Agenda - Council - November 25, 2009

Report - Standing Policy Committee on Property and Development - November 3, 2009

Item No. 5 Amendment to Neighbourhood Multiple Family/Mixed-Use Building Grant Program By-law No. 122/2007 and Downtown Multiple Family/Mixed-Use Building Grant Program By-law No. 123/2007 eFile EX

STANDING COMMITTEE RECOMMENDATION:

On November 18, 2009, 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 both the Neighbourhood Multiple Family/Mixed-Use Building Grant Program By-law No. 122/2007 and Downtown Multiple Family/Mixed-Use Building Grant Program By-Law No. 123/2007, be amended as follows:

    A. Expand the eligibility requirements to include an 'additions' eligibility category to allow for additions of as few as one dwelling unit to an existing multiple family or mixed-use building or to create a multiple family or mixed-use building (defined as a minimum of four dwelling units) in qualifying areas, providing that the additional dwelling unit(s) represents incremental square footage development.

    B. To tighten the 'redevelopment' eligibility requirements for new applications (on a go-forward basis) that limit eligibility for multiple family buildings that have been fully vacant for 12 months (or are on the current vacant and derelict building registry) prior to the first building permit application (rather than the current definition which requires 12 months vacancy prior to the final occupancy permit).

    C. To re-define the 'conversion' eligibility in terms of a combination of assessment, zoning, and/or actual land use change criteria that encourages the development of as few as one new dwelling unit in existing structures that result in a minimum of 4 dwelling units.

    D. Clarify the by-law definition to indicate that incremental municipal taxes are net of any credits applied to those taxes.

    E. To add the goals of the program as outlined in Appendix 1 to assist in the interpretation of the by-laws.

2. That the Public Service use the 'best estimate' approach to subscribing both grant programs as opposed to the 'project maximum' approach.

Report - Standing Policy Committee on Property and Development - November 3, 2009

3. 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 3, 2009

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 18, 2009, 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 3, 2009, 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.

ADMINISTRATIVE REPORT

ISSUE: Policy and by-law amendments to and clarification of the calculation method used for subscribing the Downtown and Neighbourhood Multiple Family / Mixed-use Building Grant Programs.

Critical Path: Standing Policy Committee on Property and Development – Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
S. Dueck	D. Joshi	M. Ruta	G. Laubenstein

RECOMMENDATIONS

1. That both the Downtown and Neighbourhood Multiple Family / Mixed-Use Building Grant Programs (By-laws 122/2007 & 123/2007) be amended as follows:
   A. Expand the eligibility requirements to include an 'additions' eligibility category to allow for additions of as few as one dwelling unit to an existing multiple family or mixed-use building or to create a multiple family or mixed-use building (defined as a minimum of four dwelling units) in qualifying areas, providing that the additional dwelling unit(s) represents incremental square footage development;
   B. To tighten the 'redevelopment' eligibility requirements for new applications (on a go-forward basis) that limit eligibility for multiple family buildings that have been fully vacant for 12 months (or are on the current vacant and derelict building registry) prior to the first building permit application (rather than the current definition which requires 12 months vacancy prior to the final occupancy permit).
   C. To re-define the 'conversion' eligibility in terms of a combination of assessment, zoning, and/or actual land use change criteria that encourages the development of as few as one new dwelling unit in existing structures that result in a minimum of 4 dwelling units.
   D. Clarify the by-law definition to indicate that incremental municipal taxes are net of any credits applied to those taxes.
   E. To add the goals of the program as outlined in Appendix 1 to assist in the interpretation of the by-laws.

2. That Council approves that the Public Service use the 'best estimate' approach to subscribing both grant programs as opposed to the 'project maximum' approach.
3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

IMPLICATIONS OF THE RECOMMENDATIONS

Expanding the eligibility requirements as proposed in this Report will better achieve the goals and intent of the program defined in Appendix 1. By-law changes will facilitate the development, redevelopment or conversion of existing properties while not directing limited funds to the redevelopment of traditional residential houses, duplexes, triplexes, or secondary suites.

