Agenda - Council - February 25, 2004

Report - Standing Policy Committee on Property and Development - February 3, 2004

Item No. 10 Proposal to Regulate the Condition and Maintenance of All Vacant Buildings
File EX

STANDING COMMITTEE RECOMMENDATION:

On February 18, 2004, 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 Council give first reading to the Vacant and Derelict Buildings By-law, which:

   A. Would replace the Vacant Dwellings By-law No. 7983/2002.

   B. In addition to vacant dwellings, addresses vacant non-residential, commercial and industrial buildings.

   C. Includes provisions that will allow the City to take title to vacant buildings without compensation to the owner in accordance with Sections 190 to 201 of The City of Winnipeg Charter where:

      i. The owner is convicted of failing to comply with the standards set out in the By-law and continues to fail to bring the building into compliance with the By-law; and

      ii. There is a viable plan for redevelopment of the property.

2. That pursuant to Section 191(2) of The City of Winnipeg Charter, the Executive Policy Committee be directed to conduct a public hearing respecting the proposed Vacant and Derelict Buildings By-law.

3. That subsequent to the public hearing and upon enactment of the proposed by-law by Council, a public information program be established to make the requirements and obligations of the new by-law readily available to interested and affected parties.

4. That the maintenance standards set out in Schedule "A" of the proposed Vacant and Derelict Buildings By-law be enforced by the Fire Paramedic Service and the security and structural requirements by the Planning, Property and Development Department, in accordance with an agreement between the two departments.

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5. That subsequent to the public hearing and upon enactment of the proposed by-law by Council, commencing in 2004**,** the following annual additional funding be provided, namely:

   A. $69,000.00 to the Planning, Property and Development Department to establish a new Project Officer I position in the Civic Accommodations Division to support the administration and enforcement of the new by-law. (See Appendix 1)

   B. $34,700.00 to the Fire Paramedic Service to establish a new Data Entry Clerk position in the Fire Prevention Branch to provide clerical support in the administration and enforcement of the new by-law. (See Appendix 1).

6. That subsequent to the public hearing and upon enactment of the proposed by-law by Council, one-time funding to the Planning, Property and Development Department be provided as follows:

   A. $20,000.00 to support the public information program. (See Appendix 1)

   B. $12,000.00 for the acquisition of six (6) Amanda System User Licenses required by the Fire Prevention Branch. (See Appendix 1)

7. 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 - February 3, 2004

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 18, 2004, 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 February 3, 2004, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submitted the matter to the Executive Policy Committee and Council.

Re: Proposal to regulate the condition and maintenance of all vacant buildings

For submission to: **Standing Policy Committee on Property and Development**

Original report signed by: **Director of Planning, Property and Development & Fire & Paramedic Chief**

Report date: January 27, 2004

Recommendation(s):

1. That Council give first reading to the attached Vacant and Derelict Buildings By-law, which:
    (a) would replace the Vacant Dwellings By-law No. 7983/2002;
    (b) in addition to vacant dwellings, addresses vacant non-residential, commercial and industrial buildings; and
    (c) includes provisions that will allow the City to take title to vacant buildings without compensation to the owner in accordance with Sections 190 to 201 of *The City of Winnipeg Charter* where:
        - the owner is convicted of failing to comply with the standards set out in the By-law and continues to fail to bring the building into compliance with the By-law; and
        - there is a viable plan for redevelopment of the property.

2. **That pursuant to Section 191(2) of The City of Winnipeg Charter, the Executive Policy Committee be directed to conduct a public hearing respecting the proposed Vacant and Derelict Buildings By-law.**

3. That, **subsequent to the public hearing and upon enactment of the proposed by-law by Council,** a public information program be established to make the requirements and obligations of the new by-law readily available to interested and affected parties.

4. That the maintenance standards set out in Schedule "A" of the proposed Vacant and Derelict Buildings By-law be enforced by the Fire Paramedic Service and the security and structural requirements by the Planning, Property and Development Department, in accordance with an agreement between the two departments.

5. That**, subsequent to the public hearing and upon enactment of the proposed by-law by Council commencing in 2004,** the following annual additional funding be provided, namely:

    (a) $69,000.00 to the Planning, Property and Development Department to establish a new Project Officer I position in the Civic Accommodations Division to support the administration and enforcement of the new by-law. (See Appendix 1)

(b) $34,700.00 to the Fire Paramedic Service to establish a new Data Entry Clerk position in the Fire Prevention Branch to provide clerical support in the administration and enforcement of the new by-law. (See Appendix 1).

6. That**, subsequent to the public hearing and upon enactment of the proposed by-law by Council,** one-time funding to the Planning, Property & Development Department be provided as follows:
   (a) $20,000.00 to support the public information program. (See Appendix 1).
   (b) $12,000.00 for the acquisition of six (6) Amanda System User Licenses required by the Fire Prevention Branch. (See Appendix 1).

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

REPORT SUMMARY

Vacant and boarded-up buildings have negative impacts on both the communities they are located in as well as on the City itself. However, vacant buildings that are secure and well maintained constitute a lower level of risk than buildings that are open and accessible and poorly maintained.

On February 27, 2002, City Council addressed the regulation of vacant dwellings with the passage of the Vacant Dwellings By-law No. 7983/2002. Non-residential buildings were not addressed at that time.

This report proposes to expand the model that has been used for vacant dwellings to all vacant buildings, with some modifications for commercial and other non-residential buildings. This model does not place any limit on the length of time a building may remain vacant. However, it imposes standards of maintenance designed to reduce the impact of vacancy on the neighbourhood and to ensure that the interior is not conducive to fires and poses no threat to fire fighters' safety. It also requires that owners obtain permits if they wish to secure a building by boarding it up.

