

File No. CI 17-01-05958

THE QUEEN'S BENCH

WINNIPEG CENTRE

IN THE MATTER OF: City of Winnipeg By-Law 127/2016, as amended and passed on October 26, 2016, *The City of Winnipeg Charter* S.M. 2002, c. 39 and Subsections 92(2) and (9) of the *Constitution Act, 1867*.

BETWEEN:

URBAN DEVELOPMENT INSTITUTE
(MANITOBA DIVISION) and MANITOBA
HOME BUILDERS' ASSOCIATION INC.,

applicants,

- and -

CITY OF WINNIPEG,

respondent.

AFFIDAVIT OF MIKE MOORE

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I, MICHAEL ("MIKE") MOORE, of the City of Winnipeg, in the
Province of Manitoba,

MAKE OATH AND SAY THAT:

1. I am the former President of the applicant, Manitoba Home Builders' Association Inc. (the "**MHBA**"), having retired in June of 2017. At

- 2 -

all relevant times as they relate to this application I was the President of the MHBA and, as such, have personal knowledge of the facts and matters hereinafter deposed to by me except where stated to be based upon information and belief, in which case I do believe it to be true. I continue to be engaged by the MHBA in relation to this application.

2. This application was authorized by the Board of Directors of the MHBA. This application is brought by the MHBA on behalf of the MHBA and its members

3. I make this affidavit in support of an application to challenge the authority of the City of Winnipeg to enact *By-law No. 127/2016*, the Impact Fees By-law (the "**By-law**").

4. I have read the affidavit of Eric Vogan, to be affirmed November 29, 2017, in this application. For purposes of completeness I have repeated some of the facts contained in that affidavit where they are also in my personal knowledge.

- 3 -

SECTION 1

About the MHBA

5. The MHBA is a non-profit trade association incorporated under the laws of Manitoba. The mandate of the MHBA is to be the voice of the residential construction industry in Manitoba; to provide a forum for the ongoing education of the membership with respect to technology and business practices; to achieve an environment in which its membership can operate successfully and to promote affordability and choice in housing for all Manitobans.

6. The membership of the MHBA includes developer members and builder members from the Manitoba residential real estate development and construction industry. The developer members and the builder members of the MHBA are listed below:

Daytona Land Corp.

Edgecorp Design Builders Ltd.

Daytona Homes

Exemplar Developments Inc.

Genstar Development Partnership

Heritage Lane Builders Inc.

- 4 -

Ladco Company Ltd. (“ Ladco ”)	Manitoba Housing
North Grassie Properties Inc.	Ventura Development Inc.
Heartwork Homes	Arlt Homes
A&S Homes (“ A&S ”)	Artista Homes Ltd.
ADR Property Holdings Corp.	Qualico
Ranjjan Development Corporation	Seekville Inc.
Avanti Custom Homes Ltd.	Broadview Homes
Waterside Development Corp.	Cobblestone Homes Inc.
JCP Homes	Warkentin Homes Ltd.
Manak Homes	Milne Homes
StreetSide Development Corporation	Sunset Estates Ltd.
Sunstone Resort Communities	Terracon Development Ltd.
Ventura Land Company Inc.	New Generation Homes Inc.
Nasta Construction	Discovery Homes
Dowalt Custom Homes	Penn-Co. Design
Foxridge Homes	G & E Homes
Gino's Homes	Hallmark Homes
Porchlight Developments	Hearth Homes

- 5 -

Prego Builders Ltd.

Huntington Homes

KDR Homes Inc.

Hillside Construction Inc.

Maric Homes

Odessa Homes Ltd

Parkhill Homes

Pre-Con Builders

Randall Homes ("**Randall**")

Signature Homes Ltd.

Southwynn Homes Ltd.

Goodman Homes

Three Way Builders Ltd.

Trikor Builders

Grandeur Housing Ltd.

K. Streu Homes Ltd.

21st Century Builders Inc.

Hilton Custom Homes Ltd.
("**Hilton**")

J & G Homes

Kensington Homes

Mannington Custom Homes

Newton Enterprises

Paradigm Custom Homes Inc.

Hollyhock Construction Ltd.

Horizon Builders Ltd.

Irwin Homes Ltd.

Silverton Homes

Sterling Homes

Sytko Homes

Titanium Custom Homes

Ventura Custom Homes
("**Ventura**")

GS Homes Ltd.

Somerville Design Homes Ltd

Touchwood Homes Inc.

