

The Short Guide - Community Amenity Contributions: Balancing Community Planning, Public Benefits and Housing Affordability

Ministry of Community, Sport and Cultural Development



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Ministry of Community, Sport and Cultural Development

Contact the Ministry of Community, Sport and Cultural Development for answers to questions about the material contained in this guide or other aspects of community amenity contributions.

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Disclaimer

The information contained in this guide is provided as general reference and, while all attempts have been made to ensure the accuracy of the material, the guide is not a substitute for provincial legislation and it does not constitute legal advice.

Community Amenity Contributions: Balancing Community Planning, Public Benefits and Housing Affordability

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Purpose of the Short Guide to Community Amenity Contributions

When a local government rezones land, it usually increases the land's value which provides a financial benefit to the applicant, usually the owner or a developer. Increasingly, local governments are seeking to capture part of that financial benefit in order to help fund new infrastructure or provide other public benefits. While rezoning land presents an opportunity to obtain these "community amenity contributions" (CACs), there are also some important legal and public policy risks that need to be considered.

To help local governments appreciate the opportunities and risks of obtaining CACs, the Ministry of Community, Sport and Cultural Development has produced a guide, *"Community Amenity Contributions: Balancing Community Planning, Public Benefits and Housing Affordability"*. The purpose of this Short Guide is to provide the highlights of the full length guide. Those interested in more detailed information should view the full length document available on the Ministry's website: http://www.cscd.gov.bc.ca/lgd/intergov_relations/library/CAC_Guide_Full.pdf

CACs Are Both an Opportunity and a Risk

Growth creates demands for new or expanded infrastructure and amenities. The cost of meeting these demands can be substantial. While provincial legislation allows local governments to require developers to provide infrastructure, such as roads, parks, water, drainage and sewer facilities, not all impacts of development are fully covered by the legislation. Local governments wanting to recover the full costs of providing infrastructure and community amenities associated with growth, such as recreation facilities or fire halls, are increasingly looking for alternative means of funding, including CACs secured during the rezoning process.

Before deciding if and how to pursue CACs, however, local governments need to ensure that these CACs are obtained legally, fairly and in a way that maintains public confidence in the local government and its community plan.

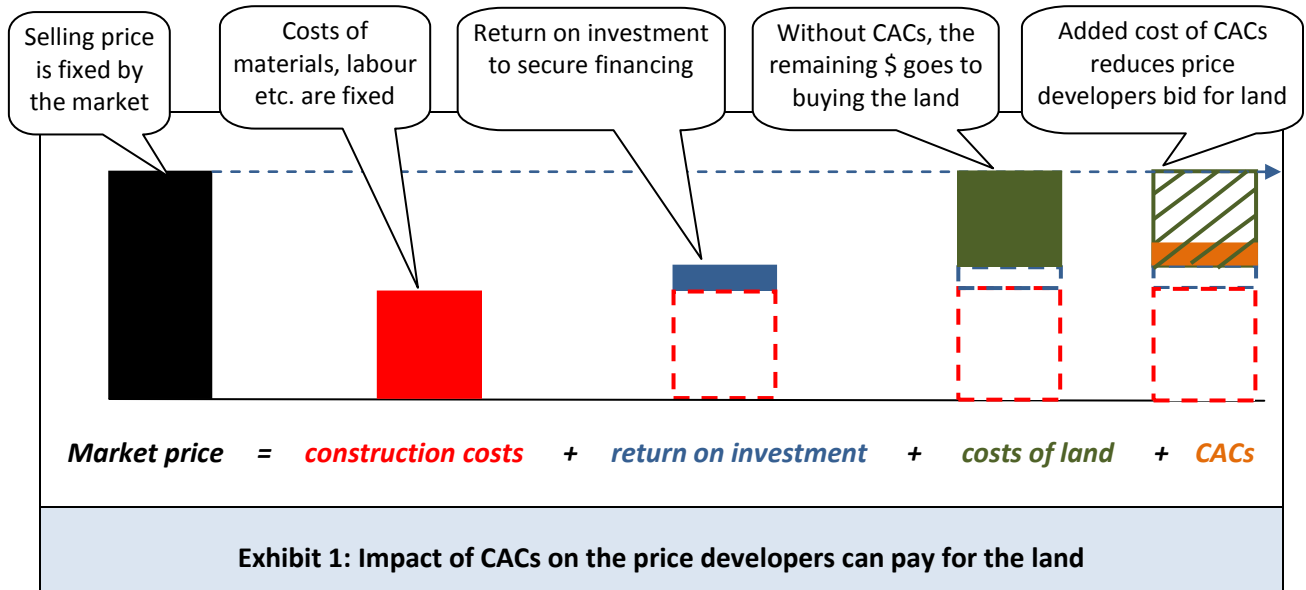
Local governments do not have legal authority to require applicants for rezoning to pay CACs. They must ensure that any CACs are obtained as part of a negotiation process. Local governments must also not commit to pass a rezoning bylaw on the condition that CACs are provided. Council and regional board members are legally required to remain open-minded on a proposed rezoning, until they have heard the public's perspectives at the public hearing.