This report proposes a novel division of responsibility between the Planning, Property and Development Department (PP&D) and the Fire Paramedic Service (FPS), whereby FPS personnel would conduct inspections of vacant buildings to determine compliance with maintenance standards while inspectors from PP&D would focus on security of vacant buildings as well as structural issues.

Finally, this report proposes to take advantage of the power recently granted to the City in The City of Winnipeg Charter to take title to derelict property without compensation to the owner where the building is not in compliance with standards set out in the Vacant and Derelict Buildings By-law and where there is a viable alternative plan for redeveloping the building.

Key Issues:

- Should the City limit its efforts to regulating only vacant dwellings, or should it adopt an aggressive approach for all vacant buildings, both residential and commercial, and pursue inspection programming in all such buildings?

- Is the City prepared to take title to derelict properties without compensation to the owner where the building is not in compliance with the standards set out in the By-law and where there is a viable alternative plan for redevelopment of the building?

- Is the City prepared to endorse a novel division of enforcement authority between the Fire Paramedic Service and the Planning, Property and Development Department?

- Is the City prepared to provide the additional funds needed to support more vigorous enforcement to regulate the condition and maintenance of all types of vacant buildings?

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 of Winnipeg**
	Involves a multi-year contract

Comment(s):

- Enforcement of the maintenance standards set out in the proposed Vacant and Derelict Buildings By-law would be taken on by the Fire Paramedic Service. Additional resources would be required by the Civic Accommodations Division and Fire Prevention Branch in order to administer the expanded By-law. The responsibility of the Housing/Existing Buildings Branch for enforcing vacant buildings provisions would be somewhat reduced, allowing more time and attention to be paid to other enforcement areas. New by-law provisions would impose some additional requirements on the owners of vacant non-residential buildings. A process by which the City was able to take title to derelict properties without compensation would affect property owners who fail over time to bring their properties into compliance with the By-law.

Policy implications:

	No
X	**Yes**

Comment(s):

- Enforcement of the maintenance standards set out in the proposed Vacant and Derelict Buildings By-law would be taken on by the Fire Paramedic

Service. Additional resources would be required by the Civic Accommodations Division and Fire Prevention Branch in order to administer the expanded By-law. The responsibility of the Housing/Existing Buildings Branch for enforcing vacant buildings provisions would be reduced, allowing more time and attention to be paid to other enforcement areas. The City would be expected to comply with the new requirements of maintenance for the vacant buildings it owns.

Environmental implications:

X	**No**
	Yes

Comment(s):

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Human resources implications:

	No
X	**Yes**

Comment(s):

- Vacant buildings that are not properly maintained, especially those that are boarded, pose a significantly higher risk of injury and death to fire fighters. Among other things, the by-law proposed in this report is aimed at reducing that risk.
- 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.
- The creation of an additional full-time Data Entry Clerk position in the Fire Prevention Branch of the Fire Paramedic Service is recommended.

Financial implications:

	Within approved current and/or capital budget
X	**Current and/or capital budget adjustment required**

Comment(s):

- 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.
- The creation of an additional full-time Data Entry Clerk position in the Fire Prevention Branch of the Fire Paramedic Service is recommended.
- Annual additional staffing costs are anticipated to be marginally offset by the revenue generated through the permit and inspection fee requirements being recommended.

REASON FOR THE REPORT:

On March 5, 2002, the Standing Policy Committee on Property and Development directed the Administration to investigate and research other municipal jurisdictions with a view to drafting a by-law to establish a system to regulate the condition and maintenance of vacant and boarded-up commercial, industrial and other buildings not designated as dwellings.

At its meeting on May 27, 2003, the Winnipeg Housing Steering Committee requested the preparation of a proposal for a Derelict Buildings By-law pursuant to *The City of Winnipeg Charter*.

HISTORY:

On February 27, 2002, Council passed The Vacant Dwellings By-law No. 7983/2002, which dealt with vacant dwellings but did not address non-residential buildings. *The City of Winnipeg Charter*, which came into effect on January 1, 2003, expanded the City's authority to allow the City to take title without compensation to buildings that do not comply with By-laws regulating the condition and maintenance of vacant buildings.

On March 5, 2002, the Standing Policy Committee on Property and Development directed the Administration to investigate and research other municipal jurisdictions with a view to drafting a by-law to establish a system to regulate the condition and maintenance of vacant and boarded-up commercial, industrial and other buildings not designated as dwellings. An initial report was provided and considered by the Committee on September 10, 2002. At that meeting, the matter was put over until March 31, 2003. On January 1, 2003, *The City of Winnipeg Charter* came into effect and provided the City with power to take title to derelict buildings. At the Committee's meeting on April 8, 2003, consideration of a new by-law was deferred by the Standing Policy Committee on Property and Development to allow for:

- Consultation with stakeholders;
- Evaluation of programs adopted in other communities;
- Collection and evaluation of data pertaining to the administration of the Vacant Dwellings By-law No. 7983/2002, and;
- Evaluation and resolution of financial and human resource issues associated with enactment of a vacant buildings bylaw.

On May 27, 2003, the Winnipeg Housing Steering Committee requested the preparation of a proposal for a Derelict Buildings By-law pursuant to *The City of Winnipeg Charter*.

DISCUSSION:

The Fire Paramedic Service has estimated that, besides the 600 vacant dwellings in Winnipeg, there are some 160 vacant commercial buildings within the City, although the actual number is

likely somewhat higher. Some sit vacant for only short periods of time, while others have been vacant for years and deteriorate with the passage of time.

