

This is the latest news regarding the development charges Solmar is trying to avoid on the building of the King St Hotel.

Video clip from regional meeting NOVEMBER 20, 2025

The video and debate on this issue can be viewed beginning at the 40-minute mark at the link below:

<https://www.youtube.com/watch?v=kWKHvOZ7Vfo>

Letter sent by Stuart McCormack on November 27, 2025

Nov 27, 2025

Members of Regional Council

Regional Municipality of Niagara

1815 Sir Isaac Brock Way

Thorold, ON L2V 4T7

Attention: Office of the Regional Clerk

Re: Waiver of Regional Development Charges – Parliament Oak Hotel Project (325 King Street, Niagara-on-the-Lake)

Potential Non-Compliance with the Development Charges Act, 1997 and Regional DC By-law No. 2022-71

Members of Council,

I am writing to express serious concerns regarding the recent decision of Regional Council to waive approximately \$900,000 in development charges (“DCs”) associated with the proposed Parliament Oak hotel development at 325 King Street in Niagara-on-the-Lake. Based on the publicly available record, it appears that Council may have acted outside the authority provided by the Development Charges Act, 1997 (“DCA”) and contrary to the terms of the Region’s own Development Charges By-law No. 2022-71 (“DC By-law”).

1. The Development Charges Act requires that all exemptions, reductions, or waivers be authorized by by-law Section 2 of the DCA provides that development charges are imposed only in accordance with a DC by-law passed under the Act. The legislative framework is intentionally strict:

DCs are mandatory unless the by-law provides an exemption; any exemption or reduction must be expressly articulated and applied on a consistent, non-ad-hoc basis. As the Supreme Court of Canada stated in *Shell Canada Products Ltd. v. Vancouver (City)*, 1994 CanLII 115 (SCC); [1994] 1 S.C.R. 231. Sopinka J. (at p. 273).

“As creatures of statute, however, municipalities must stay within the powers conferred on them by the provincial legislature. In *R. v. Greenbaum*, 1993 CanLII 166 (SCC), [1993] 1 S.C.R. 674, Iacobucci J., speaking for the Court, stated, at p. 687: **Municipalities are entirely the creatures of provincial statutes. Accordingly, they can exercise only those powers which are explicitly conferred upon them by a provincial statute.”**

As such municipalities do not possess an unfettered discretion to eliminate or reduce DC obligations outside the confines of the by-law. Doing so may constitute an ultra vires exercise of authority and undermine the fairness, predictability, and integrity of the DC regime.

2. The Region’s DC By-law contains no exemption that could apply to a private commercial hotel project By-law No. 2022-71 provides exemptions only for agricultural uses, on-farm accommodations, certain portions of places of worship, and industrial enlargements, all consistent with the mandate granted by the DCA. A commercial hotel development—and its associated underground parking—falls into none of these categories.

Further, the staff report before Council confirms that no applicable grant, reduction, or exemption program exists that would authorize a waiver of this magnitude for this type of development. No provision in the by-law authorizes case-by-case discretionary exemptions for commercial projects of perceived public benefit.

3. The ad-hoc waiver appears inconsistent with both the DCA and the Region’s own by-Law. By waiving DCs in the absence of a relevant exemption, Council has effectively created a new exemption not provided for in the DC By-law. This raises two serious issues: (a) **Potential Ultra Vires Action**, Council may have exceeded its statutory authority under the DCA by granting relief outside the by-law’s enumerated exemptions and without amending the DC By-law through proper legislative procedure.

(b) Procedural and Fairness Concerns

An ad-hoc waiver of approximately \$900,000 undermines equal treatment among developers, reduces transparency, and exposes the Region to challenges from similarly situated commercial applicants who were not afforded comparable relief. The DCA's structured framework exists specifically to avoid these inequities.

4. Council should consider corrective steps to ensure compliance

To address the irregularity and avoid legal and financial risk, Council should consider:

- Re-examining and potentially rescinding or revising the resolution granting the DC waiver;*
- Directing staff to report back on legislative compliance issues arising from the decision; and*
- If future incentives are desired, establishing a formal DC incentive program through a properly enacted amendment to the DC By-law with transparent eligibility criteria.*

Conclusion

The Region's development charge system depends on strict adherence to the DCA and to the Region's own DC By-law. The Parliament Oak decision, as presently constituted, appears to fall outside those boundaries and may expose the Region to significant legal, financial, and reputational risk.

Respectfully submitted,

Stuart McCormack (retired Lawyer)

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On Nov 29, 2025, at 1:23 PM, Gary Zalepa: Gary.zalepa@notl.com wrote:

Stuart - during your time as elected Council member, past examples of you providing legal opinion to NOTL Council, have been directly connected to recent settlements, not

in favour of the Town. In this matter, a DC reduction for 325 King St, NOTL, you may not have all the pertinent facts or have simply chosen to not cover them all with your opinion.

Regional Council received legal advice in closed session prior to making the DC reduction decision.

Thank you for your concerns.

