



British Columbia
School Trustees
Association

January 20, 2020

The Hon. Rob Fleming

Minister of Education

PO Box 9161,
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educ.minister@gov.bc.ca

Dear Minister Fleming,

Re/Subject: School Site Acquisition Charges

As previously discussed with the Ministry of Education, BC School Trustees Association (BCSTA) formed a capital working group in the fall of 2019 which included trustees from throughout the province and representation from the BC Association of School Business Officials (BCASBO). The group's objective was to address topics of interest to boards of education regarding capital projects and funding.

As determined by the membership of BCSTA, one of the subjects addressed by the group was School Site Acquisition Charges, which are currently felt to be inadequate in fulfilling their intended mandate. The enclosed discussion paper identifies several specific concerns about school site acquisitions and lists recommendations for government consideration which are intended to address those concerns. The paper was developed as a result of engagement with every Board of Education and input from several boards. It has also been endorsed by BCASBO.

We believe the paper makes several suggestions which will be of interest to government and we look forward to discussing these suggestions at greater length with you and appropriate ministry staff at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stephanie Higginson", with a long horizontal flourish extending to the right.

Stephanie Higginson

President

British Columbia School Trustees Association

CC: BCSTA Board of Directors; BCSTA Capital Working Group;
Ms. Flavia Coughlan, President, BCASBO; Mr. Scott MacDonald, Deputy Minister

Enclosure: "BCSTA School Site Acquisition Discussion Paper"



SCHOOL SITE LAND ACQUISITIONS ISSUES AND SOLUTIONS

a report from the BC School Trustees Association

Context

The BCSTA formed a Capital Working Group (CWG) in September of 2018 to review various BCSTA resolutions adopted by the membership on government policy related to capital work in the sector. The review resulted in a recommendation to BCSTA's board to pursue various policy changes within government. That recommendation was subsequently adopted. This brief paper is intended to provide some background and recommendations on one of the issues discussed by the CWG; school site acquisition.

Recommendations

1. That the required legislative and regulatory changes be introduced eliminating the current cap on School Site Acquisition Charges (SSACs) and requiring school districts to set SSACs using a formula similar to that used for municipal parkland Development Cost Charges (DCCs). The formula would allow for an amount to be established based on the market value of the land to be acquired for a school site, (less the amount already collected for the purchase) divided by the number of remaining development units set by the Municipal Government serving the same geographic area as the school district. The calculation should be reviewed regularly to ensure the amount being collected reflects increasing land values over time.
2. That SSACs be updated regularly to reflect current land values.
3. That the required legislative and regulatory changes be introduced requiring municipal governments who charge development cost charges to include the cost of off site servicing of new schools in their municipal development cost charges. It is recognized some municipal governments do not have sufficient development to warrant establishing development cost charges at all. In those cases required off site servicing would necessarily continue to be attributed to new or replacement school construction costs.
4. That legislative changes be introduced to require that Municipal governments collect SSACs set by a school district.
5. That over the next ten years the percentage of provincial funding to be provided in addition to SSACs to facilitate school site acquisitions noted in the current regulations be gradually reduced from 65% of the total cost to as little as possible of the total cost recognizing the proposed increases in SSAC payments anticipated in recommendation one will take time to be collected.
6. That school site acquisitions continue to be approved and funded by the provincial government even if the locally collected SSACs are insufficient to acquire the necessary land, given the urgent need to proceed with new school construction in growing areas.
7. That school site acquisitions be authorized and encouraged to take place within five years of an Official Community Plan being adopted which identifies designated school sites or at the earliest reasonable opportunity upon request of a property owner, first utilizing available SSACs and additional funding as required from the Ministry of Education .
8. That developers continue to be provided with the option of dedicating designated school sites to the school district in return for the payment of SSACs being forgiven.
9. That Municipal governments and school districts be encouraged to enter into a purchase agreement wherein the local government front ends the acquisition of a school site designated in an Official Community Plan (OCP) utilizing available SSACs and additional funding from the local government which is to be paid back with interest through a combination of the collection of future SSACs and provincial government payments once approved in the school district's capital plan.

Background / Issues to be Resolved

Official Community Plans

Municipal governments are given the authority to adopt Official Community Plans (OCPs). The relevant legislation is found in the Local Government Act (Part 14, Division 4). OCPs identify acceptable land uses (among other policy matters) and the relationship between various land uses (residential, commercial, industrial, transportation and utility corridors, public amenities including parks and schools, etc.). Land use designations are also influenced by Agricultural Land Reserve boundaries, by defined environmentally sensitive areas and by environmental protection policies (i.e. stream setbacks etc.). Land use decision making is fine tuned at the point of development applications being considered through more detailed planning. However, once privately owned lands are designated for a particular use within an OCP there can be a reasonable expectation that it will eventually be used for that purpose subject only to the detailed planning mentioned above.