The Problem(s):

Vacant buildings pose numerous problems in the City of Winnipeg:

1. Unsecured buildings: Vacant buildings that are not secure and are open to unauthorized entry are a target of arson and have a very high probability of intentionally set fires. Unsecured vacant buildings pose an open invitation for curious children who are then endangered by hazards associated with a deteriorating structure. Unsecured buildings are also often used by squatters and can serve as a convenient venue for drug dealing, prostitution and other criminal activities.

   Currently, the practice of the Housing/Existing Buildings Branch is that inspectors will take immediate steps under their emergency powers to secure an unsecured vacant dwelling. The proposed by-law contains explicit measures permitting this practice for both residential and non-residential buildings. The Vacant Dwellings By-law allows inspectors to enter vacant dwellings prior to securing the dwelling without notice or consent from the owner in order to ensure that people or animals will not be trapped inside. A similar provision is included in the proposed by-law.

2. Interior condition: As noted, vacant buildings are more vulnerable to the threat of arson. Moreover, when fires do occur in vacant buildings, they are likely to burn for significant periods of time before they are detected and reported, especially since fire detection and fire prevention systems of vacant buildings may be inoperable due to a lack of maintenance and use. In addition, vacant buildings may contain unprotected hazardous materials and fuel packages that would not be found in occupied buildings, adding to the threat of fire and the rapidity and severity of fires.

   Fires in vacant buildings present a host of unusual hazards for firefighters. The removal of equipment, such as sprinkler systems or structural components, as well as deterioration due to age or weather can weaken the structure, causing rapid failure early in a fire. Firefighters may encounter open shafts, stairways, pits, or holes in floors that would not be found in occupied buildings. These are a particular danger in an atmosphere of haze and smoke. Boarded-up windows and doors can create a trap from which firefighters cannot escape. All of these factors contribute to the danger these structures pose to firefighters operating in vacant structures.

   In addition to presenting extraordinary fire hazards, the interiors of vacant buildings are frequently hazardous due to deterioration over time. This deterioration is often accelerated by the fact that utilities are typically cut off or discontinued, leaving the building without heat, water, or electricity. Deterioration is especially rapid when apertures are not secured against the elements and against pests, such as rodents and pigeons. Besides posing a danger to individuals who enter the premises, the deterioration

of the interior of a building often increases the re-occupancy costs and reduces the likelihood that the building can be rehabilitated in the future.

The Vacant Dwellings By-law sets out maintenance standards for the interior of vacant dwellings. Adopting similar provisions for non-residential buildings would help to mitigate these problems. The proposed Vacant and Derelict Buildings By-law would also require that owners of commercial buildings must file a Fire Safety Plan when the building is vacated. In addition, it is recommended that an annual inspection of the interior of all vacant buildings should be required under the by-law. The Fire Prevention Branch would conduct these inspections for a fee of $100.00 for dwellings and $500.00 for all other buildings. **It should be noted that the Fire Paramedic Service does not intend to apply the inspection fee indiscriminately. For example, although a house that is temporarily vacant during a sale transaction would be subject to the proposed by-law, it is highly unlikely to be inspected so long as it is vacant for only a short period of time and shows no signs of violating the by-law. Of course, the Fire Paramedic Service reserves its right to conduct an interior inspection and charge a fee with respect to any building that appears to violate the by-law, no matter how short the duration of vacancy.**

There is a current obligation to maintain heat detectors within the provisions of the Vacant Dwellings By-law. This is not being retained in the proposed new by-law due to concern that this requirement is unduly onerous.

3. Pests: Vacant buildings can pose a public health risk in that they are vulnerable to pest infestations, such as insects, rodents and pigeons.

   To some extent, this problem can be addressed by rigorous enforcement of the maintenance standards proposed for all vacant buildings. For example, the standards require that all apertures be weatherproofed, which would have some effect in protecting buildings against pests such as pigeons.

   In addition, of course, pest infestations and other insanitary conditions are dealt with under *The Public Health Act*, enforced by the Environment Health Branch of the Department of Community Services in the "inner city" of Winnipeg and the Provincial Department of Conservation in the suburban areas. Inspectors have authority to enter properties other than dwelling houses to enforce the Act without notice to or consent from the owner. While replicating some provisions that could also be enforced under other by-laws, the new by-law does not contain any additional requirements concerning the eradication of pests.

4. Aesthetic considerations: If not properly maintained, the exterior of a building can be aesthetically objectionable and, more seriously, contribute to an overall image of decline in an area. Although the vacancy is still unwelcome, a well-maintained vacant building minimizes its impact on neighbouring properties and the neighbourhood as a whole.

The Vacant Dwellings By-law requires that walls, roofs, foundations and other exterior components be kept in good repair, that painted surfaces be well maintained and that grounds be kept clean with vegetation trimmed. It is recommended that these provisions be modified but largely retained in the new by-law to apply to both residential and non-residential buildings. These provisions would be enforced by the Fire Prevention Branch through routine external inspections.

5. Boarding-up: Boarding-up buildings is seen as a problem for two reasons. First, as noted, boarded-up apertures pose a risk to fire fighters in that there is no easy means of egress from the building when fighting a fire. Second, boarded-up apertures are generally seen as aesthetically objectionable and tend to contribute to an overall image of decline in an area.

   On the other hand, boarding-up a building properly has some positive effects. It ensures that a building is secure and, in fact, makes breaking-and-entering more difficult than in the case of a building that is conventionally secured. In addition, it can protect the interior from deterioration due to the elements and pests.

