June 8, 2009

Mayor Fred Eisenberger and Members of Council
City of Hamilton
C/O Clerks Office
Suite 220, 77 James Street North
Hamilton ON
L8P 4Y5

Dear Mayor Eisenberger and Members of Council

RE: Recommendation to Council for 2009 Development Charge By-Law

On behalf of Losani Homes, Empire Communities, Rob-Geof Properties and Branthaven Homes we would like to take this opportunity to first applaud the Audit and Administration Committee for hearing the concerns of the Home Building Industry which were voiced at the Public Meeting held on June 4, 2009. A twelve month freeze with a review in ten months is absolutely necessary to assist our industry in curving the current economic situation and maintaining jobs.

Although we were pleased with the recommendation for a freeze of the Development Charges, we were shocked and disappointed with the recommendation going to Council that excludes the merging of the Special Area Charge into the City-Wide Development Charge. On this basis we respectfully request a two week deferral to June 24, 2009 of Item 6.3 that will be considered at the June 10, 2009 Council Meeting.

It is our opinion that additional discussions with City Staff and the Stakeholders are required with respect to the Special Area Charge (SAC) component of the proposed new Development Charge By-Law. We are not in agreement with the Audit and Administration Committee’s recommendation to NOT adopt staffs recommendation to merge the existing SAC’s with the Municipal Development Charge.

We believe Council should amend the recommendation of the Audit and Administration Committee to include staff’s recommendation to merge the existing SAC’s with the City-Wide Municipal Development Charge for the following reasons:

1. If Council adopts the recommendation being brought forward by the Audit and Administration Committee they will be taking a position that is contrary to staff’s recommendation;

2. Areas subject to an SAC are paying for growth related infrastructure specific to other areas without receiving commensurate benefits. Binbrook for example has being paying towards the City-Wide Municipal Development Charge in the same amount as areas not subject to an SAC which in turn funds growth related Storm Water Management Ponds that are receiving $250,000 to $300,000 per acre in other parts of the city while Binbrook has only been receiving $75,000 to $100,000 per acre for its Storm Water Management Ponds despite proof of land values by way of appraisals or recent land transactions;

3. The current SAC’s were put in place when the former municipal boundaries were in place and the amalgamated City of Hamilton was not established;

4. Failure to eliminate the SAC’s will place a disproportionate burden of costs on the areas subject to SAC’s. Areas subject to an SAC are paying for their own growth plus paying for projects elsewhere in the City, essentially paying twice;
5. City’s policy has been to eliminate SAC’s on a go forward basis, as was previously adopted by Council in 2004. This review of the Development Charge By-Law provides the City with the opportunity to eliminate the existing SAC’s and make the Development Charge equitable throughout the entire City of Hamilton;

6. Within the current list of projects to be funded by Development Charges there are many community specific projects that could be considered an SAC as these projects are as specific to a benefiting area as the criteria used to establish the current SAC’s. For example, within the current projects being funded by the proposed new Development Charge there are projects that are completely obvious as meeting the criteria for an SAC such as the Airport Employment Growth Area, the infrastructure required for SCUBE, water and waste water services for Mount Hope, waste water services for Stoney Creek, Ancaster Industrial Park, etc.; and

7. Since 2007 Binbrook itself has accounted for approximately 30% of the City’s building permit activity, by virtue of this Binbrook has been paying more into the City-Wide Municipal Development Charge fund and faster than any other area while receiving very little in return from Development Charge funding.

In addition to the above we have critically reviewed the accounting of the Binbrook SAC. In particular, and have found that there may be an overlap in fees being paid between the Special Area charge and the City-Wide Municipal Development Charge. Given the opportunity to discuss this with staff could reduce the overall increase to the City-Wide Municipal Development Charge when merging the SAC’s.

In summary, a two week deferral is in our opinion necessary to allow the parties to meet and clarify the issues and discuss possible alternatives that will meet the objectives of all parties and avoid any unnecessary and costly Ontario Municipal Board Hearings.

Sincerely

[Signature]

Mr. Fred Losani on behalf of:
Losani Homes;
Empire Communities;
Rob-Geof Properties; and
Branthaven Homes