Book of Documents, Volumes I, II and III, comprising a total of 62 tabs and 2,682 pages;

b. Joint Supplementary Book of Documents, Volumes I and II comprising a total of 7 tabs and 287 pages;

c. Timothy Chadder Witness Statement ("WS") and Reply WS, comprising a total of 28 pages;

d. Christopher Gordon WS and Reply WS, comprising a total of 16 pages;

e. Daryl Keleher WS and Reply WS, comprising a total of 35 pages;

f. Sean Moore WS, comprising a total of 15 pages;

g. Dr. Jennifer Armstrong WS and Reply WS, comprising a total of 8 pages;

h. Mike Giampa WS, comprising a total of 3 pages;

i. Craig Binning WS, comprising a total of 16 pages;

j. City Closing Submissions, comprising 7 pages;

k. Minto Closing Submissions, comprising 14 pages;

l. Caivan Closing Submissions, comprising 26 pages; and

m. Appellants' Book of Authorities, comprising 5 tabs and 105 pages;

PART TWO: THE DCA PROVISIONS APPLICABLE TO THE APPEAL

[4] Section 2 (1) of the DCA states:

> The council of a municipality may by by-law impose development charges against land to pay for increased capital costs required because of increased needs for services arising from development of the area to which the by-law applies.

[5] Section 2 (5) states:

> A development charge by-law may not impose development charges with respect to local services described in clauses 59 (2) (a) and (b)

[6] Section 14 of the DCA states:

> Any person or organization may appeal a development charge by-law to the Ontario Land Tribunal by filing with the clerk of the municipality on or before the last day for appealing the by-law, a notice of appeal setting out the objection to the by-law and the reasons supporting the objection.

[7] Section 16 (1) of the DCA provides:

> The Ontario Land Tribunal shall hold a hearing to deal with any notice of appeal of a development charge by-law forwarded by the clerk of a municipality.

[8] Section 16 (3) states:

> After the hearing, the Ontario Land Tribunal may,
> (a) dismiss the appeal in whole or in part;
> (b) order the council of the municipality to repeal or amend the by-law in accordance with the Tribunal's order;
> (c) repeal or amend the by-law in such manner as the Tribunal may determine.

[9] Section 59 (1) and (2) of the DCA provides:

> (1) A municipality shall not, by way of a condition or agreement under section 51 or 53 of the Planning Act, impose directly or indirectly a charge

related to a development or a requirement to construct a service related to development except as allowed in subsection (2).

[Emphasis added]

(2) A condition or agreement referred to in subsection (1) may provide for,

(a) local services, related to a plan of subdivision or within the area to which the plan relates, to be installed or paid for by the owner as a condition of approval under section 51 of the Planning Act;

(b) local services to be installed or paid for by the owner as a condition of approval under section 53 of the Planning Act.

[Emphasis added]

PART THREE: THE CITY DCB AND ITS DEVELOPMENT CHARGE BACKGROUND STUDIES ("DCBS")

[10] Interestingly, it is agreed by counsel for all Parties that this appeal does not actually seek a modification to the DCB. Simply put, the position of Minto and Caivan is that the portion of Chapman Mills Drive crossing through the Minto and Caivan properties from the Kennedy-Burnett Storm Water Management Facility to the east and the north/south portion west of Minto's subdivision, which includes a Bus Rapid Transit line ("BRT"), also termed the Chapman Mills Corridor ("Corridor Portion"), ought to be properly categorized by the Tribunal as an "Arterial Road" rather than as a "Major Collector Road" as claimed by the City.

[11] The significance of the categorization described in paragraph [10] above is that if the Corridor Portion is classified as an Arterial Road – and is not otherwise interpreted to be merely a 'local service' – then it should be subject to the imposition of development charges under the DCB. If instead the Corridor Portion is properly classified as a Major Collector Road – and, therefore, a local service - then it will not be subject to development charges with the result that Minto and Caivan will need to pay for much more of its associated costs (a higher amount than they would pay if only development charges were levied). Again, it is of interest that the Parties' counsel made no reference in their final arguments as to what the 'costs delta' between these two opposing positions would be.

[12] Minto's counsel argued that the appellants are seeking a determination from the Tribunal as to what classification applies to the Corridor Portion. This does not require a revision to the DCB or even the DCBS at this time because the Corridor Portion is already listed as a DC eligible service. Caivan's counsel echoes this position, stating that the Corridor Portion is planned, designed and designated in the City's Official Plan to provide a City-wide function and, therefore, the cost of designing and constructing it should be a fully DC-eligible service and should not be imposed on the Appellants through subdivision conditions.

