Minutes – Executive Policy Committee – December 12, 2007

REPORTS

Minute No. 62 Red Tape Commission, Recommendation 9 – Certified Professional Program File GG-5

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service, namely:

1. That a phased approach to implementing Red Tape Recommendation 9: Establish a Certified Professional Program be adopted, with Phase I to be implemented in 2008. Work will continue to develop subsequent phases, along with Legal Services, industry and related Departments, including identification of any necessary amendments to The City of Winnipeg Charter or other provincial legislation, for proposed implementation in 2009 and 2010.

DECISION MAKING HISTORY:

Moved by Councillor Wyatt,

That the recommendation of the Winnipeg Public Service be concurred in.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 22, 2006, the Executive Policy Committee directed the Chief Administrative Officer to prepare and forward reports on all remaining recommendations of the Red Tape Commission in an expedited manner, in a manner reflecting a list of priorities.

RE: Red Tape Commission Recommendation 9: Implement a Certified Professional Program

FOR SUBMISSION TO: Executive Policy Committee

ORIGINAL REPORT SIGNED BY: D.J. Paterson, Acting Director, Planning, Property and Development

REPORT DATE: December 7, 2007

RECOMMENDATION:

That a phased approach to implementing *Red Tape Recommendation 9: Establish a Certified Professional Program* be adopted, with Phase I to be implemented in 2008. Work will continue to develop subsequent phases, along with Legal Services, industry and related Departments, including identification of any necessary amendments to *The City of Winnipeg Charter* or other provincial legislation, for proposed implementation in 2009 and 2010.

Report Summary

Key Issues:

- Red Tape Recommendation # 9 seeks to "iron out the kinks in inspection of new construction, speed the building process and increase inspection capacity. "

- The proposed Certified Professional Program has been developed in collaboration with a Technical Working Group (TWG) comprised of representatives from the Association of Professional Engineers and Geoscientists of Manitoba (APEGM), the Manitoba Association of Architects (MAA), the Consulting Engineers of Manitoba (CEM), the Professional Interior Designers Institute Manitoba (PIDIM), the Winnipeg Construction Association (WCA), and staff from the plan examination and inspections disciplines, to ensure that a proposal for the Certified Professional Program would work in the Manitoba market.

- The work of the Technical Working Group has focused on a *phased approach* to implementing a *Certified Professional* model in Winnipeg, by creating several "programs", phased in over a three-year period (2008 – 2010) that professionals in the construction industry can *choose to participate in as options or alternatives* to the standard application and review processes now in place for building permits.
- The program would be optional, which would allow applicants and proponents to choose the best and most cost effective solution for their respective projects

- Work will continue over the 3 year period with industry to work out details of upcoming phases in a consultative and collaborative approach in order to ensure ongoing buy-in

- An evaluation of each phase will be carried out after one full year of implementation of that particular phase, and will involve all related departments, the respective associations, and applicants who have utilized the Certified Professional Program
- Expected benefits derived from the implementation of a Certified Professional Program in Winnipeg include:
    - Improved permit turnaround times, particularly at the Foundation Stage, providing predictability for applicants
    - The potential for decreased pressure on internal inspections capacity
    - The potential for reduced impact on construction timelines when addressing defects or corrections

- Cautionary notes that have been flagged through the consultation process include:

    - A projected increase in costs to the project proponent for additional time required by design professionals

    - In May 2007 the Ontario Superior Court of Justice confirmed the authority of Professional Engineers Ontario (PEO) to regulate the practice of professional engineers and certificate of authorization holders. As summarized in news reports, the court ruled that this exclusive jurisdiction extends unequivocally to areas of building code compliance and activities relating to general review of construction. The Association asked the court to interpret the application to PEO license holders of amendments to the Ontario Building Code Act that took effect January 1, 2006. The amendments purported to require professional engineers, as designers, to qualify and register under a Ministry of Municipal Affairs and Housing regime to continue to be able to undertake designs and reviews associated with building permit applications. PEO argued there had been no evidence produced to indicate its licences had been inadequate in protecting the public in matters under the Ontario Building Code. The court also stated that the remedy should equally be available to architects. The Ontario Association of Architects acted as an intervener in the case.

      This ruling will be considered in the implementation of Phases II and III of the Certified Professional Program, specifically regarding the determination of the party responsible for conducting the training and certification of Certified Professionals as recognized by the City of Winnipeg.