- 6 -

Westman Premier Homes Ltd.	Triwest Construction Inc.
kc & b build	Kothari Group
Vogt Building Construction Inc.	Pine Creek Homes Inc.
Stefan Home Builders Inc.	Nasta Construction

7. In addition to the above noted developer members and builder members, the MHBA has over two hundred Associate Members that are suppliers of goods and services to the residential construction industry.

SECTION 2

The MHBA and Development Cost Charges and Development

Agreement Parameters

8. For many years the MHBA has been closely engaged with representatives of both the Government of Manitoba and The City of Winnipeg regarding the appropriate contribution by developers and homebuilders to infrastructure and other costs related to new residential development. The MHBA has been active in demonstrating how new residential development more than pays its share of the costs associated

- 7 -

with growth in The City of Winnipeg. The MHBA actively engages with The City of Winnipeg and other Manitoba municipalities regarding what have been variously described as impost levies, development cost charges, growth taxes and impact fees.

9. The MHBA and certain of its members have participated with the City of Winnipeg in a working group having the ongoing mandate of monitoring, reviewing and revising The City of Winnipeg's *Development Agreement Parameters* process. The process was established to enable dialogue between The City of Winnipeg and the building and development community with a view toward clear, predictable and fair rules for the attribution of development-related costs to new developments.

10. On March 8, 2012 Mr. John Daniels and Mr. Jason Jaquet and I, on behalf of the MHBA, met with Mayor Sam Katz, Chief Administrative Officer Mr. Phil Sheegl, Mr. Deepak Joshi and Mr. Barry Thorgrimson of The City of Winnipeg to discuss a variety of issues, including restarting the *Development Agreement Parameters* working

- 8 -

group, which had been dormant. At that meeting Mayor Katz said that The City of Winnipeg was considering the use of development cost levies to raise revenue. The MHBA representatives voiced the concerns of the MHBA and its members and the need for consultation.

11. On March 15, 2012 representatives of the MHBA and the Urban Development Institute (the "UDI") met to begin to develop a common position on the *Development Agreement Parameters* review process.

12. On April 19, 2012, I and Mike Carruthers of Ladco met with Deepak Joshi of The City of Winnipeg. We were informed by Mr. Joshi that he was instructed to explore all revenue options, including development cost charges. Mr. Joshi suggested setting up a small group to consider solutions. Mr. Joshi also indicated willingness to review the *Development Agreement Parameters*. I indicated the willingness of the MHBA and its members to participate.

13. On November 12, 2012 I met with The City of Winnipeg Chief Administrative Officer, Phil Sheegl, to discuss infrastructure funding. At

- 9 -

that time I expressed the position of the MHBA that new development pays for itself by increasing revenues to The City of Winnipeg in excess of the costs associated with providing services to new development.

14. On July 2, 2013, Mayor Katz told me that The City of Winnipeg was going to pursue the creation of development cost charges.

My understanding of the of the position of The City of Winnipeg at the time was consistent with what is described at The City of Winnipeg web page, *2013 Growth Development Charges*, a copy of which is attached as Exhibit "A". That page states, in part:

The City of Winnipeg is the only municipality in South-Eastern Manitoba that is not able to charge the capital cost of growth to development. Our neighbouring rural municipalities have used provisions under The Planning Act to establish various growth charges that pass on the cost of growth infrastructure to development. This act does not apply to Winnipeg and The Charter Act does not currently contain the same provisions.

15. This information prompted the MHBA to commence a dialogue with the Government of Manitoba to express its opposition to any such amendments to the Charter. I attach a copy of my letter dated

- 10 -

September 26, 2013 to The Honourable Greg Selinger, then Premier of Manitoba, as Exhibit "B".

16. In November, 2013, in response to the inquiries from The City of Winnipeg regarding the imposition of development cost charges, then Premier Greg Selinger publicly stated that it was the position of the Government of Manitoba that it would not support amendments to the *Charter* to permit the imposition of development cost charges.

17. In 2013 The Government of Manitoba was publicly opposed to amendments to the Charter to provide for the imposition of development cost charges. A copy of an article dated November 5, 2013 entitled *City Eyes Tax on New Home Purchases: Would Require Cooperation from the Province* is attached as Exhibit "C". At that time, according to published reports, The City of Winnipeg indicated its intent to make a formal request to the Government of Manitoba for amendments to Charter to provide for the ability of the City to implement development cost charges. A copy of the Winnipeg Free Press article titled *Katz Won't Take "No" for an Answer: Will Press for Right to Tax New Developments* that summarizes

- 11 -

the positions of Mayor Katz and Premier Selinger is attached as Exhibit "D".

