Minute No. 22
Report – Executive Policy Committee – November 15, 2006

Item No. 1 **Review of the Vacant and Derelict Buildings By-law No. 35/2004**
File EX

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the Vacant and Derelict Buildings By-law No. 35/2004 be amended as follows:

   A. To require a $250.00 administration fee for the filing of an appeal to an order, refundable at the discretion of Standing Policy Committee on Property and Development.

   B. To waive annual inspection fees where vacant buildings are maintained in substantial compliance with the Vacant and Derelict Buildings By-law No. 35/2004.

   C. To remove the requirement for a fire safety plan for all but large buildings, as defined in the Vacant and Derelict Buildings By-law No. 35/2004.

   D. To exempt the City from the fees outlined in the Vacant and Derelict Buildings By-law No. 35/2004 for buildings that it owns.

2. That the amending by-law, outlined as Appendix 1 in the administrative report dated September 12, 2006, be approved.

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

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DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 15, 2006, the Executive Policy Committee concurred in administrative recommendation and referred Nos. 1 and 2 to the 2007 Operating Budget process and submitted Nos. 3 to 8 inclusive to Council.

On March 1, 2006, the Executive Policy Committee concurred in the recommendation of the Winnipeg Housing Steering, as amended, namely:

1. That the appropriate Administration from the Planning, Property and Development, Fire Prevention and Community Services Departments be requested to provide a report to the Executive Policy Committee with respect to the Vacant and Derelict Buildings By-law No. 35/2004 addressing, but not limited to, the following issues, namely:

    - How effective is the current by-law
    - The impact the provisions of the by-law have 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
    - The challenges currently faced by the Administration when dealing with the by-law
    - How can the by-law be made more effective
    - Options for improving enforcement of the by-law.

Report - Executive Policy Committee – November 15, 2006

DECISION MAKING HISTORY (continued):

WINNIPEG HOUSING STEERING COMMITTEE RECOMMENDATION:

On February 10, 2006, the Winnipeg Housing Steering Committee passed the following motion, namely:

> WHEREAS the Vacant and Derelict Buildings By-law No. 35/2004 has been in force and effect since July 1, 2004;
>
> AND WHEREAS a review of the by-law by the Administration would be in order;
>
> THEREFORE BE IT RESOLVED that the appropriate Administration from the Planning, Property and Development, Fire Prevention and Community Services Departments be requested to provide a report to the Winnipeg Housing Steering Committee with respect to the Vacant and Derelict Buildings By-law No. 35/2004 addressing, but not limited to, the following issues, namely:
>
> - How effective is the current by-law
> - The impact the provisions of the by-law have 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
> - The challenges currently faced by the Administration when dealing with the by-law
> - How can the by-law be made more effective
> - Options for improving enforcement of the by-law.

RE: Review of The Vacant & Derelict Buildings By-law No. 35/2004

FOR SUBMISSION TO: Executive Policy Committee

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

REPORT DATE: September 12, 2006

RECOMMENDATIONS:

That recommendations nos. 1 & 2 be referred to the 2007 operating budget process; specifically:

1. That annual additional funding in the amount of $69,000.00 to the Planning, Property and Development Department be authorized to establish a new Project Officer I position in the Civic Accommodations Division to support the administration and enforcement of the Vacant and Derelict Buildings By-law.
2. That additional funding in the amount of $50,000.00 annually be authorized to enable the Real Estate Division to meet the over-all requirements of the By-law in respect of city-owned vacant buildings.
3. That the By-law be amended to require a $250.00 administration fee for the filing of an appeal to an order, refundable at the discretion of Standing Policy Committee on Property and Development.
4. That the By-law be amended to waive annual inspection fees where vacant buildings are maintained in substantial compliance with the By-law.
5. That the By-law be amended to remove the requirement for a fire safety plan for all but large buildings, as defined in the By-law.
6. That the By-law be amended to exempt the City from the fees outlined in the By-law for buildings that it owns.
7. That the attached amending By-law (Appendix 1), which implements recommendations 3 – 6, be enacted by Council.
8. 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 the Executive Policy Committee and a request from the City of Winnipeg Housing Steering Committee for a report on the administration 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.
- Compared to the number of known vacant buildings within the City prior to the passage of the by-law, it would appear that the by-law is having the desired effect; the number of vacant buildings has decreased by 35%.
- To date, the City has not proceeded to take title without compensation to any vacant and derelict building.
- Funding to allow the creation of a new Project Officer Position within PP&D is recommended to coordinate the "taking title without compensation" provision.
- While it has largely been successful in securing City-owned vacant buildings, the Real Estate Division does not currently have sufficient funding to meet the over-all requirements of the By-law in respect of these buildings.
- The Administration is recommending several amendments be made to address specific problems identified in nearly two years of administering and enforcing the by-law.
- The Administration is recommending the cutting of "Red Tape" by:
    1. waiving annual inspection fees where vacant buildings are maintained in substantial compliance with the By-law;
    2. removing the requirement for a fire safety plan for all but large buildings;
    3. recognizing there is no value to the City to be charging itself fees for vacant buildings it has acquired.