Municipalities are required to consult with school districts on the requirement for school sites within an OCP based on residential growth anticipated in the plan. The purpose of designating school sites at this point is to ensure the land being set aside for this purpose is suitable for its intended use. If Municipal Governments did not designate school sites at the point of adopting their OCPs there is a significant risk that appropriate sites will either not be available when needed or will be less desirable (i.e. hillside land which is more difficult and expensive to develop).

Timing

In order to secure the sites required to accommodate the school facilities needed to respond to anticipated residential growth they need to be acquired in a reasonable period of time following their designation within an OCP. Once land is designated as a school site in the OCP the owners are precluded from using it for another purpose (other than what it's current zoning permits) unless the OCP and zoning are amended. It has been suggested that government should require school sites be rezoned by municipal governments for school purposes once an OCP is amended to ensure development under current zoning does not further frustrate the use of the land for school purposes.

This does lead to the private owners of designated school sites asking school districts to either purchase the designated site at fair market value, based on highest and best use, or give it up so they can develop it for other uses (often residential development). There is legal precedent established to suggest governments must demonstrate

their intent to purchase sites designated in an OCP for a public purpose within a reasonable period of time following such designation or give up the designation (Hall vs Maple Ridge 1993). Many school site acquisitions have been delayed in the past until a decision is imminent to move ahead with school construction. Under these circumstances residential development can come close to surrounding designated school sites which have still not been authorized in capital plans to be purchased.

There are some circumstances where the scope of a single development is so large (i.e. a few thousand residential units) that the developer can be required to dedicate the school and park sites needed to serve the neighbourhood they are developing as a condition of that development. This is usually part of a servicing agreement in which DCCs and SSACs are forgiven equivalent in value to the value of the land being dedicated. Although this has happened in communities like Coquitlam it is actually quite rare that a single development proposal is so large that it can accommodate that type of school site and park dedication.

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Rationale for delays in purchasing

Delays in purchasing school sites have been justified in the past by suggesting that a new school may or may not be required in the area in the future and the cost to the province to proceed with the purchase is significant if insufficient SSACs are available. With this rationale school site acquisitions are not authorized to proceed until the school district and Ministry of Education are relatively close to making a decision to build a new school.

The problem with this approach is:

- Pressure from land owners of designated sites who want to sell their land often begins far in advance of government being prepared to acquire the property and build a school.
- Courts can order removal of the OCP designation if requested to do so by the land owners if governments are not prepared to follow through with acquisitions.
- The price of the land to be acquired can increase exponentially over time and could be subject to lengthy and costly expropriation proceedings.

Inadequacy of current SSACS

Part of the delay in moving ahead with acquisitions has at least in part to do with the inadequacy of funding for the purchase. SSACs have not kept up to increasing land values having been capped at no more than \$1,000 per single family residential unit when they were first introduced in 2000 (BC REG 17/00) and actually reflect no relationship to land values in different geographical areas of the province. The inadequacy of SSACs has resulted in more and more capital funding needing to be provided by the provincial government for land acquisitions for schools, which has contributed to even more justification for the delay in acquiring needed lands. In fact, the ratio between the amount of funding being provided by SSACs and direct provincial funding is heavily weighted to the provincial funding side of the equation. Although it can vary depending upon specific circumstances the current formula embedded in the regulation addressing this subject suggests 65% of the cost will be covered by government while SSACs collected for that purpose account for the remaining 35%. In fact, the ratio over the last year has meant provincial funding of over 90% of the total cost.

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In our view development should be covering close to if not 100% of the cost of land acquisition for the public services needed to support that development through much increased SSACs which are more frequently reviewed and adjusted to reflect current land values. We do not believe merely increasing the cap on SSACs in the current regulations will address the long-term problem.

The cost of off-site servicing required by municipal governments is another cost that should be a simple cost of development. We are suggesting that such servicing be required to be provided by municipal governments and funded through their own Development Cost Charges. We

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appreciate that is not possible in communities where the level of development is insufficient to warrant the collection of DCCS. In those cases the cost of off site servicing will necessarily continue to be a cost attributable to the construction of a new school.

Some would suggest additional contributions should be made for school building development as well, similar to municipal government amenity charges which are used to build fire halls and recreation centres. We are not suggesting the introduction of school amenity charges at this point but increasing the amount that development pays toward school site acquisition and off-site servicing makes sense. Setting SSACs based on a calculation similar to that used by municipalities in establishing park land acquisition DCCs and similarly timed is one way to ensure regular reviews of the charges so they reflect current local land values. Taking this approach would increase the percentage of school site acquisition costs being covered by development. We believe that, eventually, the additional funding this would add to the system would allow for earlier, more sensible, acquisition timing and the redirection of money currently being spent on land acquisition to other areas of need within the public school system.