- Existing multiple family or mixed-use buildings where construction results in additional building area (and/or development of a previously unused space such as a basement) and additional dwelling units would now qualify under the expanded program eligibility requirements.
- Limiting eligibility of vacant buildings to those that have been vacant for 12 months prior to issuance of the building permit rather than 12 months prior to the final occupancy permit limits the program to those dwellings that are truly 'off the market' already and no longer qualifies those projects that effectively use the program to evict existing tenants to undergo redevelopment over a 12 month period.
- Re-definition of 'conversion' captures within the program a slightly broader spectrum of projects that are worthy of incentive and are as in-keeping with the goals and intent of the program as those currently captured.

Amending the definition of 'incremental municipal taxes' to explicitly state that they will be net of any credits applied will formalize the interpretation by the Public Service of the definition.

Approval of the use by the Public Service of the 'best estimate' approach to subscribing both grant programs will allow a greater number of redevelopment projects to be approved which would allow for a greater number of multiple family residential dwellings in the target areas. However, it must be noted that this approach produces a minor risk that the estimates of total grants may be understated resulting in the maximum amounts approved by Council being exceeded over the Programs' life-span. The more cautious 'project maximum' approach, which operates on the assumption that every project will result in the maximum possible grant, is the only way to truly ensure that the maximum total grants offered through the programs will never exceed the maximum authorized by Council. However, since many projects do not reach the maximum possible grant amount, such an approach will inevitably result in the funding made available by Council being under-allocated.

HISTORY

In 2002, the Multiple Family Dwelling Grant Program By-Law No. 8060/2002 (MFDG By-law) was introduced to provide incentives for neighbourhood revitalization. The Program was designed to provide financial assistance to multiple family redevelopment and renovation projects on vacant and boarded sites in Winnipeg's Major Improvement Areas, Rehabilitation Areas and the Downtown. The MFDG By-law was passed on the basis of a three (3) year pilot project in order to provide an opportunity to monitor and assess the impact of a multiple family tax grant program. The maximum total tax grants available under the Program was limited to $3 million.

On May 22, 2005, the MFDG By-law expired. A total amount of $2.6 million had been committed for sixteen projects containing a total of 532 new dwelling units. The Program leveraged approximately $89.2 million in private investment and generated incremental tax revenues of approximately $1 million per year

Established in 2007, the Multiple Family Mixed-use Building Grant Programs (MFMUBG) represented a 'second generation' of the original MFDG. Originally, a $10 million limit was established for grants within the Downtown Program and a $5 million limit was established for the Neighbourhood Program. On March 25, 2009, Council approved an additional $10 million towards the Neighbourhood program which was fully subscribed at the time. As of July 1, 2009, the current MFMUBG programs have resulted in the following statistics for conditionally approved projects:

Grant Program	# of Projects	# of Condo Units	# of Rental Units	Private Investment	Estimated Grants	Maximum Grants
Downtown	7	167	217	$56M	$5.3M	$7.2M
Neighbourhood	34	506	497	$170.5M	$10.6M	$14.5M

In addition to projects funded by these programs, some multiple family and/or mixed-use building projects that would have qualified have chosen alternatively to be funded through the Heritage Tax Credit program.

More detailed information about the program changes is contained in Appendix 2.

FINANCIAL IMPACT

Financial Impact Statement Date: September 15, 2009

Project Name:

Changes to the Downtown and Neighbourhood Multiple Family / Mixed-Use Building Grant Programs (By-laws 122/2007 and 123/2007)

COMMENTS:

The recomendations contained in this report are that the eligibility requirements for redevelopment projects be amended and that the Public Service use the 'best estimate' approach to calculate the amount of tax grants approved. It is likely that approval of the recommendations will lead to both Programs being fully subscribed which would result in tax grants of $10 million and $15 million for the Downtown Multifamily Dwelling Grant Program and Neighbourhood Multifamily Dwelling Grant Program respectively. There is a risk that use of the 'best estimate' approach could result in the Program's grant amounts being exceeded.