[13] Counsel for the City rejects the approach taken by Minto and Caivan and argues that in fact:

> The appellants seek a decision that would add to the cost of the development charge work plan of the City and would thereby raise the development charge rates. However the Tribunal is not authorized to increase the rates in the by-law.
>
> and further:
>
> The appropriate relief would be to seek credits under section 38 of the Development Charges Act and if not granted by the City, to make a complaint under section 20. A section 14 appeal, leading to no change in the by-law, is not a means for the Appellants to seek relief.

[14] Minto and Caivan clearly reject the City's argument described in paragraph [13] above. The Tribunal will analyze this issue further in Part Four below.

[15] In any event counsel for all Parties agree that the determination of whether the Corridor Portion is subject to the DCB depends on whether it is properly treated as a 'local service' (for which development charges cannot be imposed). Since the term "local services" used in s. 59(2)(b) is not a defined term in the DCA then this in part depends on a consideration of the City's Local Service Guidelines, which are those adopted as a result of its DCBS completed prior to the City's earlier 2014 Development Charge By-law (now superseded by the current DCB) – and also upon a consideration of relevant OLT jurisprudence concerning the meaning of 'local services'. These topics are discussed in Part four below.

[16] The Tribunal notes that counsel for the City implicitly recognizes in his final oral and written submissions that ***if*** the Corridor Portion is properly considered to be an Arterial Road rather than a Major Collector then its construction cannot be treated as a 'local service', although he, of course, vigorously contends that the Corridor Portion is not an Arterial Road. He nonetheless maintains his client's position that there is no remedy that the Tribunal can grant here, as referenced in paragraph [13] above.

PART FOUR: THE CORRIDOR PORTION HAS BEEN PREVIOUSLY CLASSIFIED AS ARTERIAL – PROXIMITY TO THE APPELLANTS' DEVELOPMENTS DOES NOT TRANSFORM IT

[17] There was evidence before the Tribunal to demonstrate that the City has designated the Corridor Portion as an Arterial Road in the past.

[18] Minto's counsel pointed out that it was the evidence of Mr. Chadder, a Registered Professional Planner with almost 30 years of experience who was qualified to provide opinion evidence on land use planning matters, that the area specific South Nepean Secondary Plan for Area 8 ("Area 8 Secondary Plan"), remains in force and contains the governing Official Plan policies. In this plan, the Corridor Portion is shown as an Arterial corridor or a Mainstreet corridor. The Tribunal accepts the evidence of Mr. Chadder and preferred it to the extent that it contradicts the opinions of Mr. Moore discussed in paragraphs [20], [22] and those of Mr. Giampa and Ms. Armstrong.

[19] In the same vein, Caivan's counsel argued, based on the expert evidence of Mr. Gordon, a professional engineer who was qualified before the OLT to provide opinion evidence on road engineering matters, that the Corridor Portion will clearly benefit a much broader area than just the Appellants' subdivisions. The Bus Rapid Transit Lanes ("BRT") within it will connect a Light Rapid Transit station in the east with the 416 Highway in the west. At 41 metres wide and with four lanes of traffic, the Corridor Portion will be able to carry a very high volume of traffic and transit vehicles, cyclists and pedestrians and thus will provide City-wide benefits to residents, subdivisions, and urban areas far beyond the Caivan and Minto subdivisions. Relying on the evidence of both Mr. Chadder and Mr. Gordon, he further noted that the Area 8 Secondary Plan states the following:

> Development within Area 8 shall be subject to all policies of this Secondary Plan and any applicable policies of the parent Official Plan. However, where there is a conflict between this Secondary Plan and the parent Official Plan, the policies of this Secondary Plan shall apply.
>
> [Emphasis added]

[20] The City's counsel, the able Mr. Marc, organized a thorough effort to convince the Tribunal that the Area 8 Secondary Plan ought to be ignored and that the Corridor Portion was best understood to be a Major Collector, not an Arterial Road. The City tendered opinion evidence from Ms. Armstrong, Mr. Giampa and Mr. Moore to support a contrary position.

