

Planning and Property Development Strategic Policy Committee June 2017

Update on Payment of fee by Elected Members re submission/observation to planning application

In relation to representations to the Minister in regard to abolishing the fee for Councillors when making observations on planning applications below is an update on the status of the review of legislation currently underway on this matter.

Section 33 (c) of the Planning and Development Act 2000 as amended provides that regulations may make provision:

“enabling persons to make submissions or observations on payment of the prescribed fee and within a prescribed period”

The Planning and Development Amendment Bill 2016 contains at Section 10 an amendment to Section 33 of the Principal act regarding payment of fees as follows:

**10. Section 33 of the Act of 2000 is amended in subsection (2)—
(a) by inserting the following after paragraph (c):**

“(ca) providing for the waiving or reduction of a fee to which paragraph (c) would relate, or the payment of a different fee, in respect of submissions or observations made by a person in his or her capacity as a member of a local authority;

As regards enactment of this amending Bill, its Report Stage debate was scheduled to take place last week. However, the election of a new Taoiseach delayed the usual weekly schedule in the Dáil, and last week’s business was postponed. It is hoped that the new Minister for Housing, Planning & Local Government will press to conclude all stages of the Bill’s debate promptly, and have it pass both the Dáil and Seanad before summer recess.

If the Bill is enacted the Minister may then make a regulation providing for the waiving or reduction of a fee or the payment of a different fee to which paragraph (c) of Section 33(2) relates or the payment of a different fee (or no fee) in respect of submissions or observations made by person in his or her capacity as an elected

member. The usual process for making of a statutory instrument would apply and can be done in either of two ways depending on the procedure and practice chosen by the Minister:

- Lay the Regulations before the Leinster House library, where they are deemed to be accepted by the Members if no objection is lodged within 21 days or
- Put them by way of Resolution before both Houses
 - This can sometimes be just a formality and they get passed. However there is a chance that they can get referred from there to a Committee of the Houses for debate which would take longer (this happens less regularly).

In the meantime the current situation prevails in that all submissions/observations on planning applications by Elected Members must be made during the statutory 5 week period and be accompanied by the appropriate fee unless the submission or observation simply states that the Elected Member is in favour of or not in favour of the proposed application/submission. If any further elaboration is provided the appropriate fee must accompany the submission.

Failure to act in accordance with the Regulations and Guidelines could prejudice the planning authority/Elected Members and leave planning decisions open to challenge through the courts.

Dublin City Council will continue to liaise with the Department and the Minister's Office for an early resolution to this matter.

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