

REGION OF OTTAWA CARLETON
RÉGION D'OTTAWA CARLETON

REPORT
RAPPORT

Our File/N/Réf.
Your File/V/Réf.

DATE 20 August 1998

TO/DEST. Co-ordinator
Planning and Environment Committee

FROM/EXP. Director, Engineering Division
Environment and Transportation Department

SUBJECT/OBJET **MINISTRY OF THE ENVIRONMENT - APPROVALS REFORM**

DEPARTMENTAL RECOMMENDATIONS

1. **That the Planning and Environment Committee, in support of the Association of Municipalities of Ontario, recommend that Council direct staff to inform the Minister of the Environment of the Region's objection to the proposed fees to Municipalities for Certificates of Approval, and;**
2. **That, in order to maintain the principle of revenue neutrality with respect to development applications, the Planning and Environment Committee recommend that Council also approve:**
 - a) **The amendment of Part 4.1 of the Regional Regulatory Code to include watermain inspection fees, on a full cost recovery basis, for all developments commencing 01 October 1998;**
 - b) **The reinstatement of subdivision legal agreement processing fees, in accordance with Schedule 'A' of Part 6.2 of the Regional Regulatory Code concurrent with the implementation of Standardized Approval Regulations (SAR) by the Province.**

BACKGROUND

In the Province of Ontario, the construction of all municipal water and sewer infrastructure requires a Certificate of Approval (C of A) issued under the authority of the *Ontario Water Resources Act*. Presently the Region has delegated authority from the Ministry of the Environment to review and recommend approval for sanitary sewers, watermains and conventional storm sewer systems. Storm sewer systems that entail storm water management for

quality and quantity control considerations are reviewed and approved by the Ministry of the Environment.

On 28 August 1992, the Province adopted Regulation 503/92 under the *Ontario Water Resources Act* which imposes a 2% fee for processing Certificates of Approval. The processing fee is applicable to the private sector and is calculated as a percentage of capital costs (fee range minimum \$50 to maximum \$100,000). The fee was not applicable to Municipal undertakings.

On 14 October 1992, Regional Council approved Executive Committee Report No. 36 which included the suspension of Regional fees for development applications to offset the new revenue received from the MOE fee and maintain revenue neutrality. These fees included the inspection fee charges, the Legal Department processing fee for subdivision agreements and the ROC Processing Fee for Land Development (levied under the authority of the *Planning Act* - reduced by 18%).

A new Regulation 364/98 was enacted by the Province on 25 June 1998, rescinding the 2% fee and replacing it with a new fee schedule which takes effect on 01 October 1998. The Region was advised of the date of the regulation change in mid July. Also, as part of the new regulation, municipalities will no longer be exempt from the processing fee.

DISCUSSION

AMO Position

The Association of Municipalities of Ontario (AMO) recently expressed their concerns with the proposed regulations to Minister Norm Sterling and issued a "Member Communication Alert" dated 10 July 1998 advising of their concerns. They are as follows:

- Regulator Conflict - The Ministry, as the regulatory body that requires Certificates of Approval and amendments, is in an awkward position to also charge, particularly when the Ministry requires phased approvals.
- Removal of Municipal Exemption - Municipalities are mandated to provide services that the private sector may choose to provide, and unlike the private sector which may decide where it chooses to operate. Removal of the exemption imposes costs on the lower level of government through increase in property taxes. There is no net gain to the one taxpayer of the Province.
- Timing - AMO reminded the Government that municipal budgets for 1998 have generally been approved and the levies set. Any mid or end-year increase would be extremely difficult and unfair to implement.
- Determination of Costs - The averaging formula could result in unreasonable and unfair costs. AMO sought assurances that there would be transparent cost accounting done by the Ministry when presenting municipalities with bills.

- Quality of Service - If the Ministry is committed to levelling the playing field with the private sector, then there should be a commensurate commitment to issue municipal Certificates of Approval as promptly as those for the private sector.

AMO has indicated that they will continue to lobby the Province to consider rescinding these regulations and have urged member municipalities to voice their concerns.

Impact of New Regulation 364/98

Staff have reviewed all projects listed in the 1998 Capital Budget to estimate the financial impact of the new fee structure. Staff estimate the impact on the Region to be under \$50,000. This is what the Region would pay for Certificates of Approval on their water/sewer capital projects. However, the majority of projects reviewed fall under the Transfer of Review Programme, and as such, technical reviews by the Ministry are not required.

From a development approvals perspective, Regulation 364/98 includes the following clause:

“A fee payable under this Regulation in respect of an application is payable to a municipality if the responsibility for reviewing the application has been transferred to the municipality in accordance with the list of municipalities under the Transfer of Review Programme available at the Public Information Centre at the Ministry or at the Approvals Branch of the Ministry.”

This means that, as of 01 October 1998, the Region, in accordance with the Transfer of Review Programme, is required to adopt the same fee schedule for technical reviews as outlined in the regulation. The 'C of A Approvals Fees' collected to date in 1998 were approximately \$190,000. Should the new fee schedule have been implemented at the start of 1998, fees of approximately \$50,000 would have been recovered, leaving a shortfall of approximately \$140,000.

Future Regulations

In accordance with Bill 57, the *Environmental Approvals Improvement Act*, 1997 enacted in June 1997, the Ministry of the Environment is proposing several changes to the current process for approval of municipal water and wastewater projects. These changes include the implementation of Approval Exemption Regulations (AER) and Standardized Approval Regulations (SAR). This is a permit by rule process.

AERs are being introduced to clarify the intent of the *Environmental Protection Act* (EPA) and the Ontario Water Resources Act (OWRA) by not requiring C of A's for activities with insignificant environmental impacts (i.e. relining of sewers or watermains).

SARs provide an alternative approvals process for those activities with predictable, controllable and well-understood impacts on the environment, subject to compliance with prescribed conditions (e.g., replacement of sewers or watermains). SARs would have a condition requiring notification to the MOE prior to the commencement of the project.

The third approval stream is the existing MOE approvals process in which a technical review is carried out and a Certificate of Approval is required. These typically are projects which may have a direct impact on the environment (i.e. sewage treatment works).

Impacts of Future Regulations

The implementation of SARs and AERs, anticipated within the next year, will fundamentally do away with the Transfer of Review Programme and the fees which could be collected would be reduced to almost nil. To avoid this shortfall, staff are recommending the following:

1. That the inspection fees for watermain construction be reinstated and shall be fully cost recoverable. This is based on actual costs incurred for the inspection of development infrastructure during construction and final inspection prior to assumption by the Region. This method of cost recovery was used prior to the imposition of the 2% processing fee by the MOE in 1992.
2. That the Legal Department Processing Fee charges for subdivision agreements for subdivisions on municipal water and sewer services be reinstated when SARs and AERs are implemented by the Province. Until that time, the estimated \$50,000 which will be collected from the MOE's new fee schedule should be sufficient to cover this cost.

A separate report dealing with processing fees for Land Development applications, levied under the authority of the *Planning Act*, is forthcoming.

It should be noted that after the implementation of SARs and AERs, staff will continue to perform technical reviews for all development applications in order to protect the Region's interest as the ultimate owner and operator of the underground infrastructure.

CONSULTATION

Staff have informed the Ottawa-Carleton Home Builders Association of the proposed changes.

Approved by
J.M. Miller, P.Eng.

ZAG/jw