   The Vacant Dwellings By-law does not prohibit boarding-up as a means of securing a residential building. It does, however, require that the owner of a boarded-up building obtain a six-month permit for this privilege. A maximum of three permits (six months each) over a five year period may be granted so long as the building is properly maintained, and the By-law imposes increasingly higher fees for each permit in order to discourage this practice. An additional one-year permit may be granted by a designated committee of Council in exceptional circumstances.

   This report recommends that the same general rules with some modifications should be extended to include commercial, industrial and other buildings (including apartment blocks and other similar large multi-family dwellings). It is recommended that, as with residential buildings, a permit should be required for non-residential boarded buildings and the cost of permits should rise to discourage indefinite boarding. Unlike the requirements for dwellings, however, it is recommended that boarding permits for commercial buildings should be one year (rather than 6 months) in duration and that no limit would be placed on the number of permits that could be taken out, so long as the building complies with the standards set out in the By-law and undergoes an annual interior inspection.

6. Vacancy itself: It can be argued that the vacancy of a building for a significant period of time is itself a problem that needs to be addressed. A long-term vacancy, especially in a prominent location, can be seen as a sign of the economic decline of a neighbourhood, a street, or the city as a whole. Adopting this perspective, some U.S. cities have taken an aggressive position to prod owners into getting property occupied. Requirements such as having to maintain liability insurance for the building or having to post a bond have the effect of increasing the costs of leaving a building vacant and therefore encourage occupancies. Some U.S. legislation goes even farther and gives owners a limited period of time to have the property occupied or face financial penalties.

This report does not recommend the adoption of U.S.-style provisions in Winnipeg. Consultation with stakeholders made very clear their view that, in most cases, vacancies are a result of market conditions – either there are simply no tenants interested in occupying the building or it is less expensive for the owner to maintain a building in a vacant condition than under terms of occupancy that would not cover the landlord's costs. There are a few situations in which the premises are unoccupied for other reasons. For example, a business might be prepared to assume the costs associated with a vacant building in order to prevent competitors from using the property. However, the key factor is almost always the prevailing market conditions.

In addition, and again as noted by the stakeholders who were consulted, market conditions in most U.S. cities are different than in Winnipeg. In Winnipeg, most vacancies, especially of non-residential premises, are due to the fact that properties are simply not attractive for occupancy at current market rates. For the most part, the problem is not that owners do not want their buildings occupied – the problem is that occupancies are simply not viable at the moment at that place. Imposing penalties on the owners of vacant properties in these market conditions will not, therefore, solve a problem, but will simply increase the cost of doing business in Winnipeg.

In addition, this approach represents only the "stick" without the accompanying "carrot", in the form of sizable financial incentives that have been the hallmark of success in U.S. cities. Without significant financial support to provide a financial incentive to new tenants or to assist owners in rehabilitating buildings or to convert them to new uses, the "stick" alone is unlikely to be successful.

7. Costs of enforcement and administration: More rigorous enforcement through the use of the attached by-law would have a positive effect on the problems outlined above. Because the Fire Prevention Branch plans to utilize firefighters in conducting inspections, this proposal will allow Housing/Existing Building inspectors to focus their energies on other areas of concern. However, extending the scope of the vacant buildings program to include non-residential buildings will mean additional work for the Civic Accommodations Division of the Planning, Property and Development Department, which has responsibility for ensuring that unsecured buildings are boarded up (as an emergency measure) and that vacant buildings that pose a danger to the public are demolished if they are not brought into compliance with the By-law. This Division advises that it does not have the capacity to take on the task of carrying out compliance orders with respect to non-residential buildings unless an additional Project Officer is added to its staff.

   Additionally, and although the Fire Prevention Branch has adequate inspection capability, they advise that they have insufficient clerical capacity to support the entry of inspection data into the Amanda system and generate compliance orders unless an additional Data Clerk is added to their staff.

In order to coordinate the processes of inspection, the issue of permits as well as maintain a database of records, the Fire Prevention Branch will begin participating in the Amanda system so that all information concerning enforcement and administration of the proposed by-law is available to both Fire Prevention and Planning, Property and Development as well as other departments. Doing so will require the acquisition of User License Agreements

It is recommended that a more rigorous enforcement campaign be supported by the creation of an additional Project Officer I position in the Civic Accommodations Division of the Planning, Property and Development Department to administer and process actions to bring properties into compliance with orders issued by inspectors where the owner of the property has failed to do so.

It is also recommended that the clerical support functions required by the Fire Prevention Branch be supported by the creation of an additional Data Entry Clerk position in the Fire Prevention Branch of the Fire Paramedic Service.

It is further recommended that the Amanda System User License Agreements required for the Fire Prevention Branch be supported.

A summary of costs may be found in Appendix 1.

8. Recovery of costs: The City is authorized to recover the costs of bringing a property into compliance, typically by demolishing it, from the owner. If necessary, it can add these costs to the taxes on the property. Where the owner is unable or unwilling to pay the taxes, the City can take title to the property through the tax sale process. However, this process is often lengthy, and can take years to complete. In addition, where the accumulated taxes (including the costs of bringing a building into compliance) exceed the value of the property, the City incurs a net loss even after taking title to the building. **It is impossible to quantify this cost to the City at this point, but it could be significant and needs to be noted.**

   Additionally, and as mentioned previously in this report, the City would be expected to comply with the new requirements of maintenance for the vacant buildings it owns. This has the potential to have significant financial impact on the City and also needs to be noted. While of note, it is extremely difficult to project how many buildings would be affected and what the costs would be, as the inventory is not static and fluctuates.

