Agenda - Council - December 19, 2007

Report - Standing Policy Committee on Property and Development – November 27, 2007

Item No. 1 Review of The Vacant and Derelict Buildings By-law No. 35/2004 and Minimum Standards for Occupied and Unoccupied Dwellings File EX

STANDING COMMITTEE RECOMMENDATION:

On December 12, 2007, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That the amendments to the Vacant and Derelict Buildings By-law No. 35/2004, as outlined in Attachment "A" to the report of the Acting Director of Planning, Property and Development and Fire Paramedic Chief dated November 8, 2007, be approved to:

    A. Impose a monetary penalty in the amount of the boarded building permit fee when the owner of a vacant building is convicted of failing to obtain a boarded building permit;
    B. Expand the definition of "owner" to include building managers; and
    C. Correct technical deficiencies in Schedules "C" and "D".

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Agenda - Council - December 19, 2007

Report - Standing Policy Committee on Property and Development – November 30, 2007

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 12, 2007, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On November 27, 2007, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

COUNCIL DECISION:

On September 26, 2007, Council concurred in the recommendations of the Standing Policy Committee on Property and Development and adopted the following:

1. That the July 18, 2007 Council Motion be concurred in and the Administration be directed to evaluate the minimum standards for occupied and unoccupied dwellings, as well as the process undertaken to take title of a property without compensation to property owner and that the evaluation consider the following:

    A. How many buildings are currently registered as vacant buildings in the City;
    B. Of the known vacant buildings, how long have they been registered as vacant and derelict;
    C. Successes and challenges relative to enforcement;
    D. Successes and challenges relative to the City taking title without compensation to property owner;
    E. Recommendations to including a discussion of resource allocation to address the challenges outlined,

    and report back to the Standing Policy Committee in 90 days.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report - Standing Policy Committee on Property and Development – November 27, 2007

DECISION MAKING HISTORY (continued):

COUNCIL DECISION (continued):

On July 18, 2007, Council ruled automatic referral of the following motion to the Standing Policy Committee on Property and Development:

Moved by Councillor Pagtakhan,
Seconded by Councillor Smith,

WHEREAS vacant buildings are a blight to any neighbourhood;

AND WHEREAS there are known vacant buildings that have become fire traps, especially in the Inner City and in the North End;

AND WHEREAS some vacant buildings continue to stand vacant and derelict for months at a time before the City begins the process of by-law enforcement, and/or taking title without compensation;

THEREFORE BE IT RESOLVED that the Administration be directed to evaluate the minimum standards for occupied and unoccupied dwellings, and the process undertaken to take title of a property without compensation to property owner;

AND BE IT FURTHER RESOLVED that the evaluation consider:

- How many buildings are currently registered as vacant buildings in the City
- Of the known vacant buildings, how long have they been registered as vacant and derelict
- Successes and challenges relative to enforcement

- Successes and challenges relative to the City taking title without compensation to property owner
- Recommendations to including a discussion of resource allocation to address the challenges outlined.

RE: Review of The Vacant & Derelict Buildings By-law No. 35/2004 & Minimum Standards For Occupied and Unoccupied Dwellings

FOR SUBMISSION TO: Standing Policy Committee on Property and Development

ORIGINAL REPORT SIGNED BY: Acting Director of Planning, Property and Development, and Fire Paramedic Chief, Fire Paramedic Service

REPORT DATE: November 8, 2007

RECOMMENDATIONS:

1. That Council enacts the attached amendments to the Vacant and Derelict Buildings By-law (Attachment "A") to:

- impose a monetary penalty in the amount of the boarded building permit fee when the owner of a vacant building is convicted of failing to obtain a boarded building permit;
- expand the definition of "owner" to include building managers; and
- correct technical deficiencies in Schedules "C" and "D".

2. That the proper officers of the City do all things necessary to carry out the intent of the foregoing.

Report Summary

Key Issues:

- This Report responds to direction from Council for a report on the Public Service and enforcement of The Vacant & Derelict Buildings By-law.
- The Vacant & Derelict Buildings By-law is jointly administered and enforced by the Housing and Existing Buildings Branch of the Planning, Property and Development Department and the Fire Prevention Branch of the Fire Paramedic Service.
- The number of known vacant buildings has increased since the Public Service's status review report of September 12, 2006. The increase can be attributed to a number of factors.
- To date, the City has not proceeded to take title without compensation to any vacant and derelict building; however, the Public Service has recently put in place a process to move ahead with the taking title and will begin to exercise the provision shortly.