It is important to keep in mind that zoning is intended to implement the community plan and should not be seen as a revenue source. Being perceived to be "selling zoning" can undermine public confidence in the community plan and the council/regional board's commitment to the plan.

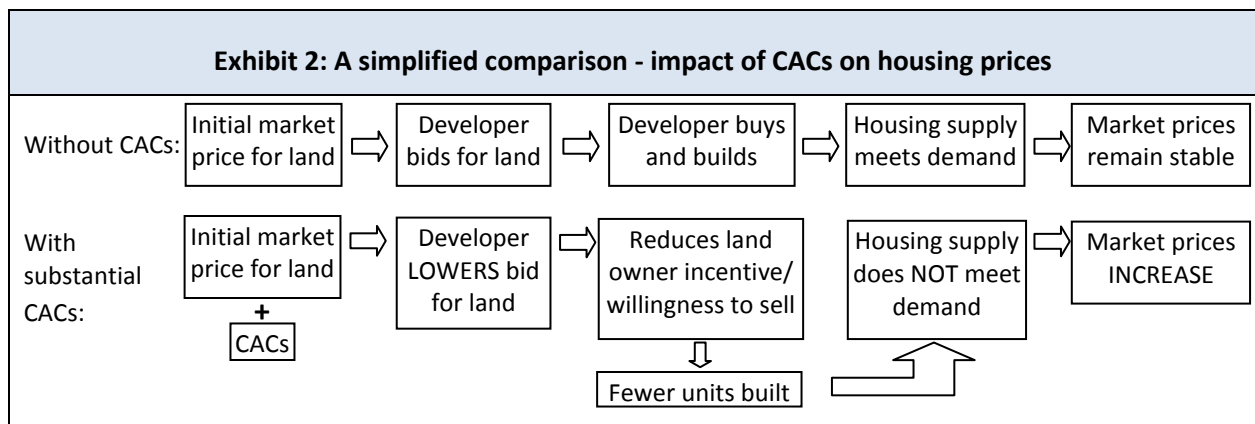
CACs Can Impact Housing Affordability

Another important consideration is the relationship between CACs and housing affordability. If not managed carefully, CACs have the potential to decrease the supply of new housing and increase housing prices. In a nutshell, a housing developer faced with significant CACs cannot simply increase the selling price of the units, as the selling price is set by the market.

Labour, materials and other construction costs are also fixed. Choosing to reduce their return on investment to absorb these additional costs is also not usually an option. To secure financing, a developer needs to ensure that their *pro forma* shows a normal financial return. As illustrated in Exhibit 1, the only practical option for the developer is to try and offset the cost of CACs by reducing the amount they offer to land owners to buy the site.



