

# City of Mississauga Corporate Report



<p>Date: February 20, 2020</p> <p>To: Mayor and Members of Council</p> <p>From: Gary Kent, CPA, CGA, ICD.D, Commissioner of Corporate Services and Chief Financial Officer</p>	<p>Originator's files:</p>
	<p>Meeting date: April 1, 2020</p>

## Subject

**Delegating the authority to waive and/or reduce Committee of Adjustment fees**

## Recommendation

That Council provide direction related to the desired approach to waiving or reducing fees related to Committee of Adjustment applications as outlined in the Corporate Report dated February 20, 2020 from the Commissioner of Corporate Services and Chief Financial Officer entitled "Delegating the authority to waive and/or reduce Committee of Adjustment Fees".

## Background

On February 5, 2020 Council directed staff to report back on the potential to delegate authority to the City Clerk to waive fees for minor variance applications where additional variances are required due to special circumstances.

The direction arose as a result of a notice of motion on the same agenda related to waiving of fees for a resident who had received approval from the Committee of Adjustment however through the building permit process, additional variances were identified thereby requiring an additional minor variance application and associated fees.

Since 2016, four (4) requests for fee waivers have been received and approved by Council.

## Comments

The *Planning Act* provides both City Council and the Committee of Adjustment the authority to deal with requests to reduce or waive fees. Section 69 (2) of the *Planning Act* states that: the council of a municipality, a planning board, a committee of adjustment or a land division committee in processing an application may reduce the amount of or waive the requirement for the payment of a fee in respect of the application where the council, planning board or

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committee is satisfied that it would be unreasonable to require payment in accordance with the tariff.

City Policies (07-06-01 and 07-06-02) state that the Committee of Adjustment may use their discretion to reduce or waive application fees when it is determined that the newly required application is a result of an error on the part of the City or the application fee is deemed an extreme hardship to the applicant. The policy states that if the requestor is not satisfied with the Committee of Adjustment decision on a fee waiver request they may appeal to City Council.

Staff conducted a benchmarking review of 11 Ontario municipalities and found that none have delegated the authority to reduce or waive Committee of Adjustment fees to staff. The municipalities reviewed included Brampton, Burlington, Guelph, Hamilton, Kingston, Markham, Oshawa, Ottawa, Vaughan, Toronto and Windsor.

The onus for submitting a complete and correct variance application lies solely on the applicant. Applicants can and are encouraged to file a Building Permit, Occupancy Permit, Site Plan, or Preliminary Zoning Review applications prior to submitting a variance application. Through these applications reviews the Zoning Division identifies the variances that are required and the proper wording needed for the variance application.

Applicants have sought a fee waiver or reduction as a result of:

- a) Staff error where despite submitting Building Permit/Occupancy Permit/Site Plan, or Preliminary Zoning Review application(s) prior to submitting the variance application additional variance(s) are identified variance(s) after the Committee of Adjustment consideration of the initial application. In situations resulting from a staff error the City Division responsible has made arrangements to cover the cost of the new/additional application.
- b) Applicant oversight where the applicant did not make a Building Permit, Occupancy Permit, Site Plan, or Preliminary Zoning Review prior to making the variance application and during the final review of plans it is determined that an additional variance(s) is required or that an approved variance(s) is not worded correctly.

Section 23.1 of the Municipal Act, 2001 states that Council can delegate the authority to reduce or waive Committee of Adjustment fees to a designated staff position. In order to delegate this authority Council must be of the opinion that the power being given to staff is minor in nature. The delegation of authority also needs to be exercised in a transparent and accountable manner. Delegation dealing with fees should include a clear policy framework to be followed by the person making the decision and have a reporting component.

Any policy framework related to the delegation of this power to staff would need to be broad enough to capture what is "reasonable" to allow for a fee waiver or reduction, but at the same time be tight enough to not allow for abuse of the system. The policy also cannot be based on

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“who” the applicant is (ie. experienced developer vs. a resident representing themselves). The policy would also have to be justifiable to a broader audience. Given that the process related to providing notice and holding a hearing, the costs associated with any application where the fees are waived and the costs are not paid for by the applicant must be covered by property tax revenues.

The current avenues of requesting waivers from the Committee of Adjustment or Council, and the frequency of requests does not appear to require an alternative process or avenue to deal with such requests.

## Financial Impact

The financial impact of maintaining the status quo is minimal as typically Council approves 1 fee waiver request per year. The resulting budget impact on average is \$1000.00 yearly.

## Conclusion

Section 69 (2) of the *Planning Act RSO 1990* allows the delegation of authority for the waiving or reducing of fees however given the very limited number of requests received, the current practice of allowing the Committee of Adjustment and Council to waive fees remains an appropriate method of addressing requests.



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Gary Kent, CPA, CGA, ICD.D, Commissioner of Corporate Services and Chief Financial Officer

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