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):

- The requirements of the By-law have placed, and will continue to place an obligation on the Real Estate Division of PP&D, which manages City-owned property.

- 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.

Policy Implications

( ) No

(X) Yes

Comment(s):

- Additional resources are required by the Civic Accommodations Division in order to exercise the taking title without compensation provisions of the By-law and coordinate the required re-development plans.
- The City would be expected to continue to comply with the maintenance requirements (especially those involving life safety issues) of maintenance for the vacant buildings it owns.
- The recommendation to amend the By-law to exempt the Real Estate Division from paying fees to the Fire Paramedic Service recognizes that internal red tape is created when the City charges itself fees, clarifies the issue administratively and is consistent with The Fire Prevention By-law, which contains a similar provision.

Regulatory Implications

( ) None

(X) Eliminates or reduces regulatory impact

(X) Proposes regulatory impact

Comment(s):

a. The recommendation to waive inspection fees where vacant buildings substantially comply with the By-law and to eliminate the requirement for fire safety plans for some buildings will reduce the regulatory impact of the By-law on many property owners.

b. The recommendation to amend the By-law to require a $250.00 fee to be paid with the filing of an appeal, refundable at the discretion of Standing Policy Committee on Property and Development, will marginally increase the regulatory impact.

Environmental Implications

(X) No

( ) Yes

Comment(s):

Human Resources Implications

( ) No

(X) Yes

Comment(s):

- Approval of funding to support the creation of an additional full-time Project Officer I position in the Civic Accommodations Division of the Planning, Property and Development Department is being recommended.

Financial Implications

( ) Within approved current and/or capital budget

(X) Current and/or capital budget adjustment required

Comment(s):

- Approval of funding to support the creation of an additional full-time Project Officer I position in the Civic Accommodations Division of the Planning, Property and Development Department is being recommended.
- Funding of $50,000.00 annually to the Real Estate Division of the Planning, Property and Development Department to enable the City to meet the over-all requirements of the By-law for City-owned vacant buildings is being recommended.
- Annual additional staffing costs are anticipated to be marginally offset by the revenue generated through the permit and inspection fee requirements already in place.
- The recommendation to exempt the City from the payment of fees outlined in the By-law will be revenue and cost neutral.
- The recommendation to waive inspection fees for vacant buildings that meet the By-law standards will marginally reduce revenues.

Report

REASON FOR THE REPORT:

At its meeting of March 1st, 2006, Executive Policy Committee directed that the Administration from the Planning, Property and Development, Fire Prevention and Community Services Departments provide a report to the Executive Policy Committee with respect to the Vacant and Derelict Buildings By-law No. 35/2004 addressing, but not limited to, the following issues:

- 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 Administration 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?

HISTORY:

The Vacant and Derelict Buildings By-law 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 Administration 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, the points listed above.

DISCUSSION:

Background:

Vacant buildings can pose numerous potential problems and hazards. Recognizing this, City Council addressed the regulation of vacant dwellings with the passage of the Vacant Dwellings By-law No. 7983/2002 on February 27, 2002. However, non-residential buildings were not addressed as part of that By-law and the City of Winnipeg did not have a specific by-law in place that addressed non-residential buildings or all the associated issues in a consolidated fashion.

The new by-law expanded the model that had been used for vacant dwellings to include all vacant buildings, with some modifications for commercial and other non-residential buildings. The revised model did not place any limit on the length of time a commercial building could remain vacant. However, it did impose standards of maintenance designed to reduce the impact of vacancy on the neighbourhood, and to ensure the interior was not conducive to fires and posed no threat to firefighter safety. It also required that owners obtain permits if they chose to secure a building by boarding it up. Annual interior inspections became a requirement, as did fees for the inspections, charged to the property owner.

The new by-law also adopted a new and innovative division of responsibility between the City's Planning, Property and Development (PP&D) Department and the Fire Paramedic Service (FPS). Under the agreement, FPS personnel conduct inspections of vacant buildings to determine compliance with maintenance standards, while Inspectors from PP&D focus on the security of vacant buildings, as well as structural issues. PP&D also administers the permit system.

