

# MFOA

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Minister Gerretsen  
Ministry of Municipal Affairs  
777 Bay Street, 17th Floor  
Toronto, Ontario  
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Dear Minister Gerretsen,

I am writing today to request amendments to the *Development Charges Act 1997* (DCA) and Ontario regulation 82/98. However, let me begin by offering congratulations for your recent appointment to the Ministry of Municipal Affairs portfolio. Speaking on behalf of the Board of Directors of the Municipal Finance Officers' Association, we look forward to working with you and Ministry staff on the various issues before us. MFOA has a long tradition of working constructively with provincial officials to make improvements to the municipal finance framework and we anticipate continuing this tradition in the years ahead.

The underlying principle of development charges is that growth should pay for the initial round of capital facilities required to service growth. Development charges should not finance replacement and rehabilitation of existing facilities and should not finance operating costs. This was the foundation of the 1989 DCA and regulation and the lot levy regime that preceded it. Unfortunately, amendments made to the 1997 Act and regulation departed from this fundamental principle that growth should pay for growth. Three measures in particular have resulted in a situation where existing taxpayers are required to make a significant financial contribution to the capital costs required to service new growth. These include:

- **Service Discounts:** Under the 1997 Act, municipalities are required to finance 10% of the growth-related costs of providing all services except water, sewer, storm water management, police, fire and roads. These growth-related capital costs, which are excluded from the development charge, must be financed from existing taxpayers or incorporated into existing user fees. **Recommendation: Remove service discounts from**  
"your municipal finance authority"

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**the Act (remove paragraph 8 of subsection 5(1) and remove subsection 5(5) of the Act).**

- **Service Levels:** The 1989 Act allowed the calculation of development charges to be based on the highest level of service actually attained at any point in the prior 10 years. The 1997 Act permits the calculation of a charge to recover costs based on the average level of service over the prior 10 years. The use of averages often suppresses service levels that can be charged and, therefore, transfers costs to existing ratepayers. **Recommendation: Alter the service level section of the regulation to permit municipalities to adopt service levels that have actually been attained at any point in the prior 10 years (amend section 4 and paragraph 4 of subsection 5(1) of O. Reg. 82/98).**
- **Excluded Services:** The 1997 Act prohibits development charges of any kind for a number of services. For example, the Act prohibits development charges for parkland acquisition, cultural facilities, hospitals, etc. Several municipalities have asked to restore these and other services as eligible services as well. **Recommendation: Return to the framework of the DCA 1989 where no municipal services were excluded from the development charge calculation (remove subsection 2(4) of the DCA).**
- **Excess Capacity:** In many cases, municipalities oversize works to meet growth in the future. It is appropriate for growth to pay the costs of existing works if they have been oversized to accommodate growth. The current provisions in the DCA make this difficult and, in some cases impossible. **Recommendation: Revisit the provisions related to excess capacity to ensure that municipalities can charge for costs, even where they have been incurred in the past, if the works are oversized to accommodate future growth (amend paragraph 5 of subsection 5(1) of the Act and section 5 of O. Reg. 82/98).**

The proposed amendments would have the effect of re-establishing the principle that growth should pay for growth. Amounts that ratepayers are currently paying for growth-related capital could be redirected to other infrastructure priorities such as rehabilitation and replacement. This would help address the "infrastructure gap" that all municipalities face.

I would be delighted to discuss these proposals with you in more detail if you wish. Alternatively, staff of MFOA would be pleased to work with Ministry staff to draft legislation and/or regulations to give force to these recommendations.

Yours truly



Steve Zorbas  
Chair  
Municipal Finance Officers' Association

cc Honourable Greg Sorbara, Minister of Finance  
Honourable David Caplan, Minister of Public Infrastructure Renewal  
Ann Mulvale, President, Association of Municipalities of Ontario