9. Projected revenue: Aside from the one-time costs identified in this report, the annual operating costs to implement the recommendations have the potential to be partially offset by the revenues that are expected to be generated by the permit and inspection fees. Some offset will occur however, it is extremely difficult to accurately quantify.

   Estimated revenue projections for the period 2004 – 2007 may be found in Appendix 2.

10. Barriers to Redevelopment: The City has been made aware of situations where vacant buildings have been abandoned by their owners. In these situations, the buildings fail to meet basic maintenance standards and, because the owners cannot be readily located, they are also unavailable to neighbourhood or housing groups to be redeveloped and re-occupied. In other situations, owners of vacant buildings can be found but refuse to sell their buildings at market rates to groups interested in redeveloping them.

    To deal with situations like these, and at the request of the City, the Province included in *The City of Winnipeg Charter* provisions that allow the City to take title to derelict properties without compensation and aside from the tax sale process where:

    - the owner has been convicted under a derelict buildings by-law;
    - the building remains in contravention of the by-law; and
    - there is a satisfactory plan for redeveloping the property in place.

    The Charter sets out some details of the process that must be followed before title can issue to the City. In order to make use of this new authority, the City must pass a by-law that further establishes the process that must be followed. Before this by-law may be passed, a public hearing must be held to give members of the public an opportunity to address this issue. The public hearing must be held in accordance with section 17 of the Charter (i.e. the public hearing must be held by Executive Policy Committee, after Council has given first reading to the by-law and before it has received second and third readings).

    In preparation of this Report, Administration researched municipal legislation in several Canadian and American cities (see Appendices 3 and 4). Based on this research, the power available to the City to take title to properties through the process set out in the Charter appears to be unique in North America.

    This report proposes that the City should proceed with by-law provisions that allow the City to take title to derelict properties, after holding the necessary public hearing. Such a by-law would ensure that redevelopment is not stymied by the obstinacy, disinterest or disappearance of a landlord who has already demonstrated an inability or unwillingness to comply with basic maintenance standards or other requirements for a vacant building.

    It should be noted that, because the proposed by-law does not limit the length of time a building can remain vacant, no property owner will ever lose title to a building simply because it is vacant. It is also worth noting that this process will never require the City to take title to a property unless it wishes to do so. In fact, it is not possible for the City to take title unless there is a satisfactory plan for redevelopment.

The Research:

A review of information from Regina, Saskatoon, Calgary, Edmonton, Vancouver and Toronto may be found in Appendix 3. None of these cities have enacted comprehensive legislation focused specifically on vacant and boarded-up commercial and industrial buildings.

An overview of legislation from cities in the United States may be found in Appendix 4. While some of these cities have legislation directed specifically at vacant buildings, none allow a city to take title to buildings without compensation where the owner fails to meet the standards set out in the legislation. U.S. cities often rely on significant fines and financial incentives to encourage re-occupancy of vacant buildings.

A summary of the results of the stakeholder consultation process may be found in Appendix 5. Response to the consultation process was minimal and there was no consensus among those who did participate. However, in general terms, there was significant support for requiring the owners of vacant buildings to keep them in a reasonable state of repair but significant opposition to imposing any time limit on re-occupancy or taking title to properties without compensation.

Alternatives Considered and Rejected:

Option 1. Maintain the status quo
The city currently has various by-laws in place that can be utilized to deal with unsafe conditions, litter, unsightly conditions and the securing of buildings.

Reasons for rejection:
While a by-law to regulate vacant dwellings is currently in place, there are few other by-law provisions that deal with commercial, industrial and other non-residential buildings. The provisions that do exist have inadequate penalties and are limited in scope to the maintenance of the exterior and security of these buildings. For example, no by-law provisions currently exist to discourage owners from boarding vacant non-residential buildings or to ensure that their interiors do not pose a fire or life safety risk. In addition to being inadequate, these provisions are scattered throughout several different by-laws and are enforced by several different departments, making coordination difficult.

With respect to the second major aspect of the By-law, maintaining the status quo does not take advantage of The City of Winnipeg Charter provisions that allow the City to take title to derelict buildings without compensation to the owner. This power has been given to the City to address situations in which owners of vacant buildings not only fail to bring them into compliance with the standards set out in the By-law but are also an obstacle to redevelopment of the property by others.

Option 2. Proceed with proposed by-law amendments excluding provisions permitting title acquisition through the Charter

The by-law could be amended as proposed, to include non-residential buildings, but exclude the Charter provisions that would allow the City to take title to derelict buildings without compensation to the owner.

Reasons for rejection:
This option has the advantage of allowing the City to move ahead on the building maintenance and boarding provisions of the by-law without having to wait for the public hearings that are necessary in order to proceed with title acquisition without compensation. However, it can be argued that the taking title provisions are integral to the by-law. These provisions provide the strongest incentive for the owner of a building to comply with the provisions of the by-law and allow housing and community groups to access and rehabilitate properties that have been a problem in the neighbourhood. These groups have stated clearly that they are willing and able to rehabilitate derelict properties if the City is willing to make use of this power. They are impatient at the delay in the City moving ahead. Finally, the interjurisdictional implications of a decision to delay must also be noted. A decision was made some time ago by the City to formally request from the Province the authority to take title without compensation. To decline or to delay in proceeding with this authority could cast doubts upon the seriousness of our current and future legislative requests from the Province.