Implications of the Recommendation(s):

General Implications

( ) None

(X) For the organization overall and/or for other departments

(X) For the community and/or organizations external to the City

( ) Involves a multi-year contract

Comment(s):

- Improved permit turnaround times, particularly at the Foundation Stage, providing predictability for applicants
- The potential for decreased pressure on internal inspections capacity
- The potential for reduced impact on construction timelines when addressing defects or corrections

Policy Implications

( ) No

( ) Yes

Comment(s):

Regulatory Implications

( ) None

(X) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s): The Certified Professional program proposes that design professionals holding the Certified Professional designation would take on the responsibility for all aspects of the building permit process, including code compliance and ensuring that all requirements and issues identified in the review process are addressed to the satisfaction of the City prior to occupancy, and for conducting all aspects of the inspections process, thereby reducing the regulatory burden.

Environmental Implications

(X) No

( ) Yes

Comment(s):

Human Resources Implications

(X) No

( ) Yes

Comment(s):

Financial Implications

(X) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s):

Report

REASON FOR THE REPORT:

On March 22, 2007, the Executive Policy Committee directed the Chief Administrative Officer to prepare and forward reports on all remaining recommendations of the Red Tape Commission. This report deals with implementing Red Tape Recommendation #9 which recommends that the City should shift to audit-based inspection and single building permit issuance for projects lead by a certified professional, building on the City of Vancouver's experience with its own Certified Professional program.

HISTORY:

On November 23, 2004, the Mayor officially established a Red Tape Commission, chaired by Councillor Franco Magnifico, to review City operations and regulations in order to improve customer service while granting administrators more freedom to innovate.

The Red Tape Commission submitted a final report, dated June 28, 2005, containing 30 general recommendations. Recommendation # 9 reads as follows:

> "The City should shift to audit-based inspection and single building permit issuance for projects lead by a certified professional, building on the City of Vancouver's experience with its own Certified Professional program.
>
> As in Vancouver, the model should be optional for proponents for the first five years of operation, after which use of a certified professional should be mandatory for all new construction in the City of Winnipeg."

On March 22, 2007, the Executive Policy Committee directed the Chief Administrative Officer to prepare and forward reports on all remaining recommendations of the Red Tape Commission.

Red Tape Recommendation # 9:

Red Tape Recommendation # 9 seeks to "iron out the kinks in inspection of new construction, speed the building process and increase inspection capacity. " Specifically, the Report recommends:

- A self-financing Certified Professional Program which allows architects and engineers to work within an audit model of inspection in exchange for demonstrated facility with local code compliance
- The program should resemble the City of Vancouver's in the following aspects:

        - A single building permit would be issued to Certified Professionals for up to three stages of construction
        - City inspection of projects led by a Certified Professional would be audit-based
        - Audits should not interrupt work in progress, and orders for compliance should not interrupt work unless a clear threat to health and safety has been identified
        - A professional must demonstrate awareness of local codes through testing delivered by a third party
    - The program should differ from Vancouver's in the following aspects:
        - The program should require professionals to demonstrate an experiential component for certification, based on logged experience in building code compliance
        - The program should include a system to allow the City to revoke certification in the event that a certified professional does not meet expected compliance standards
        - No permit fee discounts will be offered or promised for the Certified Professional Program until the City has had time to measure the program's operational performance
    - Projects of a certain size would be subject to a minimum of one audit during construction, based on a threshold agreed upon by the City and the construction industry
    - The Certified Professional Program should become mandatory effective five years after the program is underway

Action to Date:

In April 2007, representatives from the inspections and plan examinations branches within the Department visited the City of Vancouver and the City of Surrey to speak with officials regarding the *Certified Professional Programs* in those two jurisdictions.

In May 2007, the Department facilitated a discussion regarding Red Tape Recommendation 9, with members of the Permits X-Press Industry Advisory Group. A decision was made to form a Technical Working Group (TWG) comprised of representatives from the Association of Professional Engineers and Geoscientists of Manitoba (APEGM), the Manitoba Association of Architects (MAA), the Consulting Engineers of Manitoba (CEM), the Professional Interior Designers Institute Manitoba (PIDIM), the Winnipeg Construction Association (WCA), and staff from the plan examination and inspections branches, to develop a proposal for a Certified Professional Program that would work in the Manitoba market.

Bi-weekly meetings of the TWG have been held since mid-June 2007, and TWG members have been consulting both formally and informally with their respective associations and membership to shape the proposed approach.

DISCUSSION:

The Proposed Certified Professional Program:

The work of the Technical Working Group has focused on a *phased approach* to implementing a *Certified Professional* model in Winnipeg, by creating several "programs", phased in over a three-year period (2008 – 2010) that professionals in the construction industry can *choose to participate in as options or alternatives* to the standard application and review processes now in place for building permits.