As the tax grants are to equal incremental municipal property taxes on the residential portion of any approved project, there are no associated out-of-pocket financial implications; rather, the potential total amount of $25 million in tax grants represents an opportunity cost. Once the estimated 10 - 15 year life span of the Programs has passed, all municipal property taxes will accrue to the City.

It may be that some projects would occur absent the incentives offered through these programs. Tax grants paid in such cases would represent an out-of pocket cost to the City of Winnipeg. However, it is not possible to ascertain what portion, if any, of the maximum tax grants available through these programs would fall into this category. As such, for the purposes of this Financial Impact Statement, it is assumed that any project approved under these programs would not occur absent the tax grant incentive.

Given the number of variables and timeframe involved, it is not currently possible to estimate with reasonable certainty the net financial implications associated with the recommendations contained in this report.

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

CONSULTATION

In preparing this Report there was consultation with:

Corporate Support Services, Legal Services Division
Assessment and Taxation Department

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Housing Development
Prepared by:	Stan Dueck, Acting Manager of Housing Development
Date:	September 15, 2009
File No.	

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APPENDIX 1

Goals and Intent of the Multiple Family / Mixed Use Building Grant Programs:

The goals of the Downtown and Neighbourhood Multiple Family / Mixed-Use Building Grant Programs are to:

- Facilitate the development of new buildings, or the development (e.g. additions), redevelopment or conversion of existing buildings for the purpose of increasing the stock of multiple family dwellings in eligible areas of the City of Winnipeg.
- Facilitate and assist in the revitalization of eligible areas by increasing densities and significantly extending the lifespan of existing buildings
- Maximize the use of existing infrastructure by increasing dwelling unit densities in established neighbourhoods
- Encourage 'mixed-use' buildings, when permitted by the zoning process.

It is not the intent or goal of these programs to encourage the construction or redevelopment of traditional residential houses, duplexes, triplexes, secondary suites or rooming housing.

APPENDIX 2

Recommendation 1.

- The Downtown and Neighbourhood Multiple Family / Mixed-Use Building Grant Programs (By-laws 122/2007 & 123/2007) were established to facilitate the development, redevelopment or conversion of existing properties for the purpose of increasing the stock of multiple family dwellings in the City of Winnipeg.
- The original programs were approved with various eligibility conditions, including the following:
  - A. The eligible projects must be one of three types:
    - i. The development of new residential or mixed-use properties,
    - ii. The redevelopment of residential or mixed-use properties that are vacant for 12 months or more, or
    - iii. The conversion of non-residential properties to residential or mixed-use properties.
  - B. An eligible property must be developed into any residential or mixed-use structures containing four (4) or more dwelling units.
- The current Downtown and Neighbourhood Multiple Family and Mixed-Use Building Grant Programs (MFMUBGP) provide the incentive of 10 years of incremental municipal taxes. A project maximum is calculated based on the total of the 'per dwelling unit' maximums.
- The existing criterion related to a minimum of 4 dwelling units in a project is largely intended to exclude traditional residential houses, duplexes, triplexes, or secondary suites as part of these programs.
- Applications have come forward which appear to meet the intent of the grant program but do not qualify due to the specifics of the current definitions. In particular, an existing multiple family or mixed-use building where construction results in additional building area (and/or development of a previously unused space such as a basement) and additional dwelling units would not qualify under the current program definitions. That is, despite adding additional units to a multifamily dwelling, the project does not fall within the current definitions for eligibility.

Additions:

- The proposed amendments would allow for some projects that would clearly meet the objectives and intent of the Programs to be approved. For example, projects such as adding a new floor of dwelling units to an existing multiple family building would not be eligible under the current definitions but would qualify under the recommended amended by-law.