[21] Ms. Armstrong has a Ph. D. in engineering from Carleton University, over 20 years of professional experience and is currently employed as the Program Manager of the Transportation Policy and Networks Branch in the Transportation Planning Service Area of the Planning, Real Estate and Economic Development Department of the City of Ottawa. She was qualified to provide opinion evidence on transportation planning and engineering. Mr. Giampa is also an engineer in the same Department and was qualified to provide opinion evidence on transportation engineering and development. Finally, Mr. Moore is the City's Acting Manager of Development Review South, in the Planning, Real Estate and Economic Development Department. He is also an experienced professional planner and was qualified by the Tribunal to provide opinion evidence on land use planning matters.

[22] In summary, based on the opinion evidence Mr. Moore tendered, the City's counsel maintained his position that:

(a) The Corridor Portion is part of Chapman Mills Drive which is shown in the City's Official Plan as a Major Collector-Existing in parts and Major Collector-Proposed;

(b) Every document adopted or approved post-amalgamation identifies Chapman Mills Drive in its entirety from Woodroffe Avenue to Strandherd Drive as a Major Collector, including the South Nepean Town Centre Secondary Plan, the Street Network Plan, the South Nepean Town Centre Community Design Plan, the Transportation Master Plan, the Chapman Mills Drive Extension (Longfields Drive to Strandherd Drive) and Bus Rapid Transit Corridor (Greenbank Road to

Borrisokane Road) Environmental Study Report and the Barrhaven Downtown Secondary Plan;

(c) The construction of the BRT within the Corridor Portion will be a development charge project subject to whatever benefit-to-existing, if any, identified in the DCBS. The developers did not have to construct the BRT to the east of Longfields and will not have to construct it west of Longfields;

(d) If oversizing of stormwater or other servicing for the road is required to serve the BRT within the Corridor Portion, then Minto and Caivan will have the opportunity to seek reimbursement in accordance with a separate process unrelated to this Appeal;

(e) Chapman Mills Drive needs to be looked at as a whole in determining its status, instead of taking a 'piecemeal approach' by considering only the Corridor Portion; and

(f) if Chapman Mills Drive, in any location, were stated to be an Arterial Road, then the impact under the Official Plan would be that greater building heights would be permitted, thereby allowing for the changing of the character of the abutting lands and:

> It is thus not possible to change the road classification without regard to the planned function of the lands in the vicinity of a road.

[23] On the other hand, the City's counsel conceded that "*Schedule A1 to the Secondary Plan for Areas 4, 5 and 6, adopted pre-amalgamation, show[s] Chapman Mills Drive as an Arterial Road*" and that the Area 8 Secondary Plan "*does describe Chapman Mills Drive in the area subject to the Secondary Plan as an Arterial* [Road]".

[24] Relying in particular on the evidence of Mr. Moore, counsel for the City argued that because it is an 'outlier' and a 'clear discrepancy', the Tribunal ought to ignore this aspect of the Area 8 Secondary Plan, including its specific provision which directs that it applies to the extent of a conflict with the Official Plan as noted in paragraph [19]. Mr. Moore was certainly an articulate and knowledgeable witness but the Tribunal does not find that his

opinion on this issue or on the Official Plan “impact” suggested by the City’s counsel in paragraph [22] (f) above to be persuasive and notes that his resolve regarding the reasonableness of these positions was shaken during his cross-examination. The Tribunal also does not accept that Mr. Moore’s opinion and the City’s counsel’s argument that a finding on this DCA appeal that Chapman Mills Drive is an Arterial Road will necessarily lead to dramatic changes in density and height in the adjacent area, as the City remains able to regulate that aspect under its Official Plan regardless.

[25] The Tribunal agrees with the position taken by both counsel for Minto and Caivan that the Area 8 Secondary Plan may not be simply ignored as in effect an ‘anomaly’ and that it remains in force and effect, including its designation of Chapman Mills Drive including the Corridor Portion as an Arterial Road. The Tribunal notes that the evidence also established that the Area 8 Secondary Plan was amended as recently as 2018, well after amalgamation in the City, which leads to the conclusion that had the City wished to correct this alleged ‘discrepancy’ it clearly could have done so then, or at any time.