- Due to the significant increase in workload resulting from a combination of complaints received and follow-up, enforcement of the by-law has become 40% of the daily workload in the Existing Buildings Branch of PP&D and is straining the available resources of the Fire Prevention Branch.
- The Public Service is recommending several amendments be made to address specific problems identified in nearly two years of administering and enforcing the By-law.

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):

- Use of the "taking title without compensation" provision will address buildings where owners have been convicted in Court but continue to remain non-compliant and allow the opportunity for individuals or community groups to acquire and rehabilitate vacant and derelict buildings.
- This Report recommends amending the By-law to impose a monetary penalty in the amount of the boarded building permit fee when the owner of a vacant building is convicted of failing to obtain a boarded building permit; and to expand the definition of "owner" to include building managers.

Policy Implications

( ) No

(X) Yes

Comment(s):

- This Report recommends amending the By-law to impose a monetary penalty in the amount of the boarded building permit fee when the owner of a vacant building is convicted of failing to obtain a boarded building permit; and to expand the definition of "owner" to include building managers.

Regulatory Implications

( ) None

( ) Eliminates or reduces regulatory impact

(X) Proposes regulatory impact

Comment(s):

- This Report recommends amending the By-law to impose a monetary penalty in the amount of the boarded building permit fee when the owner of a vacant building is convicted of failing to obtain a boarded building permit; and to expand the definition of “owner” to include building managers.

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:

At its meeting of September 4th, 2007, the Standing Policy Committee on Property and Development concurred with the July 18th, 2007 Council Motion and directed that the Public Service from the Planning, Property and Development Department and Fire Paramedic Service provide a report to the Standing Policy Committee on Property and Development evaluating the minimum standards for occupied and unoccupied dwellings as well as the process undertaken to take title of a property without compensation to the property owner and that the evaluation consider the following:

A. How many buildings are currently registered as vacant buildings in the City;

B. Of the known vacant buildings, how long have they been registered as vacant and derelict;

C. Successes and challenges relative to enforcement;

D. Successes and challenges relative to the City taking title without compensation to property owner;

E. Recommendations to include a discussion of resource allocation to address the challenges outlined.

HISTORY:

The Vacant and Derelict Buildings By-law No. 35/2004 came into effect on July 1st, 2004, replacing the former Vacant Dwellings By-law No. 793/2002.

At its meeting on February 10th, 2006, the Winnipeg Housing Steering Committee passed a motion recommending the Executive Policy Committee request the Public Service for a report with respect to the Vacant and Derelict Buildings By-law.

On March 1st, 2006, Executive Policy Committee concurred in the recommendation, with amendment, that the report address, but not be limited to:

- How effective is the current by-law?
- What impact have the provisions of the by-law had on the community?
- Who is directly involved (full time staff) with the by-law, additional resource persons involved on a temporary basis and requirements in terms of additional (full or part time) resources?
- What challenges are currently faced by the Public Service when dealing with the by-law?

- How can the by-law be made more effective?
- What options are available for improving enforcement of the by-law?

The report was submitted on September 12th, 2006, resulting in Council approval of the recommendations, including several amendments to the By-law.

On July 13, 2007, the Winnipeg Committee for Safety considered the matter of healthy and safety concerns for those who live, work, walk and play around a burned out building, and requested the Executive Policy Committee to give favourable consideration to having the Vacant and Derelict Buildings By-law No. 35/2004 reviewed to measure its effectiveness and the impact of enforcement, or lack of enforcement, in the community.

On September 19, 2007, the Executive Policy Committee referred the recommendation of the Winnipeg Committee for Safety to the Public Service for report back in conjunction with the Standing Policy Committee on Property and Development's recommendation to Council to evaluate the minimum standards for occupied and unoccupied dwellings.