Advantages of Taking Title through the Charter Provisions Over The Tax Sale Process:

In most instances, buildings where the tax sale process is applied have been neglected by their owners and are in need of repairs. Owners not willing to pay their property taxes are typically unwilling to maintain the building or the surrounding grounds.

The tax sale process is lengthy. It is initiated only after a property has been in arrears for three years and in total typically takes 4.5 – 5.5 years to bring to full completion. While the process allows for redemption by the owner throughout, and many are in fact redeemed, abandoned or derelict properties often take even longer, especially where the legal requirements of service are avoided by the owner. During this time, a derelict building remains a blight on the local community.

By contrast, it is reasonable to estimate that taking title under the Charter provisions could be completed within a 1 – 1.5 year time frame after obtaining a conviction for failing to comply with the By-law. In other words, taking title under the Charter provisions could reduce the time it takes for the City to acquire a property by up to 300 %.

A flow-chart of the events and elapsed time of the process is attached as Appendix 6.

Recommended Solutions:

This report proposes expanding the current Vacant Dwellings By-law to include all vacant buildings. The basic approach of allowing buildings to remain vacant indefinitely but requiring that they meet basic interior and exterior maintenance standards would remain unchanged, as would the requirement that a permit would be required for securing a building by boarding it up.

These permits would be of limited duration and would feature an escalating fee structure designed to discourage boarding up.

The differences between a new Vacant and Derelict Buildings By-law and the current by-law are as follows:

- adjustments would be made to the existing maintenance standards to make them suitable for commercial and industrial buildings, apartment blocks and multiplexes;
- boarding-up permits for commercial and industrial buildings, apartment blocks and multiplexes would be one year in length rather than six months;
- there would be no limit to the number of boarding-up permits for commercial and industrial buildings, apartment blocks and multiplexes, unlike residential dwellings where a maximum of three permits in a five year period would be permitted;
- the fees for boarding-up permits of vacant single and two family dwellings would continue unchanged. The permit fees for commercial and industrial buildings as well as apartment blocks and multiplexes would be as follows:

First Permit	$200.00	
Second Permit	$800.00	
Third Permit	$1,500.00	
Subsequent Permits	$1,500.00	over the cost of the previous permit

- in addition to routine exterior inspections and interior inspections in response to a complaint, all vacant buildings would be subject to interior inspections annually and an inspection fee of $ 100.00 for dwellings and $ 500.00 for commercial and all other buildings. **It should be noted that the Fire Paramedic Service does not intend to apply the inspection fee indiscriminately. For example, although a house that is temporarily vacant during a sale transaction would be subject to the proposed by-law, it is highly unlikely to be inspected so long as it is vacant for only a short period of time and shows no signs of violating the by-law. Of course, the Fire Paramedic Service reserves its right to conduct an interior inspection and charge a fee with respect to any building that appears to violate the by-law, no matter how short the duration of vacancy.**
- owners of commercial and industrial buildings, apartment blocks and multiplexes would be required to file a security and fire plan when the building is vacated.

In order to accommodate the additional workload that will result from enforcement of the proposed Vacant and Derelict Buildings By-law, the Fire Paramedic Service and the Planning, Property and Development Department have agreed to jointly share the administration and enforcement of the amended by-law. Under this agreement, the Fire Prevention Branch would enforce the requirements of Schedule "A", which deals with the exterior and interior maintenance standards of vacant buildings, and the Existing Buildings Section would enforce those provisions of the By-law that set out acceptable means to secure a building. Additionally, the Planning, Property and Development Department would conduct structural assessments where necessary and administer the permit system. (It is understood that "enforcement", in this context, means laying charges and prosecuting non-compliance, demolishing buildings that

cannot be salvaged when the owner fails to bring them into compliance and, where there is a lack of compliance with an order that creates a dangerous condition but not a situation that justifies demolition, taking actions to bring the building into compliance at the owner's expense.)

FINANCIAL IMPACT

The estimated five-year impact of immediate costs and revenues associated with the new components of the proposed by-law are shown in Appendices I and II and are summarized in the Financial Impact Statement. The net impact of these reasonably predictable amounts, on an annual basis, could be described as minimal.

Of potentially greater financial significance are the longer-term costs that may be associated with a by-law enforcement program that is more aggressive than in the past, particularly if the program starts to have the impact of causing owners to walk away from their properties. If this were to happen – tax sale acquisition by the City is a frequent result, particularly in the core area. By way of illustration, the City has, over a five year period commencing in 2002, been scheduling the acquisition by tax sale of ten major commercial properties – with a total net cost after recoveries of over $3 million. These costs are in addition to the costs of acquiring inner-city residential properties by tax sale, including those now beginning to be acquired as a result of the enforcement of the vacant dwellings by-law. The forecasted cumulative impact of all these acquisitions, (involving unpaid taxes and legal costs, board-up costs, demolitions and site remediation work) is that the Land Operating Reserve, which absorbs the costs, will require funds from Council amounting to millions of dollars in the years commencing in 2006.

CONCLUSION:

Regulating the condition and maintenance of vacant industrial and commercial buildings is an issue of substantial complexity, involving the interests of private owners, the communities in which vacancies occur, and the city at large. The proposals in this report attempt to find a balance between these sometimes-conflicting interests.

The human resource costs of inspecting and enforcing the proposed Vacant and Derelict Buildings By-law, including commercial and industrial buildings, will be absorbed into existing programming in the Housing/Existing Buildings Branch. Similarly, the Real Estate Division of the Planning, Property and Development Department does not at this time foresee the need for additional staffing resources as a result of these proposals. However, should there be a significant increase in the acquisition of properties as a consequence of these proposals or resulting in a significant increase in tax sales, a re-assessment of staffing requirements would be required.