Moreover, the new by-law established a process to use the power granted to the City in *The City of Winnipeg Charter* to take title to vacant 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 in Court and continues to be non-compliant; and
- the building has been declared derelict by SPC on P&D; and,
- there is a viable alternative plan for redeveloping the building.

Purpose:

The aim and purpose of the new By-Law was, and continues to be, threefold.

- **Promote Safety -** both for the public and emergency response personnel. Vacant buildings that are either not secured or improperly secured are a hazard to public safety, especially the safety of young children. They also serve as a target for break-ins and unauthorized use, often by criminal elements. Where they are not properly maintained, they pose a significant hazard to firefighters, especially where fire detection and suppression systems are either no longer working or have been stripped and when the buildings contain fuel materials that increase the severity of a fire. Discovery of a fire in a vacant building often takes much longer than an occupied building, increasing the severity of the fire, damage and likelihood of the fire spreading to surrounding structures.

- **Curb urban blight -** the type of properties that are targeted by this By-law are those which the owners have failed to maintain and have allowed to become an eyesore, nuisance, fire hazard or unsafe.

- **Lessen impact that vacant buildings have on neighbourhood stability** - when a building starts to look derelict, it is treated as derelict. This has a major negative impact on the surrounding community and on the City.

How effective is the current by-law?

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. Despite this, and as is the case with all municipal legislation, there are limitations of authority that stem from enabling provincial statute legislation. As an example, the process of serving Orders under the By-law are drawn from the requirements set out in *The City of Winnipeg Charter*. In the case of absentee property owners whose whereabouts cannot be determined, it is often necessary to make an application to the Courts for an Order of Substitutional Service. In the end, service is accomplished, but the enforcement process is protracted by the time it takes to obtain the Court Order.

Despite these limitations, there is consensus by the Administration that the By-law has been effective. At the time of passage of the By-law, there were approximately 750 known vacant buildings within the City. As at March 1st, 2006, there are 518 known vacant buildings, of which 368 are residential (single or two family dwellings) and 150 are non-residential/multi-family residential. Although there may be additional vacant buildings at any given point in time, most unknowns are quickly reported by the communities in which they are located, especially so, when issues the By-law was designed to address arise.

By comparison to the pre-By-law era, the number of vacant buildings is down significantly from the approximately 750 or so that were known before the By-law came into effect. While the existence and enforcement of the By-law could not reasonably claim to be the sole reason for the reduction, there is consensus by the Administration that the requirements of the By-law have had significant impact. Building owners cannot simply ignore their vacant buildings; they must ensure that they are kept safe and meet basic standards of maintenance.

Planning, Property & Development Department Statistics:

Residential Boarded Building Permits			
1st Permit	84	@ $10/each	$ 840.00
2nd Permit	25	@ $200/each	$ 5000.00
3rd Permit	3	@ $800/each	$ 2400.00
Permits City Owned Bldgs.	13	@ $0/each	$ 0.00
Total			$ 8240.00
Commercial Boarded Building Permits			
1st Permit	9	@ $200/each	$ 1800.00
2nd Permit	1	@ $800/each	$ 800.00
3rd Permit	0	@ $1,500/each	$ 0.00
Permits City Owned Bldgs.	17	@ $0/each	$ 0.00
Total			$ 2600.00
Multi-Residential Boarded Building Permits			
1st Permit	12	@ $ 200/each	$ 2400.00
2nd Permit	2	@ $ 800/each	$ 1600.00
3rd Permit	0	@ $ 1,500/each	$ 0.00
Permits City Owned Bldgs.	4	@ $ 0/each	$ 0.00
Total			$ 4,000.00
Total Fees Collected For All 168 Boarded Building Permits:			$14,840.00

A total of 355 Orders have been issued by the Existing Buildings Branch since July 2004 for violations relating to improper securing under Schedule “B”.