DISCUSSION:

City Council first addressed the regulation of vacant dwellings with the passage of The Vacant Dwellings By-law in 2002, subsequently replacing it with the Vacant and Derelict Buildings By-law in July of 2004. The intent of the replacement By-law was to:

1. Create a specific and comprehensive regulatory system that addressed both residential and non-residential buildings in a consolidated fashion.
2. Impose standards of maintenance designed to reduce the impact of vacancy on the neighbourhood in which a vacant building was located, and ensure the interiors of vacant buildings were not conducive to fires and posed no threat to firefighter safety.
3. Require that owners obtain permits if they chose to secure a building by boarding it up to deter boarding as a long term means of securing a vacant building under an escalating fee structure.
4. Require annual interior inspections with fees for the inspections, charged to the property owner.
5. Establish a process to use the power granted to the City in *The City of Winnipeg Charter* to take title to derelict buildings without compensation to the owner in cases where:
    - the building is not in compliance with the standards set out in the Vacant and Derelict Buildings By-law; and
    - the owner has been convicted of a violation of the By-law and the property continues to be in a state of non-compliance with the By-law; and

- the building has been declared derelict by the Standing Policy Committee on Property and Development; and,
- there is a satisfactory plan for redeveloping the property.

Occupied Dwelling Standards:

The Housing and Existing Buildings Branch of the PP&D Department, the Environmental Health Services Branch of the Community Services Department and the Fire Prevention Branch of the Winnipeg Fire Paramedic Service make use of a number of City of Winnipeg By-laws to enforce minimum standards to occupied dwellings. They are supported in these efforts to a limited extent by Manitoba Health, which enforces health related by-law provisions in the suburban areas. Additionally, the Environmental Health Services Branch and Manitoba Health also make use of the provisions of The Manitoba Public Health Act. It should be noted that, as Manitoba Health has priorized their program delivery differently than the City, placing little priority on by-law enforcement, PP&D generally enforces the bulk of the property standards provisions in the suburban areas.

The Winnipeg Public Service is currently engaged in a response to an Executive Policy Committee motion, which would result in the creation of an amalgamated By-law Enforcement Unit and the consolidation of numerous by-law provisions into a single neighbourhood livability by-law. The deadline for providing this response is January 2008. These efforts will certainly result in an evaluation of the minimum standards for occupied and unoccupied dwellings.

Unoccupied Dwelling Standards:

All unoccupied dwellings fall under, and are subject to, the provisions of The Vacant and Derelict Buildings By-law and are contained in two Schedules. Schedule “A” deals with maintenance standards including interior and exterior components, and Schedule “B” deals with security requirements. Collectively, the two schedules address virtually all components of a property, from exterior and yard to structural components.

The standards are felt to be adequate to address the purpose and intent of the by-law. However, as is the case with the enforcement of any by-law, the ability of the inspection departments to compel compliance is limited to the restrictions imposed under *The City of Winnipeg Charter*. This will be discussed in a subsequent section of this report.

The Process of Taking Title of a Property Without Compensation To Owner:

The authority for the City to take title of a property without compensation to the owner is drawn from Division 4 of Part 5 of *The City of Winnipeg Charter*, supported by the provisions of The Vacant and Derelict Buildings By-law.

The prerequisites to exercise this authority are:

1. the building is not in compliance with the standards set out in the Vacant and Derelict Buildings By-law; and
2. the owner has been convicted of a violation of the By-law and the property continues to be in a state of non-compliance with the By-law ; and
3. the building has been declared derelict by the Standing Policy Committee on Property and Development; and,
4. there is a satisfactory plan in place for redeveloping the property.

A flow chart of the process is attached as Appendix 1 and an explanation of the sequential steps is attached as Appendix 2.

To date, the City has not exercised this provision for the same reasons as previously reported in the review of the by-law report to Council in September of 2006. Specifically:

1. It was necessary to first inspect all buildings on the vacant buildings registry, issue compliance orders where necessary, allow appeals to run their course, lay charges and prosecute in Court and obtain a conviction.
2. In order for Standing Policy Committee on Property and Development to consider an application by the Public Service to declare a non-compliant building as derelict, a satisfactory re-development plan must accompany the application.
3. With the removal of the funding for the Project Officer position during the 2005 budget process, the Winnipeg Public Service has lacked the capacity to initiate a call for re-development proposals and coordinate those activities necessary to initiate the process.

Since the last report, inspections and enforcement have continued and numerous convictions have been obtained. Moreover, the Public Service has recently put into place the personnel and a process which will allow it to initiate the taking title process and will begin to exercise the provision shortly.

