THE IMPOST FEE AND DEVELOPMENT COST CHARGE IN BRITISH COLUMBIA

by

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ABSTRACT

The main purpose for undertaking this study is to provide factual information on impost fees and development cost charges in British Columbia. The general aim of the study is to impart a better understanding of the two concepts, particularly with reference to their purpose and the circumstances causing their evolution. This study has four objectives:

1. to determine and discuss some of the major factors and events which prompted the municipalities in British Columbia to consider and adopt the levying of impost fees;

2. to clarify the philosophy and implementation strategies of the impost fee concept and determine the extent of its use in British Columbia prior to the advent of the development cost charge legislation;

3. to determine and discuss some of the major factors and events which prompted the provincial government to abolish impost fees and introduce development cost charges; and,

4. to examine and synthesize the development cost charge legislation to ascertain its philosophy, purpose and the requirements provided therein, as well as to determine the extent of its current use in the province.

The information required to satisfy these objectives was collected in three distinct ways: (1) interviews
with officials and representatives from various municipalities and the Ministry of Municipal Affairs, (2) a questionnaire which was forwarded to 36 localities in the province, and (3) review of the limited amount of literature relating to the subject matter.

This study has derived four observations:

1. The impost fee concept evolved from the municipalities' search for an alternate source of revenue to offset the financial liabilities created by their restrictive modes of revenue generation and the increasing demands for additional expenditures. More specifically, this fee was found to be a direct result of municipal strategies to alleviate the cost burdens created by urban population growth.

2. The commonly accepted definition of an impost fee is: a levy which is assessed against a developer by a municipality to defray the municipal costs of constructing or expanding services necessitated by new developments. It was perceived that the basic intent of the impost fee was to meet the demand and costs for new and improved services by imposing a financial requirement on those lands that created the demand. A questionnaire survey, conducted in January and February of 1977 revealed that a number of municipalities had adopted the impost fee concept. Of the 36 survey localities, it was found that 21 or slightly more than 58 per cent levied some form of impost.
3. The demise of the impost fee concept was found to be attributable to the municipalities' abuse of the land use contract provision of the Municipal Act. Evidence showed the provincial government felt the land use contract contributed to inconsistencies in the development and subdivision approval process, was being used by some municipalities to require excessively high service standards from developers, and was unduly increasing the cost of housing. Further research showed that while the provincial government was sympathetic towards the municipalities' financial problems in terms of financing services for new development areas, it was reluctant to grant municipalities unlimited taxing power to acquire revenues for this purpose. Therefore, the provincial government granted the municipalities the legislative power to impose development cost charges subject to a number of restrictions and requirements, stipulated in the legislation.

4. The purpose of the development cost charge was found to be basically the same as the commonly accepted purpose of the impost fee; that being to: "provide the municipality with a source of revenue so that the municipality may call upon its banked capital cost charges to pay for a major capital expenditure that becomes necessary in relation to its highways, sewer, water, drainage, or park systems". Investigations indicated that the provincial government's
philosophy behind the development cost charge provision was to make the legislation regulatory, uniform and taxing. Ancillary to this, "certainty" was to be reinstated in the development process. A survey conducted in July of 1979 revealed that 19 localities have already taken advantage of this legislation and had enacted development cost charge by-laws. A review of the development and subdivision approval process in the Municipality of Richmond showed that the development cost charge provision of the Municipal Act does not represent the only means available to the municipalities to acquire specific revenues from developers. It was found that by exercising their administrative power, municipalities can enter agreements with developers - much like the land use contract - and contract with them to provide revenues to be used in much the same manner as development cost charges.
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1.1 Introduction:

In the early half of the 1970's, the impost fee - variously referred to as a development surcharge, an impact tax, a community service fee and a land use charge - was a popular revenue generating mechanism within the day to day operations of a number of municipalities throughout British Columbia. From the available information, it would appear that this concept was first introduced into the province by the Municipality of Richmond in the early 1960's and was later adopted by numerous other localities throughout British Columbia.

In the latter half of the 1970's, legislative amendments were introduced which purportedly abolished the impost fee and replaced it with a similar instrument called the development cost charge. This latter technique, like its predecessor, has become very popular among many municipalities, as it represents another form of municipal taxation, broadening their limited revenue sources.

Since its introduction in the province, the impost fee and the development cost charge have been contentious issues. The majority of the comments concerning these levies - by the media, developers, land investors and other members of the general public - have been negative, with the municipalities, and more recently the provincial
government, being the only proponents.

Many of the criticisms raised against the impost fee and the development cost charge are due, in part, to the lack of understanding of the concepts and issues. This is somewhat understandable, since there has been little public documentation or assembly of information relating to this subject matter. Thus, the reason for this thesis.

1.2 Study Purpose:

This study has been undertaken to provide factual information relating to impost fees and development cost charges in British Columbia. In general, the aim of this study is to establish a better understanding of the concepts. More specifically, this study has four objectives:

1. to determine and discuss some of the major factors and events which prompted the municipalities in British Columbia to consider and adopt the levying of impost fees;
2. to clarify the philosophy and implementation strategies of the impost fee concept and determine the extent of its use in British Columbia prior to the advent of the development cost charge legislation;
3. to determine and discuss some of the major factors and events which prompted the provincial government to abolish impost fees and introduce development cost charges; and,
4. to examine and synthesize the development cost charge legislation to ascertain its philosophy, purpose and the requirements provided therein, as well as to determine the extent of its current use in the province.

1.3 Work Program:

Information on the impost fee and development cost charge has been collected in three distinct ways. First, an attempt was made to determine the extent of previous studies which dealt with the subjects of impost fees and development cost charges in British Columbia. After an inspection of the literature in the University of British Columbia libraries, it was apparent that information relating to this subject matter was very scarce. Except for two summary briefs - entitled Land Use Contracts (1976) and Land Use Control in British Columbia (1979) - published by the Centre for Continuing Education, the University of British Columbia, information dealing specifically with impost fees and development cost charges in this province was non-existent.

In order to obtain further background information relating to this subject, several local government authorities, which had adopted the impost fee and/or the development cost charge concepts, were approached. The author was able to locate several departmental studies which dealt with the subject. These studies were prepared by the following localities: the Municipalities of Burnaby, Delta
and Surrey and the Cities of Kamloops and White Rock. These reports were quite helpful since they presented the "grass-roots" administrative perspective of the concepts.

Secondly, a questionnaire dealing specifically with the impost fee was sent to the larger municipalities in the province - a total of 36 localities were chosen - to determine the extent of its use prior to the development cost charge legislation. The questionnaire, a copy of which is included as Appendix 1, requested information on the levels of imposts by type of development and land use, and also on the means of implementation. This survey - conducted in January and February of 1977 - provided a comprehensive picture of the impost fee in British Columbia.

Finally, several municipal officials from varying localities throughout British Columbia and representatives from the provincial Ministry of Municipal Affairs were interviewed.* These persons were informed of the study's objectives and were asked to provide comments and information on impost fees and development cost charges. The quality and content of this information varied widely. This was due to the fact that some officials were more generous with their time than others. However, all in all, the interviews were quite successful, especially the one with Mr. H.G. Topham, Director of Financial Services with the Ministry of Municipal Affairs, who supplied the author with a con-

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* There were eight interviews conducted in January and February of 1977, and four interviews conducted in July, 1974.
siderable amount of information relating to development cost charges.

1.4 Study Outline:

Chapter Two briefly summarizes the background information necessary to fully understand the impost fee and development cost charge concepts. In particular, this chapter reviews the framework and development of government in Canada. This chapter begins with a general description of what objectives government serves and then details the governmental structure and the division of power in the Canadian context. The chapter then focuses on the municipal government organization, with particular reference to British Columbia. Information pertaining to the municipalities' responsibilities, functions and powers is presented.

Chapter Three continues to focus on municipal governments in British Columbia, with particular reference to their financial situation. In addition to providing information on the financial implications of their responsibilities, functions and powers, this chapter investigates and comments on the major causes of fiscal problems at the local government level. In so doing, this chapter reviews the municipality's expenditures and its source of revenue. This chapter contains the information to satisfy the first of the four objectives of this study.

Chapter Four explains how the impost fee evolved as a direct response of municipal governments to the causes
of fiscal problems detailed in Chapter Three. In addition, this chapter discusses the philosophy and implementation strategies relating to the impost fee as it applies to British Columbia during its formative years from the early 1960's to 1977. Results from the questionnaire conducted in February and March of 1977 is also presented in this chapter to indicate how many municipalities were levying impost charges, the amount of these charges and how these charges were being levied. The information presented in this chapter serves to satisfy the second objective of this study.

Chapter Five is the chronological continuation of Chapter Four, as it provides information on impost fees and the newly created development cost charges from 1977 to 1979. This chapter begins with an explanation of the factors and events which led to the demise of the impost fee, with particular reference to the changes in attitude at the provincial government level which resulted in the new legislation.

This chapter then discusses the new legislation and concentrates predominantly on the development cost charge provisions. In addition to examining the requirements and regulations of each clause of the legislation and their implications, this chapter provides some survey statistics on the current use of the development cost charge. This chapter satisfies the third and fourth objectives of this study.
The final chapter, Chapter Six, provides a brief summary of the information presented in the body of this study and the respective conclusions based on same. Areas of further research and the study's implication for planning are also included in this chapter.
2.1 Introduction:

In British Columbia, the impost fee, or what is now referred to as a development cost charge, has become an integral component in the financial structure of many local governing authorities. Municipalities and municipal districts alike have been using the impost fee and development cost charge as an additional source of revenue to finance a variety of municipal works and undertakings. For instance, in some localities, these instruments have been used to acquire revenues to purchase and/or develop park lands; and construct and/or improve public infrastructure such as storm sewers, waterwork facilities and roadways.

As an integral component of municipal finance, the impost fee and development cost charge have become embedded in the structure of municipal government. Their origin and their use are a result of, and consequently intertwined with, the evolutionary development of local governments.

This chapter reviews the literature relevant to the history of these concepts. In particular, it deals with the development of municipal governments from the advent of the British North America Act to the present. There will also be included some important background information relating to municipal responsibilities and
functions and municipal finance. This information is necessary to fully understand the impost fee and development cost charge concepts.

2.2 The Government Structure and the Division of Power:

Government, being used as a broad term referring to "the organization, machinery or agency through which a political unit exercises authority and performs functions" (Webster's Third New International Dictionary, 1976), originally developed in response to meet a need - a need to accomplish some purpose which could be more adequately achieved by action of a group than by the action of the individual (Crawford, 1954). As urbanizing societies became more complex, the number of such needs increased and consequently, the governmental sector expanded. Governments, by necessity, became more and more sophisticated through time, and although their original purpose - to meet a need - still exists, they now assume different forms, responsibilities and powers.

While it is difficult to enumerate all the varied powers exercised by modern governments, it is said there are three distinct categories of governmental powers: legislative, executive and judicial. The legislative power consists in making laws and general rules of conduct; the administrative power consists in the executing of the laws and the carrying on of the public activities and services; and, the judicial power consists in interpreting
the laws, or more concretely, deciding in the event of
dispute, what specific acts are permitted or required or
forbidden in execution of the law (Corry, 1959).

In Canada, the government structure is comprised
of three types of legislatures which, subject to special
conditions, have the power to enact legislation. They are:
first, the Parliament of the United Kingdom; second, the
Federal Parliament; and third, the legislatures of the ten
provinces (Chaffin, 1969).

The Parliament of the United Kingdom, being instru-
mental in the initial development of government in Canada,
still has certain legislative authority in this country.
Its influence remains in the form of British statutes of
major constitutional importance (i.e., the British North
America Act and its amendments and the Statute of West-
minster) and British orders-in-council. However, as
Dawson (1963) points out, the acts of the British Parliament
are now becoming very few indeed and, under the Statute of
Westminster, Canada has the general power to enact legis-
lation which may run contrary to the provisions of an
Imperial Act. In a constitutional sense, the legislative
importance of the British Parliament - although holding
its rightful place in Canada's heritage - is becoming less
important, with more and more emphasis being placed on the
Canadian bodies of government.

The Canadian body of government which has been
endowed with substantial authority is the Dominion, or more
commonly referred to as the Federal Parliament. The legislative powers of the Federal Parliament are, for the most part, defined in Section 91 of the British North America Act, 1867. This section expressly formulates a two prong approach for granting powers. The first part of the section is a broad and comprehensive grant, giving parliament the authority to "make laws for the Peace, Order and Good Government of Canada" in relation to those matters not given to the provinces. The second part consists of a list of specific powers which are given in detail "for greater certainty, but not so as to restrict the generality" of the comprehensive grant. This latter section enumerates matters such as: "the Public Debt and Property", "the Regulation of Trade and Commerce", "the Raising of Money by any Mode or System of Taxation", etc. As Dawson (1963) points out, this two prong approach is not a double grant of powers, but rather, is a means of emphasis and clarification. Despite the dichotomy, there is but one general sweeping grant of power with certain explicit powers being mentioned by way of example.

The legislative power of the provinces are, for the most part, set out in Section 92 of the Act. Unlike Section 91, Section 92 does not begin with any comprehensive grant of power to the provinces, but simply states that, "In each Province, the Legislature may exclusively make laws in relation to Matters coming within the Classes of Subjects next herein-after enumerated" and then proceeds to list 16 matters, such as "Direct Taxation within the Province
in order to the Raising of a Revenue for Provincial Purposes", "Municipal Institutions in the Province", "Property and Civil Rights in the Province", and "Generally all Matters of a merely local or private Nature in the Province". Thus, when Sections 91 and 92 are read together, it is clear that the intention is to give the federal government comprehensive power to make law and then to except from this general grant certain carefully specified powers which are bestowed upon the provincial legislatures.

Under Section 92, Subsection 8, of the British North America Act, the provinces have found it convenient to create various types of local governments to exercise some of their authority in specific locations (Lorimer, 1972). However, since the provinces retain their supremacy over the legislative powers as granted in this section, the powers bestowed upon local governments are entirely at the discretion of the provincial legislature.

In British Columbia, the provincial government has created several types of local governments, including municipalities, improvement districts, school districts, hospital districts and, more recently, regional districts. In a constitutional sense, all of the aforementioned governing bodies are provincial agencies, exercising specific powers within a narrowly defined area of responsibility. The basic feature distinguishing each type from one another is the range of functions and powers expressly granted by the provincial legislature.
2.3 Municipal Governments in British Columbia:

Although the provincial government now has exclusive control over municipal governments, the history of civic institutions dates back beyond the British North America Act. Initially, municipal government was developed as a device which enabled persons or groups to join together for the purposes of local government and to obtain the results desired through one medium, rather than by the sum total of their individual efforts and responsibilities (Crawford, 1954). However, more recently, municipal government has become more specialized and although it still performs a variety of functions, it has been referred to as "the regulatory and service agency of the province for the property industry" (Lorimer, 1972). Clearly, the property industry needs both basic services and regulation in order to function as it does now. Municipal governments are the way in which the provinces have arranged for these services and regulations to be provided (Lorimer, 1972).

In order to provide these services and regulations, the province has bestowed upon the municipality - in certain instances and under certain conditions - the authority to carry out each of the three governmental functions, as previously mentioned. The power to carry them out, however, is not boundless. All powers possessed by local authorities - whether of a legislative, administrative or judicial nature - are derived either directly or indirectly by express grant or necessary implication from the provincial
legislature. In other words, municipalities are created to exercise only those powers which the legislature in its wisdom has committed to them (Rogers, 1959).

From a British Columbian historical point of view, the first municipalities, such as New Westminster (1860) and Victoria (1862) were incorporated and bestowed certain powers under the provisions of "An Ordinance for the Formation and Regulation of Municipalities in British Columbia" applicable to the colony. This ordinance was subsequently replaced in 1872 by an Act of the new provincial legislature respecting municipalities. Some nine additional municipalities were incorporated prior to the passing of The Municipal Clauses Act of 1892. This latter Act, which provided for an adaption of the Ontario municipal system to British Columbia, was the forerunner of the existing municipal legislation.

Today, in British Columbia, the Municipal Act (R.S.B.C. 1960, Chapter 255 and Amendments) is the one general act pertaining to all municipalities in the province - except for the City of Vancouver, which is governed by the Vancouver Charter, S.B.C. 1953, C.55. The current Act provides for the creation of several types of municipalities, from the smallest to the largest, and also enumerates both the extent and nature of the powers which have been bestowed by the provincial legislature.

By means of the Municipal Act, the legislature has granted municipalities in this province, the full range
of subordinate government powers, that is, to legislate, to administer the legislation, and to adjudicate in the event of dispute. This endowment gives municipalities extensive control over matters of local concern. Some examples and possible application of these powers follow.

Using the legislative powers conferred by the Municipal Act, a municipality is empowered to pass certain by-laws which can regulate the activities and the conduct of persons within their jurisdictional boundaries. For instance, a municipal council - which is an elected body, similar to the board of directors of a corporation, that represents the municipality - is authorized to regulate the use of land by adopting zoning (Section 702) and building (Section 714) by-laws, and may also regulate the subdivision of land (Section 711) and prescribe appropriate minimum standards. Furthermore, under certain conditions, a council may by by-law authorize its agents to enter upon, appropriate, or take into possession and use any real property for certain municipal undertakings (Section 534).

Under its administrative powers, a municipality can execute those local affairs over which it has enacted legislation. For instance, because it has been given the power to regulate the use of lands and the persons using those lands, the municipality may also provide a variety of services and utilities (Sections 531, 559 . . . ) in response to the needs of the inhabitants. Furthermore, the municipality, using its administrative powers, may
also finance these services through various means. They are authorized by the Municipal Act to raise funds by taxing real property (Section 368); issuing business licences (Section 440); charging fees for utilities, including service fees, connection charges, frontage taxes, etc. (Section 532); and is also able to borrow money and incur liabilities (Section 247).

The third and final category of governmental powers bestowed upon the municipality is the judicial function. In this sense, the term "judicial" should not be confused with the judiciary of a federal or provincial court which are highly sophisticated mechanisms of the state. Nor should this term be interpreted within the strict framework of a dictionary definition, but rather, as Rogers points out "a municipal council, although a non-judicial body, may sometimes be clothed with quasi-judicial functions" (1959). As an example, the council is required to adjudicate at public hearings prior to the implementation of a zoning by-law so that "all persons who deem their interest in property affected by the proposed by-law shall be afforded an opportunity to be heard" (Municipal Act, Section 703).

Besides having those above noted powers which have been expressly conferred by statute (i.e., the Municipal Act), municipal governments possess numerous other powers which are incidental to, but necessary for, its very existence. For instance, the modern municipal corporation,
being a legal entity as the term "corporation" would imply, is also vested with certain powers, immunities and liabilities as prescribed by law and has most of the rights which a natural person possesses. Some of the more essential incidents and attributes of municipal corporate capacity and existence are as follows:

1. a corporate name as the principal means by which identity, notwithstanding constantly changing membership can be manifested;
2. a common seal by which the assent of the corporate body can be manifested, notwithstanding internal differences of opinion;
3. membership as defined by those resident within the corporate limits;
4. territory, the defined limits of which also confine jurisdiction;
5. perpetual succession, notwithstanding death of its members;
6. power to acquire and hold property for authorized purposes and to alienate same in its corporate name;
7. power to sue and be sued in its corporate name;
8. power to contract in its corporate name;
9. power of majority to bind others;
10. exemption of agents from liability when acting in conformity with the fundamental law of the corporation;
11. a governing body which exercises the powers of the corporation;
12. right to exercise through its council certain authority over the population of a defined area.

The mixture of legislative, administrative and judicial functions and powers, as well as those powers which are incidental to its corporate capacity and existence, bestows upon a municipality, extensive control over matters of local concern. These attributes, in fact, distinguish the municipality from the other types of local governments (i.e., improvement districts, school districts, hospital districts) and although municipalities have not been conferred complete local autonomy, they possess the most comprehensive set of powers necessary for local self-government.

2.4 Functions and Responsibilities of Municipal Governments:

A Canadian municipal corporation has been defined as "a body corporate . . . upon which the Legislature has either directly or through some intermediate agency, conferred . . . the right to administer . . . such matters of local concern as are either specified or as are necessarily implied from the nature and extent of the authority conferred" (Rogers, 1959). The foregoing definition implies that municipal government, as it exists in Canada, is of a dual or composite character. On the one hand, a municipal government is given certain powers to be used for the benefit of the community at large as a convenient method of exercising some of the functions of government. On the other
hand, it is also entrusted with certain powers of government for the benefit of the inhabitants in their local or corporate limits as distinct from the interest of the public at large (Rogers, 1959).

In the former case, the major function of a municipal corporation is to perform duties which the Legislature imposes upon them. Thus, in this regard, the municipality can be said to be acting as an agent of the province. Councils have no choice but to carry out these mandatory duties, although, unless expressed to the contrary, they may determine the manner in which they do so. Some examples of these mandatory duties are:

1. make provision for its poor and destitute by granting or by contributing to social assistance (Municipal Act, Section 639); and,
2. provide the amount of taxes requisitioned by the Board of School Trustees for the purpose of education (Municipal Act, Section 367B).

When the municipality is performing the duties of regulating the conduct and supplying the wants of the population in a geographical area by local laws, it is acting in its municipal aspect (Rogers, 1971). The functions carried out in this capacity are the ordinary housekeeping requirements which municipalities have assumed, such as the provision of water and sewer services, fire protection, garbage collection and so on. This second group of functions, unlike the first, are discretionary.
in that the Council is not under any legal obligation to provide these services. However, since many of the services have been supplied and have been in operation for such a long time, the public, and in some cases, the politicians, have assumed that the provision of these services are a municipal responsibility.

2.5 Summary and Conclusions:

The evolutionary process of government organization in Canada formally began in 1867 with the enactment of the British North America Act. This Act outlines the vital components of the central government and enunciates the division of powers. From a constitutional point of view, two of the more important parts of the Act are Sections 91 and 92, which are concerned with the distribution of legislative power between the federal parliament and the provincial legislature.

Section 92, among other things, has bestowed upon the provincial legislature, full jurisdiction over matters of a local concern. Using their legislative powers in this regard, the provincial legislature in British Columbia found it convenient to create a variety of local governments. The most common type of local government that was created was the municipality, since it has been conferred, subject to regulations, the full range of subordinate governmental powers - legislative, administrative and judicial. The integration of these powers has given a municipality exten-
sive control over matters of local concern.

A municipal government exhibits a dual or composite character and as such, has two basic functions. Its first function is to act as an agent for the provincial legislature. In this capacity, the municipality performs those obligatory duties - such as providing funds for social welfare and education - which the legislature imposes upon it. Their other function is to act on behalf of the people who dwell within their jurisdictional boundaries. The municipality's duties in this capacity are basically of a housekeeping nature and usually includes activities such as the provision of water and sanitary services. Although these duties are discretionary, in many cases the public has tended to deem them municipal responsibilities because of their fundamental character.
CHAPTER THREE
FINANCIAL IMPLICATIONS OF MUNICIPAL GOVERNMENT

3.1 Introduction:

Financial problems are basic problems of municipal government, for the activities and services which a municipality is able to carry on depend ultimately on the money available to pay for them. As there is almost no limit to the possible demand for more and better municipal services and since the natural attitude of the elected representatives is to give the people the services they want, the result is a rapidly increasing demand on local financial resources. The real financial problem facing the municipality is to select from among the many requests either those which are relatively more essential or more meritorious with respect to the allocation of funds.

Chapter Three discusses this problem. In particular, this chapter investigates and comments on the major causes of financial strains in local government. This chapter reviews both sides of the municipal finance picture - that being the expenditures on the one hand, and on the other hand the sources of revenue - and reviews their implications.

3.2 Municipal Expenditures:

It has been said that, in one respect municipal financing - like other levels of government - is the reverse
of private financing, since the normal municipal procedure is to determine first what is to be the expenditure program for the year and then to adjust the income accordingly; whereas in private financing, the individual attempts to adjust his expenditure program to a predetermined income (Crawford, 1954). One of the first acts of a council coming in at the beginning of a year is to prepare its estimate of funds to be spent for legitimate municipal purposes. This will include at least four classes of expenditures: (1) debt charges, provision for which are obligatory; (2) funds to finance other governing bodies whose requirements may be of two types - those for which council, as the tax levying body, is required to raise the amount demanded by the other bodies, and those with respect to which the council has discretion as to the amount to be provided; (3) expenditures to provide for services which, under the law, the council must pay for; and, (4) expenditures for services which are discretionary.

The former type of expenditure, debt charges, in the simplest terms, is the repayment of interest and principal for a type of loan. When a council incurs a debt repayable over a period of years, succeeding councils are required to levy taxes in each subsequent year during the lifetime of the securities issued, in order to provide for payment of the interest falling due each year and for the repayment of a predetermined portion of the principal sum borrowed. The financial implication of this expenditure depends upon the borrowing policies of previous councils
and the extent of debt which they have built up. In some municipalities, a considerable portion of these charges do not actually become a part of the tax burden, as it may be offset by revenues derived from service fees - such as for water and sewer services - to pay the charges on the debt incurred for their construction. In these cases, the above noted services would be constructed on a self-liquidation basis.

In the second type of expenditure - monies to be paid over to local boards and commissions - the municipality acts as a tax collection agency for other associated bodies. The usual practice is that the taxes required to finance certain boards are levied and collected by the council, as it is undesirable to duplicate the assessing and tax collection functions. In this case, the applicable body which requires funds advises the council, prior to the time for fixing the tax levy each year, of the amount of money it requires or desires for the year.

In British Columbia, these requirements or requests are of several types. Some bodies, such as the School Board, have the right to requisition annually from the council whatever amount they require for current expenditures for the year (subject to Section 197 of the Public School Act) and the council must provide the sum demanded. This is a statutory requirement as dictated in Section 367B of the Municipal Act. In other cases, such as with a Library Board, the Board is entitled to demand from council, for
current expenditures, an amount up to a limit fixed by the Public Libraries Act. The Library Board may request larger amounts, but the provision of any amount in excess of that fixed by the Act lies within the discretion of the council.

A third type includes those boards and commissions, such as with a Parks Board, which submit their requirements to council but which the council has complete discretion either to grant the requests or to reduce or amend the amounts requested.

The third type of expenditure encompasses those disbursements for services which councils are required by statute to pay. Such services include a portion of the expenses of the regional hospital district (Section 206(c), Municipal Act), and the regional district (Section 206(c), Municipal Act) in which the Regional Hospital Board and the Regional District Board submit a bill to the responsible municipality for its pro-rated share. In addition, there are other services which a municipality is required to pay, but over which it has little or no control, such as providing for the administration of justice. According to Section 644 of the Municipal Act, it is the duty of each municipality to bear the expense necessary to: (1) generally maintain law and order in the municipality; (2) provide an office for the police force; and, (3) provide or make arrangement for the care and custody of persons held in places of detention.

The fourth and final type of expenditure – outlays
for discretionary services - relates to those housekeeping services, as discussed in Section 2.4 of the preceding chapter, which a municipality is authorized to perform, but which are not mandatory. These include such services as garbage collection, fire protection and street lighting.

