Agenda - Council – September 28, 2011

Report - Standing Policy Committee on Property and Development – September 13, 2011

Item No. 9 Amendments to The Demolition Permits in Residential Areas By-law No. 4665/87

STANDING COMMITTEE RECOMMENDATION:

On September 21, 2011, 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 amendments to The Demolition Permits in Residential Areas By-law No. 4665/87 be enacted as per Appendix A that would:

   A. Clarify which properties and demolition situations are exempt from the By-law, and

   B. Exempt situations where the City is initiating a demolition to remedy a situation that is not necessarily one of structural integrity or a dangerous condition.

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 – September 13, 2011

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 21, 2011, 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 September 13, 2011, 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

Title: ***Amendments to The Demolition Permits in Residential Areas By-law No. 4665/87***

Critical Path: **SPC-PD – EPC -- Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
S. Dueck	D. Joshi	N/A	Deepak Joshi Chief Operating Officer

RECOMMENDATIONS

1. To enact amendments to The Demolition Permits in Residential Areas By-law No. 4665/87 (DPRA By-law) as per the attached By-law (Appendix A) that would:
    - clarify which properties and demolition situations are exempt from the By-law, and
    - exempt situations where the City is initiating a demolition to remedy a situation that is not necessarily one of structural integrity or a dangerous condition.

REASON FOR THE REPORT

The proposed amendments are being initiated by the Public Service to clarify that the City can, without the approval of the Community Committee, initiate a demolition of a vacant building as the most reasonable method of directly remediating a property that is in violation of a property standard Order issued under the Vacant Buildings By-law.

IMPLICATIONS OF THE RECOMMENDATIONS

- A primary purpose of the DPRA By-law is to restrict the issuance of a demolition permit for a residential dwelling unless the applicant already holds a building permit for construction of a new building, or has applied to and received an order from the appropriate Community Committee exempting that residential building from first obtaining a building permit.
- The DPRA By-law outlines some specific exceptions to this restriction. For example, it does not apply to situations where:
    - the demolition is carried out on behalf of the City in order to address an emergency situation, or
    - where the owner is seeking to demolish the building in order to comply with an Order issued by the City which specifies demolition to be an option acceptable to the City.

- In the process of engaging in the City's Vacant Buildings Strategy, the Public Service has identified the following situations for which clarifying and amending the DPRA By-law would be beneficial:
    - Currently Vacant Buildings By-law Compliance Orders contain standard clauses identifying demolition to be one method of remediating the property (even in cases where structural integrity is not a concern). The wording of the current DPRA By-law could be construed to allow property owners to claim exemption from the DPRA based on these orders. It does not appear that it was the intent of the current DPRA By-law to allow this exemption, particularly for what may be relatively small property standards infractions. The proposed by-law amendment simply clarifies this issue by allowing an applicant for a demolition permit to by-pass Community Committee approval only if the Order identifies structural and dangerous conditions and specifically identifies that it is not necessary to comply with the DPRA By-law in order to comply with the Order.
    - There are cases where the City is active in engaging in direct remediation of properties where the owner has failed to comply with an Order to repair. In many of these cases, the value of the building is significantly greater than the cost of the repairs. However, there are some situations where the most reasonable method of remediation by the City is demolition of the property. An example would be a property where the appraised value of the land is $20,000 and the appraised value of the land and building is $23,000 (i.e. the net value of the building alone is $3,000). If the cost of remediating the property to compliance with the Vacant Buildings By-law is $18,000, the most reasonable method for the City to remediate the property is to demolish the building.

      In such a situation, the proposed by-law amendment would allow the City to initiate demolition without first holding a building permit or receiving permission from the Community Committees as long as the Public Service consulted the local councillor prior to proceeding.

HISTORY

The Demolition Permits in Residential Areas By-law No. 4665/87 was passed to limit property owners from demolishing residential buildings without first having an approved building plan in place. Previously, it was found that some property owners had used demolition as a way to increase pressure to change residential zoning to allow uses not permitted in residential districts.

On July 21, 2010, Council adopted the City's 9-Point Vacant and Derelict Buildings Strategy. Item 2 of that strategy was "Direct Remediation":

"If the owner of a non-compliant vacant building fails to comply with an Order to clean up the property, fix up the building, take out a boarded building permit or otherwise comply with the By-law, the City is entitled to remediate the non-compliance (including demolishing the building) of the property at the owner's expense. The Public Service will engage in remediation when it makes sense to do so (i.e., to alleviate dangerous situations, when a boarded building permit needs to be taken out, when minimal expenditures can have a large positive impact on the community, and when the costs are likely to be recovered from the owner). When remediation takes place, these costs (including $75/hr costs for arranging remedial action as outlined in point 5) will be added to the taxes on the property."

FINANCIAL IMPACT

Financial Impact Statement Date: August 11, 2011

Project Name:

Amendments to The Demolition Permits in Residential Areas By-law No. 4665/87

COMMENTS:

The recommendation in this report is to enact amendments to The Demolition Permits in Residential Areas By-law No. 4665/87 (DPRA By-law) as per the attached By-law (Appendix A) that would:

- clarify which properties and demolition situations are exempt from the By-law, and
- exempt situations where the City is initiating a demolition to remedy a situation that is not necessarily one of structural integrity or a dangerous condition.

There are no financial implications associated with this recommendation.

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

CONSULTATION

In preparing this report there was consultation with:

Community Services Department
Department of Legal Services

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Housing Development
Prepared by:	Stan Dueck
Date:	August 15, 2011
File No.	O:\Reports Directive\Housing Development\RIS Demolition By-law Amendments.doc

Appendix A.

THE CITY OF WINNIPEG

BY-LAW NO.

A By-law of THE CITY OF WINNIPEG to amend the Demolition Permits in Residential Areas By-law

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

1. The Demolition Permits in Residential Areas By-law No. 4665/87 is amended by repealing section 14 and substituting the following:

14. This By-law does not apply to

(a) the area to which the Downtown Winnipeg Zoning By-law applies;

(b) a demolition carried out by or on behalf of the City of Winnipeg in order to address an emergency situation;

(c) a demolition carried out by the owner or occupant of property in compliance with an Order issued by a designated employee pursuant to section 184 of *The City of Winnipeg Charter* which requires the owner or occupant to remedy a deficiency in the structural integrity of a building or another dangerous condition that constitutes a by-law contravention and which

(i) specifically identifies demolition to be an option available to the owner or occupant; and

(ii) expressly states that it is not necessary to comply with this By-law in order to comply with the Order;

(d) a demolition carried out by the City of Winnipeg under section 185 of *The City of Winnipeg Charter* to remedy a by-law contravention

(i) identified in an Order referred to in clause (c); or

(ii) identified in any other Order so long as, prior to determining that demolition is the most appropriate means of remedying the contravention, the designated employee has consulted with the councillor in whose ward the property lies.

DONE AND PASSED, this day of , 2011.

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Mayor

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City Clerk

Approved as to content:

_____
Director of Planning, Property and Development

Approved as to form:

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For Director of Legal Services and City Solicitor