THE CITY OF WINNIPEG

BY-LAW NO. 123/2007

A By-law of THE CITY OF WINNIPEG to implement the Downtown Multiple Family / Mixed-Use Building Grant Program

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

Short title

1. This By-law may be cited as the Downtown Multiple Family / Mixed-Use Building Grant Program By-law.

Definitions

2. In this By-law

"applicant" means the owner of property who personally or through an agent applies for a conditional approval under section 5 of this By-law;

"base year" means the calendar year in which building permits were issued in respect of the project;

"building permit" means a permit issued pursuant to the Winnipeg Building By-law authorizing construction in respect of a new, redeveloped or converted building;

"conversion" means a change in the assessment designation of a property to Residential 2 or Residential 3 from an assessment designation other than Residential 1, Residential 2 or Residential 3, as those terms are used in the *Classification of Property and Portioned Values Regulation 184/98* pursuant to *The Municipal Assessment Act*, C.C.S.M. c. M226.

"Director" means the Director of Planning, Property and Development for the City of Winnipeg or designate;

"Downtown" means the geographic area of the City of Winnipeg to which the Downtown Zoning By-law No. 100/2004 applies;

"dwelling unit" means a self-contained unit that has facilities for living, sleeping, and the preparation and consumption of food and includes a condominium;

"eligible project" means a project that meets the conditions set out in section 4;

"eligible property" means property on which an eligible project is located;

“incremental municipal taxes” means the municipal portion of real property taxes imposed on the property on which an approved project is located during the complete calendar years immediately following issuance of an occupancy permit in respect of the approved project less the municipal real property taxes which would have been imposed on the said land in the Base Year if the project had not been constructed;

“mixed use building” means a building

(a) that contains four or more dwelling units; and

(b) a part of which is classified for assessment purposes as either Residential 2 or 3 and a part of which is otherwise classified;

“multiple family residential building” means a building that contains four or more dwelling units and is designated for assessment purposes as Residential 2 or Residential 3, as those terms are used in the *Classification of Property and Portioned Values Regulation 184/98* pursuant to *The Municipal Assessment Act*, C.C.S.M. c. M226.;

“occupancy permit” means a building occupancy permit issued pursuant to the Winnipeg Building By-law;

"owner" means a person who is the owner of a freehold estate in real property, and includes

(a) a person who is an owner, with another person as joint tenant or tenant in common, of a freehold estate; and

(b) a real owner, as defined in subsection 1(1) of *The Municipal Assessment Act*;

“property” means real property identified by roll number on the tax roll but does not include a condominium;

“real property taxes” means municipal taxes imposed by the City of Winnipeg for its own purposes on the residential component of properties pursuant to clauses 334(1)(a) and 341(1) of *The City of Winnipeg Charter* and, for greater certainty, does not include:

(a) taxes levied for school purposes;
(b) business taxes;
(c) personal property taxes;
(d) local improvement taxes;
(e) frontage levies;
(f) arrears of taxes;
(g) penalties;
(h) any amounts added to taxes for the recovery of a debt pursuant to a statutory authority;

“redevelopment” means the process by which a residential or mixed use building that has been vacant for 12 months or more

(a) in the case of a residential building, has been issued an occupancy permit for residential occupancy; or

(b) in the case of a mixed use property, has been issued occupancy permits for both residential and commercial occupancies;

"vacant" in relation to a building means a building that is not being used or occupied.

Tax grant payable to developers of eligible projects

3(1) Subject to this section and section 470 of *The City of Winnipeg Charter*, a grant in the amount of the incremental municipal taxes payable on a property on which an eligible project is located shall be paid by the Director to an applicant

(a) whose project has been issued a conditional approval under this By-law and the conditional approval has not expired; and

(b) whose project meets all of the eligibility requirements set out in section 4.

3(2) Subject to this section, the grant referred to in subsection (1) shall be paid for each complete calendar year in which incremental taxes are payable in respect of the property.

3(3) Notwithstanding any other provision of this By-law, the grant referred to in subsection (1) shall not be paid for more than a total of ten calendar years in respect of an eligible property.

3(4) Notwithstanding any other provision of this By-law, the total amount of the grant paid pursuant to subsection (1) in respect of any eligible property must not exceed the following:

(a) $20,000 per dwelling unit for an approved rental project, where the property is not registered pursuant to section 4 of *The Condominium Act* during the period during which a grant is payable pursuant to this By-law;

(b) $20,000 per dwelling unit for an approved condominium project, where the resulting condominium units have an assessed value of less than $250,000, as finally determined including revisions or the results of appeals made pursuant to clause 343(2)(a) of *The City of Winnipeg Charter*, if any, as of the date the project meets the requirement set out in clause 4(f); and

(c) $10,000 per dwelling unit for an approved condominium project, where the resulting dwelling unit has an assessed value of $250,000 or more as finally determined including revisions or the results of appeals made pursuant to clause 343(2)(a) of *The City of Winnipeg Charter*, if any, as of the date the project meets the requirement set out in clause 4(f).