While in theory, the council has full authority to decide whether or not such services are to be provided, in reality, once a service has been established, a council's discretion is largely limited to deciding whether or not these services are to be improved or extended. Usually, the public will not permit their elimination or reduction. A council has the authority to reduce or eliminate garbage collection, close the firehalls and request the power be cut off from its street lights, but to do so, it is obviously not politically palatable. In most instances, the citizens of the community will not tolerate a reduction in services to which they have become accustomed.

3.3 Municipal Revenues:

Once the annual expenditure program has been decided upon, the council is then faced with the problem of providing the revenues to achieve its commitments. This involves the major problem of municipal finance - to obtain sufficient revenues to maintain the standard of services the community expects or which the municipality is required to supply. The municipality's objective in this regard is to find revenues which have both the stability to maintain
essential services under adverse economic conditions and the flexibility to make possible the adjustment of revenues to changing demands.

The Municipal Act of British Columbia - although it does not specifically differentiate - authorizes municipalities to acquire revenues in two ways: (1) the direct method which allows municipalities to assess certain types of levies and service fees; and, (2) the indirect method which allows municipalities to request financial contributions or specific performance - subject to numerous restrictions which are stated within the Act - as a condition for some form of municipal consideration, which is also stated within the Act. In addition, municipalities may also acquire revenue in the form of subsidies and grants from the provincial government.

The direct method of revenue generation involves the use, by the municipality, of those clauses in the Municipal Act which allows them to levy certain charges. For instance, the Municipal Act authorizes the municipality to assess: (1) property taxes (Section 367); (2) business taxes (Section 427); (3) licences (Section 440); (4) fines (Section 220); (5) special assessments such as frontage taxes (Section 415) and local improvement levies (Section 581); (6) user fees (Section 564); (7) connection charges (Section 532); and, most recently (8) development cost charges (Section 702C). This latter method will be discussed in greater detail in a subsequent chapter.
The second source of revenue, the indirect method, involves transferring the responsibilities for providing or paying for municipal services in new developments to the developer. The British Columbia Municipal Act authorizes the municipality to acquire the appropriate monies or specific performance in several ways:

1. A council may by by-law regulate the subdivision of land by requiring the provision of certain services, such as storm drainage, road surfacing, sidewalks, boulevards, street lighting, underground wiring, sewage collection systems and community water supply systems (Section 711).

2. A council may by by-law provide for the sharing of the cost, or any portion thereof, of any trunk water main or trunk sanitary sewer, or both, between the municipality and the owner of the land proposed to be subdivided (Section 711, Subsection 6).

3. A council, using its administrative powers (as discussed in the preceding chapter), may enter into a development contract or a servicing agreement with a willing developer, who, by the terms of the contract or agreement assents to provide or finance the necessary services (this type of agreement will be discussed in greater detail in a subsequent chapter).

The third and final source of municipal revenue is in the form of financial assistance from the provincial government. This assistance is available in two ways. On
the one hand, there are provincial subsidies which are usually outright contributions from the provincial treasury. These now constitute the largest item in municipal revenues, next to the real property tax (Plunkett, 1971). On the other hand, provincial aid is also given through conditional grants by which funds are made available for a specific expenditure, such as for social assistance, highway construction or rapid transit facilities. These grants are usually based on population, assessments or particular need.

It is important to note that although municipalities can levy a variety of licence and permit fees, service charges, etc., the bulk of municipal revenue is derived from two main sources:

1. the tax on real property, and
2. provincial assistance.

The following table shows how much of total annual municipal revenue is derived from property taxation and provincial assistance, for various years from 1962 to 1977. The figures in this table - extracted from Municipal Statistics, published by the provincial government - represents the total applicable revenues for all cities, municipal districts, towns and villages in the province. The amount of real property taxation and provincial assistance is also broken down into percentages which shows the relationship to the total annual municipal revenue.
### TABLE 1

THE AMOUNTS OF ANNUAL MUNICIPAL REVENUES DERIVED FROM REAL PROPERTY TAXATION AND PROVINCIAL ASSISTANCE IN BRITISH COLUMBIA, SHOWING PERCENTAGES OF TOTAL ANNUAL MUNICIPAL REVENUES 1962 - 1977

<table>
<thead>
<tr>
<th>Survey Year</th>
<th>Total Annual Municipal Revenue</th>
<th>Annual Municipal Revenue Derived From Real Property Taxation,* Showing Percentage of Total Municipal Revenue</th>
<th>Annual Municipal Revenue Derived From Provincial Assistance Showing Percentage of Total Municipal Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>1962</td>
<td>192,138,725</td>
<td>116,275,341 (60.5%)</td>
<td>33,132,998 (17.2%)</td>
</tr>
<tr>
<td>1964</td>
<td>220,533,146</td>
<td>138,895,232 (63.0%)</td>
<td>34,666,878 (15.7%)</td>
</tr>
<tr>
<td>1967</td>
<td>328,064,188</td>
<td>201,657,602 (61.5%)</td>
<td>60,672,085 (18.5%)</td>
</tr>
<tr>
<td>1968</td>
<td>376,330,030</td>
<td>223,578,999 (59.4%)</td>
<td>76,344,669 (20.3%)</td>
</tr>
<tr>
<td>1969</td>
<td>425,046,626</td>
<td>254,864,158 (60.0%)</td>
<td>86,006,058 (20.2%)</td>
</tr>
<tr>
<td>1970</td>
<td>542,533,209</td>
<td>326,008,220 (60.1%)</td>
<td>114,002,858 (21.0%)</td>
</tr>
<tr>
<td>1971</td>
<td>600,312,733</td>
<td>361,954,793 (60.3%)</td>
<td>123,142,851 (20.5%)</td>
</tr>
<tr>
<td>1972</td>
<td>781,378,216</td>
<td>508,640,348 (65.1%)</td>
<td>112,490,689 (14.4%)</td>
</tr>
<tr>
<td>1974</td>
<td>1,122,084,516</td>
<td>755,198,950 (67.3%)</td>
<td>140,235,479 (12.5%)</td>
</tr>
<tr>
<td>1976</td>
<td>1,160,050,317</td>
<td>815,586,821 (70.3%)</td>
<td>114,700,915 (9.9%)</td>
</tr>
</tbody>
</table>

* Including collections for school districts and other governments.

While provincial assistance represents a considerable proportion of municipal revenue, these funds are allocated on whatever basis and in whatever amount as may be determined by the province (Plunkett, 1971). In other words, municipalities have no control over the annual amounts provided under the various grant programs, nor can they control the conditions which may be imposed by the province with respect to their provision. Column 3 of the above noted table shows the variation in provincial assistance which may occur from year to year. The table shows the provincial assistance can represent as much as 21 per cent of total annual revenue in one year (1971), but can be reduced to as low as 9.9 per cent in another year (1977).

The tax on real property is the only significant independent source of revenue available to municipalities. However, municipalities do not have complete autonomy in this regard, and are restricted by several factors. Firstly, the councils must adhere to the statutory regulations concerning taxation which define the ways, means and manner whereby taxes are assessed, levied and collected. Secondly, the councils must keep in mind the probable limit of the tax burden which real property can be made to carry. In this regard, there is no accepted fixed point at which it can be said that the limit of taxation has been reached, but it is evident that such limit has been passed when any considerable number of property owners prefer to let their properties be sold for arrears of taxes rather than to pay the taxes and retain their properties (Crawford, 1954).
Finally, while the municipalities are the tax collection agency, they are not allowed the full utilization of the yield due to obligatory functions which consume a large proportion of the return. (This latter factor will be discussed in greater detail in the following section, Section 3.4.)

3.4 The Financial Implications of Municipal Expenditures and Revenues:

Once the annual expenditure program and the revenues needed to achieve its commitments have been formalized, the councillor's problems have not been ended. Almost on a daily basis, municipal councils are requested to provide additional funding for a variety of reasons. Some of these requests may be of valuable service to the local community or a requirement to undertake additional functions imposed by the provincial government, in which case, councils may be obligated to finance them, while other requests may be of lesser priority and are treated accordingly.

It is important at this time to undertake a brief review of some of the major requests which are causing the financial strains in municipal government, in order to fully comprehend the municipal financial picture. In addition to the causes, the implications they impose on municipal finance will also be discussed - in particular, its relevance to the British Columbia situation.
Urban Population Growth:

One of the primary causes of the increased strains in municipal finance has been the rapid growth of metropolitan population. For better or for worse, urban areas throughout North America have been growing; in some cases, at alarming rates. Among other things, this means the compounding of mass transit problems, the pressure for new water supplies and for added drainage and sewage disposal facilities, and the urgent need for many other primary services. Abundant evidence (Isard, 1957; Pettengil, 1974; Plunkett, 1971; Sternlieb, 1973) has been amassed to demonstrate the impact urban growth is having on our everyday life.

When reviewing urban population growth rates, it is easily seen that British Columbia has experienced its fair share of this growth. Since the turn of the century to the early 1970's, the population growth rate for this province has exceeded the rate for Canada (see Table 1 of Appendix 2). In more recent times, between 1951 and 1971, population in British Columbia grew from 1,165,210 to 2,184,600 - an increase of 39.8 per cent between 1951 and 1961, and an increase of 34.1 per cent between 1961 and 1971. The corresponding growth rate for Canada in the years 1951 to 1961 was 30.2 per cent and 18.3 per cent for the years 1961 to 1971. The population for the province in 1975 was estimated to be 2,457,000 - an increase of 12.5 per cent in four years (Pennance, 1976).
The population in British Columbia has not only been increasing by natural growth (i.e., births minus deaths), but also through immigration, both at the national and international scale. The 1971 Census computation reveals that approximately one-third of the 1961-1971 growth rate in British Columbia was derived from natural growth. The remaining two-thirds of the 1961-1971 growth rate was from net immigration, approximately one-half of which was international, one-half from other parts of Canada.

The provincial growth rate has had considerable effect upon the urban areas in British Columbia, since the majority of the growth has occurred in these areas. When reviewing statistics, it is not uncommon nor unrealistic to discover that many localities in British Columbia have experienced a growth rate exceeding 100 per cent in the 20 years between 1951 and 1971. Table 2 of Appendix 2 shows some of the major urban centres in British Columbia and their respective population growth rates for this period.

Population growth in the province has not only caused the urban areas to increase in terms of the number of people, but it has also greatly altered the physical size, shape and density of the various communities. From 1951 to 1961, the urban areas* in British Columbia grew from

* The term "urban area" in this context refers to the Census definition: "includes the population living in (1) incorporated cities, towns and villages, with a population of 1,000 or over; (2) unincorporated places of 1,000 or over, having a population density of at least 1,000 per square mile; (3) the built up fringe of (1) and (2), having a minimum population of 1,000 and a density of at least 1,000 per square mile."
a total of 232,015 residential units of all types* to a total of 341,559, an increase in units of 47.21 per cent. From 1961 to 1971, there was a further 52.54 per cent increase in the number of residential units in urban areas representing a total, in 1971, of 521,000 units. It must be remembered that these figures refer to residential units only. They do not take into account any concurrent commercial, office, industrial or institutional structures which were constructed during this period.

Although the most recent Census material shows that the population growth rate in British Columbia is now stabilizing, there are numerous municipal implications resulting from the past population growth and concurrent physical expansion of urban areas. It is probably safe to say that one of the greatest impacts has been on financing the services for the newly developed areas. In new suburban developments, entire physical plants are sometimes required in order to supply the modern urban amenities that people now assume as essential services. Expansion or new construction of arterial and collector road systems, sanitary and storm sewer facilities, and water supplies are but a few examples of the primary infrastructure which is required to accommodate increased growth.

A large proportion of the financial burden is also being caused by the public and social orientated ser-

* "residential units of all types" include: single detached, single attached, apartment or flat and mobile homes, as defined by the Census.
vices which new developments are demanding. The costs for such services as added police and fire protection, acquisition and development of parks and recreation facilities, as well as land and other requirements for educational needs, are further financial encumbrances which municipalities must face.

The main reason why urban growth imposes a financial burden on municipalities is because the above noted costs associated with growth represent additional costs to the already existing commitments to the developed areas. While the suburban areas may be undergoing change and requiring a great deal of municipal revenue, there is frequently little or no offsetting reduction in expenditures in the developed areas. Usually, the latter find their traffic, safety and welfare problems intensified by the increasing area-wide population.

Moreover, to further compound this matter, municipalities are often viewed as the medics for the social ills and growth pains created by the expanded population. The increase in the crime rate, pollution, congestion and other social disorders are often - through accretion or otherwise - placed within the realm of municipal responsibility. All in all, the effect of these factors associated with growth, greatly contribute to the vast accumulation of municipal financial liabilities.
Rising Aspirations:

In addition to the growth pains resulting from increasing population, public outcry for more and better services - within the limits of the existing tax payments - has also had a significant impact on the financial resources of municipal governments. Today, it is not uncommon to see community or local rate payer groups or other organizations approach council demanding an increase in servicing standards or financial support for a new community program or special project. With this type of public involvement, it would appear that municipalities are advancing into a new era; leaving behind a time when taxpayers exhibited passive endurance, to a time when they are no longer requesting but are demanding action from the municipality.

A conspicuous example of this current trend can be related to the relatively recent and widespread use of automotive transportation for mobility. While the quality of earlier roads may have been sufficient for past times, the rising demands are for better roads and paved streets with curbs and gutters, parking regulations and traffic control, street widening, improved lighting, snow removal, grade separation, etc., with these newly added services creating additional pressure on the already straining municipal coffers.

Once an additional service is supplied, this new avenue of expenditure, more often than naught, tends to become perpetual. Thus, if snow removal from the streets
is undertaken in an extremely severe winter to appease the local populace, it is almost inevitable that the motorists will demand that it be done every winter and that the number of streets from which it is removed be continuously extended. Through similar experiences such as this, many municipalities have learned that frequently the first cost is not necessarily the last or total cost. The old adage, "give them (i.e., the public) an inch and they'll want a mile" holds much truth.

Municipal Obligatory Functions

In addition to the financial strains of supplying more and higher quality services - which could be classified as discretionary expenditures (as previously discussed) since they constitute housekeeping duties and the municipality when providing these services is acting in its municipal capacity - the municipality is also faced with a rapidly increasing demand to provide more funds for obligatory functions. As these functions are required by the provincial legislature, local governments have little or no control over the amount they must contribute. Of main concern, in this regard, is the municipal contribution towards education and social welfare services.

While the tax on real property is the principle source of municipal revenue, municipalities do not have full control over its utilization. A large proportion of the yield must be allocated to education and social
welfare services since the provincial legislature has deemed them mandatory responsibilities. Of primary interest is education, because it is currently absorbing a large proportion of municipal tax dollars.

The proportion of property taxes required for education is ever increasing in British Columbia. An analysis conducted by T.J. Plunkett and Associates (1971) for the Union of British Columbia Municipalities, reveals that the proportion of the property tax remaining under the control of municipal governments had declined substantially between 1957 and 1968 - from 59.4 per cent in 1957 to 45.7 per cent in 1968. Conversely, the proportion of municipal tax dollars required for education had increased from 40.6 per cent in 1957 to 54.3 per cent in 1968. The information gathered by Plunkett, particularly for the latter part of the 1950's and the early 1960's, is of prime significance to this study, as it represents the period when municipalities began to search out alternate sources of revenue due to financial strains. Based on the results from the study, Plunkett (1971) states thus:

"...of the total yield from the tax on real property - the principal source of revenue available to municipalities - municipal governments were only able to retain ... 45.7¢ of every $1.00 they collected in 1968 and 54.3¢ must be turned over for the support of education - a service for which municipalities have no responsibility and for which they merely act as the tax collecting agency."

Plunkett (1971) goes on to say that "because of this, it is likely that municipal governments have only one alternative in their efforts to keep the real property tax levy
within reasonable bounds and that is to curtail expenditures for purely municipal purposes." The following table - showing the total annual municipal revenue collected by all cities, municipal districts, towns and villages in British Columbia and the amount of this revenue apportioned to school district purposes - reflects Plunkett's concern.

Plunkett (1971) also observed that the municipal cost of providing social welfare services was similarly increasing, although not at the same rate as educational costs. His findings show that in British Columbia, the total expenditure on social welfare rose from $25 million in 1964 to $58 million in 1969. While he points out that the social assistance grant - which represents a conditional grant, as previously discussed, from the provincial government - had also increased during the same years, he found that the costs of social welfare had risen at a faster pace with the result that net municipal expenditures (total expenditure less social assistance grants) represented a larger proportion of total welfare outlays than they had formerly. In essence, then, the increased expenditures on social welfare had respectively decreased the amount of funds for municipal purposes. Table 3 substantiates Plunkett's observations.

The principal concern of municipal governments in British Columbia, with respect to increased expenditures on both education and welfare, is that their share of the main component of municipal revenue (i.e., property taxes)
TABLE 2
THE ANNUAL AMOUNTS OF REVENUE DERIVED FROM
REAL PROPERTY TAXATION APPORTIONED
TO SCHOOL DISTRICT PURPOSES IN
BRITISH COLUMBIA
1962 - 1977

<table>
<thead>
<tr>
<th>Survey Year</th>
<th>Annual Municipal Revenue Derived From Real Property Taxation (including collections for school districts and other governments)</th>
<th>Annual Revenues From Real Property Taxation for School District Purposes With Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>1962</td>
<td>116,275,341</td>
<td>52,634,116 (45.3%)</td>
</tr>
<tr>
<td>1964</td>
<td>138,895,232</td>
<td>65,872,785 (47.4%)</td>
</tr>
<tr>
<td>1967</td>
<td>201,657,602</td>
<td>107,641,589 (53.4%)</td>
</tr>
<tr>
<td>1968</td>
<td>223,578,999</td>
<td>121,444,558 (54.3%)</td>
</tr>
<tr>
<td>1969</td>
<td>254,864,158</td>
<td>137,359,034 (53.9%)</td>
</tr>
<tr>
<td>1971</td>
<td>326,008,220</td>
<td>165,621,305 (50.8%)</td>
</tr>
<tr>
<td>1972</td>
<td>361,954,793</td>
<td>181,117,224 (50.0%)</td>
</tr>
<tr>
<td>1974</td>
<td>508,640,348</td>
<td>261,318,034 (51.4%)</td>
</tr>
<tr>
<td>1976</td>
<td>755,198,950</td>
<td>404,102,589 (53.5%)</td>
</tr>
<tr>
<td>1977</td>
<td>815,586,821</td>
<td>431,228,995 (52.9%)</td>
</tr>
</tbody>
</table>

TABLE 3
THE TOTAL ANNUAL EXPENDITURES FOR SOCIAL WELFARE, SHOWING PROVINCIAL GOVERNMENT AND MUNICIPAL GOVERNMENT CONTRIBUTIONS 1962 - 1977

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1962</td>
<td>402,233</td>
<td>18,713,880</td>
<td>---</td>
</tr>
<tr>
<td>1964</td>
<td>25,425,054</td>
<td>19,875,956</td>
<td>5,549,098</td>
</tr>
<tr>
<td>1967</td>
<td>38,152,056</td>
<td>30,697,446</td>
<td>7,454,610</td>
</tr>
<tr>
<td>1968</td>
<td>49,957,451</td>
<td>35,212,831</td>
<td>14,744,620</td>
</tr>
<tr>
<td>1969</td>
<td>57,847,415</td>
<td>39,687,505</td>
<td>18,159,910</td>
</tr>
<tr>
<td>1971</td>
<td>90,768,688</td>
<td>63,620,930</td>
<td>27,147,758</td>
</tr>
<tr>
<td>1972</td>
<td>88,684,398</td>
<td>66,083,771</td>
<td>22,600,627</td>
</tr>
<tr>
<td>1974</td>
<td>64,740,446</td>
<td>38,632,178</td>
<td>26,108,268</td>
</tr>
<tr>
<td>1976</td>
<td>59,515,446</td>
<td>24,004,207</td>
<td>35,511,239</td>
</tr>
<tr>
<td>1977</td>
<td>35,561,387</td>
<td>3,473,651</td>
<td>32,087,736</td>
</tr>
</tbody>
</table>

is diminishing. Consequently, the municipalities' abilities to respond to the ever increasing demand for their housekeeping functions, as previously discussed, is also reduced.

3.5 Summary and Conclusions:

During recent years, many municipalities in British Columbia have been experiencing serious financial problems. The main contention of these municipalities is that their sources of revenue do not generate sufficient funds to pay for the multitude of obligatory and discretionary duties imposed upon them. Too often, municipal councils are placed in the position of having to refuse requests, which may be of great value to the community, simply because they do not have the financial capability to support new activities.

A review of the municipal expenditures, the sources of revenue and their implications helps to point out the reasons why municipalities are experiencing this financial strain. The following synopsized list represents the more important factors which were discussed in the body of this chapter.

1. One of the prime reasons why municipalities are financially restricted is because, as noted above, their sources of revenue do not have the flexibility to generate sufficient funds to pay for the multitude of municipal activities. A principle concern is the
heavy dependence on the property tax - the municipality's main source of revenue. Although property taxation represents the only significant independent source of revenue available to municipalities, the use of this method of taxation is very restrictive. In the first place, municipalities are bound by statutory regulations concerning the ways, means and manner in which these taxes can be assessed and collected; and, in the second place, the municipalities must keep in mind the probable limit of the tax burden which property owners can be made to carry. Furthermore, since a large proportion of the yield from this tax must be allocated to obligatory functions, the impact of the amount remaining for municipal purposes is greatly reduced.

2. The use of the municipality's second best source of revenue - provincial assistance - similar to property taxation, is also very restrictive. In many instances, provincial assistance is made available in the form of conditional grants and must therefore be used for a specific purpose, as specified by the province. In any case, municipalities have no control over the annual amounts provided under the various grant programs, nor can they control the conditions which may be imposed by the province.

3. While the municipalities' sources of revenue are very limited, the extent of possible expenditures, on the other hand, are almost limitless. The costs associated
with the recent phenomena of urban population growth represents a good example. With urban population growth rates exceeding 100 per cent in the last 20 years in some localities in British Columbia, it is not difficult to understand the magnitude of the servicing problems and the resulting financial implications facing municipalities. Expansion or new construction of roadways, sewer facilities and water supplies are a few examples of the primary infrastructure required by new developments. In addition, social orientated services, such as the provision of parks and recreational facilities, and the protective services, such as fire and police protection, are other costs which municipalities must find revenues to support. The crux of the problem, is that, any new expenditures - such as those costs associated with growth - represent additional costs to the already existing commitments.

4. The rising aspirations of the public has also had a significant impact on municipal finance. Local rate payer groups and other community organizations, as well as individual residents are demanding more and better services for their tax dollar. The result is additional pressure on the already strained municipal coffer.

5. In some cases, also, the provincial authorities have required municipalities to undertake additional financial commitments with respect to their obligatory
functions. Such is the case with education and social welfare services. During recent years, municipalities have found that they are contributing more and more of their revenue in support of these services. Consequently, of the total amount of revenue collected by a municipality, the amount which remains for specifically municipal purposes is decreased respectively.

There is no reason to suppose that the upward trend in municipal expenditures will not continue. As the wants of the people expand and they realize the extent to which these wants can be supplied by community action, there is likely to be a sustained demand for expanded local government activity. In the social services, there is almost no limit to the possibility of expansion, other than the limit of revenue. Other types of services are likely to continue also, since municipalities have demonstrated their capacity to perform a wide range of services with reasonable efficiency.

This will place municipalities in a more serious financial predicament than presently exists. Considering the continuation of this trend, municipalities will have to show reluctance in responding to these demands. So long as the existing basis of municipal taxation remains, municipalities will be compelled to keep in mind the limits of the burden which a restricted source of revenue can be expected to bear.
4.1 Introduction:

Many municipalities in British Columbia have become financially strained because their sources of revenue are not sufficient for them to perform their obligatory and discretionary duties. This problem is further compounded by the ever-increasing demands for more and better services and the subsequent competition between these demands for the available funds.

Municipalities encountering this type of situation are forced to choose one or a combination of three alternatives:

1. they can re-evaluate and re-adjust their current sources of revenue to meet the demand (i.e., raise property taxes); or,

2. since the municipalities are under no formal obligation to provide housekeeping services, they can reduce their expenditures on discretionary services; or,

3. they can resort to new sources of income.

Numerous municipalities have employed one or more of the three techniques and have experienced varied successes. However, it would appear that in British Columbia, the latter alternative has been a popular choice;
mainly because the council members have usually regarded exorbitant tax increases and reductions in the quantity and quality of municipal services to be politically unacceptable. Thus, many municipalities have had to resort to the use of new sources of income.

The impost fee, which was designed to defray the municipal costs of providing services to new development areas was one means that was popular among many municipalities in British Columbia in the 1960's and the earlier half of the 1970's.

Chapter Four deals specifically with the impost fee as it applied to British Columbia during the early 1960's to 1977. The concept and its use in the province during this period, will form the major focus of this chapter.

As the development cost charge legislation, which was introduced into the municipal scene in 1977, has resulted in significant changes in this particular aspect of municipal finance, this chapter will discuss the historical material which precedes this legislation. The following chapter will review the recent legislation and discuss its implications.

4.2 The Impost Fee - The Concept:

In British Columbia, the impost fee has become one of several vehicles which have been employed by muni-
icipalities to transfer the costs of municipal services generated by new developments to the developers or the subsequent owners of the property. Some of the other techniques which are now well established within the municipal operation are: frontage taxes, connection charges, local improvement levies, as well as the other methods listed in the preceding chapter. These sources of revenue have specific purposes and are applicable in certain instances as specified in the Municipal Act, and should not be confused with the impost fee.

In very general terms, the impost fee is a levy which is assessed against a developer by a municipality to defray the municipal costs of providing services to new developments. Its basic intent is to meet the demand for new and improved services by imposing a financial requirement on those lands that create the demand.

It should be understood that the imposts are not the costs incurred by the developer right in front of his property, or within the boundaries of his development. These costs, such as for construction or improving the road on his property and bringing a water or sewer main into his development, are generally borne by the developer in any case and do not form part of the impost fee. Rather, impost fees are assessed to recover those costs which otherwise would be a burden placed on the existing taxpayers, who in the absence of such fees, would have to contribute towards the payment for benefits for the new
development. These are costs that occur on a fairly large scale. For example, it is the arterial roads in the whole area generally - sometimes in the whole municipality - that could experience a considerable upsurge in use and accelerated deterioration caused by new developments, and, for which revenue will be required for future remedial action. This applies equally to water. An impost fee assessed specifically for improvements to water services is not intended to generate revenue to construct a four inch or six inch water main to the subject property. This is a cost that the developer must assume regardless of the impost fee. Rather, the impost fee is applied to defray the costs of future intended improvements to the entire water system; for instance, to install a major pump which may be necessitated by the applicable development together with future developments. Similarly, sanitary and storm sewer imposts are treated in a like manner.

4.3 The Impost Fee in British Columbia - An Historical Overview (1960-1977):

To a large extent, the impost fee in British Columbia is a result of changes in public attitude towards population growth. A brief discussion of these changes in attitude will reflect the reasons why the impost fee concept was spawned and how it matured to become commonplace in many municipalities in British Columbia.

It was not too many years ago, when the prevailing attitude in British Columbia, among other places, was that
population growth was a good thing. It inspired confidence in the public and private sectors because it signified a boom in, or at least the well being of, the economy. It was a time when wages and prices were relatively stable, and local public investment in growth was small.