How many buildings are currently registered as vacant buildings in the City:

As previously reported, at the time of passage of the By-law, there were approximately 750 known vacant buildings within the City. As of March 1st, 2006, there were 518 known vacant buildings, of which 368 were residential (single or two family dwellings) and 150 were non-residential/multi-family residential.

As at October 26th, 2007, there are 880 known vacant buildings, of which 752 are residential and 128 are non-residential/multi-family residential. This substantial increase can be attributed to several factors:

1. The existence and knowledge of the by-law by citizens, community groups and community based organizations, who have been encouraged to report vacant buildings.
2. The Public Service has been invited and conducted numerous evening presentations on both mandated service delivery and the by-law to most of the inner-city community groups.
3. Fire suppression personnel regularly survey their districts and report vacant buildings.
4. Additionally, a block-by-block sweep to identify vacant buildings was conducted by the Fire Prevention Branch in late fall of 2006, which identified previously unknown vacant buildings.

Collectively, the result has been an increase in both reporting and complaints. The number of complaints associated with vacant buildings was minimal during the first year after the by-law was enacted and has since increased at such a rate that one Fire Inspector is dedicated strictly to addressing these complaints. In 2006 alone, the number of complaints and follow-up inspections for those complaints numbered 1,562. This has had a significant impact in Fire Prevention's ability to enforce the by-law. Similar numbers are reported by PP&D.

Of the known vacant buildings, how long have they been registered as vacant and derelict:

The Fire Prevention Branch maintains a registry of all known vacant buildings in the City of Winnipeg. Vacant buildings have been tracked since 1999. The following represents the number of buildings tracked in any particular year that still remain on the registry.

1999 - 3
2000 - 39
2001 - 8
2002 - 35
2003 - 23
2004 - 47
2005 - 78
2006 - 120
2007 - 527

In interpreting the data, it is important to consider several factors:

1. Buildings become vacant and are subsequently re-occupied on an on-going basis. The number of buildings on the registry at any given time is only a snap shot and is not completely representative of problem buildings. The number of vacant buildings during a particular year may fluctuate significantly.

2. Some buildings, both residential and commercial, although vacant and on the registry, are in compliance with the by-law
3. Some buildings, although initially reported as being vacant and while partially or wholly boarded, are found to be occupied.
4. Some buildings have been demolished due to enforcement of the by-law.
5. It is difficult to determine whether some buildings are in fact occupied or vacant. The Fire Prevention Branch receives a significant number of complaints whereby the complainant believes a building to be vacant in light of boarded windows or a generally deplorable condition. Upon investigation the Fire Prevention Branch often determines that such buildings are in fact occupied and not vacant.

General Statistics:

Number of non-residential/multi family residential vacant buildings	128
Number of residential vacant buildings	752
Total	880

Planning, Property and Development Department (Existing Buildings Branch):

Orders

2004 (July – Dec.)	74
2005	218
2006	228
2007 (Jan. – Oct. 11th)	176
Total	696

Prosecutions

Charges laid	33
Guilty pleas	8
Default convictions	11
Guilty at trial	2
Stay of proceedings	2
Matters currently before the Courts	5
Matters currently set for trial	1
Matters unable to proceed on as owners cannot be served	4
Files returned without laying charges	15*

Demolitions

Non-residential buildings btwn. July 1/04 & Oct. 11/07	160
Multi-family dwellings btwn. July 1/04 & Oct. 11/07	24
Residential buildings btwn. July 1/04 & Oct 11/07	390
Total	574

Fire Paramedic Service (Fire Prevention Branch):

Orders

2004 (July – Dec.)	155

2005	203
2006	273
2007 (Jan. – Oct. 11th)	157

* Files where Court proceedings could not be initiated as a result of changes in ownership, procedural errors or compliance obtained before legal proceedings were initiated.