The principles governing the proposed approach are as follows:

- *Safety* as the paramount consideration at all times
- *Flexibility and choice* through provision of options for obtaining building permits
- *Open, transparent and predictable* processes
- Commitment to a *consultative and collaborative approach* to the development and delivery of the program
- Acknowledgement of the r*ole of professional associations* in training, certifying and regulating their members
- Acknowledgement of the *role of the City of Winnipeg* as the Authority Having Jurisdiction for the Manitoba Building Code and other associated codes and by-laws

Three separate phases are proposed, with one phase being introduced in each year, commencing in 2008. Implementation of the various phases will be based on complexity of building type, starting with the least complex buildings. A description of each phase is provided on the next few pages.

January 2008 - Phase I: *Permit Coordinator Fast Track Program*

Proposed Implementation:

Training Program (16 – 20 hours) Offered:	January – March 2008
Effective Date:	April 1, 2008

Description:

A *Permit Coordinator* is an individual who, upon completion of the required program, officially takes responsibility for coordinating the submission requirements for an application for the *Land development* and *Foundation* stages of a construction project. A "Fast track" application by a Permit Coordinator would require a security deposit (amount to be determined), intended to be an assurance that all applicable by-laws and code issues will be addressed fully prior to the issuance of the final building permit or the occupancy. In situations where this does not occur, the City would use whatever funds necessary from the deposit to ensure compliance.

Eligibility for the Program and Training Requirements:

A combination of training and experience working in the construction industry is required in order to be eligible for the Permit Coordinator Program.

The Permit Coordinator Phase will be rolled out in sub-phases, based on complexity of building type, starting with the least complex buildings. Initially, the Fast Track Program will be available for all Part 9 buildings, as well as single-storey Part 3 buildings classified in the Manitoba Building Code as D, E and F occupancies. The existing *Building and Site Design Summary* will be used as the submission mechanism for the Fast Track Program. *NOTE: Post-disaster buildings are excluded from this Program.* The eligibility criteria may increase with the complexity of building type.

For the first year of the Permit Coordinator Program, the City will offer a 16 – 20 hour certification program (including a written test component) for members of APEGM, MAA, and WCA. Members of other associations may be included in subsequent sub-phases. Participants successfully completing the certification program to the satisfaction of the City, and applying into the *Permit Coordinator Program* will receive a Certificate authorizing them to act in the capacity of Permit Coordinator.

The City of Winnipeg will maintain a Registry of "Permit Coordinators" which would be publicly accessible. The City will also internally track the performance of each Permit Coordinator.

The role and responsibilities of the Permit Coordinat*or* relates solely to shepherding a project through the fast track permit process. The designation in no way bestows any authority on the individual to undertake responsibilities associated with the practice of architecture or engineering, nor does it supercede the required involvement of any or all design professionals in accordance with The Engineering and Geoscientific Professions Act, the Architects Act, the Manitoba Building Code or the City of Winnipeg Building By-law, relative to a particular project.

Fast Track Submission Pre-requisites

A certified Permit Coordinator is eligible to submit applications through the Fast Track Review Process as outlined below. There are three pre-requisites for Permit Coordinator Fast track submissions:

- Land Development Approvals
    - The Permit Coordinator would coordinate and submit all land development approval applications to ensure compliance with land development requirements. These would include zoning, (variances, conditional uses, re-zonings, subdivisions), structural (Building Code) and servicing (water, sewer, land drainage, traffic and roads, hydrants, approaches) requirements.

- All Public Hearing processes associated with land development approval for the project are required for Fast Track applications
- The *Building and Site Design Summary (BSDS)* document will be modified to include information related to the land development approval process

- A pre-application meeting with representatives from the City and project proponent/ applicant
  - This mandatory meeting is arranged through the Business Development Administrator with the Planning, Property and Development Department. The Business Development Administrator will bring together the appropriate reviewers from the various disciplines to review the project intent, and look at the subject property from the land development and servicing perspectives.

- A security deposit or Letter of Credit
  - Based on the information received at the pre-application meeting, a security deposit or Letter of Credit amount will be fixed. This amount will be based on the project specific requirements identified through the pre-application meeting. The security is intended to be an assurance that all applicable by-laws, code issues and servicing requirements will be addressed fully prior to the issuance of the final building permit or the occupancy. In situations where this does not occur, the City would use whatever funds necessary from the deposit to ensure compliance.
  - Clear rules on the administration and accessing of the security deposit will be developed prior to implementation of the Permit Coordinator Program in 2008. The intent is to parallel the existing procedure for Letters of Credit used currently by the Land Development Branch for securities related to development agreements.
  - A matrix of costs associated with potential building and development requirements will be created in consultation with the departments involved in the development approval and plan review processes, to provide project proponents with some predictability and consistency regarding the amount of security deposit required for specific projects, given the particular requirements of the subject property and associated structure(s).

Approval Processes Covered by the *Permit Coordinator Program*

1. Foundation Permit Stage

The Permit Coordinator would coordinate the "Foundation Permit Stage" building permit application and submit to the City of Winnipeg Zoning and Permits Office by appointment.