Then, as occurs in most "boom" localities, the effects of inflation and other associated realities, disrupt the seemingly stable economy. As the new attitudes towards growth occur, the public and private sectors soon realize the costs of growth (Lane, Centre for Continuing Education, 1976).

In British Columbia, in the initial stages of urban expansion, local governments also probably regarded growth in a favourable manner, as it represented an enlargement of their tax base. But they too soon realized that the cumulative effects of inflation, the costs of servicing the new developments, and the rising aspirations of their constituents, created serious financial strains on their sources of revenue. They found that they were reaching deeper into their pockets to accommodate growth.

Early in the 1960's, municipalities started to look at strategies to reduce the impact growth was having on their revenues. One of the first strategies that municipalities in British Columbia explored was use of their zoning powers. Prior to this period, zoning consisted mainly of negative regulations which prevented only the most objectionable kinds of development from occuring in
the community (Lane, Centre for Continuing Education, 1976). With the changing attitudes in local government, zoning came to be used more and more to implement strategies which would accomplish wider community objectives. In essence, there was an attempt to use zoning to carry out public policy at the local level. As an example, some communities in British Columbia which were experiencing rapid population growth rates, began to consider zoning as a method of managing, and in some cases, deterring growth.

The changing attitudes at the local government level also reflected itself in subdivision control. Prior to the fiscal impact of growth playing a serious role in municipal finance, subdivision control was mainly used to provide legal access to "parcels lying beyond". In other words, it was largely concerned with ensuring that there was legal access (Lane, Centre for Continuing Education, 1976). Subsequently, subdivision control by-laws, which became more sympathetic towards the municipalities' financial situation, were drafted. They began to require notably higher standards of subdivision services on the part of the developer to offset the municipalities' cost of providing these improvements. During this time, many municipalities required developers to include curbs and gutters, underground storm drainage, and paved roads as a condition of subdivision approval.

Subsequently, in the Lower Mainland area of British Columbia, the Municipality of Richmond brought
forward still another method of transferring more responsibilities for the servicing of new subdivisions to the developer. This vehicle has been called a development contract and was first introduced by W.T. Lane, then the Municipal Solicitor for Richmond and now the Director of Regional Development for the Greater Vancouver Regional District. Since its introduction in the early 1960's, several other localities in the area, such as the Municipality of Surrey, had adopted similar types of strategies.

However, the term "development contract" soon became applied to a variety of agreements used for a variety of purposes; all with the common aim of saving local tax dollars. One solicitor has claimed that development contracts are illegal and ultra vires the municipality's power (Wilson, Centre for Continuing Education, 1976), while another has stated that these contracts have never been sanctioned by legislation (MacKenzie, 1978).

But Lane has stated that the legal basis of the Richmond version has been misunderstood by many people, including some members of the legal profession. He contends that the powers required by a municipality to enter the Richmond version of the agreement are clearly set forth in various places of the Municipal Act. The apparent misunderstanding is that critics erroneously assume that this type of contract is an attempted exercise of the municipality's legislative or regulatory powers.
Due to the fact that the Municipal Act provides explicit details on the provision of subdivision services in Section 711 (l)(d), (e), (f) and (g), many people—including some legal practitioners—have assumed that these enumerated legislative powers represent the only authority for a municipality to obtain public works from a developer. However, this is not the case.

The method by which the Municipality of Richmond ensured all new subdivisions were fully serviced was through the use of its administrative or "housekeeping" (not legislative) powers to enter development contracts with developers. Lane (Centre for Continuing Education, 1976) has described the development contract as thus:

"By development contracts, I mean agreements that are simply entered into by a developer because he wants or needs a certain service such as a water main or sewer, and is a willing party to enter into an agreement in which he either undertakes to pay for the works or will, in fact, construct them subject to local government or regional district supervision. This development contract sometimes applied to on-site works, that is, the works that are constructed within the land covered by the proposed subdivision plan; also, it sometimes covered works that extended off the site of the subdivision in question."

The Municipality of Richmond was very careful not to put itself in the position of being accused of selling rights under its legislative power. Rather, the Municipality adhered to using its administrative powers as conferred by such sections in the Municipal Act as:
1. Section 17(1) which states that "every municipality . . . has full power to acquire by purchase, lease, or otherwise and to hold real property . . . and likewise to acquire, hold, sell, or lease personal property and to contract for materials and services."

2. Section 247(3) which states that "the Council may contract for the supply of materials, equipment, and services, professional or otherwise, required for the operation, maintenance and administration of the municipality and of municipal property."

The development contract was used successfully in Richmond for many years to ensure that all new subdivisions were fully serviced at the developer's expense, so that the municipality would not have to incur the costs of providing these improvements. By utilizing the above noted clauses to exercise its "housekeeping" powers, Richmond was able to enter development agreements with developers and contract to have them provide certain subdivision services (or money in lieu of these services) that it could not insist upon when it was simply legislating. (A more explicit description of the mechanics and procedure involved in bringing about development contracts is included in Appendix 3, as quoted by Lane.)

As was mentioned earlier, similar type strategies were used by other municipalities to accomplish the same goal. The Municipality of Surrey is a case in point. It also utilized the development contract technique, but with
a slightly different approach. A description of the methodology employed by this locality has been included as Appendix 4, as quoted by B. Porter.

Unbeknown to many localities, the development contract - which was initiated in Richmond more than 15 years ago - is still applicable to the development and subdivision approval process today. Consequently, this agreement could still be used to acquire certain consideration from developers in the event that alternate methods are not applicable (or available).

In the mid 1960's, as the cost of public services increased and as the inflation surged on, more and more frequently the municipalities looked to the developer to provide additional costly items to reduce or, at least, maintain their level of expenditures. Using the development contract vehicle, municipalities began to require developers to provide land for schools and parks in and around their subdivisions and, in some cases, money in lieu of land. Finally, municipalities began to require costs of future intended improvements to municipal services, or, as previously described, impost fees.

In the early 1970's the provincial government began to show some sympathy towards the financial plight of municipalities and introduced some new legislation in an attempt to aid their fiscal concerns. It was in the early 1970's that the first round of development permit legislation was introduced to the Municipal Act. However,
these permits did not receive much support from the municipalities, mainly because at that time, the Municipal Act required that municipalities must first adopt an official community plan and receive provincial ratification of same. As many municipalities felt that these requirements were an infringement on their autonomy in land use controls, very few used this permit system. After less than two years, these development permits were eliminated from the Act and subsequently replaced by the land use contract provision. It was first used by W.T. Lane (MacKenzie, 1978).

The land use contract provision of the Municipal Act allowed more flexibility in the planning process than conventional zoning. But the land use contract, simply by the wide legal meaning of the terminology, allowed even more. The land use contract provisions empowered the municipalities to enter the realm of contractual agreements for matters relating to land use, and in other regards is similar to development contracts. Although municipalities could not enter into land use contracts as easily as development contracts - since the municipalities would be using their legislative powers in this regard and were thus bound by the conditions of the regulatory by-law - when permitted to do so, the contract could "contain such terms and conditions for the use and development of land as may be mutually agreed upon" (Municipal Act, Section 702, Subsection 3). Virtually anything that could be negotiated with the developer could be put into such a contract.
The land use contracts, of course, were used by the municipalities - among other equally important purposes - to ensure the provision of on-site and off-site services, as well as public open space at little or no expense to them. In addition, it provided a legal means, sanctioned by the provincial government, to impose impost fees.

From its inception, the land use contract was used extensively by municipalities in British Columbia (Porter, Centre for Continuing Education, 1976). However, in 1977, another change of attitude occurred at the provincial government level, leading to the demise of this instrument. This was the year that Bill 42 was introduced in the Legislature and subsequently ratified. Bill 42 cancelled the land use contract provisions of the Municipal Act at a date to be fixed by Proclamation (the final date was January 16, 1979) and replaced it with a second set of development permits. It would appear that the provincial government's objective of this legislation was to return the municipalities to a regulatory role again, as opposed to the previous tendency of sanctioning municipalities to conduct contractual negotiations.

By removing land use contracts, the provincial government effectively negated the municipalities' use of this vehicle to acquire impost fees. However, a new instrument was created by Bill 42 as a substitute for this means of revenue generation. The new instrument is called a development cost charge.
As this new form of municipal taxation brings us up to date in a historical perspective, it is important at this time to turn attention to the impost fee as it existed prior to this legislation. The following section will detail the extent of use of the impost fee in British Columbia in 1977. Information relating to development cost charges will be reserved for the following chapter.

4.4 A Survey of the Impost Fee in British Columbia (1977):

Prior to Bill 42, there appears to have been three distinct types of impost fees in British Columbia:

1. Those which were designated for a specific purpose, as detailed in Section 711 of the Municipal Act, and therefore stand in lieu of the developer's responsibility for service installations.

2. Those which were levied on the grounds of another stated municipal need, such as for parkland acquisition.

3. Those which were imposed for an unspecified purpose. The latter type of impost should also include those which were specified for nebulous purposes, such as "general improvements" or "capital improvements".

Prior to the most recent legislative amendments to the Municipal Act, what the impost fee paid for and how it was applied varied from municipality to municipality, and until recently no degree of standardization had evolved. This was mainly due to the fact that there had been no provincial legislation dealing explicitly with impost fees
and, consequently, councils were left to decide independently how these charges were to be applied. From the interviews which were conducted, it would appear that the main criteria which were used to determine the rate structure and the method of application were the municipalities' financial needs and convictions towards development. This would account for the wide variations in both the rates and the implementation strategies. A review of the survey results will show these variations.

Methodology of Survey:

On January 30, 1977, a questionnaire (a copy of which is included in Appendix 1) was sent to 36 localities in British Columbia. The objective of the survey was to inventory the current use of the impost fee at that time. The questionnaire requested information on the levels of impost by type of development and land use, the specific purposes of the impost, the means of implementation and problems encountered in its use.

Several criteria were used as a basis for choosing the localities in which the survey was to be conducted. Firstly, it was decided at the outset that the sample should be restricted to those areas experiencing a considerable volume of residential growth. Secondly, it was also decided that the sample communities had to be large enough in both size and population to warrant the use of the impost fee concept. As a result of these criteria, 36 localities
were chosen from the 1971 Census. Each of these communities - 18 cities and 18 municipal districts - had experienced growth rates exceeding 100% between 1950 and 1970 and had a population of at least 10,000 persons (according to the 1971 Census). The names of these localities and the dates of their response are listed in Appendix 5.

Results of the Survey:

As of March 22, 1977, 25 of the 36 survey localities, or 69 per cent, had submitted responses to the questionnaire. The remaining 11 localities, which did not respond to the survey, were telephoned on March 2 and 3, 1977, in order that a 100 per cent sample could be achieved. The results of the survey follow:

* Of the 36 survey localities, 21 or slightly more than 58 per cent - 10 cities and 11 municipal districts - levied imposts on residential developments. Table 4 represents a list of the cities which had adopted the concept and the amount of imposts levied in each locality. Similarly, Table 5 represents a list of municipal districts in British Columbia which used impost fees.

* In the 10 sample cities which had adopted the impost fee, the amount of levy in respect to single family dwellings and duplexes, ranged from $0 to $2,205 per unit. Using those cities which had stated specific impost figures, the average impost fee for single family dwellings and duplexes was computed to be approximately $1,000 per unit.
### TABLE 4
THE AMOUNTS OF IMPOST FEES BY TYPES OF DWELLING UNITS IN THE CITIES OF BRITISH COLUMBIA AS OF MARCH 3, 1977

<table>
<thead>
<tr>
<th>City</th>
<th>Types of Residential Development (per living unit or additional lot created)</th>
<th>Single Family Dwelling</th>
<th>Duplex</th>
<th>Multiple Density</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cranbrook</td>
<td></td>
<td>$1,300/acre</td>
<td>$1,300/acre</td>
<td>$1,300/acre</td>
</tr>
<tr>
<td>Kamloops</td>
<td></td>
<td>$2,130/unit</td>
<td>$2,130/unit</td>
<td>$1,850/unit</td>
</tr>
<tr>
<td>Kelowna</td>
<td>Refer to Appendix 6</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Langley</td>
<td></td>
<td>$1,555 - $2,205/unit</td>
<td>$1,555 - $2,205/unit</td>
<td>$1,150 - $2,800/unit</td>
</tr>
<tr>
<td>Nanaimo</td>
<td>Refer to Appendix 6</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North Vancouver</td>
<td></td>
<td>$ 50/unit</td>
<td>$ 50/unit</td>
<td>$ 50/unit</td>
</tr>
<tr>
<td>Penticton</td>
<td></td>
<td>$1,700 or $1,930/unit</td>
<td>$1,700 or $1,930/unit</td>
<td>$1,700 or $1,930/unit</td>
</tr>
<tr>
<td>Port Coquitlam</td>
<td></td>
<td>$1,100/unit</td>
<td>$1,100/unit</td>
<td>$1,100/unit</td>
</tr>
<tr>
<td>Vernon</td>
<td></td>
<td>$ 800/unit</td>
<td>$ 800/unit</td>
<td>$ 600/unit</td>
</tr>
<tr>
<td>White Rock</td>
<td></td>
<td>nil</td>
<td>nil</td>
<td>$1,500/unit</td>
</tr>
</tbody>
</table>
TABLE 5
THE AMOUNTS OF IMPOST FEES BY TYPES OF DWELLING UNITS
IN THE MUNICIPAL DISTRICTS IN BRITISH COLUMBIA
AS OF MARCH 3, 1977

<table>
<thead>
<tr>
<th>Municipal District</th>
<th>Types of Residential Development (per living unit or additional lot created)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Single Family Dwelling</td>
<td>Duplex</td>
</tr>
<tr>
<td>Burnaby</td>
<td>$ 521/unit</td>
<td>$ 521/unit</td>
</tr>
<tr>
<td>Chilliwack</td>
<td>Refer to Appendix 6</td>
<td></td>
</tr>
<tr>
<td>Coquitlam</td>
<td>$ 600/unit</td>
<td>$ 600/unit</td>
</tr>
<tr>
<td>Delta</td>
<td>$1,000/unit</td>
<td>$1,000/unit</td>
</tr>
<tr>
<td>Langley</td>
<td>$ 600 - $1,600/unit</td>
<td>$1,600/unit</td>
</tr>
<tr>
<td>Maple Ridge</td>
<td>$1,000/unit</td>
<td>$1,100/unit</td>
</tr>
<tr>
<td>Matsqui</td>
<td>Refer to Appendix 6</td>
<td></td>
</tr>
<tr>
<td>Mission</td>
<td>Refer to Appendix 6</td>
<td></td>
</tr>
<tr>
<td>Richmond</td>
<td>$2,700/unit</td>
<td>$2,700/unit</td>
</tr>
<tr>
<td>Surrey</td>
<td>$1,415 - $2,205/unit</td>
<td>$1,555 - $2,205/unit</td>
</tr>
<tr>
<td>West Vancouver</td>
<td>Refer to Appendix 6</td>
<td></td>
</tr>
</tbody>
</table>
Using the same methodology for municipal districts, the imposts varied from $521 to $2,205 per unit, resulting in an average fee of approximately $1,250 per unit.

* In the cities, the impost fee for multiple density units ranged from $50 per unit to $2,800 per unit. Using the figures which were given, the average fee for multiple density was computed to be approximately $1,100 per unit. In municipal districts, the fee varied from $600 to $2,595, resulting in an average fee of approximately $1,650 per unit.

* The average impost fee for single family dwellings and duplexes, taking into consideration the fee structure for both cities and municipal districts, was slightly more than $1,100 per unit ($1,112). Similarly, the average impost for multiple density units was $1,404 per unit.

* Of the 15 surveyed localities which did not levy impost fees at the time of the questionnaire, four localities or 27 per cent, were considering its adoption, or at least, investigating whether this concept was applicable to their specific needs. These localities were: the City of Prince George, the City of New Westminster, the District of Powell River, and the District of Terrace.

* Twelve of the 21 localities which had adopted the impost fee concept responded to the question requesting information on the implementation problems. Of the 12 that
responded, eight or 67 per cent stated that they had not experienced any problems. The remaining 33 per cent, or four localities, expressed similar concerns - each had encountered initial resistance from developers. However, in most cases, the respondents stated that the resistance was minimized as the concept became accepted as regular practice.

The remaining survey responses are discussed in greater detail in Appendix 6. In particular, Appendix 6 deals with the impost fee apportionment and the means of implementation in each locality, in 1977.

Analysis of Survey Results:

Prior to Bill 42, many municipal authorities in British Columbia were questioned on the legality of their implementation techniques with respect to impost fees; and also, were strongly criticized for the large amounts of imposts which were being levied (Dick, Continuing Legal Education Society of British Columbia, 1979). Reviewing the information presented in this section of the study and Appendix 6, with respect to both these aspects, it would appear that some localities may have attracted valid criticisms. However, it is very difficult to point an accusing finger at any particular municipality for abusing the use of impost fees. In fairness to municipalities, it should be stated that in most cases, they were motivated by genuine attempt to protect their existing taxpayers from the cost
The burdens of off-site facilities to serve new development and therefore chose implementation strategies and amounts of imposts to suit their particular circumstance and need (Dick, Continuing Legal Education Society of British Columbia, 1979).

The Legalities of the Impost Fee:

Reviewing the implementation strategies which various municipalities utilized, it would appear that some of these localities were pushing the extremes of their legal capability and thus had attracted valid claims from developers of being ultra vires. However, since most developers require the administrative co-operation of the municipalities to bring about a development, they were frequently willing to co-operate (Wilson, Centre for Continuing Education, 1976). This is probably one of the major reasons why there were few court actions taken against the municipalities which were imposing imposts under dubious legal auspices.

As was stated at the beginning of this study, there has been little information which has been documented on impost fees, and from this lack of material, it is very difficult to ascertain the legalities of the various techniques used to impose this fee. However, it would appear that the land use contract provision of the Municipal Act and the development contract technique were the only means sanctioned by the provincial legislature through which these...
fees could be acquired. It is quite clear from the various provisions of the Act that whatever terms and conditions a municipality had agreed upon in the two types of contracts, the use of imposts was permitted, if the developer agreed and executed the contract. When the developer executed his contract and brought it back to the municipality, it was, in effect, a proposal by the developer to develop the land in the way proposed by the contract, and to pay the impost (Lane, Centre for Continuing Education, 1976).

A review of the results from the survey show that some localities requested imposts as a condition of subdivision or rezoning approval, or alternatively, had purposely withheld the issuance of building permits pending the tender of imposts. These methods would appear to have been unlawful and would only be valid as long as people did not attack them judicially. There never has been any clause in the Municipal Act or other applicable act, pertaining to subdivision approval, rezoning approval or issuance of building permits, which would permit municipalities to acquire imposts solely by these means. To do so in the former cases - namely through the subdivision or rezoning techniques - could be legally conceived to be a method of selling zoning or subdivision approval; at the very least, it could be considered an act of bad faith on the part of the municipality. Municipalities that used the latter technique (i.e., withholding building permits) ran the risk of being vulnerable to court action in the form of writs of mandamus. The only means these three techniques
could have been used legally, was to apply them in the context of the land use contract or development contract. Using these vehicles, the municipality could have contracted with the developer to have him tender the imposts as a condition of either subdivision or rezoning approval or as a condition of building permit issuance.

There has been an interesting case in the British Columbia Supreme Court dealing specifically with the imposition of impost fees as a condition of subdivision approval. The case, G. Gordon Foster Developments Ltd., v. Township of Langley, (1977) 81 D.L.R. (3d), was heard by Justice J. Bouck. In this case, the plaintiff was seeking a declaratory order that the Municipality was ultra vires for requiring in advance some of its future costs (i.e., $38,400 based on $1,600 per lot for a proposed subdivision containing 24 lots) - for maintaining and improving the services affecting the area in question - as a condition of subdivision approval. In his decision, Justice J. Bouck held that there was no authority in the Municipal Act or elsewhere for such a requirement, which was accordingly declared ultra vires of the particular municipality. He stated that, "Langley should not be allowed to retain the plaintiff's $38,400 since it was extracted from the plaintiff through an (illegal device)".

The Impost Fee Rate Structure:

From the municipal standpoint, the impost fee
was a direct response to the local financial strains which were caused by the demands for services created by new developments. Consequently, those municipalities which had adopted the impost fee concept had attempted to recover a portion or all, or in some cases, possibly even more of the required revenues to facilitate the servicing requirements. These localities had established a rate structure and an implementation strategy which reflected their financial needs and convictions.

From the developers' and the public's standpoint, the majority of criticisms had centered on how much new developments should be required to pay in the form of impost fees (Dick, Continuing Legal Education Society of British Columbia, 1979). Developers had argued that by setting the charges so high, some localities were restricting development. At the very least, some municipalities were accused of increasing the cost of housing at a time when there was a short supply of housing for low and moderate income groups (Janis, 1975).

Although the issues described above are concerned with the amounts that should be charged to new developments, it should have been understood that, due to the lack of guidance, the municipalities had assumed the responsibility to establish their own rate structures and did so in cognizance of the local situation. This raises the serious question concerning the sharing of public service costs between new and existing developments. It is clear that
other criteria besides local needs and convictions should have been, and still should be, analyzed and taken into consideration when developing a rate structure. At the very least, a rate structure should be based on the philosophies of: adequacy (i.e., to ensure that the required revenues will be recovered); equity (i.e., to ensure that all users pay in proportion to the benefits they will receive); and practicability (i.e., to ensure that the rates provide good value and, to some extent, compare reasonably with the rates in other areas) (American Public Works Association, et.al., 1973).

As a minimum, to ensure adequacy, equity and practicability in the treatment of new developments, those localities which had adopted the impost fee concept should have clearly established policies on:

1. the service levels for all areas within their jurisdiction, thus identifying the differences between the financial requirements of the developed areas and the requirements of the areas to be developed; and,

2. the financing plans for both types of areas.

Once the servicing levels have been established and the impost fee concept is determined to be the means of financing the servicing requirements of the developing area, then and only then should a fee structure be calculated.
4.5 Summary and Conclusions:

The many financial problems encountered by local governing authorities have caused the cities and municipal districts in the province to re-evaluate their fiscal responsibilities and search for alternative means of providing municipal services. The impost fee - which was designed to defray the municipal costs of providing services to new development areas - was one means that was popular among many municipalities in the 1960's and the earlier half of the 1970's.

To a certain extent, the impost fee concept evolved as a result of changes in attitude towards population growth. It was a culmination of various municipal strategies - such as the use of zoning to manage growth, and the use of subdivision control by-laws to require developers to provide higher standards of subdivision services - to offset the financial implications associated with growth. In keeping with these strategies, the impost concept was developed with the basic intent of meeting the demand for new and improved services by imposing a financial requirement on those lands that create the demand.

The impost fee was first introduced into the province by the Municipality of Richmond in the early 1960's. At this time, the impost was acquired through a development contract, whereby a willing developer contracted to pay the impost for some form of municipal consideration. Although the development contract has been misunderstood
by many people, who have erroneously assumed this type of agreement to be ultra vires the municipalities' powers, the powers required by a municipality to enter this contract is clearly set forth in a variety of places in the Municipal Act. The apparent misunderstanding is that, the critics have assumed this type of contract to be an exercise in the municipalities' legislative powers, which it is not. Rather, the Municipality of Richmond - and other localities which subsequently followed the Richmond example - specifically relied on its administrative powers to enter the contractual agreement. By using its administrative power, Richmond, and other localities, were able to enter development agreements with developers and contract to have developers provide certain subdivision services (or money in lieu of these services) that they could not insist upon when they were simply using their legislative powers. The development contract technique, which is still applicable to the development and subdivision approval process today, played a significant role, in the 1960's, in the municipal attempt to reduce the financial impact of growth.

In the first half of the 1970's, the impost fee concept became more prominent among British Columbia municipalities. This was mainly due to the inclusion of the land use contract provision in the Municipal Act. This provision, similar to the previously mentioned sections in the Municipal Act pertaining to development contracts, empowered municipalities to enter the realm of contractual negotiation for matters relating to land use. As the land
use contract could contain such terms and conditions for use and development of land as may be mutually agreed upon, it offered the municipalities the legislative powers to acquire impost fees and other considerations from developers, under certain conditions which were stipulated in the Act.

Many municipalities took advantage of the land use contract provision to impose impost fees. A survey conducted in February and March of 1977 revealed that of the 36 localities which were surveyed, 21 or 58 per cent of these localities had adopted the impost fee concept. The amount of the impost fee, for specific types of developments, varied widely from community to community. As an example, the amount of levy in respect to single family dwellings and duplexes ranged from $0 in one community to $2,205 in another. It is believed that regional differences in servicing costs and the variation in municipal financial needs and convictions contributed, to some extent, to this wide range. The lack of guidance, direction and legislation from the provincial legislature was also an equally important contributor.

At the time of the survey, municipalities were imposing impost fees through a variety of implementation strategies. Although most communities relied, to some extent, on the land use contract or the development contract techniques to acquire imposts intra vires, some localities used other methods which are of dubious legal status. In regard to the latter, some localities were acquiring impost
solely as a condition of subdivision or rezoning approval or as a condition of issuing a building permit. As there was no legislation allowing municipalities to acquire fees in this manner, if judicially questioned, they could have been considered ultra vires. It is felt that the impost fee could only be legally acquired through a land use or development contract.

1977 was a year in which significant changes occurred with respect to the land use contract and impost fee. This was the year that "Bill 42" was introduced into the Legislature and subsequently ratified. In essence, this Bill, among other things, repealed the land use contract provisions of the Municipal Act and purported to abolish impost fees. The new amendment replaced these with the development permit system and development cost charges. As will be reflected in the following chapter, this legislation represents a major change in the municipal role in land use control and municipal finance.
CHAPTER FIVE
RECENT LEGISLATIVE AMENDMENTS
AFFECTING THE IMPOST FEE

5.1 Introduction:

The year 1977 has been one of the most significant years in the last decade for legislative innovation in the field of land use control and municipal finance in British Columbia. This was the year in which the Municipal Amendment Act (1977), commonly referred to as "Bill 42", changed the municipalities' role in land use and development control and created a new form of municipal taxation. As previously mentioned, the Municipal Act was amended to introduce development permits and development cost charges. A development permit is a zoning based, land use control device which a municipality or a regional district may employ to regulate the quality of development in special situations. It replaced the land use contract provisions, which were removed from the Municipal Act, on January 16, 1979. A development cost charge is a fee which a local or regional government may impose upon a developer to help cover the cost of services benefitting a development. This instrument was created as a substitution for the purportedly abolished impost fee.

This chapter will deal specifically with the legislative amendment mentioned above. In particular, this chapter will concentrate predominantly on the development cost charge provision. This chapter will begin with
a general discussion of the background information relevant to Bill 42, then provide some survey statistics on development cost charges, and finally, present some of the major implications relevant to its use.

5.2 "Bill 42" - An Historical Overview:

To a large extent, Bill 42 - the Municipal Amendment Act, 1977 - was the most recent result of the so-called "housing crisis", which reached the public forefront about the early to mid-60's, in a large number of municipalities in British Columbia. Although this term has been referred to as being euphemistic and over-exaggerated by some (Pennance, 1976), the general public has usually deemed it to be of major concern and importance in its everyday life.