18. I attach a copy of an article published in the Winnipeg Free Press on November 7, 2013 titled *City Still Pushing to Impose New Fees on Developments: Rural Areas have the Right, Katz Says* as Exhibit "E". I attach a copy of a Winnipeg Free Press article titled *City Surprised by NDP's Snub of New Home Fee*, published around the same time, as Exhibit "F". I believe these articles that I reference accurately summarize the position of The City of Winnipeg, through the office of the Mayor and the Government of Manitoba, through the Premier, at that time.

19. At that time, The City of Winnipeg was considering the imposition of a Development Cost Charge in the range of \$10,000 to \$12,000 per new home. The model for those charges was presented to The City of Winnipeg Council in a Council seminar on or about November 4, 2014. A copy of the Winnipeg Free Press article titled *City Considering \$10-12K Tax on New Development* reporting on that meeting is attached as Exhibit "G".

- 12 -

20. I attach a copy of a letter to the editor written by City of Winnipeg Councillor Scott Fielding dated November 15, 2013 in relation to the proposed development cost charge as Exhibit "H".

21. A resolution requesting the Government of Manitoba for a legislative change to permit the implementation of development cost charges was approved by the Executive Policy Committee of Council of The City of Winnipeg in November of 2013. The resolution was debated and passed by Council on November 20, 2013. An excerpt of the minutes of the Council meeting is attached as Exhibit "I". The Council resolution read:

THEREFORE BE IT RESOLVED:

1. That Council request the Province of Manitoba to amend The City of Winnipeg Charter to provide legal authority to permit the City to impose growth development charges by by-law on development/ building permit and subdivision applicants for various types of growth related capital infrastructure, such as but not limited to, regional streets, bridges, rapid transit and recreation and leisure facilities;
2. That Council request the Province of Manitoba to amend the City of Winnipeg Charter to permit the City to require an owner to enter into a

- 13 -

development agreement as a condition of approval of any of the following:

- i. a variance,
- ii. a conditional use,
- iii. a development permit, and
- iv. a building permit,

to provide the same authority to the City of Winnipeg as other Manitoba municipalities have under the Planning Act (i and ii) and additional authorities (iii and iv). (Note: presently the City can require a developer to enter into a development agreement as a condition of approval of a subdivision or re-zoning only. The City would like the ability to require a development agreement at other points in the development approval process, in order to have the developer install / pay / partially pay for needed infrastructure relating to the developer's proposal.);

3. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing.

22. The amendments to the Charter that were the subject of the 2013 City Council resolution, "to provide legal authority to permit the City to impose growth development charges by by-law on development/building permit and subdivision applicants for various types

- 14 -

of growth related capital infrastructure”, have not been made by the Government of Manitoba.

SECTION 3

The Development of The Impact Fee By-Law

23. On January 14, 2016, I and other MHBA representatives, John Daniels and Spencer Curtis, met with newly elected Mayor Brian Bowman, Councillor John Orlikow and staff representatives of The City of Winnipeg for the purposes of discussing the contribution of new residential housing developments to financing the cost of growth in The City of Winnipeg. When queried about consultation with the development industry for the purpose of arriving at a supportable model for new development charges, Mayor Bowman stated, “This is your consultation.”.

A copy of the presentation notes of the MHBA for the meeting are attached as Exhibit “J”. A copy of the follow-up letter from the MHBA to Mayor Bowman dated January 20, 2016 is attached as Exhibit “K”.

24. On behalf of the MHBA I attended and participated in two “stakeholder meetings” organized by The City of Winnipeg and held on

- 15 -

July 19 and August 18, 2016. The stakeholder meetings were attended by invited representatives of a limited number of homebuilders and developers, along with representatives of certain other stakeholder groups invited by The City of Winnipeg, such as the Social Planning Council. At the stakeholder meetings The City of Winnipeg's consultant, Hemson Consulting Ltd. ("**Hemson**"), presented its proposal for the implementation of "municipal growth financing" in The City of Winnipeg.

25. A copy of the presentation titled *City of Winnipeg Financing Growth Study Stakeholder Meeting #1* prepared by Hemson and dated July 19, 2016 is attached Exhibit "**L**".

26. The July 19, 2016 meeting did not provide an opportunity for meaningful input from industry stakeholders, including the MHBA. The meeting itself was an "information session" in which Hemson told attendees about its engagement by The City of Winnipeg to produce a development cost charges study.