Fire Prevention Branch Statistics:

Billings	No. of Inspections	Total
2004 Residential	88 @ $ 100.00	$ 8,800.00
2004 Commercial/Multi-Family	31 @ $ 500.00	$ 15,500.00
2004 City Owned	49 @ $ 0.00	$ 0.00
	2004 Total Billing	$ 24,300.00
2005 Residential	141 @ $ 100.00	$ 14,100.00
2005 Commercial/Multi-Family	52 @ $ 500.00	$ 26,000.00
2005 City Owned	24 @ $ 0.00	$ 0.00
	2005 Total Billing	$ 40,100.00
2006 Residential	14 @ $ 100.00	$ 1,400.00
2006 Commercial/Multi-Family	6 @ $ 500.00	$ 3,000.00
2006 City Owned	3 @ $ 0.00	$ 0.00
	2006 (Jan./Feb only)	$ 4,400.00
	Grand Total	$ 68,800.00

Orders Issued	Total
2004	155
2005	203
2006 (Jan. – March only)	24
Total	382

There have been 33 prosecutions concluded to date. All have resulted in convictions with 12 guilty pleas, 15 default convictions and 6 trials resulting in convictions. Forty-nine other charges are at various stages in the prosecution process. Fourteen prosecutions have not been pursued as a result of being unable to locate the property owner to effect service of the required Summons.

A total of 149 buildings (27 non-residential/multi-family residential + 122 residential) have been demolished within the City since the By-law came into effect. The Vacant and Derelict Buildings By-law appears to have played a role in the demolition of 87 buildings of the 149 demolished (18 non-residential/multi-family residential + 69 residential) inasmuch as 87 buildings were demolished after being issued an Order for violations under the By-law. That is, the owners of these 87 buildings chose to demolish these buildings (or allow the City to demolish them) rather than bring them into compliance with the requirements of the by-law as a vacant building, or alternatively, renovate the buildings for occupancy. Of these 87 buildings, 12 were demolished by the City after the owner failed to comply with a compliance order. A further 16 buildings were demolished after they were acquired by the City through the tax sale process and determined to be unsuitable for repair or rehabilitation.

The City has not proceeded to take title without compensation to any vacant and derelict building. The reasons for not exercising this new provision to date are three fold:

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 Administration to declare a non-compliant building as derelict, a re-development plan must accompany the application.

3. With the removal of the funding for the Project Officer position during the 2005 budget process, there has been limited capacity to initiate a call for re-development proposals and coordinate those activities necessary to initiate the process.

In an overall sense, and notwithstanding the taking title without compensation issue, 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 Administration that the By-law has had an overall positive effect on property conditions in the City. It should be noted, however, that there are variables other than the By-law, which have also had a positive affect on the community.

As an example, through the City of Winnipeg's Housing Policy, adopted by Council in March 2000, targeted neighbourhoods have developed comprehensive 5-year housing plans and partnered with housing development agencies to implement housing renewal activity primarily focused on acquisition and redevelopment of existing housing stock and small apartment buildings. Funding has been leveraged through government grants and mortgage financing to rehabilitate existing buildings for both rental and resale markets. The success of these programs combined with improvement in socio-economic conditions, low interest rates and rising real estate values have also played a role in the rehabilitation of housing and commercial buildings.

Community Services Department:

The Community Services Department, although not directly responsible for the enforcement of this By-law, carries out a proactive role within the community, which includes the identification of vacant and derelict buildings that require follow up under the By-law. This is carried out by both the Environmental Health Services Branch and the Integrated Neighbourhood Support Services delivered by the Community Resource Coordinators. Public Health Inspectors and Community Resource Coordinators identify "at risk" properties and work collaboratively with Planning, Property and Development and Fire Prevention Services to ensure that the protection and well-being of neighbourhoods is promoted through the effective use of the by-law.

- The Environmental Health Services Branch considers the Vacant and Derelict Buildings By-law to be an effective mechanism that assists in ensuring that vacant properties do not pose a public health risk within the community.

- Community Resource Coordinators also find the Vacant and Derelict Building By-law helpful when working with community organizations to address properties of concern within the neighbourhood. Public Health Inspectors and Community Resource Coordinators have facilitated initiatives with community organizations to identify relevant properties for addition to the Vacant and Derelict Buildings inventory list.

The impact the provisions of the by-law have had on the community

As borne out by the statistics, 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 Administration 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.

There are fewer vacant buildings now, in all categories, than there were prior to the by-law.

Prior to July of 2004, there were some 750 +/- vacant buildings. By comparison, there are currently 518. This represents a reduction of approximately 35%.

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.

It is important to note that both WFPS and PP&D have absorbed the administration and enforcement of the by-law into all other inspection programming with existing staffing levels. Recognizing that enforcement oriented activities are time consuming and driven by processes designed to satisfy the legal system, the current status of operations under the By-law has been quite successful given the resources assigned.