The housing crisis has been perceived by the public to consist of two separate but closely related dimensions. Firstly, the public has felt that some groups in our society have not fully enjoyed the benefits of the more general improvement in the quality and quantity of housing. These groups are frequently identified as low income, the disadvantaged and the elderly. The second problem is that the public has perceived that housing prices are too high and out of the financial reach of many persons and families. These two factors, when considered cumulatively, can be manifest into a singular housing problem, that being one of affordability.
The senior levels of government have responded to the public's concerns by creating numerous programs relating to housing. The majority of these have been intended to implement either social policy with respect to housing or general economic policy which directly or indirectly affects housing markets (Pennance, 1976).

The federal government has made a considerable number of contributions towards housing in general. It has, through the then Central Mortgage and Housing Corporation (CMHC) - a crown corporation empowered to create public policy relating to housing - intervened in the residential mortgage markets as part of general monetary and economic policy and exerted significant effects on housing markets. The various National Housing Acts and their provisions, which have emphasized assistance for preferably new home ownership, have also had significant impact. The introduction and the promotion of the more recent "Assisted Home Ownership Program" and "Registered Home Ownership Savings Program" has showed that it wishes to continue with this tradition.

At the provincial government level, British Columbia has, in particular, tended to follow the examples set by the federal government. In doing so, it has encouraged new home ownership by measures such as the Home Owner Grant, Home Acquisition Grant and Second Mortgage programs. More recently, although continuing to emphasize its traditional approach, provincial housing legislation had been expanded
considerably to include such programs as: Assisted Home Ownership, Home Purchase Assistance, Co-Operative Housing Assistance, Senior Citizens' Housing, Assisted Rental, RentAid, and Shelter Aid for Elderly Renters.

While many of the new housing programs of the late 1960's and early 1970's did help to ameliorate the so-called "housing crisis" in the province to some extent, it by no means eradicated the problem. In the mid-1970's the problem still existed and the public continued to emphasize its concerns.

In further attempts to solve this problem, the provincial government in 1976 - through the then Minister of Municipal Affairs and Housing, the Honourable Hugh Curtis - established the Joint Committee on Housing. It was the provincial government's intention to have this Committee enquire into the problems affecting the delivery of housing in this province and make recommendations which could be translated into applicable provincial policy and legislation. As the chairman of this Committee was the Honourable Sam Bawlf, the report has been commonly referred to as "The Bawlf Report".

The Bawlf Report:

The Joint Committee on Housing was comprised of 12 members, consisting of three Members of the Legislative Assembly, four representatives from the Union of British Columbia Municipalities (UBCM) and five members from the
then Department of Municipal Affairs and Housing. The Committee's task was to investigate the problems affecting housing, especially in regards to consumer affordability.

The Committee held several meetings throughout the province and received input from a number of parties representing the involvement of government, professions, builders and lenders in the production of housing. It also received and considered numerous written briefs during the course of its investigation from interested parties such as the Planning Institute of British Columbia, the local chapter of the Housing and Urban Development Association of Canada (HUDAC) and various real estate boards, just to mention a few. In addition, the Committee conducted numerous studies through its own resources in order to attain a more comprehensive overview of the situation.

In all, the Committee studied and reported on six aspects of the housing problem: (1) the supply of land; (2) land use controls; (3) the costs of services; (4) planning for growth; (5) the housing marketplace; and (6) technological factors. In studying these aspects, the Committee found that "chief among the underlying problems affecting the delivery of housing were a number of factors in the system of government controls over planning, servicing and development of housing which unduly constrained the production process". The report concluded that: "reorganization and streamlining of the role of government in this process is essential to efficient, competitive production and hence, to consumer affordability".
In the report, some 30 recommendations were presented to achieve this end. The recommendations took the form of suggested changes to provincial policies and practices relating to housing, further research and analysis on various factors, and suggested amendments to the Municipal Act.

Of particular concern to this study are the recommendations for amendments to the Municipal Act, particularly in regard to land use controls and the costs of services. The report's recommendations dealing specifically with these, are as follows:

"Amend the Municipal Act to provide that:

1. Reference to the land use contract be repealed as of July 1, 1978.
2. Council may require issuance of a development permit and negotiate same based on satisfaction of criteria set out in the zoning by-law.
3. Municipalities may by by-law levy impost and off-site charges, based on provable costs, as a condition of subdivision or development permit approval or a building permit, subject to regulation by the Lieutenant-Governor in Council."

The Committee's rational for removing the land use contract provisions and replacing it with the development permit system was very evident in the report. The report revealed that the Committee felt some municipalities were abusing the land use contract provisions and were straying from the initial intention of the legislation - that being, to empower Councils to provide for exceptionally comprehensive developments. The report expressly noted
that many municipalities were applying the land use contracts to establish a second level of taxation in the form of impost fees and other servicing charges and to require excessively high standards of services from developers.

Also, the report clearly indicated that the Committee felt land use contracts were causing unreasonable delays in the development process and was unduly increasing the cost of housing. The Committee comments in this regard are as follows:

(Due to land use contracts) "applicants for relatively ordinary land use approvals are being required to negotiate their projects through an increasingly complex maze. The overall effect . . . has been to greatly retard the supply of land and the efficiency of producers. As a result, the short supply of land approved for viable development has been bid up to unrealistic levels. This excessive cost is simply passed on by the builder to the consumer" (Joint Committee on Housing, 1976).

Although it was not expressly stated in the Bawlf Report, the Committee's fundamental objective in recommending the removal of the land use contract provision was to return the municipalities to a regulatory role once again as opposed to allowing the tendency of municipalities to conduct contractual negotiations (R. MacKenzie, 1978). It would appear from the recommendations there was a definite attempt to reinstate zoning as the primary municipal control of land use. Ancillary to this, "certainty" was to become the key word and the major factors of development were to be known at the outset (R. MacKenzie, 1978). This was similar in principle to the suggested amendments regarding impost fees,
which will be discussed later.

Many of the recommendations emanating from the Bawlf Report were accepted by the provincial government, with only minor changes. These have been reflected, as originally intended, in policy changes for provincial government departments (now called "ministries") and legislative amendments to appropriate statutes; one example of the latter being the inclusion of the development permit system, as Section 702AA in the Municipal Act.

5.3 Development Cost Charges:

It is now quite evident that the recommendation of the Bawlf Report, referring specifically to off-site charges, was not taken lightly by the provincial legislature. This recommendation has been reflected in the inclusion of Section 702C as an amendment to the Municipal Act and represents the legalization of many impost fees imposed by municipalities through land use contracts or otherwise.

Evidence from the Bawlf Report indicates that the main reason behind the Committee's recommendation to allow municipalities to levy impost and off-site charges, emanated from its concern for the municipalities' financial predicament regarding the costs of servicing new development areas. The report stated that without impost fees or similar charges, many municipalities could not afford the costs of expanding services to enable growth. The
Committee found this especially true of the suburban municipalities which have to absorb most of the urban growth with only a fraction of the urban assessment base, and made specific reference to this. However, further evidence from the report also indicated that while the Committee was supportive of those municipalities that showed a genuine attempt to protect their existing taxpayers from the cost burdens of off-site facilities to serve new developments, it was also apprehensive of the implications of granting unlimited taxing power to the municipalities for this purpose. Its concern was that if municipalities were given complete autonomy in this regard, some may abuse the intent of the new grant in powers. The Committee based this concern on widespread criticisms it received from developers stating that some municipalities had over reacted to the powers granted to them to conduct contractual negotiations. The developers claimed that some municipalities were requiring excessively high service standards, so as to avoid high maintenance costs and the costs of upgrading services in the future. The Committee noted that 60 foot roadways with full curbs and gutters, sidewalks and underground wiring were frequently being required by a municipality, while some of the most fashionable and expensive existing subdivisions in adjoining areas of that municipality did not enjoy these amenities.

The report makes it evidently clear that by wording the recommendation in the manner presented, the Committee has shown that it recognized the municipalities'
financial predicament, but were strongly opposed to promoting the continuation of inconsistencies in the development approval process which it found was occurring through the use of the land use contract. That would appear to be the logic behind such clauses in the recommendation as: "based on provable costs" and "subject to regulation by the Lieutenant-Governor in Council". This same concern was also reflected in the legislation which evolved from this recommendation. Although minor changes in wording have occurred in the appropriate clauses of the Municipal Act, the basic intent has remained the same.

It is probably fair to say that most municipalities and developers felt that there was a need for legislation to govern this aspect of their relationship. The municipalities wanted to "legalize" their right to collect impost fees and the developers wanted some legal limit to the purpose and amount to be levied. The provincial government responded to both these concerns and brought some order and consistency into this state of affairs by accepting the basic principles of the Bawlf Report's recommendation in this regard.

The Legislation (Municipal Act, Section 702C):

On the 31st day of August 1977, the Municipal Amendment Act (1977) passed third and final reading by the provincial legislature. This day saw the abolishment of impost fees at a date to be fixed by the Lieutenant-
Governor in Council, and the creation of a new source of revenue for municipalities, in the form of the development cost charge.

In the words of Mr. G. Wilson - of the Wilson Bauman law firm in Kelowna - the principal legal draftsman of Bill 42, the purpose and philosophy of the development cost charges are:

"... to provide the municipality with a source of revenue so that the municipality may call upon its banked capital cost charges to pay for a major capital expenditure that becomes necessary in relation to its highways, sewer, water or drainage systems. The capital expenditure must relate to a cost that is created by the future development of the municipality and as a result it is fair that the new development pay an extra contribution over and above that paid for generally out of municipal funds towards the cost of such additional facility. By way of an example, a 500,000 gallon reservoir may be sufficient water storage for the existing municipality, but every time an additional residential or commercial water user is added to the municipality, it becomes inevitable that in the future an additional water reservoir facility must be provided." (Continuing Legal Education Society of British Columbia, 1979.)

The development cost charge legislation provides a municipality with the opportunity of collecting a specific sum of money for a specific capital purpose at specific times. In effect, it is a limited version of the capital cost impost fee, which some municipalities had been using since the mid 1960's. The requirements and regulations concerning the development cost charge are detailed in Section 702C of the Municipal Act, a copy of which is included as Appendix 7.
Section 702C(1) specified the conditions under which the development cost charge can be levied by the municipality. This clause lists three events which could activate this levy, namely:

"702C(1) The Council may, by by-law impose development cost charges on every person who obtains:

(a) approval of the subdivision of a parcel of land under the Land Registry Act or the Strata Titles Act for any purpose other than the creation of three or less lots to provide sites for a total of three or less self-contained dwelling units, or

(b) a building permit authorizing the construction or alteration of buildings or structures for any purpose other than the construction of three or less self-contained dwelling units, or

(c) a building permit authorizing construction, alteration or extension of a building or structure, other than a building or portion of it used for residential purposes, where the value of the work exceeds $25,000."

In addition to detailing the three events which may trigger the development cost charge, this section points out that when a development cost charge is to be levied, it must be imposed by a municipal by-law. The by-law itself is relatively simple and straightforward, as it basically reiterates the statutory authority and conditions imposed by the Municipal Act. This, in effect, is the enacting portions. Attached to the by-law are the schedules, as required by Sub-Section 5, which, as will be shown later, are the complex portions of the by-law. An example of the enacting portion of the by-law is included as Appendix 8.
This example is a sample by-law drafted and circulated to all municipalities in British Columbia by the Ministry of Municipal Affairs. As this sample by-law comes directly from the statutory authority of the Municipal Act, it is directly applicable to all municipalities, except the City of Vancouver which has its own charter.

Section 702C(2) specifies when the development cost charge can be extracted by the municipality. It states: "Development cost charges required to be paid pursuant to a by-law under this section shall be paid prior to the approval of the subdivision or the issue of the building permit, as the case may be." The word "shall" in this clause represents a mandatory condition; this requirement of prepayment cannot be waived or altered by the municipality.

One of the major restrictions contained in the Municipal Act for development cost charges is Sub-Section (3) of Section 702C. This is the clause which details the conditions under which a development cost charge cannot be levied. This sub-section provides that such exemption would apply if the development cost charge has previously been paid with respect to the same development which includes either a building and structure or the subdivision of land unless a further subdivision or additional development is carried out, no new capital cost burden is deemed to take place and therefore no development cost charge is payable. Similarly, if the subdivision or development does not
impose new capital cost burdens on the municipality, development cost charges cannot be required.

Further restrictions are noted in Sub-Section (4), which enumerates the purposes for which these charges can be imposed. This sub-section notes that development cost charges may be imposed "for the sole purpose of providing funds to assist the municipality in paying the capital cost of providing, altering or expanding sewage, water, drainage and highway facilities and public open space, or any of them, in order to serve, directly or indirectly, the development in respect of which the charges are imposed".

The restrictions in this clause appear, at first glance, to be rather minor, but they run much deeper than one might realize. When compared to the earlier British Columbia experience with the impost fee, the restrictions in this clause appear to be very severe, from the point of view of the cost-conscious municipality. The main limitation is brought about by the word "assist". These funds are to be provided in order "to assist" the municipality. This word presumably means that the developer cannot be expected to absorb the full cost. The percentages attributable to the developer and municipality respectively will, undoubtedly, have to be justified by the municipality if the Inspector or a developer questions the amounts (MacKenzie, 1978).

The only flexibility in this clause is the word "indirectly". Undoubtedly, the Inspector of Municipalities or the courts will have to eventually clarify the full
extent of just how indirect "indirectly" is. To date, the Inspector of Municipalities has made some clarification on this term, but by no stretch of the imagination, is it all-encompassing. The Inspector has indicated that he will not include land for school grounds as public open space (Wilson, Continuing Legal Education Society of British Columbia, 1979).

Sub-Section (5) clearly specifies that a schedule of development cost charges must accompany the municipal by-law, as previously mentioned. This sub-section further states "the charges may vary in respect of (a) different defined or specified areas or zones, (b) different uses, (c) different capital costs related to any class of development, and (d) different sizes or numbers of units or lots created by or as a result of development; but otherwise, the charges shall be similar for all developments that impose similar capital cost burdens on the municipality". In essence then, the development cost charge must be directly related to the capital cost of providing those items mentioned in Sub-Section (4) and may only be varied according to the provisions of Sub-Section (5).

Unlike the enacting portion of the by-law, which is basically straightforward, the schedules of development cost charges forms the more complex portion. It is in the schedules that the municipality must specify the amount of charges to be imposed according to different zones, different uses and different areas. A great deal of care and attention
must be taken in preparing the schedules since the municipality may have to justify its calculations to the Inspector of Municipalities, according to Sub-Section (9), or the courts, should a developer feel that a development cost charge is not warranted or is unreasonable. The schedule will be the most controversial portion of the by-law.

Examples of the development cost charge schedule, as it relates to the City of Prince George, is included as Appendix 9. Also included in this appendix is a rather lengthy but worthy explanation of how these charges were calculated by the City of Prince George. In this excerpt, Mr. R. Dick - the City Solicitor for the City of Prince George - also provides many helpful hints for the preparation of the schedules, and details areas where problems may occur.

There are four statutory considerations set out in Sub-Section (6) of Section 702C that must be taken into consideration by the council at the time of passing the by-law to levy the development cost charge. This section of the Municipal Act states:

"(6) In fixing development cost charges in a by-law under Sub-Section (1), the Council shall take into consideration whether or not:

(a) the charges are excessive in relation to the capital cost of prevailing standards of service in the municipality,
(b) the charges will deter development in the municipality,
(c) the charges will discourage the construction of reasonably priced housing or the provision of reasonably priced serviced land, and
(d) the municipality has imposed requirements pursuant to Section 702A, 702AA or 711.

It is quite clear from this sub-section that the legislation is being tailored to prevent the inconsistencies which were discussed earlier, with regards to the land use contract. In specifically stating clauses (a), (b) and (c) above, the legislation is clearly declaring that the development cost charges cannot be used to require excessively high servicing standards which may discourage or deter future development. Further, by including clause (d), the legislation is insuring that duplication of servicing levies - through such means as the land use contract, the development permit or other by-law requirements - will not occur.

Sub-Sections (7) and (8) of Section 702C provide for and regulate a special development reserve fund. These sub-sections stipulate that upon receiving a development cost charge, the municipality must deposit that charge in a special account. After the money has been deposited, it can only be used for the purpose for which it was collected, unless a variance is permitted, under the provisions of Section 305A and 307(2) of the Municipal Act by the Minister of Municipal Affairs. Sub-Section (8) goes on to provide associated purposes for which development cost charges can be collected. This section enumerates planning, engineering and legal costs as eligible development costs, if associated with the provisions set out in Sub-Section (4). Further,
Sub-Section (8) requires that all payments from reserve funds must be authorized by by-law.

Sub-Section (9) of Section 702C is particularly important because it gives the provincial government, through its Inspector of Municipalities, considerable control over a municipality's use of the development cost charge. According to this sub-section, a municipality must receive the approval of the Inspector of Municipalities prior to the adoption of a by-law to impose such levies. The Inspector has the wide discretionary powers to grant the approval, refuse to grant it for any of the four reasons set out in this sub-section or "revoke or withhold the approval until the terms of the by-law are altered and amended to his satisfaction and in accordance with his direction". As a case in point, Section 702C(9)(b)(ii) reflects the amount of power granted to the Inspector. This section empowers the Inspector to require the municipality to adopt an official community plan before he will approve a development cost charge by-law.

As a further emphasis to show just how much discretionary power the Inspector is given, the legislation, through Section 702C(9)(b)(iv), delegates the Inspector the power to refuse to grant the approval if "in his opinion the by-law does not comply with the spirit and intent of this section". It is this provision that appears to guarantee the proper use of the development cost charge provisions to recover only those costs envisioned by the enabling legislation.
In considering whether or not a development cost charge by-law will be approved, the Inspector will be considering the various criteria set out in 702C. He will be considering whether or not the development cost charge is related to a capital cost attributable to projects included in a capital budget; he will be considering whether or not the capital cost is related to official community or settlement plans of the municipality or regional district; he will be considering whether or not the charges are excessive, will deter development or will discourage the construction of reasonably priced housing or the provision of reasonably priced serviced land and whether or not other by-law requirements or land use contracts have already imposed costs for the same projects. In all likelihood, he will also be considering the amount contributed to the proposed capital cost project by the senior levels of government under existing grant programs.

It is quite apparent from Section 702C that the provincial government has recognized the financial predicament of municipalities in regard to their inability to cope with the costs of expanding services to enable growth. Thus, it has granted the municipalities the legislative power to acquire specific revenues, through specific means and under specific conditions. The underlying basis is that the provincial government, in granting these powers, has retained a considerable amount of discretion over the use of such power. This is all in keeping with the intent of the legislation to be regulatory, uniform and taxing.
It is important to note that although Section 702C grants the municipality the legislative power to acquire specific revenues from developers, these enumerated powers do not represent the only means available to the municipality. As discussed in Chapter Four, municipalities — using their administrative powers — can enter contractual agreements (i.e., development contracts) with developers and contract with them to provide certain revenues in exchange for some form of municipal consideration. Both means can be used to accomplish the same purpose. In most instances, the development cost charge legislation simply provides a more direct and uniform method of acquiring these revenues.

5.4 A Survey of the Development Cost Charge in British Columbia (1979):

Prior to the inclusion of Section 702C in the Municipal Act, municipalities did not have any guidelines governing the imposition of impost or similar type fees. Consequently, what the impost fee paid for and how it was applied varied from locality to locality, with no standardization. In effect, municipalities had to independently decide the amount of imposts and the method of application.

Section 702C of the Municipal Act brought order and consistency into this state of affairs. Effectively, this legislation provides the conditions under which specific revenues can be acquired through specific means, as discussed in the preceding section. A review of the survey results will show this standardization.
Methodology of Survey:

On the 3rd of July 1979, the Inspector of Municipalities, Mr. W. Long, also Deputy Minister of Municipal Affairs, was interviewed. During the interview, the Inspector was informed of this study's objectives and was asked to provide comments and information on development cost charges in general. The Inspector was very helpful in this regard, with many of his comments reflected in various parts of this study.

Due to the fact that all development cost charge by-laws have to receive the approval from the Inspector's office, prior to final adoption and implementation, Mr. W. Long was also asked to provide statistical information relating to the number and contents of the particular by-laws processed through his office. On this matter, the author was referred to Mr. H.G. Topham, Director of Financial Services with the Ministry of Municipal Affairs, who was also very helpful in this regard.

On July 4, 1979, after a general briefing, Mr. Topham allowed the author to review all development cost charge by-laws which had received the Inspector of Municipalities' approval, as of that date. The results of this investigation follow:

Results of the Survey:

* As of July 4, 1979, the Inspector of Municipali-
ties' office had approved 19 development cost charge by-laws, as well as five by-law amendments.

* Although the first development cost charge by-law, from the Town of Sidney, was approved as early as April 6, 1978, 15 by-laws, or 89 per cent, received the Inspector's approval during the first six months of 1979.

* Of the 19 by-laws which have been approved to date, one by-law was from a regional district (i.e., the Capital Regional District), one by-law was from a town (i.e., the Town of Sidney), seven by-laws were from cities, and the ten remaining by-laws were from municipal districts.

* Of the seven cities which had received approval for their development cost charge by-laws, five of them - namely Cranbrook, Kamloops, Penticton, Port Coquitlam and Vernon - had previously imposed impost fees, as shown in the 1977 survey. Prince George, another city which has received approval for its by-law, was considering the adoption of the impost fee concept at the time of the 1977 survey. Duncan, the other city which has received the Inspector's approval, was not included in the 1977 questionnaire survey.

* Of the ten municipal districts which had received approval for their development cost charge by-laws, eight of them - namely Burnaby, Coquitlam, Langley, Maple Ridge, Matsqui, Richmond and Surrey - had previously imposed impost fees, as shown in the 1977 survey. Although the respondent
from Saanich, to the 1977 survey, had stated that it had not, and was not intending to levy imposts, it would appear that Saanich has altered its policy as it has received the Inspector's approval to impose development cost charges. Port Hardy, the other municipal district which has received the Inspector's approval, was not included in the 1977 questionnaire survey.

* In addition to the 19 development cost charge by-laws which, to date, have already been approved, the Inspector's office is in receipt of three others which are currently in the process of being approved. These by-laws are from the Cities of Langley and White Rock and the Municipal District of Campbell River.

* Of the three localities which are awaiting the Inspector's response, Langley and White Rock previously applied impost fees. In 1977, the respondent from Campbell River had stated that the Corporation was not intending to levy such fees.

* Based on a review of the by-laws which have been approved thus far, the schedules - which detail the various types of development cost charges and its applicabilities to various land uses - were found to be far more complex and technical then the disaggregation of impost fees. This complexity is clearly exemplified in the Prince George by-law, included in Appendix 9.

* Table 3 provides a list of the localities which
are currently authorized to impose development cost charges. This table also shows the types of development cost charges (i.e., for sewage, water, drainage, etc.) in effect in each of the areas and the land uses to which they apply. The date on which the by-law was approved by the Inspector is also included in this table.

* A review of Table 3 shows that of the five types of development cost charges, specifically allowed by the legislation, charges for drainage, highway facilities and public open space were the most common among the localities, with a heavy concentration of these localities being municipal districts. Thirteen, or 68 per cent of the localities levied these types of charges. These charges were followed closely by levies for water (63%) and sewage (58%) respectively.

* Table 3 also shows that of the various types of land uses that were assessed development cost charges, the residential use was significantly the most common - all localities imposed at least one of the five types of development cost charges on this particular land use. Commercial uses were also common recipients of the charge, with 89 per cent of the localities levying some form of development cost charge on this use. The table further shows that the various localities were less receptive to imposing development cost charges on industrial and institutional land uses.
TABLE 6

A LIST OF LOCALITIES IN BRITISH COLUMBIA WHICH HAVE RECEIVED APPROVAL FROM THE INSPECTOR OF MUNICIPALITIES TO IMPOSE DEVELOPMENT COST CHARGES, SHOWING THE TYPES OF DEVELOPMENT COST CHARGES AND THE APPLICABLE LAND USES FOR EACH LOCALITY - AS OF JULY 4, 1979

Note: An "x" denotes applicability to the locality.

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<th>LOCALITY</th>
<th>TYPES OF DEVELOPMENT COST CHARGES</th>
<th>APPLICABILITY TO LAND USE</th>
<th>DATE OF INSPECTOR'S APPROVAL</th>
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5.5 The Advantages and Disadvantages of the Development Cost Charge Legislation:

Like any new legislation - or anything which is created as a substitute for something else - there will generally be some advantages and disadvantages associated with its use. The development cost charge is no exception. Although these levies have only been in existence for a very short period of time, some of the major advantages and disadvantages of the legislation have already become apparent.

Some of the "pros" and "cons" of the legislation have already been noted in the prior text, but for the purpose of this analysis, they warrant reiteration. Other, possibly less obvious, advantages and disadvantages which were not presented in the text will also be included.

Some of the factors mentioned below have been classified both as an advantage and as a disadvantage, depending upon the perspective, whether it be from a municipal viewpoint or the developer's. In these instances, the appropriate party to which the advantage or disadvantage accrue, will be noted.

Advantages:

* Prior to the advent of the development cost charge legislation, municipalities were left much on their own to decide how to finance off-site development costs.
Due to the lack of guidance from the provincial legislature, municipalities imposed impost fees and developed rate structures which were usually only based on local needs and convictions. The new legislation changed all this by allowing the municipalities an opportunity of collecting a specific sum of money, for specific capital purposes, under specific conditions and at specific times.

* From the developer's perspective, the development cost charge legislation has brought about some much needed order and consistency to the development process. Their past experience with the land use contract left them questioning whether the money which they negotiated to pay to the municipality, was in fact being spent on the facilities or services for which it was being collected. Further, they began to question the remoteness of some of the purposes for which they were required to pay. The new legislation stipulated requirements which governed the limit of purposes and amount of such payment.

* In those localities which did not impose any off-site servicing levies, prior to the advent of Section 702C, the legislation can be seen as a means of protecting the existent taxpayers from the cost burdens of providing off-site facilities to serve new developments. In effect, the development cost charge legislation imposes the burden of such costs upon those who create the demand for them and who benefit from them. For those localities which were imposing financial contributions, such as the impost fee,
prior to "Bill 42", the new legislation allows for the continuation of this trend (under specific conditions).

* From the point of view of the public, the developers and the provincial government, Section 702C makes the municipality more accountable for its actions in acquiring development cost charges. This is in keeping with one of the major purposes and philosophies of local government. Some of the elements of this section which reflect the tendency to incorporate the accountability issue are: (1) the legislation's requirement of the municipality to be able to justify the amount of levies to be charged; (2) the requirement of the municipality to receive provincial approval prior to adoption of any development cost charge by-laws; and (3) the requirement of the municipality to deposit all development cost charges into separate accounts, depending upon the purposes of the charges, and draw down on these accounts only for the expressed purposes for which they were collected.

* In keeping with the other legislative amendments in the Municipal Amendment Act, 1977, the development cost charge legislation was created to assist in the streamlining of the development process. This reflects a definite advantage to the developer, who can expect less delays in the approval process (as opposed to the previous experience with the land use contract) and therefore experience lesser carrying costs.
* Corollary to the above, with other things being constant, this should result in lower housing costs for consumers.

