

Ts'uubaa-asatx Water and Sewer Services Fee Law (North Shore Estates), 2023
Fee Law Report

Background

Ts'uubaa-asatx ("TSU") has entered into a servicing agreement (the "**2022 Servicing Agreement**") with the Town of Lake Cowichan (the "**Town**") entitled "North Shore Estates (Phases 1, 2 and 3) Municipal Services Agreement" pursuant to which the Town agrees to provide services, including water and sewer, to a specified portion of the Cowichan Lake reserve identified in the Agreement (the "**Development**") and TSU agrees to pay for those services. The 2022 Servicing Agreement covers all three existing and/or planned phases of the Development- Phase 1 comprises 26 lots, Phase 2 comprises 29 lots and Phase 3 is expected to comprise 32 lots. The 2022 Servicing Agreement replaces and supercedes the servicing agreement between TSU and the Town concluded in 2020 which covered only Phase 1 of the Development.

The fees payable by TSU to the Town under the 2022 Servicing Agreement for water and sewer services are tied to the residential metered rates payable by "Outside Users" pursuant to the Town water, sewer and services bylaws established from time to time, except that during construction, for a period of six months or until an occupancy permit is issued, whichever is earlier, the fee payable for water services is calculated based on the single-family unit rate (or its equivalent) prescribed by the Town water bylaw from time to time.

TSU wishes to enact "*Ts'uubaa-asatx Water and Sewer Services Fee Law (North Shore Estates), 2023*" for the purposes of levying fees for water and sewer services payable by holders of interests in the Development at rates that correlate to the rates prescribed by the Town bylaws from time to time for residential metered consumers of those services outside the boundaries of the Town, referred to as "Outside Users" in the Town's bylaws, except that during construction, for a period of six months or until an occupancy permit is issued, whichever is earlier, the fee payable for water services will correlate with the single-family unit rate (or its equivalent) prescribed by the Town water bylaw from time to time.

Report

The *Ts'uubaa-asatx Water and Sewer Services Fee Law (North Shore Estates), 2023* (the "**Fee Law**") provides at Recital C that the fees established in the Fee Law are supported by a report setting out the projected cost of the water and sewer services (the "**Water and Sewer Services**"), how the costs of those services were determined, and the proportion of the total costs of the Water and Sewer Services that TSU will recover through the fees set out in the Fee Law.

The Fee Law levies fees for the Water and Sewer Services, payable by holders of interests in the Development, at rates that correlate to the rates prescribed by the Town bylaws from time to time for residential metered consumers of those services outside the boundaries of the Town, referred to as "Outside Users" in the Town bylaws, except that during construction, for a period of six months or until an occupancy permit is issued, whichever is earlier, the fee payable for water services will correlate with the single-family unit rate (or its equivalent) prescribed by the Town water bylaw from time to time

As the fees in the Town bylaws are changed by amendments to or replacements of those bylaws, the fees payable under the Fee Law will also change.

Specifically, the Fee Law provides that the fees established in the following Town bylaws, plus a surcharge equal to the percentage of those fees stipulated below for the corresponding calendar year, are established as fees under the Fee Law:

Town Bylaws

- For the service of water provided to an interest in the Development from the date that a building permit is issued, the fee established from time to time based on the single-family unit rate (or its equivalent) prescribed by the Town of Lake Cowichan Water Regulations and Rates bylaw (the "Construction Water Rate"). The Construction Water Rate applies until an occupancy permit is issued or 6 months from the date of issuance of the building permit, whichever occurs first.
- For the service of water provided to an interest in the Development once the Construction Water Rate ceases to apply, the fees established based on the residential metered rate prescribed from time to time under the Town of Lake Cowichan Water Regulations and Rates Bylaw for "Outside user per unit" (or its equivalent).
- For the service of sewer provided to an interest in reserve lands in the Development once an occupancy permit has been issued, the fees established from time to time based on the residential metered rate prescribed by the Town of Lake Cowichan Sewer Regulations and Rates Bylaw for "Outside user per unit" (or its equivalent).

Surcharge

- For the calendar year 2023, a surcharge of 10% will be added to the fees determined based on the Town bylaws;
- For each calendar year after 2023, a surcharge equal to the corresponding percentage below for that calendar year will be added to the fees determined based on the Town bylaws:

Calendar Year	Percentage
2024	11%
2025	12%
2026	13%
2027	14%
2028 and onwards	15%

Projected Cost of the Water and Sewer Services

TSU's projected cost of providing the Water and Sewer Services can be broken down into 3 components.

The first component is the fee payable by TSU to the Town pursuant to the 2022 Servicing Agreement. With respect to the provision of water service, this fee is triggered by the issuance of building permits by TSU to holders of interests in the Development, and with respect to the provision of sewer service, this fee is triggered by the issuance of occupancy permits by TSU to holders of interest in the Development.

This component of TSU's cost of providing the Water and Sewer Services will be close to revenue neutral as the fees charged by the Town to TSU pursuant to the 2022 Servicing Agreement will be passed onto the holders of interests in the Development pursuant to the Fee Law, except that any discount provided to TSU by the Town pursuant to the 2022 Servicing Agreement for early payment will not be passed onto holders of interests in the Development.

The second component is the administrative cost for TSU to invoice and collect from the holders of interests for the Water and Sewer Services. Currently, Phase 2 is anticipated to be fully built out by 2024 and Phase 3 will be built out by 2027. TSU's estimated administrative cost for invoicing and collecting for the Water and Sewer Services upon full built out of both Phases is \$1,000 per annum.

The third component is the estimated annual operation and maintenance cost of the water and sewer infrastructure installed by TSU to service the holders of interests in the Development. On the advice of its engineers (as per the letter appended as Appendix A to this report), the anticipated annual operation and maintenance cost for TSU's water and sewer infrastructure to service Phases 1 and 2 is \$14,800 and to service Phase 3 is \$8,200, totaling \$23,000.

Based on the above projections, the total annual cost of the Water and Sewer Services to TSU, when the 87 lots in the Development are fully built, will be (using the Town's rates for 2022):

\$ 60,552.00 (Town's fees for water = 87 lots x \$58 (monthly fee) x 12); plus
\$ 53,285.76 (Town's fees for sewer – 87 lots x \$51.04 (monthly fee) x 12); plus
\$ 23,000.00 (O&M)
\$ 1,000.00 (admin.)
\$137,837.76

and the total annual fees that TSU could expect from the Fee Law would be \$119,165.50, at a 10% surcharge, and up to \$130,913.42 at a 15% surcharge. This represents an approximate cost recovery of between 86% to 95%.

APPENDIX A

See attached report