Submission requirements are:

- Modified *Building and Site Design Summary* document, completed to the Foundation Permit stage, and complete with articles of responsibility identified in each required discipline, and listing all required designers, so that each can be verified as being authorized, within the Province of

Manitoba, to undertake the specific scope identified. (NOTE: for projects involving Part 9 buildings, a design professional MUST be retained at the Foundation Permit stage in order to participate in the Fast Track program.)
- Final site plan
- Preliminary architectural drawings
- Final foundation drawings, signed and sealed
- Preliminary superstructure drawings indicating all design loads, prepared by a structural engineer, and clearly marked as "Preliminary – Not for Construction", or duly signed and sealed where complete
- Other departmental approvals as may be required from – Public Works (Transportation, Streets Maintenance), Water and Waste (Municipal engineer), Planning, Property and Development, Fire Paramedic Service, Community Services
- Security deposit

The City's review process will be:
- A high level review of the submission to ensure all base information is in place
- Issuance of a Foundation Stage permit, providing the base level of compliance is met
- Submission to the Permit Coordinator a list of corrections required, which the Permit Coordinator must ensure are addressed. Failure to do so before occupancy will result in the City drawing against the security deposit to make the corrections.
- The City will conduct a detailed review of the application to the Final Building Permit Stage issuance. All additional corrections or requirements will be communicated to the Permit Coordinator.
- The City will ensure that designers identified in the *Building and Site Design Summary* are made aware of any corrections or requirements.

The City's audit process will be:
- A random examination of *Building and Site Design Summary* documents received through the Permit Coordinator Program, to determine common errors and omissions, and to ensure that certified participants in the Permit Coordinator Program are upholding the requirements of the Program. Corrective action will be taken where a pattern of non-compliance is determined.

January 2009 - Phase II: *Certified Professional Program – Permit Stages*

As with Phase I – the Permit Coordinator Program, the Certified Professional Program will be rolled out in sub-phases, based on complexity of building type, starting with the least complex buildings. Initially, the Certified Professional Program will be available for all Part 9 buildings, as well as single-storey Part 3 buildings classified in the Manitoba Building Code as D, E and F occupancies. The existing *Building and Site Design*

Summary will be used as the submission mechanism for the Fast Track Program. *NOTE: Post-disaster buildings are excluded from this Program.* The eligibility criteria may increase with the complexity of building type.

Proposed Implementation:

Certification	January – March 2009
Effective date:	April 1, 2009

Description:

A *Certified Professional* is an architect or professional engineer, who is licensed to practice in the Province of Manitoba, and who officially takes responsibility for code compliance within their respective discipline, on a building project .The Certified Professional coordinates the work and makes all necessary submissions to the City.

Implementation details for Phases II and III of the Certified Professional Program will be developed in consultation with the associations prior to implementation of Phase II in 2009. In determining the model for delivery of training, certification and regulation of Certified Professionals in Winnipeg, consideration will be given to the implications of the Ontario Supreme Court ruling in May of 2007, confirming the authority of Professional Engineers Ontario (PEO) to regulate the practice of professional engineers and certificate of authorization holders:

PEO asked the court to interpret the application to PEO license holders of amendments to the Ontario Building Code Act that took effect January 1, 2006. The amendments purported to require professional engineers, as designers, to qualify and register under a Ministry of Municipal Affairs and Housing regime to continue to be able to undertake designs and reviews associated with building permit applications. PEO argued there had been no evidence produced to indicate its licences had been inadequate in protecting the public in matters under the Ontario Building Code. The court also stated that the remedy should equally be available to architects. The Ontario Association of Architects acted as an intervener in the case.

Source: PEO Media Release, May 18, 2007.

This court ruling has been referenced by the Association of Professional Engineers and Geoscientists of Manitoba in discussions regarding the training, certification and regulation aspects of the proposed Certified Professional Program in Winnipeg.

Approval Processes Covered by Phase II: Permit Stages

1. **Structural Frame Permit Stage**

   Submission requirements are:

   - *Building and Site Design Summary,* completed to the Structural Frame Stage, complete with articles of responsibility identified in each discipline, and listing

all required designers, so that each can be verified as being licensed to practice within the Province of Manitoba. Any change of design professionals from a prior submission must be clearly identified
- Architectural drawings completed to the structural frame stage
- Final structural drawings and specifications

The City's plan review process will be:
- A high level examination of the documents and drawings based on a standard review process
- Once approved, the Structural Frame Permit Stage will be issued

The City's audit process is:
- A detailed examination triggered by a random check of applications

OR
- A detailed examination where the results of the high level examination were deficient

2. Superstructure Permit Stage

Submission requirements are:
- Fully completed *Building and Site Design Summary,* complete with seals and declarations
- Final site plan
- Final signed and sealed drawings and specifications
    i. Architectural
    ii. Structural
    iii. Mechanical
    iv. Electrical

