Submission to the Executive Policy Committee, Winnipeg City Council
Wednesday, April 7, 2004

The Canadian Real Estate Association (CREA) has more than 70,000 members who represent all aspects of the real estate industry.

CREA has a proprietary interest in the REALTOR trademark. Only members of the association are entitled to call themselves REALTORS.

Most members are brokers/agents and salespeople who work through 100 local real estate boards, 10 provincial associations and one territorial association.

Members of the Winnipeg Real Estate Board are members of CREA as their national organization. CREA is appearing in support of the Winnipeg Real Estate Board with respect to the proposed bylaw.

For more than 20 years, CREA has actively supported the property rights of ordinary Canadians.

Just last week, Winnipeg members went to Ottawa with REALTORS from all over Canada to urge parliamentarians to exercise oversight to ensure that property rights are balanced with other considerations in federal legislation.

Property rights have come down to us from English common law. They have been recognized by the Government and Parliament of Canada and by most provinces. Included in our common law are the right of possession, the right of alienation (meaning the right to dispose of the property) and the right to use the property

Governments at all levels have enacted laws and regulations that have chiseled away at these rights. The victim is almost always the ordinary farmer, the ordinary homeowner, and the ordinary warehouse owner.

From time to time, CREA has documented and published actual cases that illustrate violations. We are in the process of planning another property-rights awareness-raising project.

In its current form the proposed vacant and derelict buildings bylaw is an excellent candidate to illustrate the violation of property rights.

The Canadian Real Estate Association does not dispute that the City has a problem with vacant and derelict buildings.

344 RUE SLATER STREET, SUITE/BUREAU 1600, ÉDIFICE CANADA BUILDING, OTTAWA, ON K1R 7Y3
(613)237-7111 FAX#(613)234-2567 ***http://www.mls.ca*** info@crea.ca

We do not dispute the city's right to take remedial action; its right to expropriate a vacant and derelict building.

CREA does not defend owners that allow their buildings to violate city bylaws.

A key issue according to the staff documentation is this: "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 bylaw?"

The Canadian Real Estate Association believes the City should reject the principle of taking property without compensation. The taking of title without the consent of the owner and without payment of compensation amounts to confiscation.

Section 20 (3) of the proposed bylaw provides that the confiscation may take place only where there is a satisfactory plan for developing the property.

But there is no attempt to define what is meant by a satisfactory plan and who will determine what constitutes such a plan.

The existence of a plan, even a plan approved by city council, would still not justify confiscation.

The staff report suggests the presence of vacant and derelict buildings represent a social problem. That may be the case. It's not for CREA to judge. But we can say that no social problem justifies the taking of land without compensation.

The staff report makes fairly clear that the real purpose of the bylaw is to enable the city to acquire privately owned land at no cost, and to make the land available to housing and community groups on terms that are not disclosed.

The staff report says the taking of land without compensation appears to be a first in North America. We suggest the fact that no other municipality has a confiscation bylaw on its books should ring an alarm bell for city council.

CREA was surprised to learn that the Government of Manitoba has granted the City of Winnipeg the power to take title without compensation. This is clearly the foundation on which the planners propose to construct the bylaw.

The power of confiscation is draconian. As the staff report itself suggests, it sets a precedent. We consider it a very bad precedent. We urge the committee to reconsider its position.

The draft bylaw sets out maintenance standards. Some of the requirements go beyond normal maintenance standards. The overall effect is to greatly increase the holding

costs on vacant property. It is conceivable that an owner would choose to demolish a building rather than comply.

It is hard to see why confiscation is necessary to enforce a maintenance bylaw. The solution ignores some of the acceptable options; for example, a lien against an offending property to cover remedial costs.

It's clear that officials consulted with other North American cities about the taking title without compensation.

It's less clear whether there were consultations about other options to address the problems of vacant and derelict buildings. The conclusion appears to have been that Winnipeg is unique in terms of economic conditions. And Winnipeg has a unique solution.

CREA is confident Winnipeg can find a way to undertake urban renewal without running roughshod over the property rights of owners. We urge the City to rethink the basis of this draft bylaw.