[26] The Tribunal also agrees that the proximity of the Corridor Portion to the Minto and Caivan residential developments does not in effect transform it into a Major Collector Road or otherwise into a local service. The Tribunal agrees with the argument made by Caivan’s counsel, and accepts the expert transportation planning evidence of Mr. Gordon, a transportation engineer qualified by the Tribunal, that:

> Neither appellant’s subdivisions require this section of CMD [Chapman Mills Drive] from a traffic capacity perspective. Neither do the subdivisions require the dedicated transitway within CMD. Furthermore, direct access to this section of CMD has been prohibited from all of the new homes in the subdivision which will one day front onto CMD. Access to all of those new homes will be from near laneways behind the new houses. The City has precluded direct access from the houses on CMD for urban design and traffic management reasons

[27] The Tribunal also accepted and preferred the evidence of Mr. Keleher, an economist and urban planner, who was qualified to provide opinion evidence on development charge matters wherever it conflicted with the opinion evidence on the same subject matter provided by Mr. Binning and, to some extent, that of Ms. Armstrong. Mr. Keleher testified that he relied on the evidence of Mr. Chadder and Mr. Gordon regarding

the function and purpose of the Corridor Portion and opined that the treatment of the road project costs in the City's 2019 DC Study would need to change to include all of the road project costs, not just the 'oversizing' portion of capital costs.

[28] The Tribunal also agrees with and adopts the statements made in the OLT Decision in *Ocean Club Residences Inc. v. Toronto (City)* 2020 CarswellOnt 11321 and also in *Marjerrison v. Ottawa (City)* [2016 CarswellOnt 21544 (O.M.B.)] ("Marjerrison*")*:

> 129 The Tribunal has some difficulty accepting that the mere proximity of an already-existing major arterial transportation route in the City, adjacent to a Development, is sufficient to categorize any improvements to it as "local" and internal to the Development. That argument has previously been tried before the former Board, and failed, and the Tribunal would adopt the similar approach to this logic as it was considered in Marjerrison v. Ottawa (City) [2016 CarswellOnt 21544 (O.M.B.)] (November 29, 2016 ("Marjerrison") DC140015 and DC140030.
>
> 130 Although the nature of the considerations in the Marjerrison decision was somewhat different, as it related to the interpretation of a DCBL and policies relating to a subdivision, the underlying premise remains the same. The fact that a major arterial road may be adjacent to a development does not render the work provided or contributed by the Appellants with respect to the road, "local in nature", since the road provides city-wide services and are more accurately considered as "off-site". It is, in the Tribunal's approach, more importantly the nature of the arterial road, its function in the immediate and broader urban context, its interrelationship and connection to the development and to other immediate and outlying areas of the City, that better informs the character of the services as local or non-local…

PART FIVE: THE REMEDY SOUGHT BY THE APPELLANTS RELATES TO THE PROPER INTERPRETATION OF THE DCB AND MAY BE GRANTED BY THE OLT

[29] In the Tribunal's view, the key issue presented by this appeal is whether the costs of construction of the Corridor Portion are properly subject to the imposition of development charges under the City's DCB. The City's position that no such development charges are permitted is rooted in its interpretation of the DCB, which in turn involves the question of whether the Corridor Portion is an Arterial Road (thus not a 'local service') or a Major Collector (and thus a 'local service'). In the same vein, the contrary positions of Minto and Caivan are also derived from an interpretation of the DCB based on the same question.

[30] It is clear that under subsection 16 (3) of the DCA, the Tribunal has the power to either (a) order the City's Council to amend or repeal the DCB; or (b) to repeal or amend

the By-law in such manner as the Tribunal may determine. However, in the Tribunal's view, it follows that the OLT must also necessarily be empowered to resolve conflicting interpretations of the scope and meaning of the DCB as it pertains to a particular City project – in this case, the Corridor Portion.

[31] By seeking to impose the full costs of the Corridor Portion on Minto and Caivan, albeit subject to a possible future 'claim for credits' as suggested by the City's counsel, the City is pursuing its interpretation that development charges pursuant to its DCB cannot be levied. If that position was directly captured in the language of the DCB pertaining to this particular road construction project, then the OLT would obviously have the power to amend or repeal such language. The fact that this City position is not explicitly spelled out in the DCB but instead stems from the City's interpretation and administration of the DCB does not prevent the Tribunal from making a ruling that clarifies how the DCB ought to be properly and fairly interpreted in these circumstances.

[32] Similarly, it cannot be the case as contended by the City's counsel that the OLT is precluded from granting the remedy sought by the Appellants in this appeal because "…*the Tribunal is not authorized to increase the rates in the* [DC] *by-law*…", because if the Corridor Portion is found to be development charge eligible this would "…*add to the cost of the development charge work plan of the City and would thereby raise the development charge rates*…*"*.

