
REPORT TITLE: **Development Charges Deferral Agreement – Illumi Productions Inc.**

FROM: Gary Kent, CPA, CGA, ICD.D, Chief Administrative Officer

RECOMMENDATION

That the Chief Financial Officer and Commissioner of Corporate Services, or their delegate, be authorized to enter into a development charge deferral agreement with Illumi Productions Inc., the applicant for the Building Permit Application No. BP 3TEN 22-3821, BP 3TEN 22-4012, BP 9SMAL 22-5104 for the Illumi event at 7174 Derrycrest Drive, City of Mississauga.

REPORT HIGHLIGHTS

- In June 2022, Illumi Productions Inc. applied for three building permits with the City of Mississauga in support of their festival of lights event entitled ‘Illumi’, located at 7174 Derrycrest Dr., Mississauga.
- The Illumi event is a temporary use permitted via a minor variance approval that expires in July 2026.
- Based on the current development charges by-laws of the City of Mississauga and Region, the Applicant is required to pay development charges (DCs) upon being issued the three building permits related to the Illumi event.
- The City Council authorized City staff to enter into a DC deferral agreement to defer the determination of the DCs until such time that that the definition of “temporary building or structure” is reviewed by the City in the next by-law review.
- The total applicable Regional and City DCs amount to \$609,731.04, of which \$419,072.38 pertains to the Regional portion.
- Where DCs are not levied on temporary buildings or structures, DCs are expected to be collected when the property is redeveloped which is expected to be the case for this property.
- The City and the Region’s DC By-laws do not allow DC credits where the development would have been exempt prior to the redevelopment or change of use.
- Staff is seeking Council authority to enter into a DC Deferral Agreement with the Applicant to align with the City of Mississauga approach.

DISCUSSION

1. Background

In June 2022, Illumi Productions Inc. (the “Applicant”) applied for three building permits BP 3TEN 22-3821, BP 3TEN 22-4012, and BP 9SMAL 22-5104 with the City of Mississauga (the “City”) in support of their festival of lights event entitled ‘Illumi’, located at 7174 Derrycrest Dr., Mississauga. The permits are for structures to support the event such as a concession tent, welcome tent, and site offices totaling 1,666 m² of floor area.

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In 2021, the City's Committee of Adjustment approved a minor variance to allow the Applicant to operate the event yearly, on a temporary basis, until July 31st, 2026. The Applicant recently indicated to City staff that they expect to operate the event in excess of the Region and City's defined time frames for which a structure may be considered "temporary" for the purposes of development charge ("DC") administration.

On March 22, 2023, City staff presented a report to City Council recommending that City staff undertake a review of the City's DC By-law definition of "temporary building or structure" to report back with any proposed amendments through the following DC By-law review cycle. The report also recommended that City Council authorize City staff to enter into a DC deferral agreement with the Applicant to defer DCs on this development until the point in time that the City's DC By-law is renewed by Council. City staff estimates such renewal to occur in 2027. The report indicates that Regional staff would need to bring forward similar recommendations for Regional Council's consideration to accommodate the Applicant's request.

2. Analysis

a) Regional DC By-law Treatment of Temporary Building or Structures

The Region's DC By-law 77-2020 defines a "temporary building or structure" as a building or structure that is constructed, erected or placed on land for a continuous period not exceeding eight months. The City's DC policy regarding the treatment of temporary buildings or structures is consistent with the Region's.

The Region's DC By-law does not impose DCs on temporary buildings so long as its status as a temporary building is maintained in accordance with the By-law. Upon application for a building permit in relation to a temporary building or structure, subsection 8(2) of the Region's DC By-law states that the Chief Financial Officer (the "CFO") may require that the owner enter into an agreement providing for the payment of all or any part of the development charge before or after it would otherwise be payable, pursuant to Section 27 of the *Development Charges Act, 1997* (the "Act"). The agreement may provide that the owner submit security satisfactory to the CFO to be realized upon in the event that the temporary building or structure is erected for a continuous period exceeding eight months and development charges thereby become payable.

This development, considering the intent for the structures to remain in place beyond the defined eight-month period, would no longer be deemed temporary and thus DCs are payable in accordance with the current By-law.

b) Aligning with the City Approach in Entering into a DC Deferral Agreement

City staff received authority from Council to enter into a deferral agreement to defer the calculation of DCs payable on this development until City staff have the opportunity to review the definition of "temporary" in the By-law. This deferral would allow for the DCs to be determined in accordance with the new DC By-law and revised "temporary building or structure" definition, should one be introduced when the City's DC By-law is renewed by City Council.

Should the Region seek a similar approach, this would entail deferring the determination of DCs for this development until such time that the definition of "temporary building or structure" is reviewed by both the City and the Region. Regional staff estimate such renewal

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of the Regional DC By-law to occur no later than 2031. The Region's DC By-law authorizes the CFO to enter into agreements for which the payment of DCs is to take place before or after it would otherwise be payable, but does not authorize the CFO to enter into a deferral agreement with an applicant, or exercise discretion on the requirement to provide securities for buildings or structures that are not deemed temporary. The authority to enter into such agreement in this scenario lies with Council.

RISK IMPLICATIONS

Council may authorize Regional staff to enter into a deferral agreement with the Applicant pursuant to Section 27 of the *Development Charges Act, 1997* for which the determination of DCs shall be deferred until the Region's next DC By-law comes in to effect, and by which time staff would have reviewed and provided Council with a revised "temporary building or structure" definition for consideration. Council has the authority to initiate a By-law update before it would otherwise expire, though the advancement of the Region's DC By-law update to accommodate a definition change would also advance the risks associated with new By-laws being subject to Ontario Land Tribunal appeals.

FINANCIAL IMPLICATIONS


If the Region's current By-law and effective rates are to be applied today, the following table represents the Regional DCs payable for the three building permits:

Permit No.	GFA (m ²)	Rate (\$)	DCs(\$)	Interest(\$)	Total(\$)
BP 3TEN 22-3821	300	235.87	70,761.00	4,702.21	75,463.21
BP 3TEN 22-4012	1,057	235.87	249,314.59	16,567.47	265,882.06
BPA-89830	309	235.87	72,883.83	4,843.28	77,727.11
Total Payable	1,666		392,959.42	26,112.96	419,072.38

Where DCs are not levied on temporary buildings or structures, DCs are expected to be collected ultimately when the property is redeveloped, which is expected to be the case for this property. Section 10(2)(e) of the Region's DC By-law does not allow DC credits where the development would have been exempt prior to the redevelopment or change of use.

CONCLUSION

The City is entering into a deferral agreement to defer the calculation of DCs payable on this development until staff have the opportunity to review the definition of temporary in the By-law. Regional staff is seeking authorization to enter into a DC deferral agreement with an approach that is in alignment with the City of Mississauga.



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