The City's plan review process will be:
- A high level examination of the documents and drawings based on a standard review process
- Once approved, the Structural Frame Permit Stage will be issued

The City's audit process is:
- A detailed examination triggered by a random check of applications

OR
- A detailed examination where the results of the high level examination were deficient

January 2010 - Phase III: *Certified Professional Program – Field Review Stage*

Proposed Implementation:

Certification January – March 2010
Effective date: April 1, 2010

Description:

Certified Professionals may conduct *Field Reviews* (more detailed on-site observations) for the projects they have taken responsibility for under the Certified Professional Program, recognizing that there may not be additional inspections by the City of Winnipeg. Where so agreed, the Certified Professional will be responsible for providing written details of field reviews performed to the City of Winnipeg for their records. Before acceptance of this increased role, the Certified Professional will confirm in writing the existence of related coverage of Professional Liability Insurance. Where such a role is not covered by existing insurance, as required by statute, additional insurance will be obtained. Details of this phase are still under discussion with the Technical Working Group.

The City would maintain responsibility for inspections of electrical, plumbing, mechanical, water and sewer systems. The City would also perform a random audit of projects within the Certified Professional Program to ensure compliance with the terms and conditions of the Certified Professional Program, and would take corrective action as required in instances of non-conformance to Program requirements.

Implementation details for the Field Review Phase will be developed in consultation with the respective associations prior to January 2010.

Evaluation of the Certified Professional Program

An evaluation of each phase will be carried out after one full year of implementation that that particular phase, and will involve all departments with a plan review role, the respective associations, and applicants who have utilized the Certified Professional Program.

Financial Impact Statement Date: December 6, 2007

Project Name:

Red Tape Recommendation 9: Implement a Certified Professional Program

COMMENTS:

The recommendation contained in this report is that a phased approach to implementing Red Tape Recommendation 9: Establish a Certified Professional Program be adopted, with Phase I to be implemented in 2008.

The proposed program includes the use of security deposits or Letters of Credit as assurance that all applicable by-laws, code issues and servicing requirements are addressed fully prior to the issuance of the final building permit or the occupancy. In situations where this does not occur, the City would use whatever funds necessary from the deposit to ensure compliance. In situations where compliance is achieved, the security deposit or Letter of Credit will be returned. As such, there will be no financial implications associated with the implementation of Phase 1 of this Program.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

Community Services Department, Community Resource, Protection and Safety Services Division, Environmental Health Branch
Fire Paramedic Service, Fire Prevention Branch
Planning, Property and Development Department, Development and Inspections Division
Public Works Department, Transportation Engineering Division
Water and Waste Department, Engineering Division

External Consultation With:

Association of Professional Engineers and Geoscientists of Manitoba
Manitoba Association of Architects
Consulting Engineers of Manitoba
Professional Interior Designers Institute of Manitoba
Winnipeg Construction Association

THIS REPORT SUBMITTED BY:

Department	Planning, Property and Development
Division	Development and Inspections
Prepared by:	Deepak Joshi, Manager of Development and Inspections
PPD File No.	

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APPENDIX A

Permit Potential



900 Burrard Street, in Vancouver. This theatre/high-rise complex is in the last stages of construction, guided by a Certified Professional. The *BDO Dunwoody Consumer Experiences Study* cited Vancouver's Certified Professional program as a best-practice model to safely accelerate permit and inspection services.

The Commission recommends that Winnipeg phase-in an improved Certified Professional program as the centerpiece of a new approach to construction regulation.

Improving permit service delivery

Construction permits exist to ensure that builders comply with building codes. Service expectations are high. But the Planning, Property and Development Department's ability to meet those expectations must be put in context: the City received 36,710 construction permit applications last year – or 117 for every single staff member in a department with responsibility for several other processes. Add a total of 83,051 construction inspections last year - in addition to a further 87,000 development-related inspections.

The Commission has already given the Planning, Property and Development Department due credit for its work on Permits X-Press and other initiatives to improve permit speed and service. Those efforts are not limited to the Permits X-Press initiative. Several submissions called for more seasonal flexibility in staffing to match high summer demand, and the Department confirmed that it is bringing on temporary staff and taking other steps to meet this challenge. Fresh from the experience of Permits X-Press, the Department is now hoping to turn its attention to reform of development permits and the zoning by-law.

APPENDIX A

"Frankly we live in a neighbourhood where a lot of us are scared of the questions we asked being sent immediately into another level of bureaucracy for follow-up, spot assessments...

Please create incentives for me to actually increase the value of my home through improvements rather than a housing shortage induced re-valuation."