Common Offence Notices

2004 (July – Dec.)	1
2005	59
2006	51
2007 (Jan. – Oct.11th)	6

Appeals

2004 (July – Dec.)	3
2005	5
2006	5
2007 (Jan. – Oct.11th)	0

Caveats (Orders registered against a property title at WLTO)

2004 (July – Dec.)	0
2005	5
2006	20
2007 (Jan. – Oct.11th)	15

Successes and challenges relative to enforcement:

The City of Winnipeg Vacant and Derelict Buildings By-law has been recognized as being "cutting edge" within Canada and contains some of the most stringent provisions available to a municipal authority to compel owners of vacant buildings to maintain them at a minimum standard. The By-law has, and continues to serve its primary purpose; that is, to provide the necessary legislative basis on which to compel vacant properties be maintained at a minimally acceptable level and thereby diminish their negative impact on the communities in which they are located as well as lessening the dangers they pose to the public and emergency response personnel. Accordingly, there is consensus among both PP&D and WFPS that the By-law has had an overall positive effect on property conditions in the City.

Despite the increased number of buildings currently on the registry, vacant buildings are being more closely monitored and regulated than in the pre-by-law era. The by-law itself owes its existence, at least in part, to the concerns raised by the communities-at-large. While some communities have expressed varying levels of frustration based on their individual experience in attempting to have an issue dealt with, there has also been a

broad base of support resulting from the positive impacts enforcement of the by-law has had.

Part of the challenge to the Public Service has been to dispel misconceptions about the provisions of the by-law. In particular, there is a widespread misconception that the By-law prohibits buildings from being vacant. The By-law does no such thing, but rather, requires that vacant buildings be minimally maintained.

As previously reported, there are a number of challenges associated with enforcement of this By-law, which, to some extent, are common to the enforcement of all by-laws. However, some of these are more problematic due to the unique issues associated with enforcement of this By-law. These challenges include:

- Locating and serving owners. Although most orders can be served by delivering them to a particular address, where a building is unsafe and demolition is an option, the City Charter requires service on the owner either personally or in compliance with an order of substitutional service from the Court. Such an order will only be granted after diligent efforts have been made to achieve personal service. Frequently, numerous hours are consumed attempting to locate a building owner who may be out of town or out of the country. In addition, the ownership of many properties changes frequently, making this task even more difficult. When owners reside out of town, it is often difficult to arrange for personal service. Furthermore, some property owners, aware of the By-law's requirement for personal service, actively avoid having orders served on them. After reasonable efforts have been made to locate and serve a property owner, further actions to enforce the order must be placed on hold pending the results of an application to the Court for an Order of Substitutional Service, which regularly takes weeks. Moreover, in order to exercise the taking title provision, a Summons must be personally served or served in accordance with an Order of Substitutional Service in order to proceed. If a conviction is not possible because the owner cannot be served, nothing further can be done to take title to the building without compensation, as a conviction is prerequisite to applying the taking title provision.

- Prosecution frustrations. In order for a prosecution to be initiated under The Summary Convictions Act, the accused person must be personally served with a common offence notice or summons. The problems of service noted above in the context of servicing Orders are fully applicable when serving a summons or common offence notices as well. After they are located and served with the required common offence notice or summons, building owners charged for non-compliance with the By-law are often remanded, sometimes for 6 to 8 months. A "not guilty" plea then results in a trial date, which often occurs another 6 to 8 months in the future.

- Conflicting demands. Inspectors are often challenged by the contradictory positions of complainants, who typically want immediate action to bring a building into compliance (including demolition), regardless of whether the action can be

justified on the basis of the building's condition, and the building owner, who may not be prepared to take any action to bring the building into compliance with the By-law, no matter what condition it may be in. Additionally, the Existing Buildings Inspectors of PP&D have responsibilities for the enforcement of other by-laws, which must be balanced and priorized against demands for service under The Vacant & Derelict Buildings By-law.

Recommendations to include a discussion of resource allocation to address the challenges outlined:

As previously reported, the Public Service remains of the opinion that the By-law provides the necessary tool to enforce minimum standards of maintenance and safety specific to vacant buildings. The by-law was not intended to prevent building vacancy, but rather, to impose maintenance standards on vacant buildings and discourage long term boarding as the method of securing them. There are however, a number of actions that could be taken that would improve the effectiveness of the By-law, namely:

1. Amend the By-law to impose a monetary penalty in the amount of the boarded building permit fee when the owner of a vacant building is convicted of failing to obtain a boarded building permit. As noted, among other things, the Vacant and Derelict Buildings By-law is designed to discourage owners of vacant buildings from boarding them up indefinitely as a way of securing them. This is done by requiring that boarded buildings obtain permits and by imposing increasingly higher fees for subsequent permits. Currently, the fee for a third six-month permit for a residential building is $800; the fee for a third one-year permit for a non-residential building is $1,500. Currently, however, an owner can avoid the costs of these permits by simply not applying for them. Although the By-law sets out a large minimum fine of $2,000 for failing to obtain a permit, judges have the discretion to ignore a minimum fine if they conclude that the offence "occurred through accident or under circumstances not wholly attributable to the fault of the accused". Moreover, it is sometimes difficult to collect fines imposed by the Court.