Inflation/increased land values

More recently, over the last decade or so, another downside to delaying the purchase of school sites has become apparent. Inflationary and speculative pressures tied to rapid growth have increased land values significantly. Delays in purchasing land which will eventually be needed have resulted in millions of dollars of increased costs, some sites more than doubling in value in less than two or three years. We know the pace and scope of the increases reflected in this recent trend will likely not continue but some significant increases in cost are still likely over the long term. There are limits to the developable land area in the south coast area in particular which boasts the most desirable climate in the Country. With this the case purchasing land for school sites is at least a good investment even if they are eventually not needed for schools. We're not suggesting land acquisition as an investment policy but we are suggesting that land acquisitions are a relatively low risk long term investment for government, especially in rapidly developing areas of the province.

“Delays in purchasing land which will eventually be needed have resulted in millions of dollars of increased costs.”

All of this suggests the need to acquire designated school sites in a more timely fashion and to generate sufficiently increased revenue through increased SSACs to make that possible.

What about the increased cost of housing?

One of the arguments against this change which may be advanced by those in the development community is that any increase in charges like SSACs will result in increased housing costs at a time when governments are trying to keep the cost of housing down. In our view it is the competitive market that dictates pricing and the relatively small increase to the overall price that would be represented by increasing SSACs would be minimal albeit reflected in the bottom line of the development community.

It does seem to us to be inconsistent that the bulk of the cost of some public amenities and services required to support development are being passed along by municipal governments in the form of DCCs and amenity charges but not by the provincial government with respect to schools in the form of appropriate SSACs.

Transition

The implementation of increased SSACs will not have an immediate impact on land acquisitions which need to be addressed in the near term. However, making the changes now will have a longer term impact. Government fronting of current costs could possibly be tied to some kind of reimbursement to the province for up front acquisition costs from increased SSACs collected at a later date to a predetermined threshold. We've suggested government change the percentage to be covered by SSACs ultimately to 100% where continuing residential development is occurring and SSACs can be collected. This would represent a significant change to the current regulation of a 65/35 split (per BC REG 17/00).

We are aware of at least one local government willing to address the delay in the acquisition of designated school sites by fronting acquisitions if the school district and the provincial government do not currently have the resources to move ahead. This would require the Municipality to enter into a purchase agreement with the school district which identifies repayment with interest over time as SSACs and additional provincial funding become available. Naturally this would require Minister approval but should not be precluded if it makes sense.

Savings

A further argument for increasing SSACs to a level more reflective of actual land values is that of reducing the amount needing to be funded by the provincial government. The amount of money spent by the province as its share of land acquisitions in 2018 was \$42.1M. Interestingly the total added to that amount from SSACs was only \$1.6M, meaning the 65/35 formula was not followed due to the specific circumstances encountered and the urgent need for the land in order to proceed with new school construction. In that instance provincial funding actually covered 96% of the cost.

“Although it will take some time to make the change and collect higher SSACs we are recommending the savings which are achieved through this change be redirected to address other capital needs like the growing level of deferred maintenance in our public schools.”

If SSACs had been collected over the years in the fashion we are suggesting sufficient to cover even 65% of the total cost of land acquisition the savings in provincial funding for the last year would have been in the order of \$26.8M. Of course, funding of 100% through SSACs would mean a saving of the entire \$42.1M. Although it will take some time to make the change and collect higher SSACs we are recommending the savings which are achieved through this change be redirected to address other capital needs like the growing level of deferred maintenance in our public schools. That doesn't mean additional funding isn't also required to adequately address deferred maintenance needs but acknowledges any savings achieved as suggested could be part of the solution.

Conclusion

It has been suggested by some that the current cap on the amount of school site acquisition charges that can be collected should be raised since it hasn't been increased for many years. While BCSTA views that as a positive step we believe a longer term solution is required that passes the largest part of school site acquisition costs and 100% of off site servicing along as an appropriate cost of land subdivision, development and housing densification. The alternative is to continue paying what amounts to 65% (according to the regulation) or over 90% (in reality) of the cost of land acquisitions plus the cost of off site servicing to accommodate growth in certain areas by using provincial tax revenues provided by all of the taxpayers of the province. In the current system taxpayers are subsidizing development quite considerably. As noted above there are other capital needs in the public school system which could be addressed if savings resulting from an appropriate change in the formula for school site land acquisitions and off site servicing can be achieved. ■

BCSTA wishes to acknowledge the work of the following members of BCSTA's Capital Working Group in preparing this discussion paper.

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