* From the planning perspective, Section 702C represents a definite advantage in that it encourages a more comprehensive review of planning in general. An example of this is reflected in Sub-Section (9)(b)(ii) which empowers the Inspector of Municipalities to require the municipality to adopt an official community plan before he will approve a development cost charge by-law.

Disadvantages:

* One of the major disadvantages of the development cost charge legislation, from the municipal viewpoint, is the system's inflexibility. Of particular concern is Sub-Section (4) of Section 702C, which states that "development cost charges may be imposed . . . for the sole purpose of providing funds . . . in paying the capital cost of providing, altering, or expanding sewage, water, drainage and highway facilities and public open space".

Although the legislation has been tailored so that municipalities can acquire revenues to accommodate new developments and growth, this clause effectively eliminates the opportunity of acquiring revenues to offset the costs of providing other services and facilities which are not enumerated therein, but which, can be argued, are created by new developments. Costs which are associated with building
new firehalls, additions to policing staff, added educational requirements and other such costs which were detailed in Chapter Three, apparently cannot be recovered through these charges and therefore must be acquired through other means, such as the development contract.

* Another aspect of the legislation which could be considered as a disadvantage is the draftsmanship. Some of the wording and clauses in this particular section are ambiguous and could place the municipality in the position of facing court action. At the very least, the ambiguity makes the task of composing a development cost charge by-law - which will be acceptable to the Inspector of Municipalities - more difficult. Some examples of this ambiguity are: (1) although Sub-Section (4) states that "development cost charges may be imposed . . . for the sole purpose of providing funds to assist the municipality", it does not specify the extent to which a developer can be expected to "assist" the municipality; (2) this sub-section goes on further to state that these charges are to be applied, in order to directly or indirectly serve the development in respect of which the charges are imposed, but fails to note how indirect "indirectly" really is; and (3) Sub-Section (6) requires the council to consider whether or not these charges would deter development or would discourage reasonably priced housing, but does not prevent council from imposing a charge which does either. In the case of the latter, it may not be very long before some developer attacks a development cost charge by-law in the courts on the ground that
council failed to take those principles into consideration.

5.6 Summary and Conclusions:

The Municipal Amendment Act (1977), commonly referred to as "Bill 42" embodied significant changes to land use control and municipal finance in British Columbia. Of particular concern to this study is the Act's influence on municipal finance. This act introduced the development cost charge concept, which, for all intents and purposes, represents another form of municipal taxation. In effect, this legislation brought about the legalization of many impost fees previously imposed by municipalities through land use contracts or otherwise.

The purpose and philosophy of the development cost charge is the same as the commonly accepted purpose and philosophy of the former impost fee. The fundamental aim of both these concepts is to defray the municipal cost burdens brought about by new developments by imposing a financial requirement on those developments that create the additional capital costs.

It is quite apparent from the historical sequence of events, that the development cost charge evolved from concern at the provincial government level, to the so-called "housing crisis". The housing crisis was perceived by the public and the provincial government to be a basic problem of affordability, with many believing that large sections of society were not fully enjoying the benefits of the more
general improvement in the quality and quantity of housing due to their inability to keep pace with the rising prices.

In attempts to solve this problem, the provincial government, in addition to creating an abundance of new housing programs, established the Joint Committee on Housing. The main mandate of this Committee was to enquire into the problems affecting the delivery of housing and make recommendations which could be translated into provincial policy and legislation. The findings of this Committee were presented in a report which became commonly referred to as "The Bawlf Report".

The major finding of this Committee was that "chief among the underlying problems affecting the delivery of housing were a number of factors in the system of government controls over planning, servicing and development of housing which unduly constrained the production process". In reporting this finding, the Committee also made some 30 recommendations in an attempt to ameliorate this situation.

Among the 30 recommendations, the Committee made three - the principles of which were adopted by the provincial government and incorporated into the Municipal Act - which has had significant impact on the municipalities' role in land use control and finance. The three recommendations were: (1) the elimination of the land use contract provisions of the Municipal Act; (2) the incorporation of the development permit system into the Act; and (3) the introduction of off-site servicing charges, which later became
known as development cost charges.

It is clearly evident from the Bawlf Report, and the subsequent adoption of the three recommendations that the new legislation was being tailored to prevent the inconsistencies which occurred in conjunction with the land use contract provision of the Municipal Act. Evidence from the Bawlf Report also showed the provincial government's concern was that land use contracts were sometimes being used to require excessively high standards of services from developers and was unduly increasing the cost of housing. However, while having this concern, it would also appear that the provincial government was sympathetic towards the municipalities' financial predicament in terms of acquiring revenues to pay for the capital costs of servicing new developments. By accepting the recommendations of the Bawlf Report, the provincial government eliminated the land use contract provision of the Municipal Act and created a new system by which municipalities could acquire the necessary revenues, but under specific conditions and regulations, as specified in the enabling legislation (i.e., Municipal Act, Section 702C). This grant of legislative power, however, does not represent the only means available to the municipality to acquire specific revenues from developers. Through the use of their administrative powers, municipalities can contract with developers to have them provide certain revenues in exchange for some form of municipal consideration. Both means can be used to accomplish the same purpose. In most instances, the development cost charge legislation simply
provides a more direct and uniform method of acquiring these revenues.

Although there are several shortcomings inherent in the legislation governing development cost charges, the survey conducted in July of 1979 shows that many localities have already taken advantage of this new instrument. At the time of the survey, 19 localities had submitted and received approval for their development cost charge by-laws. Of the municipalities which are now levying these charges, a large proportion of them had previously imposed impost fees. Indications show that more localities - including those which had imposts and have not yet applied for approval and those which did not have imposts - will adopt this practice in the near future.

From the number of localities which have already received approval to adopt development cost charge by-laws and the number expected to make application for approval, it would appear that this legislation has been favourably received by the municipalities. Similarly, from the lack of any organized dissension thus far, from the development industry, would indicate that, generally, this sector has been amenable to the legislation also. These two factors alone, reflect the merits and positive nature of this legislation.
CHAPTER SIX
SUMMARY AND CONCLUSIONS

6.1 Summary:

At the outset of this study, it was noted that there has been little documentation or information on impost fees and development cost charges which have been readily available to the public. As a result, there are many people who do not fully comprehend the concepts, let alone their purposes, the circumstances causing their evolution, and other related intricacies relating to their use. This lack of understanding has contributed to the vast array of criticism in opposition to the two concepts, but in particular, the impost fee.

This study was undertaken to provide factual information relating to both the impost fee and the development cost charge, with the aim of establishing a better understanding of these concepts. In this regard, four objectives of the study were enumerated in the introductory pages:

1. to determine and discuss some of the major factors and events which prompted the municipalities in British Columbia to consider and adopt the levying of impost fees;
2. to clarify the philosophy and implementation strategies of the impost fee concept and determine the extent of its use in British Columbia prior to the advent
of the development cost charge legislation;

3. to determine and discuss some of the major factors and events which prompted the provincial government to abolish impost fees and introduce development cost charges; and,

4. to examine and synthesize the development cost charge legislation to determine its philosophy, purpose and the requirements provided therein, as well as to determine the extent of its current use in the province.

The information required to satisfy these objectives was acquired through interviews, two surveys and a review of the limited amount of available information.

Statement One:

A review of the literature as well as comments from interviews suggested that a number of factors and events contributed to the evolution of the impost fee in British Columbia. It is perceived that some municipalities began to search out new sources of revenue during the latter part of the 1950's and the 1960's because of serious financial strains. The main contention of these municipalities was that their primary sources of revenue - namely property taxation and provincial assistance - did not have the flexibility of generating sufficient revenue to offset the increasing demands for municipal services and activities.
A review of the municipal expenditures, in Chapter Three, revealed several other factors which created financial problems for the municipalities and which, it would appear, were influential in the municipal decision to seek alternate sources of revenue. These factors were: (1) population growth and the concurrent expansion of the urban areas; (2) rising aspirations of the public; and (3) additional financial commitments towards obligatory functions.

Of the three factors listed above, population growth had the greatest impact on local financial resources. With many localities in British Columbia experiencing population growth rates in excess of 100 per cent in a period of 20 years, the financial implications of accommodating the growth was a very real and perplexing problem for the municipalities. Not only was there a need to expand or construct primary infrastructure - such as roadways, sewer facilities and water supplies - to serve the newly developing areas, but there was also a need to expand the social oriented services - such as park and recreational facilities - as well as the protective services - such as police and fire protection.

As a result of population growth, some municipalities began to investigate and develop strategies which would help to alleviate the cost burdens of supplying a variety of municipally procured services to the developing areas. The impost fee was introduced into the province,
by the Municipality of Richmond in the early 1960's, as one of these strategies. In effect, it was a culmination of several municipal techniques - such as the use of zoning to manage growth and the use of subdivision control by-laws to require developers to provide more and higher standards of subdivision services - to offset the financial implications associated with growth.

Statement Two:

The results of the survey conducted in 1977 and comments from interviews indicated that the commonly accepted definition of an impost fee was: a levy which is assessed against a developer by a municipality to defray the municipal costs of constructing or expanding services necessitated by new developments. It was perceived that the basic intent of the impost fee was to meet the demand and costs for new and improved services by imposing a financial requirement on those lands that created the demand.

It was also generally agreed that the impost fee did not apply to on-site costs. These costs, such as for constructing or improving roadways or installing a sewer or water service into a development, were generally borne by the developer in any case, and did not form part of the impost fee. Impost fees were applied to recover costs that occurred on a fairly large scale. For example, they were used to acquire revenues for the upgrading of arterial roads, the construction or improvement of water supply
and distribution facilities, sewage collection and treatment systems, and other similar works.

The results from the questionnaire conducted in 1977 showed that from the early 1960's to the time of the survey, a variety of implementation techniques were used to levy imposts. It was found that these fees were acquired through such means as: (1) development or servicing agreements, (2) a condition of subdivision approval, (3) a condition of rezoning approval, (4) a condition of building permit issuance, and (5) land use contracts. A review of the legal nature of each of these methodologies revealed that the former (i.e., development contracts) and the latter (i.e., land use contracts) were the only means specifically sanctioned by the provincial legislature through which the municipality could acquire these fees, intra vires.

The 1977 questionnaire also showed that a number of municipalities in British Columbia had adopted and were utilizing the impost fee concept. The results revealed that of the 36 localities which were surveyed, 21 or 58 percent of these localities were applying impost fees. The use of the impost fee was evenly distributed among municipal districts and municipalities, with 11 of the former and ten of the latter levying these charges, respectively.

The amount of the impost fee, for specific types of developments, varied widely from community to community. It was felt that regional differences in servicing costs and
the variation in municipal financial needs and convictions contributed, to a large extent, to this wide range. The lack of guidance, direction and legislation from the provincial authorities was also felt to be an equally important contributor.

**Statement Three:**

A review of the literature and the historical sequence of events suggested that the provincial government's concern for the so-called "housing crisis" led, eventually, to the abolition of the impost fee and the creation of the development cost charge. Research showed that the report from the Joint Committee on Housing - which was created to enquire into the problems affecting the delivery of housing - was instrumental in the government's decision to introduce legislation which, among other things, repealed the land use contract provision of the Municipal Act and brought about the regulation for a new form of municipal taxation.

It is clearly evident from the report and the subsequent amendments to the Municipal Act that the provincial government felt land use contracts contributed to inconsistencies in the development approval process, were being used by some municipalities to require excessively high standards from developers, and was unduly increasing the cost of housing. They, therefore, repealed this provision, and - being sympathetic towards the municipalities'
financial predicament in terms of acquiring revenues to pay for the costs of servicing new developments - introduced the development cost charge legislation.

Statement Four:

Based on information from interviews with various officials from the Ministry of Municipal Affairs and a review of the most recent literature regarding the new legislation, it is apparent that the provincial government's philosophy behind the development cost charge provision was to make the legislation regulatory, uniform and taxing. Ancillary to this, "certainty" was to be reinstated in the development process with the legislation calling for all the major factors of development to be known at the outset. It was found that this philosophy was in keeping with the other legislative amendments which the provincial government introduced at the same time.

The purpose of the development cost charge, as detailed in Section 702C of the Municipal Act, is basically the same as the commonly accepted purpose of the impost fee; that being to defray the municipal cost burdens brought about by new developments by imposing a financial requirement on those developments that create the additional capital costs. Section 702C grants the municipalities the legislative power to acquire specific revenues, through specific means and under specific conditions. The underlying basis, is that, the provincial government in granting
these powers, has retained a considerable amount of discretion over the use of such power. That would account for the number of restrictions inherent in the legislation and the requirements which the municipalities must satisfy prior to the enactment of development cost charge by-laws.

Unbeknown to many people, and possibly including the provincial government, is that Section 702C does not represent the only means available to the municipality to acquire specific revenues from developers. By exercising their administrative power, municipalities can enter agreements with developers and contract with them to provide revenues to be used in much the same manner as development cost charges. In most instances, the development cost charge legislation simply provides a more direct and uniform method of acquiring these revenues.

From the results of the survey which was conducted in July 1979, it would appear that many localities have already taken advantage of this new legislation. It was found that the Inspector of Municipalities had approved 19 development cost charge by-laws and several amendments to same. The survey also showed that several other localities were in the process of adopting the practice, which reflect the relative merit and positive nature of this legislation.

6.2 Conclusions:

The recent incorporation of the development cost
charge provision into the Municipal Act embodies significant changes to local government finance. This legislation will undoubtedly assist the local governments in British Columbia to reduce some of the financial strain and impact brought about by urban population growth. The fact that this legislation represents another form of municipal taxation specifically enacted for this purpose, is a progressive step in the direction of aiding municipalities to improve their financial situation.

The fact that this study has revealed that municipalities, using their administrative powers, are able to enter the realm of contractual negotiations - having similar affect as the past land use contract provision of the Municipal Act - brings up a serious implication relating to the development cost charge legislation. As this power to enter contracts gives municipalities a great deal of flexibility and freedom in the development and subdivision approval process, it could conceivably be used to abrogate the intent and philosophy of the new legislation.

As has been noted previously, it is clearly evident that the provincial government's philosophy behind the development cost charge provision was to make the legislation regulatory, uniform and taxing, rather than contractual on the basis of individual negotiation. The legislation can be seen as a means of providing municipalities with the legislative power necessary to acquire specific revenues - to offset its costs of servicing new development areas -
through specific means and under specific conditions. The underlying basis, being that the provincial government, in granting these powers has retained a considerable amount of discretion over the use of such power.

In effect, by using their administrative power as an alternate means of acquiring revenues from developers - or any other consideration which can be negotiated in the contract - municipalities could create much the same type of situation as existed prior to the enactment of "Bill 42". Inconsistencies, delays and other problems which prompted the provincial government to repeal the land use contract provision of the Municipal Act, could occur and defeat the whole purpose of the new legislation.

Although it is hoped that many, if not most, municipalities will respect the provincial government's intent in enacting the development cost charge provision, unfortunately, the opportunity to abrogate this legislation does exist. The onus is on the municipalities to use their administrative and legislative powers in a just and responsible manner for the purposes they were intended. If municipalities do their utmost to carry out the spirit and intent of the new legislation, the ultimately hoped for result of greater certainty will probably prove just as popular with them as it is intended to prove with most developers.

6.3 Suggestions for Further Research:

From the outset, the present study was intended to
be an exploratory investigation into impost fees and development cost charges in British Columbia. It was realized that a total comprehensive study of the subject matter could not be accomplished within the limited time available. As such, there are several areas of research which were beyond the scope of this study. It is hoped that the information presented herein will serve as a pilot investigation for more in-depth studies in the near future.

Having completed the research necessary to satisfy the objectives enunciated in the introductory pages, several suggestions can be made as to the direction in which further research should be channelled. Significantly, a more comprehensive examination of the implications of levies such as the impost fee and development cost charge would be desirable. Of particular merit would be studies which investigate the effects of these types of surcharges on development in general. Several unanswered questions come to mind: Did those municipalities, which applied impost fees, experience any significant decrease in the amount of development because of such fees? If so, what are the short and long term financial implications associated with the decrease? Further, the significance of the development cost charge to municipal revenue would also be advantageous.

Another issue requiring additional research is that of determining the effect these types of fees have on the price of housing. An investigation into this aspect would be very useful in evaluating the merits and demerits
of such fees. If further research were to indicate that development cost charges significantly increases the price of housing, a major review of the costs and benefits and the future prospects of this instrument might be in order.

Although development contracts and the municipalities' use of its administrative power to achieve similar purposes as the development cost charge has been discussed in this study, due to the scope of this study, research into the full potential of this power was not possible. The fact that the use of administrative power allows a municipality to enter contracts would suggest that a vast array of municipal objectives could be achieved in this way. Further research into the possible uses of this power would definitely be an asset to municipal government.

6.4 Implications for Planning:

This current study has three major implications for planning. Firstly, if this study achieves one of the prime purposes for which it was undertaken - that being to impart a better understanding of the philosophy, intent and historical evolution of impost fees and development charges - it should reduce the adverse criticisms and stigma associated with such fees. With public awareness and support, financial planning for growth is apt to be considerably more successful.

Secondly, the information presented herein provides the municipalities, themselves, with the opportunity of, perhaps, gaining a better insight into the evolution of the
concepts so they will be able to appreciate and do their best to carry out the spirit and intent of the new legislation. Further, the appendix information pertaining specifically to the calculation of development cost charges and the suggestions relating to some of the considerations and cautions regarding the drafting of the by-laws should prove to be advantageous for those municipal planners who may become involved with this concept.

Finally, and possibly the most significant implication derived from this study, is that, municipalities do not have to rely on the development cost charge legislation as the only means to acquire revenues from developers. The study revealed that by exercising their administrative power, municipalities can enter agreements with developers and contract with them to provide either revenues to be used for any purpose the municipality chooses, or, any other consideration which can be negotiated into the contract. As the use of this power in this manner allows the municipalities to enter the realm of contractual negotiations, it gives them a great deal of flexibility and freedom in the development and subdivision approval process.
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APPENDICES
Name of Municipality ___________

Please return to:
Alan Kuroyama,
#305 - 1585 West 11th Ave.,
Vancouver, B.C.

"THE MUNICIPAL CASH IMPOST FEE IN BRITISH COLUMBIA -
THE CONCEPT AND THE ISSUES"

QUESTIONNAIRE

1. Does your municipality presently levy any type of impost fee or development surcharge?
   Yes _____  No _____

2. If "no", please state whether your municipality has any intentions of adopting this type of policy in the future.
   Yes _____ (expected date of adoption ___________)
   No _____

3. If "yes", please clarify by checking the appropriate space and stating the amount charged:

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<td>Municipal Arterial Roadway Levy</td>
<td></td>
</tr>
<tr>
<td>Municipal Non-Arterial Roadway Levy</td>
<td></td>
</tr>
<tr>
<td>Storm Sewer Systems Levy</td>
<td></td>
</tr>
<tr>
<td>Waterworks Levy</td>
<td></td>
</tr>
<tr>
<td>Acquisition and/or Development of Public Lands Levy</td>
<td></td>
</tr>
<tr>
<td>Others (please specify)</td>
<td></td>
</tr>
</tbody>
</table>

Total
Additional Comments and Clarification (if necessary). Use additional sheets if required.

4. Please explain the means of implementation (i.e., Is the impost fee being levied in conjunction with a Land Use Contract? If not, what other procedure is being used?). Use additional sheets if required.
5. Have you encountered any problems with the impost fee concept or your means of implementation? Use additional sheets if required.

6. Additional Comments. Use additional sheets if required.
## APPENDIX 2

### TABLE 1: POPULATION, SHOWING NUMERICAL AND PERCENTAGE CHANGES FOR CANADA AND BRITISH COLUMBIA - 1901-1971

<table>
<thead>
<tr>
<th></th>
<th>1901</th>
<th>1911</th>
<th>1921</th>
<th>1931</th>
<th>1941</th>
<th>1951</th>
<th>1961</th>
<th>1971</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canada</td>
<td>5,371,315</td>
<td>7,206,643</td>
<td>8,787,949</td>
<td>10,376,786</td>
<td>11,506,655</td>
<td>14,009,429</td>
<td>18,238,247</td>
<td>21,568,311</td>
</tr>
<tr>
<td></td>
<td>(11.1%)</td>
<td>(34.2%)</td>
<td>(21.9%)</td>
<td>(18.1%)</td>
<td>(10.9%)</td>
<td>(21.8%)</td>
<td>(30.2%)</td>
<td>(18.3%)</td>
</tr>
<tr>
<td>British Columbia</td>
<td>178,657</td>
<td>392,480</td>
<td>524,582</td>
<td>694,263</td>
<td>817,861</td>
<td>1,165,210</td>
<td>1,629,082</td>
<td>2,184,621</td>
</tr>
<tr>
<td></td>
<td>(82.0%)</td>
<td>(119.7%)</td>
<td>(33.7%)</td>
<td>(32.3%)</td>
<td>(17.8%)</td>
<td>(42.5%)</td>
<td>(39.8%)</td>
<td>(34.1%)</td>
</tr>
</tbody>
</table>

### TABLE 2: POPULATION, SHOWING NUMERICAL AND PERCENTAGE CHANGES FOR MAJOR LOCALITIES IN BRITISH COLUMBIA - 1951-1971

<table>
<thead>
<tr>
<th>Locality</th>
<th>1951</th>
<th>1971</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Burnaby</td>
<td>58,376</td>
<td>125,660</td>
<td>115.3%</td>
</tr>
<tr>
<td>Cranbrook</td>
<td>3,621</td>
<td>12,000</td>
<td>231.4%</td>
</tr>
<tr>
<td>Kelowna</td>
<td>8,517</td>
<td>19,412</td>
<td>127.9%</td>
</tr>
<tr>
<td>Nanaimo</td>
<td>7,196</td>
<td>14,948</td>
<td>107.7%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Locality</th>
<th>1951</th>
<th>1971</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Port Coquitlam</td>
<td>3,232</td>
<td>19,560</td>
<td>505.2%</td>
</tr>
<tr>
<td>Prince George</td>
<td>4,703</td>
<td>33,101</td>
<td>603.8%</td>
</tr>
<tr>
<td>Richmond</td>
<td>19,186</td>
<td>62,121</td>
<td>223.8%</td>
</tr>
<tr>
<td>Saanich</td>
<td>28,481</td>
<td>65,040</td>
<td>128.4%</td>
</tr>
<tr>
<td>Surrey</td>
<td>33,670</td>
<td>98,601</td>
<td>192.8%</td>
</tr>
</tbody>
</table>
development permits which may require certain works to be carried out (see 702AA(2)(b)(c)(d)). Similarly the council may exercise its regulatory power under Section 702C by imposing development cost charges on every person who obtains subdivision approval.

These regulatory powers of a municipality must, of course, be exercised by bylaw. They are part of the legislative or law making function of local government. Among them is the right to pass bylaws under subsection 702 (zoning), 702AA (development permits), 702C (development charges), and 711(1)(d)(e)(f)(g) (subdivision services).

Unfortunately, because these sections of the Municipal Act deal in such detail with development charges and subdivision services, many have assumed (in my mind erroneously) that these enumerated legislative powers represent the only authority for a municipality to obtain public works from a developer.

The right of a municipality to enter a contract is among the municipality's "housekeeping" (not legislative) powers. Richmond entered development contracts with its developers under the specific "housekeeping powers" which council had under the Municipal Act. Far from being "never sanctioned by legislation" the powers were clearly set forth in a variety of places.
Contractual Obligation of the Municipality

To permit the developer to carry out the "works" upon the terms and conditions in the development contract:

(a) partly on land owned or controlled by the developer, for which rights-of-way would be granted to the municipality, and

Municipal Authority and Comments

(References are to the Municipal Act)

-See below, comments opposite

"To accept the systems --"

-S.17 gives municipalities "full power to acquire by purchase, lease or otherwise --- real property".

-Division (1) of Part XII also provides the authority to acquire real property (particularly S.464 and S.466).

-S.531 specifically permits Council to acquire real property and rights-of-way for the extension and alteration of drainage and sewerage systems.
Contractual Obligation of the Municipality

(b) partly on public land dedicated as a road;

and

To accept the systems of "works" as public systems,

Municipal Authority and Comments

-S.506 gives the right of possession of dedicated highways (including roads) to the municipality.

-S.461(1) permits Council to impose terms and conditions upon those excavating in any portion of a highway.

-S.247(3) provides, under the general heading of incurring liabilities, that "Council may contract for the supply of materials, equipment, and services, professional or otherwise, required for the operation, maintenance and administration of the municipality and of municipal property ---".

-S.513(2) gives Council the following powers:

"(a) layout, construct, maintain, and improve highways or any portion thereof;"
"(b) construct, repair, maintain, improve, and care for sidewalks and boulevards upon highways.---"

"(c) ---provide lighting for highways, and to do such things as are necessary for the safe use and preservation of highways;

-S.531 permits Council to establish a system of sewerage works (sanitary sewers and storm drains) and "purchase or construct the necessary works --- including acquisition of all appliances, equipment, real property, easements and rights-of-ways required therefor" and "to improve, extend, or alter any existing drainage or sewerage systems---"

-S.551 gives Council authority to exercise powers, such as those in S.506(1) and
Contractual Obligation of the Municipality

but reserving the right to the municipality, in its sole and absolute discretion, to make the facilities available to the developer's lands or otherwise to dispose of the facilities.

Obligations of the developer

To supply all material and labour to fulfill the "works". ("works" were defined as "a complete system of public works, including a system of water services, sidewalks, paved roads, street lights, storm sewerage, lateral..."

Municipal Authority and Comments

S.563, to establish or acquire and to operate a water distribution system and maintain, extend or alter its works---"

-This covenant preserves the municipality's right to exercise proprietary and housekeeping powers with regard to the "works" being constructed by the developer for the municipality.

It avoids the possibility of the developer being placed in the position of being able to claim an interest in the works.

Municipal Authority and Comments

(References are to the Municipal Act)

SEE:

-S.247(3) Supra. (authority to contract)
-S.551 Supra. (water distribution)
-S.513(2)(b) Supra. (sidewalks)
-S.513(2)(a) Supra. (paved roads)
Obligations of the developer

sewers, and certain other services").

To construct the "works" as fully complete and operational works, at the developer's expense.

To complete the "works" within 1 year from the date of the development contract.

To assign, transfer and convey to the municipality the developer's interest in the "works"

To assign, transfer and convey to the municipality the developer's interest in the lands upon or in which the "works" are situated (other than in regard those along dedicated roads).

Municipal Authority and Comments

-S.513(2)(d) Supra. (street lights)

-S.531 Supra. (sewerage)

-The covenant simply forms part of the developer's consideration given in return for the municipality's undertaking to permit the developer to carry out the "works".

-S.247(3) Supra. (acquisition of equipment)

-S.17 and Sections 464, 466 and 531 (acquisition of real property).
Obligation of the developer

To maintain the "works" for a period of 1 year from the date of the Council's Resolution of Completion.

To deposit with the municipality security in the form of a certified cheque or letter of credit for the performance of the developer's undertakings.