This proposed amendment would impose a penalty equal to the amount of the appropriate permit fee as set out in the by-law for failing to obtain the required permit, regardless of the sentence imposed by a judge. In addition, the penalty could be added to the property taxes on the property and would therefore be easier to collect.

2. Amend the By-law to expand the definition of "owner" to include property managers. In many cases, absentee property owners will use the services of a property manager, either an individual or a company, to manage real estate holdings in Winnipeg. In situations where it is difficult to serve the owner, it would be helpful to be able to serve the property manager. In addition, expanding this definition would result in convictions against property managers who fail to ensure that the buildings they manage are in compliance with the By-law.

3. Some technical amendments to Schedule "C" and "D" are necessary in order to facilitate the City taking title without compensation.

As stated earlier in this report, the Public Service is of the opinion that it would be premature to address the allocation of resources at this time, given the direction of the Executive Policy Committee motion, which would result in the creation of an amalgamated By-law Enforcement Unit and the consolidation of numerous by-law provisions into a single neighbourhood livability by-law.

Financial Impact Statement Date: November 7, 2007

Project Name:

Review of The Vacant & Derelict Buildings By-law No. 35/2004 & Minimum Standards For Occupied and Unoccupied Dwellings

COMMENTS:

The recommendations contained in this report include that Council enacts the attached amendments to the Vacant and Derelict Buildings By-law (Attachment "A") to:

- impose a monetary penalty in the amount of the boarded building permit fee when the owner of a vacant building is convicted of failing to obtain a boarded building permit;
- expand the definition of "owner" to include building managers; and
- correct technical deficiencies in Schedules "C" and "D".

Implementation of this recommendation would presumably result in an increase in revenues from penalties; however, the amount is not estimable at this time with a reasonable degree of certainty nor is it anticipated to be material in nature. As such, there are no material financial implications associated with this report.

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

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:
Winnipeg Fire and Paramedic Service
Legal Services

External Consultation With:

THIS REPORT SUBMITTED BY:

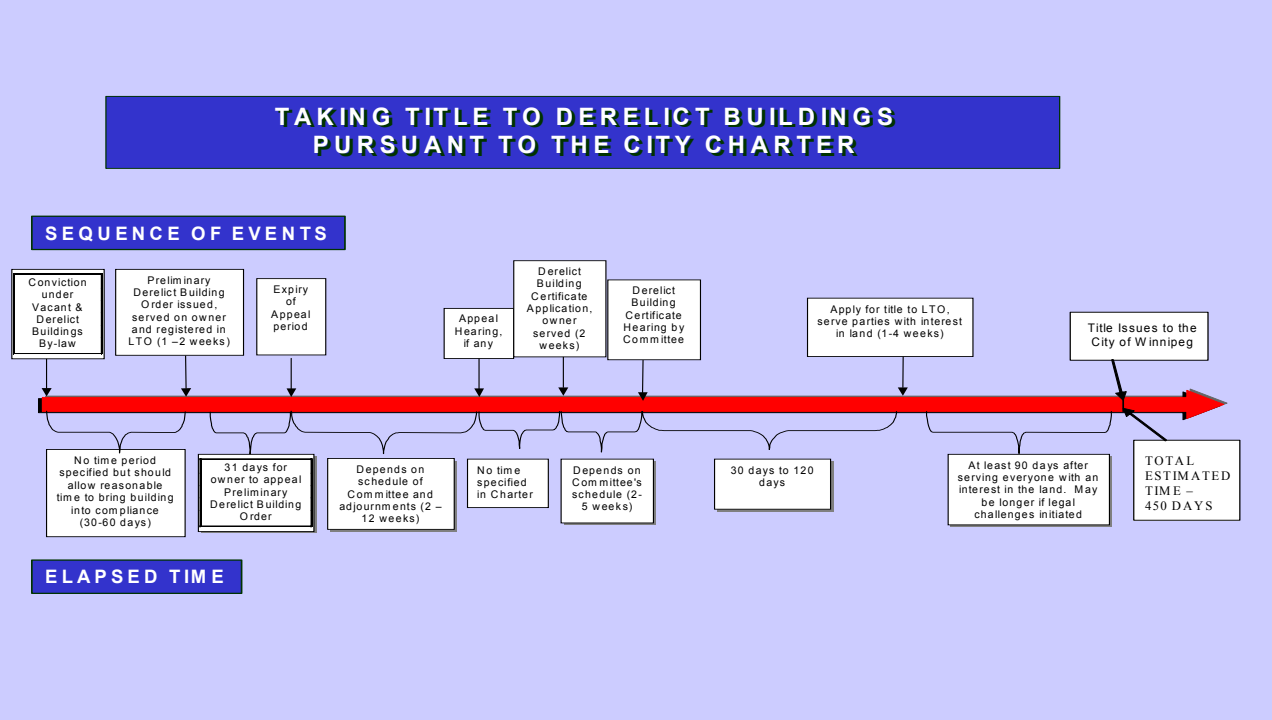
Department Planning, Property & Development and
Winnipeg Fire and Paramedic Service

