Minute No. 104
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – December 5, 2016

Item No. 8 Planning, Development and Building Fees By-law No. 66/2016 Amendment

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development Committee and adopted the following:

1. That the Planning, Development and Building Fees By-law No. 66/2016 be amended to provide that the Director of Planning, Property and Development to waive all or part of a monetary penalty imposed by that By-law where the Director is satisfied that the imposition of the penalty would be unfair in the circumstances, as outlined in Attachment A.

2. 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 Councillor Orlikow,

That the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development be adopted.

Carried

Councillor Wyatt asked to be recorded as having voted against the item in accordance with Rule 47(7) of the Procedure Bylaw.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 7, 2016, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On December 5, 2016, the Standing Policy Committee on Property and Development, Heritage and Downtown Development passed the following motion:

WHEREAS section 18 of the Planning, Development and Building Fees By-law No. 66/2016 ("the By-law") authorizes the Director of Planning, Property and Development to waive all or part of a fee imposed by that By-law where the Director is satisfied that the imposition of the fee would be unfair in the circumstances;

AND WHEREAS the power to waive monetary penalties has not been given to the Director under the By-law;

AND WHEREAS subsection 15(1) of the By-law imposes a monetary penalty on buildings that are determined to be non-compliant with the Residential Fire Safety By-law No. 4304/86 such that a Final Report for the building cannot be issued by the designated employee in the amount of $100 per residential unit subject to a minimum of $500.00 and a maximum of $5,000.00 per building;

AND WHEREAS subsection 15(2) of the By-law provides that the monetary penalty doubles each subsequent year until the building is brought into compliance;

AND WHEREAS several building owners have sought to challenge the imposition of the monetary penalty on the basis that it is being unfairly imposed in their situation;

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DECISION MAKING HISTORY (continued):

STANDING COMMITTEE RECOMMENDATION (continued):

AND WHEREAS the monetary penalty is not imposed on a discretionary basis and is therefore not subject to an appeal;

AND WHEREAS there may be situations in which the automatic imposition of the monetary penalty may be unfair;

THEREFORE BE IT RESOLVED that the Planning, Development and Building Fees By-law No. 66/2016 be amended to provide that the Director of Planning, Property and Development to waive all or part of a monetary penalty imposed by that By-law where the Director is satisfied that the imposition of the penalty would be unfair in the circumstances, as outlined in Attachment A;

and submitted the matter to the Executive Policy Committee and Council.