In land markets where supply is limited, as in many of B.C.'s growing communities, large CACs leave fewer dollars for developers to purchase land. If land owners are reluctant to sell for a reduced price, developers do not proceed to develop, resulting in a reduction in the supply of new housing, which in turn contributes to higher housing prices (as illustrated below in Exhibit 2).



The above diagrams show that while CACs cannot directly increase the price of housing for a particular development, if they are widely used, CACs can push up prices in the overall market.

To ensure that housing affordability is not being compromised, local governments need to ensure that CACs are kept at a modest level. A policy of trying to maximize the amount of CACs risks driving up housing prices.

Summary of Recommended Practices for CACs

The following outlines recommended practices for local governments currently, or considering, using, CACs:

1. Avoid Legal Risk and Maintain Public Confidence

- Negotiate, do not impose CACs. A common misperception is that local governments have authority to **impose** CACs as a condition of rezoning. In fact, the *Local Government Act* [s. 931(6)] prohibits this. CACs must be negotiated.
- Avoid the perception that zoning is for sale. Elected officials must remain “open-minded” during the rezoning process, and must not *commit* to approving a rezoning subject to CACs. Zoning should not be considered a revenue stream. The perception of “selling zoning” undermines public confidence in the local government and the community plan.

2. Plan Ahead

- Identify potential amenities that could be partly funded through CACs when preparing or updating the community plan, ideally identifying the priorities at the neighbourhood level.

3. Seek Modest Contributions and Follow an Approach that Balances Community Amenities and Housing Affordability

- The potential impact of CACs on housing affordability is higher where CACs are a significant portion of the cost of the development.
- Since CACs increase the cost of a project, it is important to consider who ultimately pays for these additional costs, and how they may affect housing supply and housing prices. This issue is of particular concern in areas where land is in short supply.
- Strategies that facilitate an increase in the supply of housing have a positive effect on affordability.
- The impact of CACs will be different in different areas or circumstances, so a flexible approach is best.

4. Apply Development Cost Charge (DCC) Principles to CACs

- Ensure a direct, demonstrable link (‘nexus’) between CACs and the impacts of new development.
- Ensure CACs are proportional to the impact of the development and consistent with the CACs made by other applicants/developers.
- Be transparent about the amount of CACs and how they will be used.
- Borrow the principles and practices that apply to DCCs to develop (tables of/schedules of) estimated CAC amounts.
- CACs should only be used for capital costs. Local governments should be sure that they have the budget capacity to deal with operational and repair costs over time.

5. Engage the Development Community

- Be aware of how CACs could impact projects and their viability, to avoid contributing to higher housing prices.

6. Choosing an Approach to Obtaining Amenities - *It is recommended that local governments consider the following strategies (in order):*

- **Adopt an “affordability by design” approach to writing zoning bylaws** – i.e. zones that allow for design features that reduce the costs of producing housing units and/or encourage additional units. Examples include reducing or eliminating setbacks and parking requirements.
- **Use density bonus zoning** – modest levels of density bonus tied to modest contributions, encourage new development while minimizing the impact on housing affordability.
- **Set targets for CACs** – and be open to negotiation at time of rezoning. These targets should be modest to minimize impact on housing affordability.
- **Negotiating CACs based on a “lift” approach is inconsistent with the principles set out in this Guide**, and is the approach most likely to reduce the supply of developable land and housing, thereby contributing to higher housing costs. The CAC principles set out in this Guide, including ‘planning ahead’, nexus and proportionality, support an approach that clearly identifies community needs and the impacts associated with new development, and links the CAC not to the “lift” in land value, but rather to the cost of providing a package of amenities that makes sense given the development being proposed.

This Short Guide has outlined for B.C. local governments some of the risks, challenges and recommended practices related to obtaining CACs. Most of the recommended principles and practices apply equally to CAC and density bonus approaches. The guide has also described the relationship between CACs and housing affordability, and encourages practices that do not risk inadvertently causing housing prices to increase. Since the impact of CACs will vary, it is suggested that BC local governments be flexible in their approach to obtaining CACs.