27. A copy of the response by the UDI and the MHBA to the July 19, 2016 Hemson presentation addressed to Hemson Consulting

- 16 -

Ltd. is attached as Exhibit "M". I participated in the preparation of the response.

28. On August 18, 2016 Hemson conducted a second "stakeholder meeting" with invited representatives of the Winnipeg residential land development and homebuilding industry. I attended this meeting. A copy of the August 18, 2016 Hemson presentation is attached as Exhibit "N".

29. Again, there was very little opportunity at the stakeholder meeting for input from the stakeholders in attendance. The meeting was another "information session".

30. A copy of the response of the UDI and the MHBA to the August 18, 2016 Hemson presentation is attached as Exhibit "O". I participated in the preparation of the response.

31. On August 31, 2016 Hemson submitted its final study reports to The City of Winnipeg, which reports were made available to the public. Attached hereto as Exhibit "P" is a copy of the Hemson report titled

- 17 -

Review of Municipal Growth Financing Mechanisms. Attached hereto as Exhibit "Q" is a copy of the Hemson report titled *Determination of Regulatory Fees to Finance Growth: Technical Report* (the "**Hemson Reports**").

32. On or about September 1, 2016 Hemson conducted a "council information session" wherein representatives of Hemson provided an overview of their various reports for members of City Council. A copy of a presentation prepared by Hemson titled *City of Winnipeg Financing Growth Study Council Information Session dated September 1, 2016* (the "**Hemson September 2016 Council Presentation**") is attached as Exhibit "R".

33. On or about September 16, 2016 The City of Winnipeg publicly released its administrative report titled Implementation of an Impact Fee prepared by Tyler Markowsky and dated September 1, 2016 (the "**Administrative Report**"). A copy of the agenda for the Executive Policy Committee of Council (the "**EPC**") meeting of September 21, 2016, including the Administrative Report, is attached as Exhibit "S".

- 18 -

34. The Administrative Report included a draft of the proposed development cost charges by-law titled "Impact Fee By-law" (the "**Draft By-law**"). The Administrative Report also included copies of the Hemson Reports, found at Exhibits "P" and "Q" of this affidavit.

35. On September 21, 2016 the EPC considered the Administrative Report and the Draft By-law. By approved motion, the EPC delayed the implementation of the Draft By-law and directed that consultation occur with stakeholders.

36. The MHBA and the UDI engaged MNP LLP to assist in the preparation of a report and in the presentation of an informational briefing to City Council. I participated in the presentation of the report, titled *Understanding Development in Winnipeg: An Informational Briefing for City Council and Winnipeg Citizens* (the "**UDI/MHBA Presentation**"), dated September 20, 2016. I participated in the preparation of the UDI/MHBA Presentation by providing resource materials and in reviewing and providing comments prior to its distribution. I concur in its content. A copy of the UDI/MHBA Presentation is attached as Exhibit "T".

- 19 -

37. On September 12, 2016, I, on behalf of MHBA, and other invited stakeholders met with Mayor Bowman and Councillor John Orlikow. I and the other stakeholder representatives again expressed deep concerns regarding the authority of the City of Winnipeg to implement the Draft By-law. We again voiced the position that new development more than pays for itself and offered once again to engage in the *Development Agreement Parameters* process to address any legitimate issues related to the appropriate imposition of development-related costs to specific developments. The only outcome of that meeting was that those in attendance were informed that The City of Winnipeg had no intention of delaying the imposition of development cost charges.

38. On or about September 21, 2016 the EPC considered the Administrative Report and the Draft By-law. The EPC voted to delay the implementation of the Draft By-law indefinitely in order to conduct industry consultation.

39. The City of Winnipeg, through Councillor John Orlikow, purported to conduct the industry consultation. The consultation process

- 20 -

with MHBA was, in my view, inadequate. The concerns expressed by MHBA regarding the legality of the Draft By-Law and the willingness of the UDI and the MHBA to address issues through the *Development Agreement Parameters* process were not dealt with.

40. On September 26, 2016 I, on behalf of the MHBA, and Eric Vogan, on behalf of the UDI, met with Councillor Orlikow as part of The City of Winnipeg's purported consultation process. We again stressed the need to go back to the *Development Agreement Parameters* approval consultation process as a means of addressing the legitimate concerns of all parties. Among other things, we also expressed the view that the Draft By-law did not establish an appropriate framework to match costs associated with growth to a particular development and did not ensure that any monies collected would be expended for the purposes for which they were collected.