- Citizen Submission

But the Department acknowledges that more can always be done with respect to construction permits, and acknowledges that commercial permits and inspections must be a target for future attention. While Recommendation 12 builds on ideas already in use or in development within the Department, Recommendation 11 offers some out-of-the-box ideas from the Commission's perspective, designed to inspire innovation and create incentives for greater compliance. As is seen later in our rezoning proposal, Commission members felt that reorganizing the steps in each process – to complete administrative work after a certain step instead of before, for example – can reduce delays for customers.

One alternative is Councillor Magnifico's idea for "permits sold off of trucks" – a catchphrase for redesigning the permit system to move customer service transactions to the actual site of the inspection, allowing customers to bypass much of the administration that is performed offsite. The Department saw no reason to reject this idea in principle. As a result, it is recommended here alongside a proposal to offer retail sale of conditional "pre-permits."

Citizens told us that they often did not buy permits for fear of reassessment. The City might register an increase in a home's taxable value even though the work involved might not actually result in a measurable increase from a mass appraisal standpoint. The final subrecommendation in Recommendation 11 addresses this problem, and recommends a change in provincial and municipal rules to achieve this.

Bigger projects, bigger problems

On April 28, 2005, the Commission held a joint meeting with the Planning, Property and Development Department. Commission members Alfred Schleier and Guy Prefontaine led the Commission's participation in the discussion. The central issue: what to do about inspections and permits for larger projects, including large housing developments, multi-residential buildings and commercial construction.

Both sides agreed that there was a problem. Bluntly stated, the City's inspections regime has fostered an environment in which City inspectors often end up doing compliance work that is more properly the responsibility of the builder. Why is this a problem? By way of analogy, think of how much it would cost if the government were to do everyone's income taxes for you – and think of how easy it would be for taxpayers to blame mistakes on the government if it did. In much the same way, too much of a helping hand in construction inspection can foster a sense that responsibility for the costs and work of compliance is the government's problem.

APPENDIX A

The problem is made worse by the impact of our inspection regime on the City's red tape reputation. Winnipeg has a short building season. Yet citizen and business submissions were full of examples in which our permit and inspection regime created work stoppages.

There are two traditional routes to building code compliance:

- First, our current system, with detailed government oversight of every step: inspection, oversight of plans, drawings and actual construction.
- Second, a audit-based "stamped-drawings" system, which holds building professionals (like engineers and architects) accountable for plans that bear their stamp. Inspections are performed on an "audit" model so that site visits, permit releases and other functions are more flexible, in tune with the actual progress of a project.

"There is overlap with having inspectors sent to the site to check work that has already been signed off on by professionals, resulting in redundancy."

- BDO Dunwoody Consumer Experiences Study, summary of responses.

In an ideal world, we would move towards the latter. To the Commission's surprise, the Department agreed, but said that there would be industry resistance to such a move, particularly amongst smaller building firms that could experience increased costs as a result.

However, Winnipeg is far from an ideal world for two reasons. First, Commissioners heard convincing arguments from several quarters (including the Commission's own membership) to suggest that early entrants into engineering and architectural professions in our market could use more code compliance experience before their stamp was accepted. Worse: our "handholding" approach to inspections may have reinforced the need for more experience. This is not a slight on the professionals involved; as Commission member Guy Prefontaine – himself an architect – noted, architectural education focuses more on design than legal compliance, which is why project managers often hire code consultants to focus on those issues for major projects.

"Given time constraints, the building process often starts before the permit is received."

- BDO Dunwoody Consumer Experiences Study, summary of responses.

Yet the benefits of an audit model are obvious: greater flexibility within the building process, greater speed, less cost, hassle and less red tape. Audit-based enforcement would mean greater flexibility in inspection models, reduced liability for the taxpayer, and better use of Department resources. The Department argued that an audit model could be applied to residential projects, but not for more complex commercial projects.

But how to guarantee better protection for the public and still provide those benefits for all construction projects?

APPENDIX A

A tested alternative

The *BDO Dunwoody Consumer Experiences Study* drew our attention to an alternative: the Vancouver Certified Professional Program, which is over 20 years old.

The Vancouver program has the following features:

- Engineers and architects are entitled to certify with the City of Vancouver upon completion of third-party tests to demonstrate facility in local building code compliance.
- Once certified under the City program, certified professionals can build up to three stages of a project with a single building permit. Inspectors now police these projects on an audit basis, allowing builders to remedy code problems without construction.
- Vancouver experienced reduced inspection costs as a result of the program, and so offers permit discounts to reflect this.

"The Certified Professional Program has been a huge success story for Vancouver in improving the quality of designs and in dealing with the large volume of ongoing development."

- Vancouver Chief Building Official Dave Jackson

The city of Surrey, British Columbia now recognizes Certified Professionals from Vancouver in its own version of the program.