This report recommends that the Civic Accommodations Division receive funding for an additional Project Officer I position and that the Fire Prevention Branch receive funding for an additional Data Clerk position.

The Fire Paramedic Service will not be seeking additional inspection resources and will provide the necessary human resources by re-assignment of duties to existing personnel.

In addition, this report recommends that the City proceed with the power to take title without compensation recently granted by the Province in *The City of Winnipeg Charter*. With the safeguards required by the Charter in place, this power would permit the City to take title to derelict properties as a last resort, where a conviction for property standards violations and repeated notices have failed to prompt by-law compliance. This power allows the City to place such properties in the hands of individuals or groups that have a plan in place to rehabilitate them.

Financial Impact Statement

Date: January 13, 2004

Project Name:

Proposal to Regulate the Condition and Maintenance of all Vacant Buildings

First Year of Program 2004

	2004	2005	2006	2007	2008
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
External	-	-	-	-	-
Grants (Identify)	-	-	-	-	-
Reserves, Equity, Surplus, Other	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 136,000	$ 104,000	$ 104,000	$ 104,000	$ 104,000
Less: Incremental Revenue/Recovery	135,000	112,500	77,500	56,000	56,000
Net Cost/(Benefit)	$ 1,000	$ (8,500)	$ 26,500	$ 48,000	$ 48,000
Less: Existing Budget Amounts			-	-	-
Net Budget Adjustment Required	$ 1,000	$ (8,500)	$ 26,500	$ 48,000	$ 48,000

Additional Comments:

The above amounts assume that the administration of the revised by-law program would commence January 1, 2004. Details as to program costs and revenues/recoveries are as shown in Appendix 1. and Appendix 2. **The above costs do not include any costs associated with the administration of the predecessor by-law (Vacant Dwellings By-Law 7983/02) which would be superceded by the proposed new by-law. Also not included are additional costs which may be associated with an accelerated acquisition by the City of any non-residential properties which might come about as a result of the enforcement of the proposed by-law.** The 2004 costs shown above represent one time costs of $32,000 plus the costs of the new positions noted.

"Original signed by"
Gord Courage, Manager

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

Commercial Inspections Administrator, Development & Inspections Division

Manager of Real Estate Division

Legal Services Division, Corporate Services Department

Manager of Civic Accommodations Division

Manager of Development & Inspections Division

Senior Planner (Heritage), Urban Planning Branch

Manager of Support Services Division

Director of Fire Prevention, Fire Paramedic Service

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department and Fire Paramedic Service

Prepared by: Garry Solkoski, Housing & Existing Buildings Administrator, Development and Inspections Division

Document name: O:\Reports Directive\Development and Inspections\Housing-Existing Buildings\Vacant Buildings Report 3.doc

APPENDIX 1

Summary of Costs

Re: Proposal to regulate the condition and maintenance of all vacant buildings

Recommendation 4: Yearly funding in the amount of $ 69,000 to support administration and enforcement, including the addition of a new Project Officer position in the Civic Accommodations Division

i) Project Officer I (CUPE Position) Salary	$ 49,010
ii) Benefits @ 17.5 % (rounded)	$ 8,590
iii) Overhead and support costs	
(cellular phone, car allowance, accommodations, etc.)	$ 11,400
Total	$ 69,000

Recommendation 5: Yearly funding in the amount of $ 34,700.00 to support the addition of a new Data Entry Clerk position in the Fire Prevention Branch

i) Clerk A (CUPE Position) Salary	$ 29,500
ii) Benefits @ 17.5% (rounded)	$ 5,200
Total	$ 34,700

Recommendation 7: One time funding in the amount of $ 20,000.00 to support a public information program

i) Intranet and Internet Websites	$ nil (absorbed in existing budget)
ii) Brochures and Pamphlets	$ 5,000
iii) Newspaper advertising	$ 15,000
Total	$ 20,000

Recommendation 8: One time funding in the amount of $ 12,000.00 to support the acquisition of 6 Amanda System User Licenses required by the Fire Prevention Branch

Total	$ 12,000

Total Net Initial Funding	$ 135,700
Total Yearly Funding	$ 103,700

APPENDIX 2

Projected Revenue

Re: Proposal to regulate the condition and maintenance of all vacant buildings

Permit Fees*	2004	2005	2006	2007
Commercial Bldgs.	30,000	60,000	52,500	45,000

Inspection Fees	2004	2005	2006	2007
Dwellings	30,000	15,000	7,500	3,500
Commercial Bldgs.	75,000	37,500	17,500	7,500
Total	135,000	112,500	77,500	56,000
Less Annual Costs	-104,000	-104,000	-104,000	-104,000
Net Benefit (Loss)	31,000	8,500	(26,500)	(48,000)

Notes:
All calculations estimate the number of buildings involved as follows**:

	2004	2005	2006	2007
Dwellings	300	150	75	35
Commercial Bldgs.	150	75	35	15

All dwellings calculations estimate inspection fees based on a flat rate of $100.00 as proposed in this report.
All commercial buildings calculations estimate permit fees as proposed in this report.
All commercial buildings calculations estimate inspection fees on a flat rate of $ 500.00 as proposed in this report.

* Permit Fee revenue projections for dwellings have been excluded as this revenue source was previously identified in the cost estimates approved by Council with the enactment of the existing Vacant Dwellings By-law.
**The yearly decrease in the number of buildings is estimated on the presumption that 10% of the buildings will be demolished each year and that the escalating fees and possibility of the City taking title under the Charter provisions will serve as sufficient incentive to owners of derelict buildings to rehabilitate and re-occupy the premises.