41. On October 6, 2016 I, on behalf of the MHBA, , together with representatives of Qualico, A & S, Ventura, Randall Homes and Hilton, with Councillor Orlikow to again discuss the concerns of the MHBA and its

- 21 -

members regarding the imposition of development cost charges under the Draft By-law. We emphasized the significant impacts of development cost charges on the home building community and the development market in The City of Winnipeg. Councillor Orlikow expressed no willingness on the part of The City of Winnipeg to reconsider or alter its proposed course of action and stated that the necessary votes to pass the By-law at Council were in place.

42. On October 7, 2016 I, on behalf of the MHBA, and Eric Vogan, on behalf of the UDI, met with Councillor Orlikow to again express the concerns of our organizations and our members in relation to the imposition of development cost charges under the Draft By-law. We again emphasized with Councillor Orlikow the desire to return to consultation under the *Development Agreement Parameters* process.

43. UDI and the MHBA engaged MNP LLP to prepare a presentation to Winnipeg City Council members based on the UDI/MHBA Presentation. I participated with representatives of MNP LLP and Eric Vogan, on behalf of UDI, in making that presentation to a group of City

- 22 -

Councillors who attended, and in the subsequent discussions. A copy of the presentation materials are attached as Exhibit "U". I concur in their content.

44. On October 14, 2016 the City released a draft version of the Impact Fee Working Group Terms of Reference (the "**Working Group Terms of Reference**"). The Working Group Terms of Reference define the responsibilities and membership of a proposed working group intended to create recommendations for a review of the development cost charges imposed by the By-Law every two years. A copy of the Working Group Terms is attached as Exhibit "V".

45. On or about October 14, 2016 the City publicly released a press information sheet titled *Amendments Proposed to Impact Fee Implementation - Phased-In Approach Recommended to Executive Policy Committee* (the "**Information Sheet**"). The Information Sheet contained statements from Mayor Brian Bowman regarding the supposed industry consultation conducted by Councillor Orlikow and the resulting

- 23 -

recommendations to be made to the EPC. A copy of the Information Sheet is attached as Exhibit "W".

46. On October 14, 2016 The City of Winnipeg released a document titled *Backgrounder - Key Changes & Additions Proposed to Impact Fee Implementation* (the "**Backgrounder**"). A copy of the Backgrounder is attached as Exhibit "X".

47. The Backgrounder describes the original development cost charges contained in the Administrative Report as well as the recommended changes. The Backgrounder put forward an apparently arbitrary fifty percent reduction to the development cost charge first proposed by The City of Winnipeg for residential development under the Draft By-law. The Backgrounder contains no explanation for or justification of the change.

48. The Backgrounder proposed exempting all types of development other than suburban, green-field, residential development from any development cost charges until November 1, 2018.

- 24 -

49. On October 14, 2016 The City of Winnipeg publicly released a *Phase One Impact Fee Implementation Plan* (the "**Phase One Plan**"). The Phase One Plan consists of a map that delineates the limited geographic areas within which the residential development cost charges under the Draft By-law would apply, to the exclusion of all other areas of the City of Winnipeg. A copy of the Phase One Plan is attached as Exhibit "Y".

50. On October 14, 2016 The City of Winnipeg released a proposed motion to be considered by the EPC at its meeting of October 19, 2016 (the "**EPC Motion**"). The purpose of the EPC Motion was to adopt the Working Group Terms, the Phase One Plan and the changes to the Draft By-law, as outlined in the Backgrounder. A copy of the EPC Motion is attached as Exhibit "Z".

51. I, on behalf of the MHBA, attended at the EPC meeting on October 19, 2016 to present the position of the MHBA and its members. A copy of the MHBA presentation to EPC is attached as Exhibit "**AA**".

- 25 -

52. On October 19, 2016 the EPC voted to recommend the EPC Motion to Council.

53. I attach a copy of the Council Agenda, including the EPC recommendation to be considered at the City Council meeting of October 26, 2016 as Exhibit "**BB**". The Council Agenda included a copy of The Administrative Report, the Hemson Reports, the Draft By-Law, Working Group Terms of Reference and the Phase One Plan. The Council Agenda also included copies of three maps that amended the Phase One Plan delineating the geographic areas that would be subject to the Impact Fee payable pursuant to the By-Law.

54. I, on behalf of the MHBA, attended at the Council meeting on October 26, 2016 to present the position of the MHBA and its members. A copy of the MHBA presentation to Council is attached as Exhibit "**CC**".