To stake out each subdivided lot in the subdivision (if any) with approved markings -- and protect and keep the markings in place during the course of construction and development.

To pay for and erect street signs.

Municipal Authority and Comments

- This covenant also forms part of the developer's consideration given in return for the municipality's undertaking to permit the developer to carry out the "works".

- and, where applicable, see -S.461(1) Supra.
  (imposition of conditions upon those excavating in highways)

- S.573(2)(a) Supra.
  (improve highways)
Obligation of the developer
To pay for, erect and maintain various protective devices to insure the safety of the public during the construction of the works.

To save harmless and indemnify the municipality against claims brought by reason of the execution of the "works"; and against expenses incurred by reason of liens for non-payment of labour and materials etc.

To carry Comprehensive Liability Insurance, naming the municipality as an additional insured, in partial discharge of the developer's obligation to save the Municipality harmless.

Municipal Authority and Comments
-S.461(1) Supra.

(imposition of conditions upon those excavating in highways)

-These covenants form part of the developers consideration given in return for the municipality's undertaking to permit the developer to carry out the "works"

Such undertakings are common in standard municipal construction contracts.
Obligation of the developer
municipality against all expenses incurred as a result of faulty workmanship and defective material in any of the "works"
To agree that no representations, guarantees, or promises to the developer, other than those contained in this contract were made by the municipality; and that the developer has entered the contract solely in consideration for the municipality permitting the developer to perform the "works" -- "which covenant is the full and only consideration given by the municipality"

Municipal Authority and Comments
-This covenant was necessary to insure that the developer understood and acknowledged his undertakings were being given in return for the single basic undertaking of the municipality -- viz. that it will permit the developer to carry out the "works". In this way it was made clear that the municipality was not bargaining away any of its regulatory powers, an impropriety which had crept into development contracts prepared for some other communities. The covenant also preserves the municipality's right to exercise its proprietary and housekeeping powers with regard to the facilities being constructed by the developer for the municipality. These can be administered
Obligation of the developer

Municipal Authority and Comments

by the municipality with the same independence of action it exercises in connection with those parts of the public works systems built at direct municipal expense. This avoids the possibility of the developer being placed in a position of being able to claim an interest in the "works" above and beyond any other property owner.
No one questions the right of a municipality to enter into an agreement with a contractor to install works and services for a fee agreeable to the contractor. Fraud apart, the courts don't look into whether the "consideration" in a given contract is insufficient, adequate or overly generous. It is assumed that the parties, in entering into an agreement of their own volition, are doing so in their own best interests. Contracts are bilateral - with the consent of two parties; while bylaws are unilateral, in the sense that council sets the ground rules and everyone is bound whether they agree with the law or not.

In Richmond the council was very careful not to put itself in a position of being accused of impropriety. (viz.: the appearance of selling rights under its "police power" bylaws -- a practice which is clearly wrong. See City of Vancouver vs. Registrar of Vancouver Land Registry District. 15 WWR 351 @ 356 (CABC).)

First, it had in place the customary zoning and subdivision control bylaws (via its "police powers"). Subdivision bylaws at that time could require only a limited provision of services (not including the water and sewer) as a condition precedent to approval of subdivisions. However, council by resolution had on file a policy statement directed to its engineering department making it clear that the public water and street lighting utilities were to be connected to fully serviced subdivisions only. In other words, a developer could not call for connection to
the public water utility system if his subdivision was not "fully serviced". In a housekeeping bylaw, council had established, for the guidance of the municipal engineer and for the information of private developers, the specific types and standards of services required in a "fully serviced" subdivision.

In the unlikely event someone wished to subdivide land for, say, estate purposes they could exercise their prerogative under the subdivision control bylaw (a regulatory bylaw). But unless they provided full subdivision services, the municipality would not extend services to the new subdivision.

If the developers wished to wait until the municipality had the resources to service the area out of general revenue funds that option was open. If however, they chose to enter a development contract to put in all subdivision services, at their private expense (both on-site and off-site), that was a possibility the benefits of which each developer could weigh for himself. Council, in entertaining such development contracts was exercising purely housekeeping or administrative powers (unlike the "police powers" under which the subdivision control bylaw had been passed).

In summary, Richmond separated its legislative actions from those authorized under its housekeeping powers.
It was scrupulously careful in adopting its zoning and subdivision control bylaws. The approving officer would not refuse any application to subdivide under those bylaws, despite the fact only partial servicing (largely roads and storm drains) were all that it was possible to demand under the law at that time.

However, at the same time, the municipality under its housekeeping powers did not permit such subdivision to be connected up to the water service (in the event the developer chose to avail himself of the subdivision control bylaw) unless he entered a contract to install all of the services established under the policy bylaw giving instructions to the municipal engineer. As you can see, the procedures which were established in Richmond necessitate a clear understanding of what a municipality can and cannot do under its "regulatory" and "housekeeping" powers respectively.

If a municipality chose to use this approach, I suggest that their solicitor be asked to prepare the necessary bylaws and staff instructions required to bring it about. There are a number of specific legal questions which must be considered. For instance, one of the Cam-Ker court decisions (Abbotsford) indicated that if the water service is being supplied to a given neighbourhood by virtue of a bylaw passed under Section 616 (specified areas) of the Municipal Act, there may be an obligation on the
part of the municipality to supply water services. I assume that if a municipality was operating under Section 560(2) of the Municipal Act and had set up a water distribution system under the general terms of that section, the reasoning in the Cam-Ker decision would not apply.

Yours truly,

W.T. Lane
Commissioner
Regional Development
Mr. B. Porter:

Surrey utilizes imposts in two other instances (beside the land use contract method). The first one is in the form of development or servicing agreement. We have based our development or servicing agreements form of imposts on Section 711(4) of the Municipal Act. This is where the Approving Officer can reject a subdivision if he considers the cost excessive to the municipality. We have also based them, to a lesser extent, on Section 96 of the Land Registry Act. What we do in a preliminary subdivision layout letter, given to an applicant for subdivision, is to indicate that the Approving Officer has considered a subdivision and is likely to reject the subdivision unless the applicant is prepared to pay the imposts as indicated. We then list the imposts and ensure to use the words "is likely" or the word "may" because in no way can the absolute discretion of the Approving Officer be fettered. He must still have the option of approving, if necessary; but the Approving Officer may not approve a subdivision because he considers the cost excessive to the municipality. You have got to be able to prove that those costs are excessive. The Approving Officer is going to have to sustain his decision. He is going to have
to say that he has spoken to the Engineer, and the Engineer has said that without the payment of imposts, the costs of the development to the municipality will be excessive. We cannot provide parklands, and we cannot improve our arterial roads and upgrade our water facilities. The actual development agreement that the developer signs roughly says: "I acknowledge that the Approving Officer has indicated that he may have to reject my subdivision and accordingly I tender these following imposts to offset those costs occasioned by my development."

The development agreement, of course, is utilized where there are off-site services which require construction in municipal rights-of-way. There are also instances where a subdivision is nothing but a simple lot split on a road that is already constructed, where the water mains and sanitary sewer mains already run in front and there are no off-site requirements whatsoever. It is a simple split, a simple subdivision. There we have a little thing called a "mini-agreement", which in essence recites the same thing as the development agreement saying that "I acknowledge that the Approving Officer has said that he is not prepared to approve the subdivision unless the imposts to cover excessive costs are tendered." Once that agreement has been returned, the imposts are tendered, and it is signed by the developer, we sign the final subdivision plans.
## APPENDIX 5

### SAMPLE COMMUNITIES: CITIES AND MUNICIPALITIES WITH A POPULATION OVER 10,000 PERSONS (1971 CENSUS)

<table>
<thead>
<tr>
<th>Cities</th>
<th>Date of Response</th>
<th>Municipal District</th>
<th>Date of Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cranbrook</td>
<td>February 14</td>
<td>Burnaby</td>
<td>February 14</td>
</tr>
<tr>
<td>Kamloops</td>
<td>February 4</td>
<td>Campbell River</td>
<td>February 7</td>
</tr>
<tr>
<td>Kelowna</td>
<td>March 3*</td>
<td>Chilliwhack</td>
<td>February 17</td>
</tr>
<tr>
<td>Kimberley</td>
<td>February 16</td>
<td>Coquitlam</td>
<td>March 3*</td>
</tr>
<tr>
<td>Langley</td>
<td>March 2*</td>
<td>Delta</td>
<td>February 7</td>
</tr>
<tr>
<td>Nanaimo</td>
<td>March 2*</td>
<td>Esquimalt</td>
<td>February 7</td>
</tr>
<tr>
<td>New Westminster</td>
<td>February 10</td>
<td>Kitimat</td>
<td>February 14</td>
</tr>
<tr>
<td>North Vancouver</td>
<td>February 14</td>
<td>Langley</td>
<td>March 2*</td>
</tr>
<tr>
<td>Penticton</td>
<td>February 7</td>
<td>Maple Ridge</td>
<td>February 10</td>
</tr>
<tr>
<td>Port Coquitlam</td>
<td>February 4</td>
<td>Matsqui</td>
<td>March 2*</td>
</tr>
<tr>
<td>Port Moody</td>
<td>March 2*</td>
<td>Mission</td>
<td>March 2*</td>
</tr>
<tr>
<td>Prince George</td>
<td>March 2*</td>
<td>Oak Bay</td>
<td>February 7</td>
</tr>
<tr>
<td>Prince Rupert</td>
<td>February 9</td>
<td>Powell River</td>
<td>February 21</td>
</tr>
<tr>
<td>Trail</td>
<td>February 15</td>
<td>Richmond</td>
<td>February 18</td>
</tr>
<tr>
<td>Vancouver</td>
<td>February 4</td>
<td>Saanich</td>
<td>February 10</td>
</tr>
<tr>
<td>Vernon</td>
<td>March 3*</td>
<td>Surrey</td>
<td>March 2*</td>
</tr>
<tr>
<td>Victoria</td>
<td>February 7</td>
<td>Terrace</td>
<td>February 10</td>
</tr>
<tr>
<td>White Rock</td>
<td>February 4</td>
<td>West Vancouver</td>
<td>February 18</td>
</tr>
</tbody>
</table>

* Response by telephone.
The following is a synopsis of the responses submitted by those localities in British Columbia which had adopted the impost fee concept by March 3, 1977. The synopsis is disaggregated according to locality, and for each locality information dealing with fee apportionment and means of implementation is included. The information presented herein is only applicable to those dates, which are listed in Appendix 5 and which correspond to the date of each submission. Minor discrepancies may occur because there may have been some slight, unintentional misinterpretations of the responses. Furthermore, the ensuing descriptions of cash impost structures are presented in varying degrees of completeness, the reason being that the information provided in the questionnaires and telephone conversations varied in terms of content.

6.1 THE CITY OF CRANBROOK

Unlike many other communities which were assessing a "per unit" impost fee, the City of Cranbrook imposed a "per acre" impost of $1,300 for all types of residential development. This assessment was required by the City as a prerequisite for final approval of a development and was considered to be a "storm sewer fee". Thus, if storm sewers
were required in a development, the City was responsible for all costs. In short, the developer paid the storm sewer fee, constructed and supplied the storm sewer, and was reimbursed by the City for the total costs incurred. The reimbursements were extracted from the "Storm Sewer Fund", which was a collection of all revenue acquired in this manner.

6.2 THE CITY OF KAMLOOPS

The City of Kamloops was implementing a system in which all single family dwellings and duplexes, which were constructed under a land use contract, were charged $2,130 per unit (i.e., duplexes were assessed a total of $4,260). Multiple density residential units, which were similarly under a land use contract, were assessed $1,850 per unit. In the City of Kamloops, impost fees were not charged against those developments which did not require land use contracts. The rationale for the $2,130 levy was as follows:

\[
\begin{array}{ll}
$350 & \text{Water Levy} \\
350 & \text{Sanitary Sewer Levy} \\
430 & \text{Storm Sewer Levy} \\
700 & \text{Road Levy} \\
300 & \text{School and Parkland Levy} \\
\hline
$2,130 & \text{Total Impost Fee (per unit)}
\end{array}
\]

This disaggregation of the impost fee was a direct result of a comprehensive study called the "City of Kamloops Rate Study" (1975), which was conducted by
Stanley Associates Engineers Limited, for the City of Kamloops. In the study, all sources of revenues and all types of costs were taken into consideration for the determination of an equitable and adequate impost fee rate structure. The above noted enumeration of levies was the direct result of this study and represents the average minimum costs of providing municipal services. The multiple density impost was computed in a similar manner, resulting in a fee of $1,850 per unit.

6.3 THE CITY OF KELOWNA

The City of Kelowna did not have a separate rate structure which was applied to single family dwellings, duplexes, or multiple density units. Rather, it utilized a variable rate structure which was applicable to all types of residential units. The disaggregation of the fee structure was as follows:

$ 5 per foot of taxable frontage for a Storm Sewer Levy
$300 per unit for a Sanitary Sewer Levy
$150 per unit for a Waterworks Levy

The Storm Sewer Levy was only assessed against those developments which were proposed to be located within the "old city" (i.e., the area which constituted the City of Kelowna prior to the 1973 amalgamation), or where the "old city" storm sewer system received run-off from the proposed development. In this case, the impost fee was implemented through a land use contract, or if one was not
applicable, the fee was acquired at the time of subdivision. On the other hand, the Sanitary Sewer Levy and the Waterworks Levy was assessed against all new developments on a per unit basis. The charges were acquired in one of three ways:

1. through a land use contract;
2. when a building permit was issued; or,
3. when the systems were connected to the municipal services.

6.4(a) THE CITY OF LANGLEY

The City of Langley had adopted an impost fee rate structure which was very similar to the system which was utilized by the Municipality of Surrey. The disaggregation of its rates is enumerated in the following table:

A DISAGGREGATION OF THE IMPOST FEE IN THE CITY OF LANGLEY

<table>
<thead>
<tr>
<th>Type of Impost Fee</th>
<th>Types of Residential Development (per living unit or additional lot created)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Municipal Non-Arterial Roadway Impost</td>
<td>Single Family</td>
</tr>
<tr>
<td></td>
<td>nil or</td>
</tr>
<tr>
<td></td>
<td>$ 650/unit</td>
</tr>
<tr>
<td>Municipal Arterial Roadway Impost</td>
<td>$ 200/unit</td>
</tr>
<tr>
<td>Downstream Drainage Facilities Impost</td>
<td>$ 300/unit</td>
</tr>
<tr>
<td>Waterworks Impost</td>
<td>$ 150/unit</td>
</tr>
<tr>
<td>Acquisition or Development of Public Lands Impost</td>
<td>$ 905/unit</td>
</tr>
<tr>
<td>Total Amount of Impost Fees</td>
<td>$1,555/unit or</td>
</tr>
<tr>
<td></td>
<td>$2,205/unit</td>
</tr>
</tbody>
</table>
In Langley, the above noted imposts were assessed as a requirement to defray excessive costs to the City and was stipulated in its "Development Policy". Extracts from the "Development Policy", which provide further details to the impost fee rate structure, follows:

6.4(b) EXTRACTS FROM THE CORPORATION OF THE CITY OF LANGLEY DEVELOPMENT POLICY APPLICABLE TO THE IMPOST FEE

THIS POLICY SHALL BE EFFECTIVE ON AND FROM THE FIRST DAY OF JANUARY 1977.

WHEREAS as a result of subdivisions and developments within the City, excessive funds to meet the demand for services created by such subdivisions and developments is required;

AND WHEREAS the demand for services imposed upon the City by the subdivisions and developments should be paid for by the lands creating the demand;

NOW THEREFORE the hereinafter stated policy shall be the established policy of the Corporation of the City of Langley to meet the demand for such services so that the City shall not be called upon to expend excessive funds to meet the said demands.

B. HIGHWAYS

(7) Municipal Non-Arterial Roadway Impost

Where a proposed subdivision or development fronts
on an existing non-arterial roadway, as defined in the Subdivision Control By-Law which is not constructed to present subdivision standards, and which is not upgraded by the developer as part of the subdivision or development works (at the option of the City), the developer shall pay an impost of $650 for each additional lot created or unit included in the development abutting the said roadway, to defray the City's share of upgrading non-arterial roads to existing subdivision standards or at the option of the City, the City shall accept funds equal to the actual construction costs of the said roadway ...

(8) Municipal Arterial Roadway Impost

For the purpose of defraying the excessive costs to the City required for the upgrading and improvement of highways in the City made necessary by the increased population and traffic density created by subdivisions and developments, the developer of each subdivision and development shall pay an impost of $200 for each additional lot created by the subdivision or each unit included in the development ... All funds received by the City from each such impost shall be held and used by the City for the purpose of upgrading and improving arterial roadways.
C. DOWNSTREAM DRAINAGE

(1) For the purpose of defraying the excessive cost to the City of providing funds required for the upgrading and improvement of drainage facilities made necessary by the increased flow created by subdivisions and developments, the developer of each subdivision and development shall pay an impost of $300 for each additional lot created by subdivision or each unit included in the development ... All funds received by the City from such impost shall be held and used by the City for the purpose of upgrading and increasing the flow capacity of drainage facilities.

E. WATERWORKS

(1) For the purpose of defraying the excessive costs to the City of providing funds required for the upgrading and improvement of main trunks and supply facilities of the waterworks system made necessary by the increased service requirements created by subdivision and development, the developer of each subdivision and development shall pay an impost of $150 for each additional lot created by the subdivision or each unit included in the development ... All funds received by the City for up-
grading and improving of the main supply facilities of the waterworks system.

(2) Where an extension of a water main passes existing registered lots which cannot be subdivided further and/or do not require rezoning to develop, the developer shall provide a water service connection where practicable to each such lot. The City will reimburse the developer $300 for each water connection required under this section.

K. ACQUISITION OF PUBLIC LANDS

For the purpose of defraying excessive costs to the City of providing funds required for the acquisition and development of parks and recreation facilities required for parks, playgrounds, recreational and public use purposes, including commercial parking lots which are needed to serve the increased population created by subdivisions and developments the following charges are imposed for the uses set out in the following table:

<table>
<thead>
<tr>
<th>Authorized Development</th>
<th>Impost Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>$905 per unit</td>
</tr>
<tr>
<td>Multi-Family Residential</td>
<td>$500 per bedroom den, study or studio (max. of $1,500 per unit)</td>
</tr>
</tbody>
</table>

All funds received by the City from such impost shall be held and used by the City for the acquisition and development of lands required for parks, playgrounds, recreation
facilities and other public use purposes, including commercial parking lots. Provided that the City may accept land in lieu of cash, or partly land and partly cash, to satisfy this requirement; provided further that the value to be imputed to the land offered by the developer for this purpose shall be arrived at by mutual agreement. (The current general land assessment shall be used to determine the land value.)

SOURCE: The Corporation of the City of Langley Development Policy.

6.5 THE CITY OF NANAIMO

The City of Nanaimo did not assess impost fees on single family dwelling nor duplexes, per se. However, the City did charge $1,300 per lot in all new subdivisions. This money was acquired as a condition for subdivision approval. In the case of multiple density units, the City of Nanaimo assessed $1,300 per unit, and this was collected at the time the building permit was issued. Their disaggregation of the fee was as follows:

<table>
<thead>
<tr>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>$250</td>
<td>Highways Levy</td>
</tr>
<tr>
<td>150</td>
<td>Storm Drainage Levy</td>
</tr>
<tr>
<td>250</td>
<td>Sanitary Sewer Levy</td>
</tr>
<tr>
<td>250</td>
<td>Water Levy</td>
</tr>
<tr>
<td>400</td>
<td>Public Lands Levy</td>
</tr>
<tr>
<td>$1,300</td>
<td>Total Impost Fee</td>
</tr>
</tbody>
</table>

---
6.6 THE CITY OF NORTH VANCOUVER

The City of North Vancouver assessed a minimal impost of $50 per unit for all types of residential dwellings. This fee was collected for the acquisition and/or the development of public lands and was levied at the time of building permit issuance.

6.7 THE CITY OF PENTICTON

The City of Penticton had one rate structure which was applicable to all types of residential developments. Its impost fee, which was acquired through land use contracts, amounted to $1,700 per unit or $1,930 per unit, depending upon the location of the proposed development. The impost fee included:

- $400 Municipal Arterial Roadway Levy
- 345 Storm Sewer System Levy
- 460 or $690 Waterworks Levy (depends upon the location of the development)
- 495 General or Unspecified Levy

Total Impost Fee (per unit) $1,700 or $1,930

6.8 THE CITY OF PORT COQUITLAM

In the City of Port Coquitlam, there was one standard per unit fee ($1,100) imposed upon all types of residential development. This fee was comprised of two levies - $300 for the Waterworks Levy and $800 for the Public Lands Levy. The City acquired this fee in one of three ways:
1. in the case of rezonings, these fees were collected prior to the approval of the rezoning;
2. in the case of subdivision, these fees were collected prior to subdivision approval; or,
3. if neither of the above was applicable, these fees were then collected at the time of issuance of the building permit.

6.9 THE CITY OF VERNON

In the City of Vernon, the impost fee was computed to be $800 per unit for single family dwellings and duplexes, and $600 per unit for multiple density dwellings. In the former case, the impost was collected as a subdivision fee and was a prerequisite for subdivision approval. In the latter case, the impost was collected in conjunction with a land use contract. The impost apportionment is enumerated in the following table:

A DISAGGREGATION OF THE IMPOST FEE IN THE CITY OF VERNON

<table>
<thead>
<tr>
<th>Type of Impost Fee</th>
<th>Types of Residential Development (per living unit or additional lot created)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Single Family Dwelling/Duplex</td>
</tr>
<tr>
<td>Water Levy</td>
<td>$300/unit</td>
</tr>
<tr>
<td>Sewer Levy</td>
<td>$300/unit</td>
</tr>
<tr>
<td>Parks Levy</td>
<td>$200/unit</td>
</tr>
<tr>
<td>Total Amount of Impost Fees</td>
<td>$800/unit</td>
</tr>
</tbody>
</table>
6.10 THE CITY OF WHITE ROCK

In the City of White Rock, there was no impost fee assessed on the construction of a single family dwelling or duplex. However, there was a $1,500 per unit levy imposed upon the construction of multiple density residences, which was collected through the use of land use contracts. The rationale for the amount of fee is as follows:

- $1,000 for the acquisition and/or development of public lands
- 500 for general improvements to public utilities
- $1,500 Total Impost Fee (per unit)

6.11(a) THE MUNICIPAL DISTRICT OF BURNABY

The Municipality of Burnaby levied an impost fee used exclusively to acquire property suitable for neighbourhood park purposes. Its impost, called the Parkland Acquisition Levy, was applied to those areas of the municipality which were experiencing a rapid rate of development or redevelopment to higher density residential uses. The levy was equal to 50 percent of the estimated acquisition cost of neighbourhood parkland. The amount of fee, according to the housing type is listed below.
THE AMOUNT OF IMPOST FEE BY HOUSING TYPE
IN THE MUNICIPALITY OF BURNABY

<table>
<thead>
<tr>
<th>Housing Type</th>
<th>Standard Levy/Unit</th>
<th>Senior Citizens Levy/Unit*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Dwelling</td>
<td>$ 521/unit</td>
<td>applicable to subdivision</td>
</tr>
<tr>
<td>Townhouse (12 u.p.a.‡)</td>
<td>$ 528/unit</td>
<td>$ 264/unit</td>
</tr>
<tr>
<td>Garden Apartment (20 u.p.a.‡)</td>
<td>$ 630/unit</td>
<td>$ 315/unit</td>
</tr>
<tr>
<td>3-Storey Apartment (50 u.p.a.‡)</td>
<td>$1,125/unit</td>
<td>$ 562/unit</td>
</tr>
<tr>
<td>RM4 High Rise (80 u.p.a.‡)</td>
<td>$ 950/unit</td>
<td>$ 475/unit</td>
</tr>
<tr>
<td>RM5 High Rise (100 u.p.a.‡)</td>
<td>$1,080/unit</td>
<td>$ 540/unit</td>
</tr>
</tbody>
</table>

*On September 27, 1976, Council adopted the recommendation that the Parkland Acquisition Levy for senior citizens' residential developments be reduced to 50 per cent of the per unit levy established for standard residential units.

In the Municipality of Burnaby, the Parkland Acquisition Levy was assessed in three ways. Firstly, in the case of subdivisions, it was acquired as a condition of subdivision approval. Secondly, if a rezoning was required, the impost was assessed as a condition of rezoning approval. Finally, if neither of the former alternatives were applicable, the fee was applied at the preliminary plan approval stage.

Further information relating to the Parkland Acquisition Levy in Burnaby, follows.
6.11(b) THE PARKLAND ACQUISITION LEVY

Applied to Residential Development in Burnaby
(Updated September 28, 1976).

There has been a concern on the part of Council as to the adequacy of parks and open green space in specific areas of Burnaby which are now experiencing a rapid rate of development or redevelopment to higher density residential uses. A second major concern is whether the cost of providing additional park space necessitated by increasing residential population should be borne by the developers of residential projects or by the community at large.

Through the Parks Acquisition Programme which has been developed jointly by the Parks and Recreation Commission and Department and the Planning Department, the municipality has a method to acquire property suitable for park purposes as it becomes freely available or as finances permit. However, the expenditure of funds for parkland acquisition emphasizes the major consolidation of community park areas and systems. The increase in densities in a number of designated developing residential areas has resulted in a concomitant need for additional neighbourhood parks. Due in part to the financial priorities and constraints of the municipality in budgeting for parkland acquisitions, it has been deemed appropriate that the developers of new residential developments should bear some responsibility for the provision of necessary neighbourhood parks.
On December 29, 1975, Council adopted the following recommendations establishing a Parkland Acquisition Levy on new residential development in Burnaby.

The adopted Recommendations are:

1. The Parkland Acquisition Levy applies to specific plan areas where the plan is expressed in maps, plans, and reports or any combination thereof, and is to be deposited in interest-bearing reserve accounts with record accounts established corresponding the Neighbourhood Planning Areas.

   Note: (a) a developer may dedicate appropriate designated parkland in lieu of levy deposits;
   
   (b) the levies which are collected are to be utilized to acquire neighbourhood parkland within the precinct of the Neighbourhood Planning Area or in any directly abutting area;
   
   (c) the determined levies for a given residential proposal are to be submitted by the developer in the form of a certified cheque in favour of the Corporation of Burnaby.

2. The Parkland Acquisition Levy applies in the following instances:

   (a) Subdivision Approval -

       A per unit levy for each additional subdivided
single family dwelling lot created from the original lot(s).

(b) Preliminary Plan Approval -
A per unit levy for any residential proposal which corresponds to the zoning regulation of a pre-zoned site zoned prior to 1970 according to the RM1, RM2, RM3 or RM5 zoning regulations but which has not been developed to its designated zoning category.

(c) Rezoning Approval -
A per unit levy for any residential rezoning proposal.

3. Council approved a levy equal to 50 per cent of the estimated acquisition cost of neighbourhood parkland resulting in the following levies. On September 27, 1976, Council adopted the recommendation that the Parkland Acquisition Levy for senior citizens' residential developments be reduced to 50 per cent of the per unit levy established for standard residential units.