Present staffing levels are as follows:

PP&D

In the case of PP&D, enforcement of the By-law has been added to the responsibilities carried by each of the six district Existing Buildings Inspectors. The following personnel are currently responsible for the enforcement of the By-law:

- six full time Inspectors who enforce the by-law along with all other duties;
- no part time staff allocated to the by-law;
- clerical support as needed along with all other duties;
- as needed support/supervision provided by Chief Existing Buildings Inspector.

Fire Prevention

In the case of Fire Prevention, three Fire Inspectors were re-assigned from the existing complement to enforce the requirements of the By-law. As well, an existing Senior Fire Inspector was re-assigned to manage the enforcement of the By-law. Present staffing levels are as follows:

- three full time Inspectors assigned exclusively to the By-law;
- one Senior Fire Inspector assigned exclusively to manage enforcement of the By-law;
- one clerical person that provides clerical support for the enforcement and administration of the By-law. (It should be noted that this clerical position was created at the time of the passage of the By-law.)

There are also approximately 850 fire fighters that provide ongoing support in identifying problems with vacant and derelict buildings. Vacant buildings are checked on a continuous 4 week cycle to ensure that they are secure, to report any fire issues such as the accumulation of combustibles, to check for obvious life safety hazards and to report health concerns such as broken glass, discarded needles, rodents or derelict vehicles.

The remainder of Fire Prevention's inspection staff (i.e. 13 Fire Inspectors) have very recently been assigned streets in core area neighborhoods with the intent of identifying previously unknown vacant and derelict buildings. This will be done on a part time basis. As this initiative is dependant on other inspection commitments and responsibilities, it is anticipated that a "sweep" of the core area will be completed in 6 to 12 months.

Again, recognizing that enforcement oriented activities are time consuming and driven by processes designed to satisfy the legal system, the Fire Prevention Branch has inspected all the known vacant buildings as well as the additional numbers of previously unknown vacant buildings generated through referrals and complaints. This has been accomplished without any increase in inspection staffing levels.

As noted earlier, the City has not proceeded to take title without compensation to any vacant and derelict building despite the fact that it would currently be possible to initiate these proceedings in respect of 15 properties. In large part, this is due to the fact that funding for a new and additional full-time Project Officer position, approved by Council with the passage of the Vacant & Derelict Buildings By-law, was subsequently deleted through the 2005 Budget process. The new Project Officer position was to provide support of a more rigorous enforcement campaign to administer the demolition process once authorized by Inspections and to coordinate the prerequisite redevelopment plan necessary prior to exercising the taking title without compensation provision.

As already mentioned, the City is in a position to proceed with the process to take title without compensation in respect of fifteen properties in the City. In all cases, a re-development plan would be required in order to consider exercising the taking title provision.

The Administration does not recommend an increase in Inspections staffing, as there is consensus that sufficient resources have been allocated to effectively enforce the By-law.

The challenges currently faced by the Administration when dealing with the by-law

Failure to take title without compensation:

Housing groups have actively been involved in acquiring and rehabilitating derelict and vacant properties, particularly in neighbourhoods designated Housing Improvement Zones under the City of Winnipeg's Housing Policy. Successful partnership with both private and non-profit housing developers engaged in rehabilitation of existing buildings or development of new housing where properties would be taken under the power of the By-law supports the goals of the Housing Policy, namely:

- *To bring new life to older neighbourhoods through locally planned, community supported housing renewal initiatives,*
- *To support housing renewal strategies that integrate economic and structural change to improve the quality of life for local residents while building neighbourhood stability,* and,
- *To create and provide tools to enable communities to implement renewal efforts and to support, wherever possible, locally developed products, businesses and initiatives.*

Some non-profit housing groups have expressed frustration with their inability to obtain sufficient derelict housing for redevelopment. As previously discussed, the By-law allows the City to take title without compensation, but the City has not yet utilized this power. This Report recommends funding for a new Project Officer position that would be devoted, in part, to initiate

redevelopment plans for vacant and derelict properties in conjunction with both private and non-profit developers actively involved in neighbourhood renewal activity.

Costly and frivolous appeals:

As is required by *The City of Winnipeg Charter*, all Orders issued under the By-law are subject to appeal. In the case of this By-law, orders are appealable to Standing Policy Committee on Property and Development. Currently, an owner of a vacant property incurs no cost and runs no risk in filing an appeal. On the contrary, by filing an appeal, the property owner automatically receives the benefit of several weeks or even several months' delay in complying with the Order, even if the appeal is ultimately unsuccessful.

Nevertheless, filing an appeal is not without cost to the City. Every appeal takes up hours of time on the part of the Inspector whose order is appealed, departmental personnel and for the City Clerk's office as well as the time spent by Councillors on the Standing Policy Committee hearing the appeal.