When Commission members raised the potential of adapting this model, Department managers said that they had explored it in the past, but industry representatives felt that our market was not large enough to sustain the model.

The Commission felt the need to differ slightly from the Department's conclusions in two respects. First, members felt that reforms should apply consistently to all types of construction to remove artificial distinctions. The Commission also believed that a Certified Professional model could work if Winnipeg's program was designed to give the market time to adjust. Vancouver's program was first introduced when its population was smaller than Winnipeg's, in an environment of slow growth and only steady development.

Members of the Red Tape Commission spoke at length to City of Vancouver officials, and discussed aspects of the program in detail. Our view was that the program was clearly a best-practice, had been tested with over 20 years in operation, and had a great deal to recommend it. And so we have done so, subject to improvements made at the suggestion of Vancouver officials and professionals.

Our city wants, and needs development. Whether it is infill or greenfield is not the point. In either scenario, our short building season makes Winnipeg a difficult place to build in, and either infill or greenfield proponents lose if our inspections regime is not flexible enough to allow for high speed construction.

APPENDIX A

The Commission believes that a certified professional program will iron out the kinks in inspection of new construction, speed the building process, and increase inspection capacity. In the long term, as a substitute for a direct shift to a stamped drawings model, the Commission proposed making the program mandatory for new construction after five years.

Hindsight and foresight

A naysayer argument: how could anyone recommend adopting a a Vancouver model for building regulation? After all, Vancouver had "leaky condos..." As is often the case in Winnipeg, the argument against doing something is often the argument to go ahead and do it. The Barrett Commission which studied the "leaky condo" incident made it clear that responsibility for the problems was not limited to one jurisdiction or inspection model. Rather, a lack of code awareness and compliance throughout the British Columbia building industry was to blame. Inspectors were found to be just as much at fault as builders, design professionals and other actors in the process, in a variety of municipal jurisdictions.

The British Columbia case reinforces the need to promote proactive code compliance across the building industry. Although skeptics might be tempted to say otherwise, the reality is that the Certified Professional model is not deregulation: the building code remains the same. It is not a plan to reduce code compliance: the obligation to be compliant remains. In fact, it is a model that incents better, faster compliance in exchange for a benefit: greater flexibility as to how and when to get to compliance, provided it is reached before occupancy. And that means the builder gets their building built faster, too, with benefits for our economy.

"We end up with full compliance either way – we just get it faster with a good certified professional."

- Vancouver building officials to the Commission, May 13, 2005

One problem that will require foresight: Manitoba's engineer and architectural professions are presently in a legal conflict over their respective scopes of practice. Vancouver reports that it has had no such dispute with respect to its application of this program. Public servants and Councillors will need to be cognizant of this, but under no circumstances should the dispute deter the City from pursuing the economic and civic benefits of this type of program.

Using the audit model for other situations

Recommendation 10 proposes expansion of the audit model into other areas. The *Implementation Notes* elaborate on the specific problems this Recommendation addresses.

APPENDIX A

RECOMMENDATION 9

The City should shift to audit-based inspection and single building permit issuance for projects led by a certified professional, building on the City of Vancouver's experience with its own Certified Professional program.

As in Vancouver, the model should be optional for proponents for the first five years of operation, after which use of a certified professional should be mandatory for all new construction in the City of Winnipeg.

The Commission submits Recommendation 9 to propose a policy alternative that can safely speed up construction without compromising regulatory goals.

Recommendation 9.1

Council should make legal and other changes necessary to authorize the Winnipeg Public Service to create a self-financing Certified Professional program, allowing engineers and architects to work within an audit model of inspection in exchange for demonstrated facility with local code compliance.

Recommendation 9.2

The program should resemble Vancouver's Certified Professional Program in the following respects:

- After certain plan criteria are met, projects led by a certified professional will be issued a single building permit for up to three stages of construction. The certified professional will be expected to keep city officials informed of progress as per the Vancouver model, but will be free to schedule staged construction based on the plans submitted.
- The program should result in an explicit, codified shift in role so that City inspection of projects led by a certified professional are now audit-based.
- Audits should not interrupt work in progress, and orders for code compliance should not interrupt work unless a clear threat to health and safety has been identified by the inspector or certified professional. This will allow the certified professional discretion on when and how compliance is reached before first occupancy.
- A professional must demonstrate excellent awareness of local codes, code issues and compliance techniques through testing delivered by a third party.

APPENDIX A

Recommendation 9.3

The program should differ from Vancouver's Certified Professional Program in the following respects:

- The Winnipeg program should require an additional experiential component for certification, based on experience in building code compliance rather than a set time limit of experience in the field.
- The Winnipeg program should include some system to allow the City to revoke certification privileges in the event that a certified professional does not meet expected compliance standards.
- The Vancouver program offers discounts for permit fees if a project uses a certified professional. Given that projects led by a certified professional under this model will already see benefits in construction speed and flexibility, the Commission's recommendation is that discounts not be offered or promised until the City has had time to properly measure the program's operational performance.