<table>
<thead>
<tr>
<th>Housing Type</th>
<th>Standard Levy Per Unit</th>
<th>Senior Citizens Levy Per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Dwelling</td>
<td>$ 521/unit</td>
<td>(applicable to subdivision)</td>
</tr>
<tr>
<td>Townhouse (12 u.p.a.±)</td>
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<td>Garden Apartment</td>
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<td>$ 950/unit</td>
<td>$ 475/unit</td>
</tr>
<tr>
<td>RM5 High Rise (100 u.p.a.±)</td>
<td>$1,080/unit</td>
<td>$ 540/unit</td>
</tr>
</tbody>
</table>
Note: (a) The Burnaby recreational space standard employed for the provision of neighbourhood parks is 2.0 acres per 1,000 persons.

SOURCE: The Corporation of the District of Burnaby, Planning Department.

6.12 THE MUNICIPAL DISTRICT OF CHILLIWHACK

The District of Chilliwhack had two types of impost fees - a park dedication levy and a road frontage improvement charge. The former type of levy was acquired in either one of two ways:

1. a developer could either dedicate seven percent of the subdivided lands (in a location acceptable to the Township) to the Township; or,
2. he could pay a sum which was equal to seven percent of 80 percent of the value of the lots based on the appraisal of "subdivided worth".

The latter type of levy, the road frontage improvement charge, was based on the distance of development along an existing road. This impost was assessed on the basis of $25 per front foot of development abutting an existing road, plus $12.50 per front foot of development abutting on a side street (i.e., if a corner lot). All impost fees in the District of Chilliwhack were imposed as a condition of development approval.
6.13 THE MUNICIPAL DISTRICT OF COQUITLAM

The District of Coquitlam levied one per unit fee ($600) for all types of residential developments. This impost, like Burnaby's, was used for the expressed purpose of parkland acquisitions. It was acquired in the following manner:

1. Through rezonings: The parkland acquisition fee was required as part of a development agreement, between the developer and the Municipality. Unless a development agreement was signed, Council did not give fourth reading to the rezoning.

2. Through land use contracts: The parkland acquisition fee was charged as one of the terms of the Land Use Contract.

3. Through subdivision: The Council had instructed that the Approving Officer for the District consider not giving approval to subdivisions where the parkland acquisition fee had not been paid. In this case, the parkland acquisition fee was one of the conditions of approval for subdivision.

6.14 THE MUNICIPAL DISTRICT OF DELTA

The Municipality of Delta, like Coquitlam, levied one fee ($1,000) for all types of residential developments. This impost was assessed only in conjunction with a land use contract and was disaggregated as follows: 55 percent
of the $1,000 (or $550) was for the acquisition of public lands, and the remaining 45 percent (or $450) was for the purpose of capital projects and public works (i.e., unspecified impost).

6.15 THE MUNICIPAL DISTRICT OF LANGLEY

In the Municipality of Langley, there was one standard per unit fee ($1,600) imposed upon all types of residential development except single family dwellings. In the case of the single family dwelling, the amount of the impost fee was dependent upon the size of the lot on which the dwelling was to be situated. For instance, a standard size urban lot which was less than 0.5 acres was charged $1,600; a parcel of land which was comprised of 0.5 - 1 acre was charged $900; a parcel of land which was comprised of 1 - 2.5 acres was charged $650; and a parcel of land which was comprised of more than 2.5 acres was charged $600. All of the monies that were collected from the imposition of the impost fee were placed in a general trust fund for the following purposes:

1. acquisition of public lands;
2. provision of public utilities; and,
3. provision of municipal services.

This fee was levied with a land use contract or as a condition for subdivision approval.
The District of Maple Ridge had an impost which was called a "Community Service Fee". This levy was not disaggregated for specific purposes and was, thus, an unspecified impost, as discussed in an earlier section of this Chapter.

The Community Service Fee was assessed on the basis of $1,000 per unit for single family dwellings and duplexes. In the case of multiple density units, which were less than 30 units per acre, the $1,000 per unit impost was also applicable. However, if the density was greater than 30 units per acre, only $700 per unit was assessed.

The fee was acquired in one of three ways:

1. on any rezonings by land use contract, the fees as outlined above, were assessed as one of the conditions of the contract;

2. if the lands were being rezoned by an amendment to the Zoning By-law, the Community Service Fee was required prior to the final reading of the amendment; and,

3. for each additional single family lot being created, the developer entered into a "Subdivision Agreement" which called for the payment of the fee, per unit.
The District of Matsqui had a variable impost fee rate structure which was applicable only to those developments that required rezonings through land use contract. As such, it was acquired as one of the conditions of the contract. The impost fee for single family dwellings in Matsqui was equivalent to 17 percent of the estimated assessed value of the land for its proposed use. Similarly, for duplexes, the amount of fee was equal to 17 percent plus $225 and, in the case of multiple-density units, again the 17 percent assessed value was levied in addition to $225 per unit.

The disaggregation of this impost fee is as follows:

1. of the funds collected from the 17 percent assessment charge, ten percent was allocated to general development purposes (i.e., unspecified impost) and the remaining seven percent was reserved for parkland acquisition or development; and,

2. of the $225 impost assessed against duplexes and multiple density units, $125 was, again, allocated to general development purposes and the remaining $100 was for parks.

In Mission, the impost fee was assessed against
all new residential developments that required subdivision through land use contracts - there was no impost on existing lots. In the urban areas of Mission, the impost fee for single family dwellings was $1,250 per lot. For duplexes and multiple density units, the impost amounted to $1,250 for the first unit and $300 for each additional unit. This impost, levied for unspecified purposes, was deposited in the Municipality's "General Improvement Fund".

6.19 THE MUNICIPAL DISTRICT OF RICHMOND

Richmond was the first municipality in British Columbia to impose impost fees. It was first applied in the early 1960's and was referred to as a "Development Surcharge". At the time of survey, the Municipality was imposing impost fees which equalled $2,700 per unit for all types of residential developments. This impost was assessed for unspecified purposes and was acquired through land use contracts and servicing agreements.

6.20(a) THE MUNICIPAL DISTRICT OF SURREY

The Municipality of Surrey began imposing impost fees soon after its introduction by Richmond. It would appear that the rate structure in Surrey had been used as a model by several localities throughout the Province (e.g., the City of Langley). The rate structure was as follows:
In Surrey, the above noted imposts were assessed as a requirement to defray excessive costs to the Municipality and were acquired through land use contracts or servicing agreements. Extracts from Surrey's "Development Policy", which provides further information on the impost fee follows. (Note the similarities between the Municipality of Surrey "Development Policy" and the City of Langley "Development Policy".)

6.20(b) EXTRACTS FROM THE CORPORATION OF THE DISTRICT OF SURREY DEVELOPMENT POLICY APPLICABLE TO THE IMPOST FEE

WHEREAS as a result of subdivisions and developments within the Municipality, the Municipality is required to
expend excessive funds to meet the demand for services created by all subdivisions and developments.

AND WHEREAS the demand for services imposed upon the Municipality by every subdivision or development should be paid by the lands creating the demand.

NOW THEREFORE the hereinafter stated policy shall be established policy of the Municipal Council of the Corporation of the District of Surrey to meet the demand for such services, so that the Municipality shall not be called upon to expend excessive funds to meet the said demands created by any subdivision or development.

B. HIGHWAYS

(6) Municipal Non-Arterial Roadway Impost
Where a proposed subdivision or development fronts on an existing roadway (which is not an arterial road) which is not constructed to present Municipal subdivision standards, and which is not required by the Municipality to be upgraded by the Developer as part of the subdivision or development works, the Developer shall pay an impost of $650.00 for each additional lot created or unit included in the development abutting the said roadway, to defray the Municipality's share of upgrading non-arterial roads to existing Municipal subdivision standards ...
(7) Municipal Arterial Roadway Impost
For the purpose of defraying the excessive costs to the Municipality required for the upgrading and improvement of highways in the Municipality, made necessary by the increased population and traffic density created by subdivisions and developments, the developer of each subdivision and development shall pay an impost of $200.00 for each additional lot created by the subdivision or each unit included in the development ...
All funds received by the Municipality from such impost shall be held and used by the Municipality for the upgrading and improvement of arterial highways.

C. DOWN-STREAM DRAINAGE FACILITIES

(1) For the purpose of defraying the excessive cost to the Municipality of providing funds required for the upgrading and improvement of drainage facilities made necessary by the increased flow created by subdivisions and developments, the Developer of each subdivision and development shall pay an impost of $300.00 for each additional lot created by subdivision or each unit included in the development ...
All funds received by the Municipality from such impost shall be held and used by the Municipality for the purpose of upgrading and increasing the flow capacity of Municipal drainage facilities.

E. WATERWORKS

(1) For the purpose of defraying the excessive costs to the Municipality of providing funds required for the upgrading and improvement of main trunks and supply facilities of the waterworks system made necessary by the increased service requirements created by subdivisions and developments, the Developer of each subdivision and development shall pay an impost of $150.00 for each additional lot created by the subdivision or each unit included in the development... Provided however, that where such subdivision or development is served by a water system supplied from a well or wells, instead of the Municipal water system, no such impost shall be payable to the Municipality. All funds received by the Municipality from such impost shall be held and used by the Municipality for the upgrading and improvement of the main supply facilities of the Municipal waterworks system.
(2) Where an extension of a water main passes existing registered lots which cannot be subdivided further and/or do not require rezoning to develop, the developer shall provide a water service connection where practicable to each lot. The Municipality will reimburse the developer $180.00 for each water connection required under this section.

K. ACQUISITION OR DEVELOPMENT OF PUBLIC LANDS

For the purpose of defraying excessive costs to the municipality of providing funds required for the acquisition or development of lands required for parks, playgrounds, recreational and other public use purposes which are needed to serve the increased population created by subdivisions and developments, the following charges are imposed in the zones set out in the following table:

<table>
<thead>
<tr>
<th>Zones in Which Development Authorized</th>
<th>Impost Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>RS</td>
<td>$765.00/unit or additional lot created</td>
</tr>
<tr>
<td>R-1, R-2, R-3</td>
<td>$905.00/unit or additional lot created</td>
</tr>
<tr>
<td>RM-1, RM-2, RM-3</td>
<td>$1,295.00/unit or additional lot created</td>
</tr>
</tbody>
</table>

All funds received by the Municipality from such impost shall be held and used by the Municipality for the acquisition or development of lands required for parks, playgrounds, recreational and other public use purposes.

The Municipality of West Vancouver imposed a type of levy called a "Capital Services Fee", which attempted to capture a portion of the increased value of those lands, which through rezonings or the land use contract were allowed an increase in density. This levy was unlike the impost fees assessed in the aforementioned communities - which were used to recover a portion or all of the municipal costs required to service new development areas - and, was also dissimilar to the description stated in Section 4.2 of the main text. However, since it was an additional financial requirement assessed upon certain developments and subdivisions for an unspecified purpose, in this sense it was a type of impost fee.

The Capital Services Fee - which was only acquired through a land use contract and only assessed against those lands which were allowed an increase in density - was calculated on the basis of a formula which was developed by Mr. Barnes, a past Municipal Manager of West Vancouver. The formula, which was known as the Barnes Formula, is as follows:

\[
\frac{\text{Incremental Assessed Value of Land (}x\text{)}}{\text{Total Assessed Value of Taxable Land}} \times \frac{\text{Current Value of Municipal Equity}}{\text{Capital in Assets}} = \text{Capital Service Fee}
\]

When the appropriate components are imputed into this formula, it is simplified as follows:
Capital Service Fee = Incremental Assessed X 39.22% Value of Land (x)

Additional information relating to this formula follows, and is in the form of a memo addressed to Mr. G.W. Horwood, Director of Financial Services, from Mr. I.T. Lester, Municipal Manager.
Memo To: I.T. Lester,
Municipal Manager.

From: G.W. Horwood,
Director of Financial Services.

Re: Capital Service Fees - Barnes' Formula Up-Date.

Updated Formula

The formula we have used for Capital Service Fees has been updated to bring valuation of municipal assets to a current basis and to use the most recent assessment. Following the same assumptions and criteria used by Barnes, indexing assets owned at that time, including new assets, the formula to calculate Capital Service Fee for change in land use would be as follows:

\[
\frac{\text{Incremental Assessed Value of Land}}{\text{Total Assessed Value of Taxable Land}} \times \text{Current Value of Municipal Equity in Assets} = \frac{(x) \times $84,964,936}{\$216,655,141} = \text{Capital Service Fee}
\]

so that Capital Service Fee would be equal to:

\[\frac{\text{Incremental Assessed Value of Land (x)}}{39.22}\]
The original formula was:

\[
\frac{(x)}{185,008,510} \times 49,969,073 \text{ or } 27.01\%
\]

Increased Percentage

The sharply increased percentage is due to:

(a) the assessment restriction (net increase 17%);
(b) increase in municipal assets (total 70%) as follows:

- increase value of 1972 assets \( \$27,159 \)
- value of new assets acquired 1973 to 1975 \( \$7,505 \)
- debt repayment less increased fundings \( \$332 \)

\( \$34,996 \)

Asset Value 1972 \( \$49,969 \)

Asset Value December 1975 \( \$84,965 \)

Asset categories are detailed and compared on the attached schedule.

Objectives and Assumptions

One objective of revising the formula was to create a format whereby the formula could be updated through indexing and asset appraisal on a regular basis but at a minimum cost. The most accurate way was to revalue all the municipal assets through a complete appraisal which would be prohibitively expensive. 70% of the 1972 base assets could be indexed or taken directly from our financial statements and the remainder, 30% could
also be indexed but subject to an estimation of depreciation.

The following assumptions were used in arriving at the current values of municipal assets:

1. **Land and Buildings** were indexed following discussions with the Provincial Assessment Authority and use of Asset Conversion Tables used by that Authority. My values attached to these Assets were conservative in all cases and because Land and Buildings represents in excess of 72% of the total value of municipal assets. The entire valuation of municipal assets is therefore conservative.

2. **Machinery and Equipment** is set at 80% of the value of the 1972 asset base plus any additions; this allowed for increased replacement cost, less depreciation, and is a very conservative interpretation of Statistics Canada's Wholesale Price Index.

3. **Land Development Costs** - These figures were taken as an average of costs determined by the Parks and Recreation Department and represent replacement cost of current development.

4. For additions in the 1973-75 period, I have assumed that the cost is a reasonable measure for value at the time of the addition, and have indexed accordingly and taken estimates of depreciation.
5. **Equity in School Assets** is shared 50% with the Provincial Government.

6. Assets excluded from the value were the same as 1972, i.e., standard two-lane roads, water distribution systems and a sewer lateral system. These are normally assets provided by the developers.

7. The value of the **Sewer Plant and Interceptor, and Lions Gate Hospital**, have been consistently assumed as being equal to the debt repaid.
## VALUATION OF ASSETS OF THE CORPORATION OF THE DISTRICT OF WEST VANCOUVER OTHER THAN THOSE NORMALLY PROVIDED AS PART OF A SUBDIVISION

<table>
<thead>
<tr>
<th>School District</th>
<th>Value Dec./72</th>
<th>Current Value Dec./75</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>$5,140,000</td>
<td>$7,840,500</td>
</tr>
<tr>
<td>Buildings and Structures</td>
<td>14,708,000</td>
<td>20,350,000</td>
</tr>
<tr>
<td>Land Development</td>
<td>2,235,000</td>
<td>2,979,504</td>
</tr>
<tr>
<td>Equipment</td>
<td>3,269,000</td>
<td>3,156,000</td>
</tr>
<tr>
<td>Vehicles and Machinery</td>
<td>20,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>25,372,000</td>
<td>34,326,004</td>
</tr>
<tr>
<td>Less Provincial Share</td>
<td>(12,686,000)</td>
<td>(17,163,002)</td>
</tr>
<tr>
<td>Municipal Share</td>
<td>12,686,000</td>
<td>17,163,002</td>
</tr>
<tr>
<td>Less Debt</td>
<td>(4,107,768)</td>
<td>(4,407,692)</td>
</tr>
<tr>
<td>School District Equity</td>
<td>$8,578,232</td>
<td>$12,755,310</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Parks and Recreation</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>$14,977,000</td>
<td>$29,994,000</td>
</tr>
<tr>
<td>Buildings and Structures</td>
<td>1,026,000</td>
<td>2,444,000</td>
</tr>
<tr>
<td>Land Development</td>
<td>4,650,000</td>
<td>6,510,042</td>
</tr>
<tr>
<td>Equipment</td>
<td>103,095)</td>
<td></td>
</tr>
<tr>
<td>Vehicles and Machinery</td>
<td>32,360)</td>
<td>467,964</td>
</tr>
<tr>
<td>Floats</td>
<td>12,000)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>20,800,455</td>
<td>39,416,006</td>
</tr>
<tr>
<td>Less Debt</td>
<td>(849,000)</td>
<td>(603,000)</td>
</tr>
<tr>
<td>Municipal Equity</td>
<td>$19,951,455</td>
<td>$38,813,006</td>
</tr>
<tr>
<td>Municipal</td>
<td>Value Dec./72</td>
<td>Current Value Dec./75</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>---------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>Land</td>
<td>$ 7,913,000</td>
<td>$14,239,300</td>
</tr>
<tr>
<td>Buildings and Structures</td>
<td>3,493,000</td>
<td>4,621,000</td>
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<tr>
<td>Equipment</td>
<td>547,990</td>
<td></td>
</tr>
<tr>
<td>Vehicles and Machinery</td>
<td>414,319</td>
<td>1,758,218</td>
</tr>
<tr>
<td>Transportation Vehicles</td>
<td>610,464</td>
<td></td>
</tr>
<tr>
<td>Current Assets and Reserves</td>
<td>4,970,291</td>
<td>8,473,845</td>
</tr>
<tr>
<td>Traffic Roadwork Above</td>
<td>395,000</td>
<td>525,000</td>
</tr>
<tr>
<td>Subdivision Requirements</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Traffic Signals</td>
<td>25,000</td>
<td>5,000</td>
</tr>
<tr>
<td>Traffic and Street Signs</td>
<td>100,000</td>
<td>55,000</td>
</tr>
<tr>
<td>Walks and Seawalk</td>
<td>954,000</td>
<td>920,000</td>
</tr>
<tr>
<td>Breakwater</td>
<td>55,000</td>
<td>40,000</td>
</tr>
<tr>
<td>Water Utility Supply System</td>
<td>1,403,322</td>
<td>1,984,257</td>
</tr>
<tr>
<td>Sewer and Plant Interceptor Equity</td>
<td>200,000</td>
<td>300,000</td>
</tr>
<tr>
<td>Hospitals - Municipal Equity</td>
<td>358,000</td>
<td>475,000</td>
</tr>
<tr>
<td></td>
<td><strong>$21,439,386</strong></td>
<td><strong>$33,396,620</strong></td>
</tr>
<tr>
<td>Total Value of Municipal Equity</td>
<td>$49,969,073</td>
<td><strong>$84,964,936</strong></td>
</tr>
</tbody>
</table>

*Source: Municipal District of West Vancouver.*
APPENDIX 7

MUNICIPAL ACT, SECTION 702C - RELATING TO: DEVELOPMENT COST CHARGES

Development Cost Charges

702C. (1) The Council may by by-law, impose development cost charges on every person who obtains

(a) approval of the subdivision of a parcel of land under the Land Registry Act or the Strata Titles Act for any purpose other than creation of three or less lots to provide sites for a total of three or less self-contained dwelling units, or

(b) a building permit authorizing the construction or alteration of buildings or structures for any purpose other than the construction of three or less self-contained dwelling units, or

(c) a building permit authorizing construction, alteration or extension of a building or structure, other than a building or portion of it used for residential purposes, where the value of the work exceeds $25,000.

(2) Development cost charges required to be paid pursuant to a by-law under this section shall be paid prior to the approval of the subdivision or the issue of the building permit, as the case may be.
(3) No development cost charge shall be required to be paid

(a) if a development cost charge has previously been paid with respect to the same development, unless, as a result of a further subdivision or development, new capital cost burdens will be imposed on the municipality, or

(b) where the subdivision or development does not impose new capital cost burdens on the municipality.

(4) Development cost charges may be imposed under subsection (1) for the sole purpose of providing funds to assist the municipality in paying the capital cost of providing, altering, or expanding sewage, water, drainage and highway facilities and public open space, or any of them, in order to serve, directly or indirectly, the development in respect of which the charges are imposed.

(5) A by-law under subsection (1) shall provide a schedule of development cost charges and the charges may vary in respect of

(a) different defined or specified areas or zones,

(b) different uses,

(c) different capital costs related to any class of development, and
(d) different sizes or number of units or lots created by or as a result of development;

but otherwise the charges shall be similar for all developments that impose similar capital cost burdens on the municipality.

(6) In fixing development cost charges in a by-law under subsection (1), the Council shall take into consideration whether or not

(a) the charges are excessive in relation to the capital cost of prevailing standards of service in the municipality,

(b) the charges will deter development in the municipality,

(c) the charges will discourage the construction of reasonably priced housing or the provision of reasonably priced serviced land, and

(d) the municipality has imposed requirements pursuant to section 702A, 702AA, or 711.

(7) A development cost charge paid to a municipality shall be deposited by the municipality in a separate special development reserve fund established for the appropriate purpose, and sections 305A and 207(2) apply.

(8) The municipality shall use money deposited in a reserve fund under subsection (7) together
with interest on it only for the purpose for which it was deposited; namely,

(a) a capital payment, including planning, engineering and legal costs, for providing, altering or expanding sewage, water drainage and highway facilities and public open space related directly or indirectly to the development in respect of which a development cost charge has been imposed, or

(b) the payment of a debt incurred as a result of an expenditure made for the purposes set out in paragraph (a), and the payments shall be authorized by by-law.

(9) No by-law under subsection (1) shall be adopted unless the contents have been approved by the Inspector of Municipalities, who may, in his discretion and on consideration of the economic circumstances involved,

(a) grant the approval, or

(b) refuse to grant approval if

(i) the development cost charges are not related to capital costs attributable to projects included in a capital budget by-law under section 199A, or

(ii) the capital costs set out in the by-law are not related to capital
projects consistent with by-laws prepared and adopted under section 697 or 796A, or

(iii) the considerations set out in subsection (6) have not been met, or

(iv) in his opinion the by-law does not comply with the spirit and intent of this section, or

(c) withhold or revoke the approval until the terms of the by-law are altered and amended to his satisfaction and in accordance with his directions.
APPENDIX 8

SAMPLE MUNICIPAL BY-LAW RELATING TO DEVELOPMENT COST CHARGES, AS DRAFTED AND CIRCULATED BY THE PROVINCIAL MINISTRY OF MUNICIPAL AFFAIRS

_________________ of _____________

BY-LAW NO. ___________________________

A By-law of the Municipality to Impose Development Cost Charges.

WHEREAS pursuant to Section 702C of the Municipal Act the Council may, by by-law, impose development cost charges under the terms and conditions of the Section;

AND WHEREAS the development cost charges may be imposed for the sole purpose of providing funds to assist the municipality in paying the capital cost of providing, altering, or expanding sewage, water, drainage and highway facilities and public open space or any of them, in order to serve, directly or indirectly, the development in respect of which the charges are imposed;

AND WHEREAS no development cost charge shall be required to be paid:

(a) if a development cost charge has previously been paid with respect to the same development, unless as a result of a further subdivision or development, new capital cost burdens will be imposed on the municipality, or
(b) where the subdivision or development does not impose new capital cost burdens on the municipality;

AND WHEREAS in the consideration of Council the charges imposed by this By-law:

(a) are not excessive in relation to the capital cost of prevailing standards of service in the municipality;
(b) will not deter development in the municipality;
(c) will not discourage the construction of reasonably priced housing or the provision of reasonably priced serviced land;
(d) are not duplication of sums already collected by the municipality pursuant to land use contracts, development permits or work required to be done pursuant to the provisions of a subdivision control by-law;

AND WHEREAS in the opinion of Council the charges imposed by this by-law are:

(a) related to capital costs attributable to projects involved in the capital budget of the municipality;
(b) related to capital projects consistent with the official community plan (official settlement plan) of the municipality;
NOW THEREFORE the Municipal Council of the

in open meeting assembled enacts as follows:

ENACTMENT 1.

Every person who obtains:

(a) approval of the subdivision of a parcel
    of land under the Land Registry Act or
    the Strata Titles Act for any purpose
    other than the creation of three (3) or
    less lots to provide sites for a total
    of three or less self-contained dwelling
    units, or

(b) a building permit authorizing the construc-
    tion or alteration of buildings or struc-
    tures for any purpose other than the
    construction of three (3) or less self-
    contained dwelling units, or

(c) a building permit authorizing construction,
    alteration, or extension of a building or
    structure, other than a building or por-
    tion of it used for residential purposes,
    where the value of the work exceeds
    Twenty-Five Thousand Dollars ($25,000.00),

shall pay, prior to the approval of the subdivision or the
issuance of the building permit, as the case may be, to
the Municipality, the applicable development cost charges
as set out in Schedule "A" hereto.


___________________________
Mayor

___________________________
Clerk

I HEREBY CERTIFY the above to be a true copy of BY-LAW NO.___________ as passed at three readings.

___________________________
Clerk
EXTRACTS FROM A SEMINAR ON "LAND USE CONTROL IN B.C" (1979) CONDUCTED BY THE CENTRE FOR CONTINUING EDUCATION, THE UNIVERSITY OF BRITISH COLUMBIA APPLICABLE TO THE CALCULATION AND IMPLEMENTATION OF DEVELOPMENT COST CHARGES AS IT RELATES TO THE CITY OF PRINCE GEORGE

Mr. R.M. Dick:

I have attached to this paper the Schedule of Development Cost Charges as it appears in the City of Prince George Development Cost Charge By-law. You will see that the charges in this Schedule vary in respect of function, area and use. At this point, I propose to outline some of the considerations which the Council of the City of Prince George took into account in arriving at this Schedule.

(i) Selecting the Functions

Section 702C(4) provides that the functions, for which a development cost charge may be imposed, are the following:

1. sewage facilities,
2. water facilities,
3. drainage facilities,
4. highway facilities,
5. public open space.

However, the City of Prince George decided that, initially at least, they would only levy a development cost charge in relation to (storm) drainage, highways
198

and public open space.

1 & 2. Sanitary Sewer and Water Facilities:

Historically, in Prince George, the sanitary sewer and water facilities have been self-liquidating in the sense that for each specified area all annual operating costs including debt repayment have been met from a combination of parcel taxes and user rates. At the present time there are 12 unspecified areas and each has a different parcel/user charge rate structure. In view of the present variations in rates and areas, inordinate care would be required to maintain equitable charges for similar facilities in different areas of the City. That is to say, it would require very detailed and careful calculations in order to substantiate the cost charges were being collected because the development cost charge areas would create overlapping boundaries with the historic specific areas that were absorbed by the City upon amalgamation. Indeed, in many cases the new development would take place in a section of an existing specified area, and the development cost charges collected would have to be taken into account in calculating the rates for the new section which would be different from the rates in the old sections of the same specified area. In addition to the foregoing difficulties, the City would be required to project assessment increases and juggle costs between existing and future users in regard to the Provincial Government assistance programs.
for such sewer and water facilities and, in the final analysis, the amount of the grants from the Government would be reduced because the receipt of development cost charges for such facilities would reduce the borrowing required to finance them. For these reasons the City has initially excluded sanitary sewer and water facilities from the calculation of the development cost charge. At some time in the future, when there has been some consolidation of these various areas, the City intends to consider including such facilities in that Schedule.