In order to more fairly address the issue of costs, this Report recommends that a refundable fee of $250.00 be imposed on appeals under the Vacant and Derelict Buildings By-law. This fee would help defray the costs associated with an appeal. After hearing the appeal, if the Standing Policy Committee decided that the appeal was legitimate and not frivolous, it would have the option of ordering the appeal fee refunded to the appellant.

City owned vacant buildings:

As a rule, the City takes title to vacant buildings by tax sale. Typically, these vacant buildings fail to comply with the by-law at the time they are acquired by the City because, in many cases, the owners have simply walked away from buildings that have become uneconomical to maintain.

While they are in the City's possession, the Real Estate Division is expected to ensure that these buildings comply with the standards of the by-law. While it has been diligent about acting quickly to ensure that vacant buildings are properly secured, fiscal restrictions have prevented the Real Estate Division from being able to meet the over-all requirements for many vacant buildings. These include such basic problems as holes in floors, exit doors that are inoperable, unsafe fire escapes, replacement of eavestroughing, the removal of combustible debris, on-going site maintenance and the re-activation of alarm systems, if required. However, they also include items that are more expensive to repair or replace, such as smoke alarms and fire suppression systems, varying degrees of structural failure or fire damage in larger buildings.

At an average estimated cost of $2,500 per property, the Real Estate Division estimates the current yearly expenditure necessary to bring City owned buildings into compliance with the by-law at $50,000. It should be noted that while demolition costs are charged to the Land Operating Reserve in accordance with the direction of Council, repairs and maintenance are a line item charged against a specific budget account. Existing funding for this need has been inadequate.

This report recommends that Council approve $50,000 annually to enable the Real Estate Division to meet the by-law standards concerning life safety, minimal repairs as well as maintenance in respect of City-owned vacant buildings.

Additionally, although the Fire Paramedic Service has followed the practice of not charging inspection fees to the Real Estate Division for inspections of City-owned buildings, the current provisions of the By-law do not provide for an exemption to the City for the payment of fees. To be consistent with the provisions of The Fire Prevention By-law, which contains an exemption for the payment of fees, it is recommended that The Vacant and Derelict Buildings By-law be amended to provide the same exemption. Furthermore, this is also being recommended to recognize there is no value to the City to charge itself fees and clarifies the matter administratively.

Non-payment of fees:

The Fire Prevention Branch imposes inspection fees for annual interior inspections of vacant buildings to determine compliance with the By-law. An annual inspection fee for a one or two family residential building is $100 while an annual inspection fee of $500 is charged for multi-family residential and all other non-residential buildings. The Department has been unable to collect many of the fees under current collection practices and therefore many of the uncollectable fees are written off as a bad debt.

A Report recently approved by Council allows caveats to be registered at the Land Titles Office against property owned by individuals who owe these and other fees. Council has also authorized that the costs of imposing and discharging these caveats as well as reasonable administrative costs associated with this method of debt collection be imposed upon the debtor. These measures will be utilized by both the Fire Paramedic Service and the Planning, Property and Development Department to improve the City's collection of unpaid fees.

Routine by-law enforcement issues:

Of course, 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 of Queen's Bench. 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 "out of town" owners are located, 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.

- 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. The problems of service noted above in the context of servicing Orders are fully applicable when serving common offence notices as well. After they are located and served with a common offence notice, 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.

Recent initiatives undertaken to assist in the enforcement and administration of the By-law.

The Vacant & Derelict Buildings By-law law represents an innovative approach to By-law enforcement in which two departments, the Winnipeg Fire Paramedic Service and the Planning, Property and Development Department, share enforcement and administration. In the nearly two years since its enactment, several initiatives have been established to improve enforcement and administration:

- A Vacant Building Coordination Group has been established which consists of representation from the Fire Prevention Branch, Housing/Existing Buildings Branch, Real Estate, and Legal Services. The function of this group is to ensure good communication between the various branches of the Administration that have an interest in vacant buildings and to ensure coordinated action by the City. For example, the decision to take title to a property in tax sale may be influenced by the unsafe condition of the building or the difficulty of enforcing orders against the owner.
- Both the Housing/Existing Buildings Branch and the Fire Prevention Branch now routinely register Orders as caveats against properties in situations where there is a risk that a non-compliant vacant building will be sold. This action binds a new owner to comply with an Order that has already been issued.
- The Housing/Existing Buildings Branch has created a standing contract that ensures the services of an "on-call" contractor to clean or board up the exteriors of non-compliant properties when owners have failed to comply with Orders requiring them to do so. The

cost of clean up is charged against an owner's property taxes. The Fire Prevention Branch has recently made similar arrangements for an "on call" contractor to bring properties into compliance when the owner has failed to comply with an Order issued by the Branch.