3(5) For greater certainty, where the property is registered under *The Condominium Act* during the period during which a grant is payable pursuant to this By-law, the maximum grant payable in respect of the approved project shall be determined by clauses (4)(b) or (c), as the case may be.

3(6) The person to whom a grant is payable may assign the grant but the Director may require that the assignor pay an administrative fee for an assignment.

Eligibility requirements

4 A project is eligible for a tax grant pursuant to this By-law if all of the following conditions are met:

(a) the owner or agent of the owner of the property on which the project is proposed to be located has applied under section 5 of this By-law for conditional approval prior to the completion of the project;

(b) the property on which the project is situated is located Downtown;

(c) the property on which the project is situated fronts on a street in which water and sanitary and storm sewer mains have been placed or, where water and storm sewer mains have not been so placed or are inadequate for the proposed project, the applicant has paid or has made arrangements satisfactory to the Director of Public Works to pay the costs of installing or upgrading them;

(d) the project consists of one of the following:

(i) construction of a new multiple family residential or mixed-use building;

(ii) redevelopment of an existing multiple family residential or mixed-use building that has been vacant for 12 months or more;

(iii) conversion of a building that is neither a multiple family residential building nor a mixed-use building to either a multiple family residential or mixed-use building;

(e) building permits for the project have not been issued prior to January 1, 2007;

(f) the project results in a multiple family residential or mixed use building which has been issued one or more occupancy permits authorizing the use of the entire building for residential occupancies or, in the case of a mixed use property, for both residential and non-residential occupancies

(g) the completed project complies with all applicable zoning, building and other by-laws.

Application

5(1) An owner or the agent of an owner of property may, prior to the expiration of this By-law, apply to the Director for conditional approval of a grant that will be payable pursuant to this By-law if the project is or becomes eligible.

5(2) The Director may refuse to accept an application where it appears that issuing a conditional approval will result in grants being paid pursuant to this By-law that will exceed the sum authorized by Council for this purpose.

Conditional approval of application

6(1) The Director may issue a conditional approval of an application if:

(a) the application has been made prior to the expiration of this By-law;

(b) the Director is satisfied that the project proposed to be constructed on the property meets or, after being constructed, is likely to meet the eligibility requirements set out in section 4; and

(c) issuing the conditional approval will not result in grants being paid pursuant to this By-law that will exceed the sum authorized by Council for this purpose.

6(2) Without restricting the generality of clause (1)(b), before issuing a conditional approval, the Director may require an applicant to provide evidence that an existing residential or mixed-use building proposed to be redeveloped has been vacant for a period of 12 months or more.

6(3) The Director may delay issuing a conditional approval until a representative from the Property Assessment Department of the City has had an opportunity to inspect the property and, if necessary, amend the Assessment Roll and the Tax Roll.

6(4) A conditional approval issued under this section expires:

(a) one year after the conditional approval has been issued unless building permits for the project have been issued;

(b) four years after the conditional approval has been issued unless clauses 4(c) (f) and (g) have been satisfied.

Administration

7(1) The Director may conduct inspections and take steps to administer and enforce this By-law in accordance with *The City of Winnipeg Charter* and, for those purposes, has the powers of a “designated employee” under *The City of Winnipeg Charter*.

7(2) Without restricting the generality of subsection (1), the Director may require that the applicant contact the Director in a manner authorized by the Director to advise that the project meets all of the eligibility requirements set out in section 4.

7(3) Where it is necessary to determine an address for service on a person, the following addresses may be used:

(a) if the person is an applicant, the address provided by the applicant in an application under this By-law;

(b) if the person is not an applicant, but is the owner of real property, the address maintained by the Tax Collector for the purpose of issuing the tax notice for that property.

(c) in all other situations, any address maintained by any department of the City of Winnipeg for the person.

7(4) A decision made by the Director or the Tax Collector under this By-law that is subject to an appeal under *The City of Winnipeg Charter* may be appealed to the Standing Policy Committee on Property and Development.

Coming into force and expiration

8(1) This By-law comes into force on June 1, 2007.

8(2) This By-law expires three years after the date it comes into force.

DONE AND PASSED, in Council assembled, this day of , 2007.

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Mayor

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City Clerk

Approved as to content:

_____
Acting Director of Planning,
Property and Development

Certified as to form:

_____
for City Solicitor/Manager of
Legal Services