55. Although representatives of The City of Winnipeg have publicly expressed the position that there was to be and that there was consultation with affected stakeholders, including the MHBA, it was my experience that there was little opportunity offered to the MHBA to offer

- 26 -

comment and little interest on the part of the representatives of The City of Winnipeg to engage in any meaningful dialogue in relation to the imposition of the impact fee.

SECTION 4

Effect of the Impact Fee to Home Buyers

56. I have been in close consultation with the members of the MHBA regarding the impacts of the By-law and resultant development cost charges. I am informed by each of the MHBA homebuilder members with whom I have been in contact, and I believe, that those who are homebuilder members fully intend to pass on and are passing on the entire impact fee under the By-law to home buyers.

57. The impact fee under the By-law is based on the square footage of the residence that is to be constructed upon the developed lot. The impact fee under the By-law is to be collected at the time the building permit is issued. It does not depend on the lot size or the number of occupants in the proposed residence. It is not based upon the location of the residence within the development nor the nature nor demand for

- 27 -

additional services related to the particular development in which the home is to be constructed.

58. Because the impact fee is levied at the building permit stage, it is not imposed on developers. It is levied on the party, typically the homebuilder, who takes out the building permit. In the vast majority of cases the impact fees levied under the By-law will be paid by the homebuilder and then charged to the home buyer. Only where a homeowner takes out his or her own building permit will the impact fee under the By-law be levied upon that individual directly.

59. I attach as Exhibits "DD", "EE" and "FF" a sampling of the homebuilder contracts that have been provided to me by MHBA members. Under each contract the impact fee under the By-law (plus applicable GST) is added to the home purchase price and passed on to the home buyer. I am informed by representatives of those homebuilders and do believe that those contracts are the standard forms in use by those homebuilders.

- 28 -

60. Under the Phase One Plan, as adopted by the By-law, the impact fee does not apply to new homes constructed anywhere in the City outside of the designated areas. Under the By-law two identical homes could be built, housing identical occupants, one inside a designated area and one immediately outside of a designated area and only the construction of the former would be subject to the imposition of the impact fee.

61. The By-law does not specify any relationship between the amount of the impact fee levied on new homes in a particular development and any costs purportedly associated with the home or the development; nor is there any requirement that the funds collected be expended in respect of any costs associated with the particular development.

SECTION 5

The City of Brandon Approach

62. The City of Brandon ("Brandon") recently engaged in the development of a development charges by-law for the funding of off-site

- 29 -

improvements (i.e., those improvements external to a development) to transportation, water, wastewater and land drainage facilities and networks. That process involved the detailed study of the effect of particular types of development in specific areas of Brandon and the appropriate allocation of off-site costs related to the area and type of development.

63. A copy of the *City of Brandon Development Charge Background Study Final Draft for Public Circulation* is attached as Exhibit "GG". A copy of the *City of Brandon Development Charge Background Study* is attached as Exhibit "HH".

64. In the course of development of the study, Brandon conducted detailed mapping and the establishment of priority districts. A copy of the Brandon development charge mapping is attached as Exhibit "II". A copy of the *Brandon Presentation on the Financial Implications of Development Charges* is attached as Exhibit "JJ".

65. Brandon also collected data from other municipalities as background for the development of its proposed by-law. A copy of the *City*

- 30 -

of Brandon Data Collected from Other Municipalities is attached as Exhibit "KK". Brandon engaged in an extensive public consultation process including public meetings on November 24, 2016, March 8, 2017, April 3, 2017, and June 12, 2017. A copy of the November 24, 2016 presentation by Brandon is attached as Exhibit "LL". A copy of the *City of Brandon Local Service Policy* presented at the November 24, 2016 public meeting is attached as Exhibit "MM". A description of the consultation process undertaken by Brandon titled *Public Consultation Summary - City of Brandon Development Charges Project* is attached as Exhibit "NN".

66. Brandon Council held a public hearing to consider the *Development Charge By-Law* on September 11, 2017.

67. Brandon Council gave second reading to the *Development Charge By-Law No. 7175* on October 16, 2017. A copy of the report on second reading, which includes the *Development Charge By-Law*, is attached as Exhibit "OO". According to the Brandon website, the *Development Charge By-Law* will receive third reading after consideration by the Manitoba Public Utilities Board.

- 31 -

68. I make this affidavit *bona fide* in support of the application to set aside the By-law.

SWORN BEFORE ME at the)
City of Winnipeg in the Province)
of Manitoba this 28th day of)
November, 2017)





MIKE MOORE

A Barrister-at-law entitled to practice
in and for the Province of Manitoba