- It should also be noted that the Fire Prevention Branch maintains a Vacant Building Registry. The registry (generated by the Department's FIRS system) is a dynamic document, whose information is shared with other City Departments. It contains current information of all known vacant buildings in the City and is updated on a regular basis.

How can the by-law be made more effective?

As previously mentioned, the Administration is 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. **Approval of funding for a new and additional full-time Project Officer position.** As already indicated, the By-law allows the City to take title to derelict properties without compensation, but the City has not yet utilized this power. With the removal of the funding for the Project Officer position during the 2005 budget process, there has been limited capacity to initiate a call for re-development proposals and coordinate those activities necessary to initiate the process. Filling this position would facilitate the "taking title without compensation provision" under the By-law, as the position would be devoted, in part, to the creation and coordination of redevelopment plans for vacant and derelict properties.

2. **Approval of additional annual funding to the Real Estate Division.** As was indicated in the report on which the By-law was adopted by Council, the Administration is firmly of the opinion and position that the City must take a lead role on the issue of vacant and derelict buildings and lead by example. Accordingly, the City must be in a position to ensure the vacant buildings it owns comply with the By-law. In order to be able to do so, and do so in a timely fashion, additional funding is being recommended to enable the Real Estate Division to meet the over-all requirements of the By-law for vacant buildings it acquires.

3. **Imposition of a $250.00 administration fee to be paid with the filing of an appeal, refundable at the discretion of Standing Policy Committee on Property and Development**. The right of appeal, and the right to exercise that appeal, are established in the By-law pursuant to the requirements of *The City of Winnipeg Charter*. As it stands now, the owner of a vacant building incurs no cost or risk in filing an appeal and benefits with the time it takes to process the appeal for hearing.

There are, however, costs to the City. Every appeal takes up hours of time on the part of the Inspector whose order is appealed, departmental personnel and for the City Clerk's office as well as the time spent by Councillors on the Standing Policy Committee hearing the appeal. In order to more fairly address the issue of costs, this Report recommends that a refundable fee of $250 be imposed on appeals under the By-law. This fee would help defray the costs associated with an appeal. After hearing the appeal, if the Standing Policy Committee decided that the appeal was legitimate and not frivolous, it would have the option of ordering the appeal fee refunded to the appellant.

4. **Amendment of the By-law to waive annual inspection fees where the inspection reveals that vacant buildings are maintained in substantial compliance with the By-law.** This option was considered at the time the By-law was enacted but it was rejected at that time because it was believed that requiring owners of vacant buildings to pay at least some of the costs of inspections would serve as an incentive to get the building occupied. However, especially in the case of commercial buildings, the current $500 inspection fee can be onerous for some property owners. Moreover, waiving the inspection fee in cases where the property is in substantial compliance with the By-law will provide further incentive to bring buildings into compliance and maintain them appropriately.

5. **Amend the By-law to remove the requirement for a fire safety plan for all but large buildings, as defined in the By-law.** Currently, no distinction is made between the various building categories to reflect differences in size or complexity in respect to the requirement for a fire safety plan. Some of these buildings are quite small in physical size and their layouts simple. In order to recognize this differential, it is recommended that the requirement for a fire safety plan should apply only to all Manitoba Building Code (MBC) Part 3 Buildings and to any MBC Part 9 Building that has a fire alarm system or a sprinkler system.

6. **Amend the By-law to exempt the City from the fees outlined in the By-law for buildings that it owns.** This is being recommended to recognize the City charging itself fees only generates internal red tape, to clarify the matter administratively and to be consistent with The Fire Prevention By-law, which specifically exempts the City from the fees outlined in that By-law.

It may be worth discussing a further amendment that has been proposed by some neighbourhood and housing groups. In part, the By-law was developed to address the concern of non-profit neighbourhood and housing rehabilitation groups that owners of vacant and derelict buildings, while refusing to maintain their properties or rehabilitate them for occupancy themselves, were also refusing to make the properties available for redevelopment by others. However, after acquiring vacant buildings, and in some cases, these non-profit groups have found it difficult to meet the maintenance standards imposed by the By-law on the vacant buildings they now own.

This has sometimes resulted in complaints from neighbouring property owners. It has also resulted in calls from some non-profit groups for a special exemption from the by-law standards.