Division Development & Inspections, PP&D and
Fire Prevention Branch, WFPS

Prepared by: Garry Solkoski, Housing & Existing Buildings Administrator, PP&D, and
Peter Kloos, Director of Fire Prevention, WFPS

File Name:. O:\Reports Directive\Development and Inspections\Housing-Existing Buildings\VDB BL Occupancy Standards Review Nov 2007.doc

Appendix 1


TAKING TITLE TO DERELICT BUILDINGS
PURSUANT TO THE CITY CHARTER
SEQUENCE OF EVENTS
Conviction under Vacant & Derelict Buildings By-law
Preliminary Derelict Building Order issued, served on owner and registered in LTO (1 –2 weeks)
Expiry of Appeal period
Appeal Hearing, if any
Derelict Building Certificate Application, owner served (2 weeks)
Derelict Building Certificate Hearing by Committee
Apply for title to LTO, serve parties with interest in land (1-4 weeks)
Title Issues to the City of Winnipeg
No time period specified but should allow reasonable time to bring building into compliance (30-60 days)
31 days for owner to appeal Preliminary Derelict Building Order
Depends on schedule of Committee and adjournments (2 – 12 weeks)
No time specified in Charter
Depends on Committee's schedule (2-5 weeks)
30 days to 120 days
At least 90 days after serving everyone with an interest in the land. May be longer if legal challenges initiated
TOTAL ESTIMATED TIME – 450 DAYS
ELAPSED TIME

Appendix 2

STEPS REQUIRED TO TAKE TITLE WITHOUT COMPENSATION OF VACANT AND DERELICT BUILDINGS

Vacant & Derelict Buildings By-law No. 35/2004

PRECONDITION: The registered owner of property must have been convicted under the Vacant and Derelict Buildings By-law. (By-law s. 19(1)(a), Charter s. 190(2))

STEP 1: Enforcement officer executes a Statutory Declaration in the form set out as Schedule "C" to the By-law. (By-law s. 19(1)(b), Charter s. 190(2))

STEP 2: Designated employee issues Preliminary Derelict Building Order in the form set out as Schedule "D" to the By-law. (By-law s. 19(1), Charter s. 190(3))

STEP 3: Registration of Preliminary Derelict Building Order. (By-law s. 19(2), Charter s. 192) Preliminary Derelict Building Order must be promptly registered by way of caveat at Winnipeg Land Titles Office (WLTO).

STEP 4: Service of Preliminary Derelict Building Order. (By-law s. 19(2), Charter s. 192(1)(b)) Preliminary Derelict Building Order is served on the registered owner and every person who appears from the records in WLTO to have an interest in the property. Personal service is required unless a substitutional service order made by the district registrar at WLTO permits otherwise.

STEP 5: Appeal period and compliance period.