3. Drainage Facilities:

    Formerly, under the City’s Excessive Cost Policy (impost fees), a charge was made in regard to storm drainage facilities and it was decided to continue this charge under the new system.

4. Highway Facilities:

    Again, the former impost fees included an item for roads, and the City elected to continue this charge for new development. However, only roads which are classed as either "arterial" or "major collectors" will be included in the calculations of the development cost charge.

    It is interesting that the Ministry has indicated an item for off-street parking can be included in the calculation of the charge for highway facilities.
Prince George has not taken off-street parking into account in its road charge as yet.

5. **Public Open Space:**

   Once more, an item called "Parks" was included in the old Prince George impost fee and has been carried forward as Public Open Space in the new development cost charge.

   You should note that, even though the municipality is requiring a developer to contribute 5% of his land for public open space under Section 711(10), the municipality can still levy a development cost charge in respect of additional public open space if such charge can be substantiated.

(ii) **Selecting the Areas**

   The City of Prince George has been patched together by numerous boundary expansions over the years to encompass properties that enjoyed little or no services. Each expansion was done when the need was acute and the Provincial Government was unwilling to provide the services. Then in 1975 upon amalgamation, the City ballooned to an area of 123 square miles. We had thus inherited many water improvement districts and settlement areas that were unable to provide the services which their residents now demanded. After weeks of heated debate, Council resolved to supply services to those "in need" to the best of the City's financial capabili-
ties. The people "in need" were scattered in all directions from the old city core and Council decided they had to expand the services in all directions. The Letters Patent issued to Prince George upon amalgamation entitled Council to establish different tax levels in various areas of the City and to charge a different rate for water, sewer and garbage in each specified area. Council has gradually reduced the spread between these various taxation levels and between the various utility rates and it is now the policy of the Council to strive for "One City, One Tax Rate, One Service Charge".

In the course of preparing its Development Cost Charge By-law, the City approached Victoria with the request that the development cost charge be a single rate for the entire City. They were told however, that it would be in violation of the Act. As a result, the Schedule of charges in Prince George now provides that, while the charges for highways and public open space are uniform over the whole City, yet the charge for drainage is divided into six distinct areas. Basically, these six areas represent separate storm sewer catchment areas based on the topography of the City.

The charge for highways and public open space is the same for all development in the City on the basis that the residents of each development will have equal access to all public open space and to all major collector and arterial roads.
(iii) Selecting the Uses

At some point, each municipality must decide which uses of land will have to pay a development cost charge. In Prince George it was decided that developments such as Public Institutional uses (such as Schools and Hospitals) would not have to pay a development cost charge. They did however, levy a charge in regard to Churches (at the single family dwelling rate).

As you will see from the attached Schedule, Prince George opted to describe the uses in general terms rather than employ the myriad of uses identified in our zoning by-law. While this method eases some of the problems in preparing the development cost charge schedule, yet I think we can anticipate some disputes arising in the application of the rates. For example, "warehousing" is permitted in both light and heavy industrial zones under the Prince George zoning by-law. Since the development cost charge by-law is not tied to the zoning by-law, a developer of a warehouse in one of the light industrial zones will want to argue that his land use is "heavy industrial" for the purpose of the development cost charge by-law and thus enjoys a lower development cost charge rate.

(iv) Setting the Rates

As mentioned above, the grants which the municipality receives in regard to the facilities from the
Provincial Government must be taken into account in calculating the cost of such facilities for the purpose setting the development cost charge rates. For example, the Sewerage Facilities Assistance Act provides that the Government will pay 75% of the amount by which the annual debt charge for a sewage system in a particular area exceeds the product of a mill rate prescribed by regulation on the assessed values of land and improvements in that area. Only the municipality's share of such costs, after deducting the grant, is eligible for inclusion in the calculation of the development cost charge rate. In regard to this calculation, it should be noted that the Deputy Minister has directed that the interest portion of the annual debt charge must be discounted to present values.

It will be interesting to see if some developer ever seeks by court action to recover a refund of a portion of his development cost charge on the basis that the municipality underestimated the amount of such Provincial grants in setting the development cost charge rate and therefore overcharged the developer.

In setting the rate, it has been suggested that a capital project can be included in the calculations right up to the time that construction is completed and the project has been commissioned into service in the municipality. You should note that, while some municipalities elect to limit their Capital Expenditure
Programme to a five year period, yet the provisions of Section 199A only state that the programme must be for at least five years. Presumably, there is nothing to prevent a municipality from taking into account capital projects for a longer period of time in their programme and then using such figures in the calculation of the development cost charge rate.

In Section 702C(6), it is provided that one major consideration in setting the rates will be whether or not the municipality has imposed requirements in regard to Land Use Contracts, Development Permits and Subdivision Control by-laws. One aspect of this consideration seems to be the size of the impost fee formerly charged by the municipality. It would appear that the Legislature was seeking to impose some historical consistency in the sums levied by municipalities. The other aspect appears to be that Council must not lose sight of the cost burdens which it is imposing on developers. That is to say, in order to satisfy the consideration set out in Section 702C(6) the municipality must weigh, not only the development cost charge rate for off-site services, but also the cost to the developer of providing the on-site services required by by-law. Council has to satisfy itself that the total of all costs to the developer will not deter development nor discourage the construction of reasonably priced housing or the provision of reasonably priced serviced land.
I think this approach may be somewhat naive on the part of the Government. While the intent is laudable, it is my belief that any saving to be found in lower development cost charges will not be passed on in total by the developer to his customer. For example, if the development cost charges were cut in half by Prince George I do not believe that the price of serviced land would drop by that same amount. The demand for lots would continue unabated and the net result would simply be an increase in the profit margin of the developer.

1. Rates for Public Open Spaces:

Section 702C(4) talks of providing, altering or expanding public open space. It is not clear whether this limits the development cost charge calculation to the cost of acquisition of raw land only or whether the cost of clearing and improvement and the purchase of, say, playground equipment could be included in the cost calculation.

In the case of Prince George, the rate is limited to the cost of acquisition of raw land. This cost is then reduced by an assist factor of 10% to account for the fact that the City historically provided funds in its annual budget for the development and improvement of parks and for the fact that residents other than those in the new development will derive some benefit from the public open space.
2. Rates for Highway Facilities:

As mentioned above, Prince George has limited its development cost charge to the provision of off-site arterial roads and major collectors. The total cost of such roads on a city-wide basis was split into three portions representing the share of such costs to be borne by the municipality, by the Ministry of Highways, and by the developer.

In this regard, it should be noted that not all roads are eligible for 50% cost-sharing with the Ministry of Highways. For example, arterial roads which are flanked entirely by new subdivision are not eligible for cost-sharing because the function of such roads is to benefit primarily the new areas through which they run.

The municipality's share of such total road costs then forms the basis for the calculation of the rate of the development cost charge for roads. In the case of Prince George, we first reduced this share by 15% to compensate for the use of such roads by the residents of the City other than those in the new areas through which the roads travelled. We then reduced the road cost by a further 10% to take into account the fact that the City has historically allocated a portion of its annual budget to road improvement and upgrading.
3. **Rates for Drainage Facilities:**

In the City of Prince George, the following step-by-step procedure was employed to arrive at the development cost charge rate for drainage facilities:

(a) delineate the catchment areas;
(b) calculate the total developable land in each area;
(c) project the estimated population growth in each area;
(d) project the development mix in each area;
(e) project the density of each type of development in the area;
(f) calculate the total cost of full drainage facilities in each catchment area;
(g) adjust total population projection in each area to a five-year projection;
(h) adjust total developable land in each area to a five-year projection;
(i) adjust total cost of drainage system in each area to a five-year projection;
(j) reduce five-year cost projection to reflect benefit to existing residents and to future residents arriving after first five-year period;
(k) reduce five-year cost projection to reflect assist factor of historical contribution by the municipality toward off-site drainage.

In the course of following the above procedure, the City of Prince George developed a weighting factor in order to reduce all development to an equivalent single family dwelling hectare figure, as follows:
<table>
<thead>
<tr>
<th>Type of Development</th>
<th>Weighting-Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Dwelling (8.6 lots/ha)</td>
<td>1</td>
</tr>
<tr>
<td>Multiple Family Dwelling (37 units/ha)</td>
<td>3</td>
</tr>
<tr>
<td>Light/Service Industrial</td>
<td>1.8</td>
</tr>
<tr>
<td>Heavy Industrial</td>
<td>0.5</td>
</tr>
<tr>
<td>Commercial</td>
<td>10</td>
</tr>
<tr>
<td>School, Park and Church</td>
<td>1</td>
</tr>
</tbody>
</table>

Equivalent single family dwelling hectares were then calculated for each type of development, as follows:

(i) For residential development:

No. of dwelling units + density x weighting factor.

(ii) For all other development:

area of development + density x weighting factor.

The result of this was that we were able to express all development in the form of a common denominator, being the equivalent single family dwelling hectare.

A Specific Example:

To show you how all of this works in practice, I will outline the calculations that went into the setting of the development cost charge rates in respect of drainage, roads and open space for residential single family development in the Nechako area of Prince George. These items appear as the first line of the Schedule which is attached to this paper.

(i) Basic Calculations:

(1) Nechako was identified on the basis of topography as one of six separate catchment areas of the City
for storm drainage purposes.

(2) The studies made in conjunction with the Official Community Plan disclosed that:
(a) 25% of the population of Prince George will be located in the Nechako area,
(b) the total future population of the Nechako area is 60,000,
(c) the annual growth rate of the entire City would be 3.5%,
(d) the residential mix in Nechako would be 75% single family and 25% multiple family,
(e) the average household would be 3.5 persons in new development.

(3) Using the above information, a population increase of 3,752 was projected in Nechako for the next five years.

(4) Using the land inventory for Nechako, together with the development projections and weighting factor, it was determined that the development in Nechako in the next five years expressed in Equivalent Single Family Dwelling (ESFD) hectares would be:

<table>
<thead>
<tr>
<th>Category</th>
<th>ESFD ha.</th>
</tr>
</thead>
<tbody>
<tr>
<td>S.F.D.</td>
<td>93</td>
</tr>
<tr>
<td>M.F.D.</td>
<td>22</td>
</tr>
<tr>
<td>Industrial</td>
<td>7</td>
</tr>
<tr>
<td>Commercial</td>
<td>6</td>
</tr>
<tr>
<td>School, Church and Park</td>
<td>9.7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>137.7</strong></td>
</tr>
</tbody>
</table>

Of the total developable land in Nechako (2,200 ESFD ha.),
a total of 137.7 ESFD ha. would be developed in the next five years.

(ii) **Drainage Calculations:**

(1) From the "Nechako Stormwater Study (1976)", it was determined that the cost of total drainage system in Nechako would be:

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Off-site trunk mains</td>
<td>$9,042,000</td>
</tr>
<tr>
<td>Less 1/6 (CMHC or equivalent) grant</td>
<td>1,507,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$7,535,000</strong></td>
</tr>
<tr>
<td>Plus allowance for inflation since date of the Study (1976-78)</td>
<td>465,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$8,000,000</strong></td>
</tr>
</tbody>
</table>

(2) The Capital Expenditure Programme pursuant to Section 199A calls for an expenditure of $3,177,000 in the next five years on drainage in the Nechako area.

(3) Since the 137.7 ESFD ha. will be developed at a time when the City spends $3,177,000 on the storm drainage system, therefore:

\[
3,177,000 \div 137.7 = 23,070/ESFD \text{ ha.}
\]

(4) Assuming a single family dwelling unit density of 8.6 SFD/ha., then:

\[
23,070 \div 8.6 = 2,683/\text{dwelling unit}
\]

(5) The growth in population in Nechako for the next five years expressed as a % of the future total population in Nechako is:
(6) The expenditure for drainage in Nechako for the next five years expressed as a % of the future total drainage cost in Nechako is:

\[ \frac{3,753}{60,000} = 6.25\% \]

(7) It would not be equitable for 6.25% of the population to bear 40% of the cost of drainage because existing residents and those arriving after the five year period will derive benefit from the system. Thus, the cost in sub-paragraph (4) above is modified as follows:

\[ 6.25 \times (1 \div 0.40) = 16\%, \text{ and therefore} \]
\[ \frac{3,177,000}{8,000,000} = 40\% \]
\[ \frac{2,683}{dwelling} \times 0.16 = 423/dwelling \text{ unit.} \]

This was then rounded to $430/dwelling unit.

(8) Because the City has historically provided assistance in the provision of off-site drainage services, the indicated rate is further reduced by this historic figure:

\[ $430 \times 0.40 = 172/dwelling \text{ unit.} \]

(9) Thus, the development cost charge in respect of drainage for the Nechako area is $172 per dwelling unit.

(iii) Road Calculations:

(1) In this case, the development cost charge is uniform throughout the entire City. The Capital Expenditure
Programme calls for an expenditure in the next five years as follows:

<table>
<thead>
<tr>
<th></th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>City</td>
<td>$6,459,750</td>
</tr>
<tr>
<td>Ministry of Highways</td>
<td>7,944,250</td>
</tr>
<tr>
<td>Subdivision and Developers</td>
<td>3,851,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$18,255,000</strong></td>
</tr>
</tbody>
</table>

(2) The City's share is then divided by the total Equivalent Single Family Dwelling hectares that are developable in the entire City as follows:

\[
$6,459,750 \div 690 = $9,362/ESFD ha.
\]

(3) Assuming a density of 8.6 single family dwelling units per hectare, then:

\[
$9,362 \div 8.6 = $1,088/dwelling unit.
\]

(4) Because residents other than those in the new development would derive benefit from the roads, the indicated cost is reduced by 15%:

\[
$1,088 \times .85 = $925/dwelling unit.
\]

(5) Because the City historically has provided funds in its annual budget for the improvement and upgrading of roads, the indicated cost is further reduced by 10%:

\[
$925 \times .90 = $833/dwelling unit.
\]

(6) Thus, the development cost charge in respect of roads in the entire City is $833 per dwelling unit.
(iv) **Public Open Space Calculations:**

(1) The goals and policy statements of the Official Community Plan set an objective of 4.9 hectares of public open space per 1,000 persons:

<table>
<thead>
<tr>
<th></th>
<th>Per 1,000 Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Neighbourhood Parks</td>
<td>0.8 ha</td>
</tr>
<tr>
<td>Community Parks</td>
<td>1.5 ha</td>
</tr>
<tr>
<td>City Park</td>
<td>2.0 ha</td>
</tr>
<tr>
<td>Playlots</td>
<td>0.6 ha</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>4.9 ha</strong></td>
</tr>
</tbody>
</table>

(2) In spite of these objectives, it is estimated that the City will only purchase 56.5 hectares of public open space in the next five years. The cost will be approximately $16,000/hectare, and so:

$$56.5 \times \$16,000 = \$900,000 \text{ total.}$$

(3) The projected population growth for the entire City for the next five years is 15,356. This will provide public open space as follows:

$$56.5 \div (15,356 \div 1,000) = 3.68 \text{ ha/1,000 persons.}$$

(4) The total cost of public open space for the whole City for the next five years divided by the total Equivalent Single Family Dwelling hectares that are developable in the entire City is:

$$\$900,000 \div 690 = \$1,304/\text{ESFD ha.}$$

(5) Assuming a density of 8.6 single family dwelling units per hectare, then:

$$\$1,304 \div 8.6 = \$152/\text{dwelling unit.}$$
Because the City historically has provided funds in its annual budget for the improvement and upgrading of parks, the indicated cost is reduced by 10%:

$152 \times 0.90 = $137$/dwelling unit.$

Thus, the development cost charge in respect of public open space in the entire City is $137 per dwelling unit.

The Most Difficult Decision:

The problem of deciding whether to levy the development cost charge at the time of subdivision or at the time of building permit was a major difficulty that split the Prince George Municipal Council into two opposing groups.

On the one hand, it was said that all development cost charges including those for multiple family, commercial and industrial uses, should be charged at the time of subdivision where the development was proceeding by way of subdivision, for the following reasons:

(i) We have no way of warning people that the development cost charges remain outstanding against a particular parcel of land and there would be an inevitable shortfall when, for example, a commercial builder had arranged his mortgage commitment on the basis of the purchase price of the land and had overlooked the fact that a substantial sum would
have to be paid to the City before a building permit would be issued, and

(ii) The City would be paying for off-site drainage, highways and public open space on the basis of the potential density of development authorized by the zoning at the time of subdivision and, therefore, if the actual density of development at the time of building permit turned out to be less than that authorized, the City would be unable to recover the intended share of off-site development costs.

On the other hand, it was said that, while single family, two family and three family development should pay at the time of subdivision, yet all other development should pay at the time of issue of the building permit, for the following reasons:

(i) Most people (and in particular, the lawyers) would gradually get used to the idea that they would have to ascertain from City Hall whether the development cost charge had been paid on a particular parcel of land. In this regard, the problem was really no different from the impost fee system which people eventually learned to cope with.

(ii) It would be prohibitively expensive for a subdivider to create multiple family, commercial and industrial parcels if he had to pay the development cost charge for each upon subdivision, unless he had a purchaser waiting for each parcel who was ready to develop the parcel immediately.
The latter group of Aldermen won the argument on the basis of 702C(6)(b) by convincing the former group that to impose a development cost charge on multiple family, commercial or industrial development at the time of subdivision would deter development in the municipality and would artificially lessen the supply of serviced parcels of land for such purposes.

Robert M. Dick,
Wilson, King and Company,
Prince George, B.C.

April, 1979.
## DEVELOPMENT COST CHARGES

### A. Nechako Area

<table>
<thead>
<tr>
<th>Land Use</th>
<th>CHARGE FOR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Storm Drainage</td>
</tr>
<tr>
<td>Residential (Single Family Dwelling) - per lot</td>
<td>$ 172.00</td>
</tr>
<tr>
<td>Residential (Two Family Dwelling) - per lot</td>
<td>$ 240.00</td>
</tr>
<tr>
<td>Residential (Three Family Dwelling) - per lot</td>
<td>$ 360.00</td>
</tr>
<tr>
<td>Residential (Multiple Family Dwelling 37 Dwelling Units per Hectare or Less) - per dwelling unit</td>
<td>$ 120.00</td>
</tr>
<tr>
<td>Residential (Multiple Family Dwelling 38 to 74 Dwelling Units per Hectare) - per dwelling unit</td>
<td>$ 103.00</td>
</tr>
<tr>
<td>Residential (Multiple Family Dwelling 75 Dwelling Units per Hectare or More) - per dwelling unit</td>
<td>$ 86.00</td>
</tr>
<tr>
<td>Commercial - per square metre of gross floor area</td>
<td>$ 1.97</td>
</tr>
<tr>
<td>Light or Service Industrial - per hectare of gross site area</td>
<td>$ 2,663.00</td>
</tr>
<tr>
<td>Heavy Industrial - per hectare of gross site area</td>
<td>$ 740.00</td>
</tr>
<tr>
<td>Institutional (Churches)</td>
<td>$ 172.00</td>
</tr>
</tbody>
</table>
### DEVELOPMENT COST CHARGES

#### B. Bowl Area

<table>
<thead>
<tr>
<th>Land Use</th>
<th>CHARGE FOR</th>
<th>Storm Drainage</th>
<th>Roads</th>
<th>Open Space</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential (Single Family Dwelling) - per lot</td>
<td></td>
<td>$24.00</td>
<td>$833.00</td>
<td>$137.00</td>
<td>$994.00</td>
</tr>
<tr>
<td>Residential (Two Family Dwelling) - per lot</td>
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<td>$34.00</td>
<td>$1,162.00</td>
<td>$190.00</td>
<td>$1,386.00</td>
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<tr>
<td>Residential (Three Family Dwelling) - per lot</td>
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<td>$50.00</td>
<td>$1,742.00</td>
<td>$287.00</td>
<td>$2,079.00</td>
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<tr>
<td>Residential (Multiple Family Dwelling 37 Dwelling Units per Hectare or Less) - per dwelling unit</td>
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<td>$17.00</td>
<td>$580.00</td>
<td>$96.00</td>
<td>$693.00</td>
</tr>
<tr>
<td>Residential (Multiple Family Dwelling 38 to 74 Dwelling Units per Hectare) - per dwelling unit</td>
<td></td>
<td>$14.00</td>
<td>$500.00</td>
<td>$82.00</td>
<td>$596.00</td>
</tr>
<tr>
<td>Residential (Multiple Family Dwelling 75 Dwelling Units per Hectare or More) - per dwelling unit</td>
<td></td>
<td>$12.00</td>
<td>$416.00</td>
<td>$69.00</td>
<td>$497.00</td>
</tr>
<tr>
<td>Commercial - per square metre of gross floor area</td>
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<td>$.28</td>
<td>$9.55</td>
<td>$1.57</td>
<td>$11.40</td>
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<tr>
<td>Light or Service Industrial - per hectare of gross site area</td>
<td></td>
<td>$372.00</td>
<td>$12,900.00</td>
<td>$2,115.00</td>
<td>$15,387.00</td>
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<tr>
<td>Heavy Industrial - per hectare of gross site area</td>
<td></td>
<td>$103.00</td>
<td>$3,580.00</td>
<td>$591.00</td>
<td>$4,274.00</td>
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<tr>
<td>Institutional (Churches)</td>
<td></td>
<td>$24.00</td>
<td>$833.00</td>
<td>$137.00</td>
<td>$994.00</td>
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</table>
### DEVELOPMENT COST CHARGES

**C. Cranbrook Hill**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>CHARGE FOR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Storm Drainage</td>
</tr>
<tr>
<td>Residential (Single Family Dwelling) - per lot</td>
<td>$136.00</td>
</tr>
<tr>
<td>Residential (Two Family Dwelling) - per lot</td>
<td>$190.00</td>
</tr>
<tr>
<td>Residential (Three Family Dwelling) - per lot</td>
<td>$284.00</td>
</tr>
<tr>
<td>Residential (Multiple Family Dwelling) 37 Dwelling Units per Hectare or Less - per dwelling unit</td>
<td>$95.00</td>
</tr>
<tr>
<td>Residential (Multiple Family Dwelling) 38 to 74 Dwelling Units per Hectare - per dwelling unit</td>
<td>$82.00</td>
</tr>
<tr>
<td>Residential (Multiple Family Dwelling) 75 Dwelling Units per Hectare or More - per dwelling unit</td>
<td>$68.00</td>
</tr>
<tr>
<td>Commercial - per square metre of gross floor area</td>
<td>$1.56</td>
</tr>
<tr>
<td>Light or Service Industrial - per hectare of gross site area</td>
<td>$2,106.00</td>
</tr>
<tr>
<td>Heavy Industrial - per hectare of gross site area</td>
<td>$585.00</td>
</tr>
<tr>
<td>Institutional (Churches)</td>
<td>$136.00</td>
</tr>
</tbody>
</table>
## DEVELOPMENT COST CHARGES

### D. South West

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Charge For</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Storm Drainage</td>
</tr>
<tr>
<td>Residential (Single Family Dwelling) - per lot</td>
<td>$37.00</td>
</tr>
<tr>
<td>Residential (Two Family Dwelling) - per lot</td>
<td>$52.00</td>
</tr>
<tr>
<td>Residential (Three Family Dwelling) - per lot</td>
<td>$77.00</td>
</tr>
<tr>
<td>Residential (Multiple Family Dwelling 37 Dwelling Units per Hectare or Less) - per dwelling unit</td>
<td>$26.00</td>
</tr>
<tr>
<td>Residential (Multiple Family Dwelling 38 to 74 Dwelling Units per Hectare) - per dwelling unit</td>
<td>$22.00</td>
</tr>
<tr>
<td>Residential (Multiple Family Dwelling 75 Dwelling Units per Hectare or More) - per dwelling unit</td>
<td>$18.00</td>
</tr>
<tr>
<td>Commercial - per square metre of gross floor area</td>
<td>$.43</td>
</tr>
<tr>
<td>Light or Service Industrial - per hectare of gross site area</td>
<td>$573.00</td>
</tr>
<tr>
<td>Heavy Industrial - per hectare of gross site area</td>
<td>$159.00</td>
</tr>
<tr>
<td>Institutional (Churches)</td>
<td>$37.00</td>
</tr>
</tbody>
</table>
# Development Cost Charges

**E. Blackburn**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>CHARGE FOR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Storm Drainage</td>
</tr>
<tr>
<td>Residential (Single Family Dwelling) - per lot</td>
<td>$189.00</td>
</tr>
<tr>
<td>Residential (Two Family Dwelling) - per lot</td>
<td>$263.00</td>
</tr>
<tr>
<td>Residential (Three Family Dwelling) - per lot</td>
<td>$395.00</td>
</tr>
<tr>
<td>Residential (Multiple Family Dwelling 37 Dwelling Units per Hectare or Less) - per dwelling unit</td>
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</tr>
<tr>
<td>Residential (Multiple Family Dwelling 38 to 74 Dwelling Units per Hectare) - per dwelling unit</td>
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</tr>
<tr>
<td>Residential (Multiple Family Dwelling 75 Dwelling Units per Hectare or More) - per dwelling unit</td>
<td>$95.00</td>
</tr>
<tr>
<td>Commercial - per square metre of gross floor area</td>
<td>$2.17</td>
</tr>
<tr>
<td>Light or Service Industrial - per hectare of gross site area</td>
<td>$2,926.00</td>
</tr>
<tr>
<td>Heavy Industrial - per hectare of gross site area</td>
<td>$813.00</td>
</tr>
<tr>
<td>Institutional (Churches)</td>
<td>$189.00</td>
</tr>
<tr>
<td>Land Use</td>
<td>Charge for</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>-----------------------------------</td>
</tr>
<tr>
<td></td>
<td>Storm Drainage</td>
</tr>
<tr>
<td>Residential (Single Family Dwelling) - per lot</td>
<td>$77.00</td>
</tr>
<tr>
<td>Residential (Two Family Dwelling) - per lot</td>
<td>$107.00</td>
</tr>
<tr>
<td>Residential (Three Family Dwelling) - per lot</td>
<td>$161.00</td>
</tr>
<tr>
<td>Residential (Multiple Family Dwelling 37 Dwelling Units per Hectare or Less) - per dwelling unit</td>
<td>$54.00</td>
</tr>
<tr>
<td>Residential (Multiple Family Dwelling 38 to 74 Dwelling Units per Hectare) - per dwelling unit</td>
<td>$46.00</td>
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<tr>
<td>Residential (Multiple Family Dwelling 75 Dwelling Units per Hectare or More) - per dwelling unit</td>
<td>$38.00</td>
</tr>
<tr>
<td>Commercial - per square metre of gross floor area</td>
<td>$0.90</td>
</tr>
<tr>
<td>Light or Service Industrial - per hectare of gross site area</td>
<td>$1,192.00</td>
</tr>
<tr>
<td>Heavy Industrial - per hectare of gross site area</td>
<td>$331.00</td>
</tr>
<tr>
<td>Institutional (Churches)</td>
<td>$77.00</td>
</tr>
</tbody>
</table>