Gary Zalepa

Lord Mayor

Town of Niagara-on-the-Lake

1593 Four Mile Creek Rd.

P.O. Box 100, Virgil ON L0S 1T0

Phone: 905.468.6416

Email: Gary.Zalepa@NOTL.com

On December 2 nd 2025 Stuart Replied

From: Stuart McCormack: senotl2013@gmail.com

Date: December 2, 2025, at 8:53:15 AM EST

To: Gary Zalepa: Gary.zalepa@notl.com

Cc: Council ;council@notl.com, Kaiser Andrea; andrea.kaiser@niagararegion.ca, Nick Ruller,M.A.;nick.ruller@notl.com

Subject: Re: DC Charges re Parliament Oak

I am always amenable to being corrected, if you have a legal analysis which is different than mine, pleased to review it. Saying you “have received legal advice in closed session” falls far short of stating that the advice asserts you have the legal authority to grant the exemption. If you had legal advice that asserts you are acting within your statutory powers, I would have thought you would be eager to share it.

I am not sure what facts you are alluding to that would have changed my opinion, again happy to receive them.

My focus was strictly on the legal issue of subordinate powers. What any municipality can do is directly determined by what the provincial legislation provides, at least according to the Supreme Court of Canada.

As to my past legal opinions to NOTL Council, I don't recall giving legal opinions, and my memory was confirmed through discussions with Councillors who were present and on Council at the time, you of course were not.

Even assuming I did give a bad opinion in the past it doesn't change the validity of my position on this matter. Ad hominem arguments, such as you make in your reply, do not I believe serve the public well, lets focus on the substance of this issue.

In any event if the matter proceeds in the direction you are leading it, I guess we will have to see what the outcome will be.

The news from Justine Chandler CBC News January 3, 2026

Niagara-on-the-Lake residents decry region waiving nearly \$1M in development charges for controversial hotel Ontario - town mayor supports the break in development charges.

A planned hotel in picturesque Niagara-on-the-Lake, Ont., has drawn the ire of some residents who say they're concerned about the impact of the project and how the developer and town have been handling it.

Located on the site of a now-demolished public school at 325 King St., the Parliament Oak Hotel development is a few hundred metres from the town's main tourist strip. On its website, developer Two Sisters Resorts says the four-storey facility will have 130 suites, event space, a restaurant, bar and green space.

But the developer has faced several bylaw infractions leading up to its construction and some residents say they are concerned the development will cause flooding.

Ron Simkus, a retired professional engineer and mining executive, said he's worked with a group of locals, including another engineer and a hydrogeological expert, to do their own analysis of plans the developer submitted.

"We got together and said, 'Holy God. This thing is so thin,'" Simkus said of the plan.

Building the hotel and its underground parking structure requires diverting a lot of underground water into nearby One Mile Creek, which borders about 90 homes, he said. That creates a risk of flooding.

Two Sisters did not respond to a request for comment. In a frequently-asked-questions section on its website, the developer says its site servicing-strategy will “ensure no negative impacts to the existing sewers and water supply.”

Niagara-on-the-Lake Lord Mayor Gary Zalepa told CBC Hamilton town staff reviewed the developer’s plans and doesn’t have concerns.

“I’m really confident we’ve landed in a good place, Zalepa said.

Town fined developer 10 times

For Simkus and resident Lyle Hall, who lives about 150 metres from the development, another frustration with Parliament Oak has been alleged violations of town bylaws.

As of Dec. 18, the town had fined the developer \$500 a total of 10 times, Niagara-on-the-Lake spokesperson Marah Minor told CBC Hamilton in an email.

In September, for example, the town issued two stop-work orders for excavation and removing soil without a permit.

Despite those stop-work orders, Hall said, he continued to see work happening on the site. He doesn’t think the town has done enough to crack down on all the alleged violations.

But Minor said the development is now in compliance with the rules and the town has issued a conditional building permit for the foundation, allowing construction to begin.

Nearly \$1 million in development charges waived

Simkus is also one of seven directors of a community group now calling for an investigation after regional councillors voted to waive \$904,819 in development charges for the project at a Nov. 20 meeting.

Development charges are a one-time fee paid by developers to municipalities to help pay for the infrastructure, such as roads and sewers, public spaces like parks, and services like firefighters to support the intensification, according to the Niagara Region’s website.

At the November meeting, a lawyer for Two Sisters said Niagara-on-the-Lake forced the

developer to build a second level of underground parking they weren't planning on, which is why they were looking to pay less in development charges to the regional government.

However, Simkus said the developer should've known the additional parking would be required, based on earlier site plans.

Zalepa voted in favour of waiving the fees, as did Niagara Falls Mayor Jim Diodati. He said charging development fees for underground parking would deter developers from building it at a time when the region is actively encouraging them to do so.

Some regional councillors questioned whether waiving the charges would mean Niagara taxpayers would cover the cost instead of the developers. Staff are going to report back on the financial implications, Zalepa told CBC.

But Hall said it's an example of the region and town being very responsive to developers and less responsive to residents. He is also concerned it could set a dangerous precedent.

Simkus said after the developer's alleged violations of town bylaws they shouldn't be given a break.

Zalepa said he doesn't see a connection between the fines and the development charge relief.

Residents call for watchdog investigation

In a Dec. 20 letter to Ontario's ombudsman, Niagara-on-the-Lake Residents Association director Stuart C. McCormack wrote that the regional council made its decision based on misinformation and improper considerations and that it falls outside the council's authority.

CBC Hamilton has viewed the letter and asked Ombudsman Ontario to confirm if it received it. Spokesperson Linda Williamson said the watchdog's office wouldn't comment as its complaints process is confidential.

On Dec. 22, Zalepa said he hadn't seen or heard about the complaint yet, so he couldn't speak to it.

Stay tuned for updates