[33] The Tribunal notes that counsel for the City called no evidence and cited no jurisprudence to support the clever argument described in paragraph [32] and the Tribunal rejects this contention. It would seem that many appeals under the DCA of a municipal development charges by-law could be similarly characterized, rendering the appeal process under the DCA of little practical utility as a result. In the Tribunal's view, much clearer and explicit limitations to this effect would need to have been set out in the statute had the Ontario legislature intended to so constrain such appeals under subsections 14 and 16 of the DCA.

[34] One example of an OLT case that demonstrates that the factual context on this appeal is not unusual is the decision of Vice-Chair Makuch in *Marjerrison*, also discussed in paragraph [27] above. In paragraph [10] of *Marjerrison*, Vice-Chair Makuch noted:

> This appeal relates to the City's failure to classify certain works in and around Colonnade Road, in the area of Merivale Road (to and including the intersection of Colonnade Road and Colonnade Road South, including substantial roadway modifications being required for the Colonnade Road North and Merivale Road intersection) as DC eligible costs. The City required CDI to carry out these works at its own cost as part of its development approvals for 15 Colonnade Road.
>
> [Emphasis added]

[35] Clearly the appeal against the City in *Marjerrison* was broadly similar to the current appeal in that it related to the same sort of position taken by the City here as against Minto and Caivan. However, it is to be noted that many circumstances were different in the *Marjerrison* case (including but not limited to the fact that there was no 'live dispute' as to whether the roads at issue were Arterial or Major Collector). Nonetheless, the point remains that the Tribunal saw no barrier to granting a remedy in circumstances where the appellants were not actually seeking an amendment to the City's development charges By-law.

[36] In *Marjerrison*, the Tribunal ruled as follows:

> Municipalities must always act fairly and reasonably in its administration of legislation under which it has authority. It did not do so in this case when it required CDI to construct and pay for works that related to existing problems on the road system that were its responsibility.

[37] This Tribunal expressly adopts the finding of Vice-Chair Makuch cited in paragraph [36] as to the obligation on the part of the City to act fairly and reasonably in its administration and interpretation of the DCB. The Appellants argue here that given the City's long-standing and continuing identification of Chapman Mills Drive as an Arterial Road, the presence of the BRT line in the Corridor Portion and that therefore the Corridor Portion clearly serves general City purposes and objectives. Therefore, under the interpretation taken by the City it is unfair and unreasonable for Minto and Caivan to pay for construction costs beyond what would be properly levied for development charges under the DCB simply because the Corridor Portion is adjacent to the Caivan and Minto land developments.

[38] The Tribunal also does not find the arguments of the City's counsel persuasive when he suggests that the OLT should be guided by the apparent fact that other developers in the same area did not pursue similar appeals and that they simply agreed to pay for the extra costs associated with the construction of Chapman Mills Drive. In the Tribunal's view, such matters are irrelevant to its determination of issues raised in this appeal.

[39] Similarly, the Tribunal does not accept the City's position that because apparently no other developer has previously sought in an OLT proceeding to classify portions of Chapman Mills Drive as Arterial is determinative. Additionally, as noted in paragraph [24], the Tribunal rejects the notion that designating the Corridor Portion as an Arterial Road will suddenly and automatically create far-reaching land use impacts in terms of permitted building heights and densities such that this Tribunal should decline to do so. This appeal does not raise such matters as are dealt with in the City's Official Plan or its Zoning By-laws, nor would this ruling by the Tribunal relating to the administration and interpretation of the DCB.

PART SIX: CONCLUSION

[40] The Tribunal accepts the arguments of counsel for Caivan and Minto that the Corridor Portion is an Arterial Road, is not a mere 'local service' and is therefore subject to the imposition of development charges by the City under its DCB.

[41] Therefore, the Tribunal allows this appeal of Minto and Caivan.

ORDER

[42] For the reasons set out above, the Tribunal Orders that:

(a) The appeals of Minto Communities Inc. and of Caivan Barrhaven Conservancy Development Corporation are allowed;

(b) The City of Ottawa is directed to fund the costs of the Corridor Portion ("Costs") described in paragraph [11] above through the imposition of development

charges under the City's Development Charge By-law 2019-156 or otherwise through general revenues;

(c) The City of Ottawa may not seek to recover the Costs from either Minto or Caivan as a condition of site plan or subdivision approvals for the Minto and Caivan development projects or otherwise.

"William R. Middleton"

WILLIAM R. MIDDLETON
MEMBER