The Administration does not support this proposal. The goal of the By-law is to ensure that vacant buildings do not become and remain derelict because any vacant and derelict building is a blight on the neighbourhood – whether it is owned by a non-profit organization, a for-profit corporation or an individual. Rather than arbitrarily exempting certain groups from the standards set out in the By-law, the Administration believes that consistently enforcing the existing standards – which involves providing reasonable periods of time for compliance – is the fairest approach for everyone. If orders are considered unreasonable, property owners are entitled to an appeal to the Standing Policy Committee on Property and Development.

Similarly, the Administration takes the position that the City should not favor rehabilitation of vacant and derelict buildings by some groups over others. Rather, it believes that all genuine rehabilitation efforts – whether by non-profit groups or commercial enterprises – deserve support and encouragement.

Accordingly, the Administration does not propose amending the By-law to exempt non-profit groups from the property maintenance standards, permits, fees, or to grant them lengthier periods to comply.

On the other hand, some positions remain unchanged. The Winnipeg Real Estate Board has re-iterated its objection to the "taking title without compensation" provision of the by-law on philosophical grounds, but remains supportive of the general provisions requiring vacant buildings be at least minimally maintained and not pose a safety or fire danger.

Financial Impact Statement

Date: September 12, 2006

Project Name:

Review of Vacant and Derelict Buildings By-Law No. 35/2004

First Year of Program **2007**

	2007	2008	2009	2010	2011
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 119,000	$ 119,000	$ 119,000	$ 119,000	$ 119,000
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ 119,000	$ 119,000	$ 119,000	$ 119,000	$ 119,000
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ 119,000	$ 119,000	$ 119,000	$ 119,000	$ 119,000

Additional Comments: The above analysis assumes that the revisions to the By-Law would be enacted effective January 1, 2007. Also, please note, the analysis does not take into consideration the additional administration fee of $250, nor the waived annual inspection fee, both of which are far too difficult to forecast due to many variables that can not be predicted.

"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
Community Services Department
Planning, Property & Development Department
Legal Services

External Consultation With:
Winnipeg Real Estate Board

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

PPD File No.

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APPENDIX 1

THE CITY OF WINNIPEG

BY-LAW NO. .

A By-law of THE CITY OF WINNIPEG to amend the Vacant and Derelict Buildings By-law No. 35/2004.

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

Vacant and Derelict Buildings By-law amended

1. This By-law amends the Vacant and Derelict Buildings By-law No. 35/2004.

Subsection 3(2) amended

2. Subsection 3(2) is amended by striking out "*a non-residential and multi-family residential building*" and substituting the following:

(a) any building to which Part 3 of the Manitoba Building Code applies; or

(b) a building to which Part 9 of the Manitoba Building Code applies and in which a fire alarm system or a sprinkler system has been installed;

Section 6 amended

3 The following is added immediately after subsection 6(3):

6(4) The fees established in subsection (3) are not applicable to buildings owned by the City of Winnipeg.

Section 7 amended

4 The following is added immediately after subsection 7(2):

7(3) The fees established in subsection (2) are not applicable to buildings owned by the City of Winnipeg.

Section 10 amended

5(1) Subsection 10(2) is amended by striking out "*The City*" and substituting "*Subject to subsection (3), the Fire and Paramedic Chief*".

5(2) The following is added after subsection 10(2):

10(3) The inspection fee referred to in subsection (2) is not applicable to inspections of vacant buildings that:

(a) are owned by the City of Winnipeg; or

(b) in the opinion of the Fire and Paramedic Chief or delegate are in substantial compliance with Schedule "A" and that, in the opinion of the

Director of Planning, Property and Development or delegate, are in substantial compliance with Schedule "B" of this By-law.

Section 13 amended

6. Section 13 is amended

(a) by renumbering it as subsection 13(1); and

(b) by adding the following immediately after it:

Appeal fee imposed

13(2) Subject to subsections (3) and (4), an administration fee of $250.00 is hereby imposed for each appeal made under subsection (1).

Appeal not filed until fee paid

13(3) No appeal may be accepted by the City Clerk until the fee imposed by subsection (2) has been paid to the City Clerk.

Refund of appeal fee

13(4) The Standing Policy Committee on Policy and Development may order an appeal fee referred to in subsection (2) to be refunded to the appellant if the appeal has been made in good faith and has some merit.

DONE AND PASSED, in Council assembled, this day of , 2006.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Fire and Paramedic Chief

Certified as to form:

_____
for City Solicitor/Manager of Legal Services

Approved as to content:

_____
Director of Planning, Property and Development