- Any person served with the Preliminary Derelict Building Order is entitled to appeal the Preliminary Derelict Building Order to the Standing Policy Committee on Property and Development. The appeal must be in writing and filed with the City Clerk within 31 days of the person having been served. (By-law s. 19(3), Charter s. 191(3)(a)(iii) and (iv))
- Any person served with the Preliminary Derelict Building Order has 60 days after being served to bring the property into compliance with the Vacant and Derelict Buildings By-law. (By-law Sch. D, Charter s. 191(3)(a)(ii))

STEP 6: "Satisfactory plan for redeveloping the property" is prepared. (By-law s. 20(3), Charter s. 193(3)) A plan for redeveloping the property must be developed which is "satisfactory", in the opinion of the Standing Policy Committee. Note: this step could take place after Step 7 or Step 8.

STEP 7: Designated employee applies for Derelict Building Certificate to the Standing Policy Committee on Property and Development. (By-law s. 20(1), Charter s. 193(1)) Note: this step can only be taken:

- 60 days after the Preliminary Derelict Building Order has been served on everyone with an interest in the property;
- if the property has not been brought into compliance; and

- if no appeal has been made or, where an appeal has been made, the appeal has upheld the Preliminary Derelict Building Order or has varied the Order but the varied Order has not been complied with.

STEP 8: Notice of application served on registered owner in accordance with s. 117 of The City of Winnipeg Charter. (By-law s. 20(2), Charter s. 114) Personal service is preferred but service can also be accomplished by sending it by registered mail or delivering it to the address maintained by the Taxation Branch for sending the tax bill in respect of the vacant building. The decision by the SPC on P&D (next step) can only be made 14 days after the owner is served

STEP 9: Standing Policy Committee on P&D issues Derelict Building Certificate. (By-law s. 20(3), Charter s. 193(3)) This is permitted only if the Committee receives evidence that the property continues to be derelict and if there is, in the opinion of the Committee, a satisfactory plan for redeveloping the property (see Step 6).

STEP 10: Derelict Building Certificate is registered at WLTO. (Charter s. 193(4)) This must be done "promptly".

STEP 11: City applies for title to property. (Charter s. 195) This can only be done between 30 and 120 days following the registration of the Derelict Building Certificate. If the City fails to act within this time frame, the Derelict Building Certificate is void.

STEP 12: City notifies the registered owner and everyone who appears to have an interest in the property that an application to take title has been made. (Charter s. 196) The Notification must allow the recipients a further 90 days to bring the property into compliance and therefore nullify the process. Notification must be by way of personal service or substitutional service as ordered by the WLTO Registrar.

STEP 13: City provides evidence to the WLTO that service has been accomplished and that, 90 days after service the property is still not in compliance. (By-law s. 21, Charter s. 199(1))

STEP 14: Title issues to the City. (Charter s. 199(1)

Attachment "A"

THE CITY OF WINNIPEG

BY-LAW NO. .

A By-law of THE CITY OF WINNIPEG to amend the Vacant and Derelict Buildings By-law.

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

1. The Vacant and Derelict Buildings By-law No. 35/2004 is amended by

(a) adding the following definition in subsection 2(1):

"owner" *includes a person responsible for real property and any person*

(a) managing a building, whether on his or her own account or as agent or trustee of any other person;

(b) who would receive the rent for the building if the building were rented;

(c) a vendor of a property under an agreement for sale who has paid any real property taxes thereon after the effective date of the agreement;

(d) for the time being receiving installments of the purchase price of a property sold under an agreement for sale whether on his or her own account or as an agent or trustee of any other person, or

(e) who would so receive the installments of the purchase price if such land or premises were sold under an agreement for sale.

(b) adding the following immediately after subsection 17(3):

Monetary penalty imposed
17(3.1) A monetary penalty in the amount of the fee for the required permit is hereby imposed on the owner of a vacant building who lacks a valid permit for a boarded building and the monetary penalty is in addition to a fine or imprisonment imposed for a contravention of this By-law.

(c) adding the following definition in section 18:

"owner" *means an owner as defined in The City of Winnipeg Charter.*

(d) striking out "*the Vacant Buildings By-law No. _____*" in Schedule "C" and substituting "*the Vacant and Derelict Buildings By-law No. 35/2004*";

(e) striking out "*continues to be contravention of the derelict building by-law*" in the first paragraph of Schedule "D" and substituting "*continues to be in contravention of the derelict building by-law;*".

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

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Director of

Approved as to form:

_____
for City Solicitor/Manager of
Legal Services