Appendix B – Taking Title Without Compensation Process

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

Taking Title to Vacant & Derelict Buildings By-law

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 (PDBO) in the form set out as Schedule "D" to the By-law. (By-law s. 19(1), Charter s. 192(1). Designated employee must be satisfied that owner has been found guilty of violating By-law and the property continues to be in violation of the By-law (ie. inspection required). PDBO must grant at least 60 days for compliance and at least 90 days for appeal.

STEP 3: Registration of Preliminary Derelict Building Order. (By-law s. 19(2), Charter s. 192(2)) 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(2) and (3), 195) Preliminary Derelict Building Order must be served on the registered owner and every person who appears from the records in WLTO to have an interest in the property on the day the order is registered. Personal service is required unless a substitutional service order made by the district registrar at WLTO permits otherwise. No service is required on those who own an interest referred to in s. 45(5) of Real Property Act.

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 90 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 90 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: PDBO Second Notice issued (Charter s. 193(1)). Second Notice cannot be issued until at least 30 days after the PDBO is served on everyone with an interest in property. Inspection must confirm that property is still not in compliance before Second Notice issued. Must grant at least 60 days after service of Second Notice for appeal.

STEP 7: Registration of PDBO Second Notice (Charter s. 193(3) Second Notice must be promptly registered by way of caveat at Winnipeg Land Titles Office (WLTO).

STEP 8: Service of PDBO Second Notice (Charter s. 193(3) and (4), 195) Second Notice must be served on the registered owner and every person who appears from the records in WLTO to have an interest in the property on the day the Second Notice is registered. Personal service is required unless a substitutional service order made by the district registrar at WLTO permits otherwise. No service is required on those who own an interest referred to in s. 45(5) of Real Property Act.

STEP 9: "Satisfactory plan for redeveloping the property" is prepared. (By-law s. 20(3), Charter s. 196(1)(d)) 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 at almost any point in the process to date.

STEP 10: 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 Second Notice has been served on everyone with an interest in the property;
- if the property has not been brought into compliance(ie..an additional inspection is required before application can be made); 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 11: Standing Policy Committee on P&D issues Derelict Building Certificate (DBC). (By-law s. 20(3), Charter s. 196(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 9).

STEP 10: Registration of Derelict Building Certificate and Application for Title at WLTO. (Charter s. 197(1)) Application can be made immediately and must be made within 120 days of SPC issuing DBC. If not made in that time, must at least have the SPC re-issue the DBC. In addition, the LTO could discharge the PDBO and Second Notice without any need to tell the City.

STEP 11: 30 day "challenge period" (Charter s. 198, 199(2), 200) Anyone with an interest in the property has 30 days after the Application for Title has been filed to challenge the process in the Court of Queen's Bench. The only grounds are that the City failed to follow the correct process in applying for DBC or that the property was in compliance on the day the challenge was filed in Queen's Bench.

STEP 12: Title issues to the City. (Charter s. 199(1)) District Registrar must process application "as soon as reasonably practicable" after the challenge period is over.