Recommendation 9.4

Projects of a certain size or type should be subject to a minimum of one audit during construction, and the threshold for this requirement should be set by the Public Service in consultation with the construction industry.

Recommendation 9.5

Any authorizing by-laws and policies should require that use of a certified professional be *mandatory* for *new* construction effective five years after the project has been underway. City inspectors would continue to operate on their current model for additions and smaller projects.

APPENDIX B

DRAFT Fast Track Permit Process
Red Tape Recommendation 9
Certified Professional Program
December 2007



Implementation Timeline and Milestones					
Fast track Certification Options and Eligibility	**Permit Coordinator Program** An individual who officially takes full responsibility for coordinating the submission requirements for an application for the ***land development and foundation stages*** of a project, and provides a security deposit . **Eligibility:** Members of APEGM, MAA and WCA for the initial stage, with extended membership beyond. **Training and Certification:** Successful completion of a 16 - 20 hour course offered by the City of Winnipeg, coupled with successful prior experience with the City's commercial permit process.	**"Certified Professional" Program** A Certified Professional is an architect or professional engineer, licensed to practice in the Province of Manitoba, who officially takes responsibility for code compliance within their respective discipline, on a building project. The Certified Professional coordinates the work and makes the necessary submissions to the City. Details on the process for designation and regulation of Certified Professionals is currently under development with the respective associations. The process will involve a training and certification component as well as the implementation of a Registry of Certified Professionals and a process for monitoring and regulation.			
Application Phase	Land Development Approval Process	Building Permit Process Foundation Permit Stage	Structural Frame Permit Stage	Superstructure Permit Stage	Field Review
Description of Phase	Applicant to ensure land development requirements are met: - any required public hearing processes and resulting conditions -zoning -structure (Building Code) -servicing requirements	**Pre-requisites:** 1. Pre-application meeting held 2.Land development approvals in place 3. Security deposit in place **Regular submission requirements :** - Completed *Building and Site Design Summary* -final site plan - preliminary architectural drawings -final foundation dawings with seals -preliminary supertucture drawings indicating all design loads - other departmental approvals and documents as required	Structural frame permit stage approval allows an applicant to proceed with construction to the stuctural frame stage of a building . MBC Part 3 (Fire Protection) and MBC Part 4 (Structural) code requirements must be met.	Superstructure permit stage approval allows an applicant to proceed with construction to the superstructure stage of a building . Final signed and sealed drawings for all disciplines must be submitted, along with BSDS Mechanical and Electrical sections.	Certified Professionals may agree to conduct more detailed on-site observations for projects they have taken responsibility for under the Certified Professional program;recognizing that there may not be additional inspections by the City of Winnipeg.
Proposed Fast Track Process	**Option 1: Sequential** Approval process started in advance of the building permit process, ***provided that the building location has been plotted on the site*** **Option 2: Concurrent** Approval process conducted at the same time as the building permit application, with a security deposit in place. Standard review process currently in place	**Permit Coordinator will:** - put security deposit in place - submit completed *Building and Site Design Summary (BSDS)* and plans **The City will:** -conduct a foundation review - issue the the Foundation Permit Stage providing the standard review requirements are met -submit to the applicant a list of corrections required **Permit Coordinator will** -ensure all corrections are addressed prior to occupancy	- The City will conducts a Level I (high level) examination of the BSDS/ drawings based on a standard approved process - Once approved, Structural Frame permit stage will be issued	The City will conduct a Level I (high level) examination of the BSDS/ drawings based on a standard approved process - Once approved, Superstructure permit stage will be issued	Where so agreed, the Certified Professional will conduct the required field reviews and will be responsbile for providing written details on field reviews to the City of Winnipeg for their records. Before acceptance of this increased role on site, the Certified Professional will confirm in writing the existence of related coverage of Professional Liability Insurance. Where such a role is not covered by existing insurance, as required by statute, aditional insurance shall be obtained. The City will continue to conduct inspections for electrical, mechanical and plumbing work.
Proposed Audit Process	No audit process at this time	City will audit BSDS foundation submissions over time to determine if there are common "errors and omissions" by applicant, and follow up	Level I : High level examination (MBC Part 3 and Part 4). Level II: Detailed examination triggered by major gaps in Level I audit OR random check	Level I : High level examination (MBC Part 3 and Part 4). Level II: Detailed examination triggered by major gaps in Level I audit OR random check	The City will perform an random audit inspection of projects submitted through the Certified Professional Program to ensure compliance with the program's terms and conditions, and will take corrective action in instances on non-compliance.

APPENDIX B