APPENDIX 3

Summary of Information Obtained From Other Major Canadian Cities

Re: Proposal to regulate the condition and maintenance of all vacant buildings

Staff obtained information from Regina, Saskatoon, Calgary, Edmonton, Vancouver and Toronto. None of these cities have enacted legislation that specifically addresses vacant and boarded-up commercial and industrial buildings. Instead, they rely on provisions such as those contained in our Maintenance and Occupancy, Unsightly Premises and Building by-laws for commercial properties, with the objective being to eliminate the danger caused by unsecured vacant buildings. None of the cities canvassed have by-laws that address the appearance of a vacant building and none impose time limits for how long a building may remain vacant. For the most part, these Canadian jurisdictions only address unsafe conditions or immediately dangerous conditions with their existing legislation.

APPENDIX 4

Summary of US Ordinance Provisions

Re: Proposal to regulate the condition and maintenance of all vacant buildings

Background
As the result of a tragic fire in Worcester, Massachusetts that took the lives of six firefighters, the United States Fire Administration awarded a grant to the International Association of Arson Investigators Inc. to develop a model program to assist jurisdictions in dealing with vacant and abandoned buildings. Materials developed as part of the project were targeted toward the safety of fire fighters and the reduction of arson related incendiary fires. The outcome was the creation of a "tool box" that community leaders could select from to address vacant and abandoned commercial buildings and the hazards they represent.

Ordinance Provision Examples

- Prior to a building becoming vacant, the owner must notify the local jurisdiction of the impending vacancy.
- The owner must, at his own cost, prepare and submit detailed building plans.
- The owner must, at his own cost, prepare and submit a security and fire plan.
- Fire detection and suppression equipment must be maintained.
- The buildings are physically placarded with large hazard signs.
- Owners must post a significant performance bond.
- Owners must maintain liability insurance.
- Non-resident owners must appoint a local agent for contact convenience with the local authority.
- Buildings may only be left vacant for a specified period of time, after which the owners are subject to significant fines. Additionally, the jurisdiction has the option to proceed with taking title and/or demolition of the building.

Funding

- Some jurisdictions offer significant tax reduction and redevelopment incentives
- Federal Government funding is available through the Community Development Block Grant (CDBG) program administered by the US Department of Housing and Urban Development (HUD).
- Mitigation funding is available through the US Environmental Protection Agency (EPA).
- Anti-crime funds are available through the US Department of Justice.
- Building surveillance support is provided in some jurisdictions by the US National Guard.

Example Jurisdictions

Chicago, IL	City of Seattle, WA
Jersey City, NJ	City of Worcester, MA
New York City, NY	Utica, NY

APPENDIX 5

Summary of Consultations With Stakeholders

Re: Proposal to regulate the condition and maintenance of all vacant Buildings

Meeting 1 – Two Attendees
Positions/Comments:

- A US model comprehensive By-law is not needed and "would stop all commercial development in Winnipeg."
- The Winnipeg market is different than those US cities where these types of ordinances have been implemented.
- What makes the city think it will be more successful in attracting viable tenants or new owners for a building when the market cannot?
- Because of the market in Winnipeg, it sometimes takes years to find a suitable tenant for a building.
- Buildings are sometimes left vacant for very legitimate reasons.
- If you limit the time a building can remain vacant, do you think developers will ultimately develop; no they wouldn't.
- Most owners do not take issue with insuring a building is secured and safe.
- Support enforcement of grounds maintenance, appearance issues and safety as well as strengthening these types of provisions if the city feels it necessary.
- Buildings become functionally obsolete as the market changes -- difficult to rent, but is vacant, safe and alarmed.
- Not all building owners could realistically post a bond
- Development is often restricted by Zoning
- Update zoning by-laws to reflect current market conditions and make it more attractive and easier for developers to develop. The people are here, are developing and looking for the next project to develop.

Meeting 2 – Two Attendees
Positions/Comments:

- It was felt that a new comprehensive by-law would have complex issues but there is a need for public safety, protection for emergency workers (fire fighters), upkeep of grounds and neighborhood stability.
- It was felt that a less comprehensive by-law that only deals with exterior appearance and ground maintenance would not solve the problem of deterioration and vandalism but would only make the exterior appearance look attractive.
- Persons present seemed to be in favor of retaining the status quo of using existing by-laws to address concerns relating to the exterior appearance and grounds conditions of commercial properties.
- It was felt that only the responsible owners would notify the City if a provision in the by-law required the City to be notified prior to a building becoming vacant.
- It was felt that it was not feasible for a provision in a by-law requiring owners to post a bond, even though the City has the legal authority, because of the question of what the amount would be and what leverage the City would have to enforce it.
- Parties present would support a provision in a by-law requiring owners to sign a release authorizing emergency personnel and building inspectors to monitor the building for safety purposes and enter if necessary.

- Parties present would support a provision in a by-law requiring non-residential owners to have a local agent who emergency personnel could contact if need be.
- It was felt that even though the City could implement a provision in a by-law requiring owners to maintain liability insurance on the building that it would not be practical because of costs and what method the City would have to enforce it.
- It was felt that a provision in a by-law allowing the City to take over ownership of property after being vacant for one year would not work, as the City would have to find a tenant or demolish, either of which would be costly and time consuming.

APPENDIX 6

TAKING TITLE TO DERELICT BUILDINGS PURSUANT TO THE CITY CHARTER