Redevelopment:

- While one of the main intentions of the original programs was to provide an incentive for the development of new dwelling units, the programs allowed for the redevelopment of existing buildings on the condition that the buildings were vacant for a minimum of 12 months. While this condition certainly captured the obvious long-standing vacant (and possibly derelict) buildings and encouraged the re-establishment of these dwelling units into the market (arguably creating 'new' units), it also provided opportunity for landlords to move tenants out of active rental buildings provided that the total length of vacancy and reconstruction (measured to the date of issuance of final occupancy permits) was 12

months or greater. While this interruption in cash-flow helped ensure that the qualifying projects were not simply cosmetic renovations, but represented more fundamental redevelopment changes that effectively extended the life-span of aging buildings, it also effectively allowed grants to apply to buildings that were receiving upgrades, and not resulting in new units being added to the market.

- This recommendation, therefore, serves to amend the original definition to contain projects which qualify through the vacancy requirement to more fully reflect those projects where the building was no longer an active source of dwelling units, and not simply a situation where tenants were evicted in order to allow for a redevelopment of the building. Since certain projects have been conditionally approved under the original by-law interpretation, it is recommended that this new limitation not be applied retroactively.

Conversion:

- The current definition of conversion refers to a shift in the property's assessment code. There have been situations where a building or part of a building are clearly changing in use and as a result new dwelling units are coming on to the market, but do not meet the specifics of this definition. Adjusting the by-laws will allow for a less specific and more practical definition of 'conversion'.

Incremental Taxes

- The proposed amendment clarifies the existing intention of the original by-laws. In administering the by-laws, the Pubic Service has taken the view that incremental taxes are net of any credits assigned to the municipal real property tax, although this is not explicitly stated in the by-laws. The amendment would formalize this interpretation.

Including the programs' goals and intent within the by-laws

- Including the programs' goals and intent within the by-law provides increased clarity to the Public Service and decision makers when challenged to interpret the by-law as it applies to situations previously not considered or addressed directly by the by-laws.

Recommendation 2

- The maximum total grants offered through the Downtown grant program is limited to $10 million and the maximum total grants offered through the Neighbourhood grant program is limited to $15 million ($5 million originally and extended to $15 million by Council on March 25, 2009) for the duration of the programs. Neither program is currently fully subscribed.
- The Public Service can use one of two methods for subscribing the $10 million and $15 million currently allocated. The first is the 'project maximum' approach. This operates on the assumption that every project will result in the maximum possible grant. This approach is the only way to truly ensure that the maximum total grants offered through the programs will never exceed the maximum authorized by Council. However, since many projects fall short of the maximum possible grant, this approach will inevitably result in the funding made available by Council being under-allocated.
- The second approach – the one being recommended in this Report - is the 'best estimate' approach. In this approach, the Public Service simply uses the information provided by the applicant and engages in a 'theoretical assessment'. That is, they apply

their best judgment to estimate the actual grant that will be provided when the project is complete. Clearly, there is a risk that the estimates of total grants may be understated (e.g. actual assessed values are greater, additional property enhancements are made during subsequent years, property taxes are raised, etc.). In this case, the maximum program amounts approved by Council could be exceeded (over the 10-15 year program life-span). However, this approach is more likely to be an accurate reflection of the total grants being approved and is more likely to result in the total amount available through these programs to be expended.

- Of note is that even in the event that taxes were increased in subsequent years, each project's grant maximum (grant entitlement limit) would still be in force.
- The current (July 1, 2009) subscription levels using the two approaches are as follows:

Grant Program	Total Subscription Limit	'Best Estimate' Grants Payable	Maximum Grants Payable
Downtown	$10M	$5.3M	$7.2M
Neighbourhood	$15M	$10.6M	$14.5M

- The use of either method only becomes a direct issue at the point when a program becomes fully subscribed.