Agenda – Executive Policy Committee – June 12, 2023

Report – Standing Policy Committee on Property and Development – June 1, 2023

Item No. 2 Strategies to Address Problematic Vacant Buildings

STANDING COMMITTEE RECOMMENDATION:

On June 1, 2023, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the following to Council:

1. That a by-law to amend the Vacant Building By-law No. 79/2010 be enacted, a draft of which is attached as Appendix B to this report.

2. That the addition of four (4) permanent FTE By-law Enforcement Officer positions and associated costs be approved, to be added to the current staff complement for the Community By-law Enforcement Services Division of Community Services to be funded from additional revenue through associated regulatory fees including the new application of non-compliant inspection fees.

3. That a non-compliant inspection fee for property owners who do not comply with a Vacant Building By-law Compliance Order, which will be applied to the third and subsequent inspections of an order, to recover costs on behalf of the City of Winnipeg and to act as a deterrent to ongoing non-compliance, be imposed. The fee will be set to the same amount as the non-compliant inspection fee for Neighbourhood Liveability By-law Orders and effective upon Council adoption.

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

Agenda – Executive Policy Committee – June 12, 2023

Report – Standing Policy Committee on Property and Development – June 1, 2023

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On June 1, 2023, 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.

Darrell Warren, President, William Whyte Neighborhood Association, submitted a communication in support of the matter.

ADMINISTRATIVE REPORT

Title: Strategies to Address Problematic Vacant Buildings

Critical Path: Standing Policy Committee on Property and Development – Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
W. Yee	C. Fernandes	C. Kloepfer	M. Jack

EXECUTIVE SUMMARY

The Vacant Building By-law No. 79/2010 (VBB) regulates the condition of vacant buildings with one of its objectives being to discourage the boarding of vacant buildings. A vacant building is any building that is not being used or occupied. This report provides recommended changes to the by-law based on the measures described below.

The Problem Property Committee (PPC) consists of members from the Public Service with primary representation from Community Services, Community By-law Enforcement Services Division (CmS - CBES), the Winnipeg Fire Paramedic Service (WFPS), Planning Property and Development (PPD), and the Winnipeg Police Service (WPS) have identified that there are problematic vacant buildings that are increasingly impacted by fire events or external security threats that tie up emergency service resources and places undue risk to emergency responders, Public Service staff, and neighbouring properties.

The recommended strategies of (1) prevention and target hardening for problematic vacant buildings; (2) capacity for active and robust enforcement; (3) outreach and community engagement; and (4) public listing of vacant building orders, will make it more difficult to breach a vacant building, hold neglectful owners of vacant buildings more financially accountable, increase identification of vacant buildings in a community, and provide greater transparency. The measures are summarized below:

1. Prevention and target hardening will make vacant buildings and the property safer, and require owners of vacant buildings that have been breached on multiple occasions or have had a fire event to physically secure the building using an enhanced level of boarding that will make it more difficult to breach. In addition, CBES may require those owners to incorporate additional security and safety measures.

2. Capitalize on the opportunity to address the increase in identified vacant buildings by utilizing financial incentives to fully cost recover the increase in Bylaw Enforcement Officers (BEOs) who will solely focus on cost recovered inspection and enforcement activities and active outreach.

3. Utilize additional BEOs to actively engage the community with a focus on ongoing collaboration to identify new or neglected vacant buildings.

4. A public listing of open Vacant Building orders will be made available on the City of Winnipeg's Open Data Portal.

RECOMMENDATIONS

1. That Council approves the amending By-Law 79/2010, attached as Appendix B.

2. That Council approve the addition of four (4) permanent FTE By-law Enforcement Officer positions and associated costs, to be added to the current staff complement for the Community By-law Enforcement Services Division of Community Services to be funded from additional revenue through associated regulatory fees including the new application of non-compliant inspection fees.

3. That Council impose a non-compliant inspection fee for property owners who do not comply with a Vacant Building By-law Compliance Order, which will be applied to the third and subsequent inspections of an order, to recover costs on behalf of the City of Winnipeg and to act as a deterrent to ongoing non-compliance. The fee will be set to the same amount as the non-compliant inspection fee for Neighbourhood Liveability By-law Orders and effective upon Council adoption.

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

REASON FOR THE REPORT

The proliferation of security breaches and fire events at vacant buildings triggered the establishment of the PPC to review the Vacant Buildings By-law No. 79/2010 to identify improvements to the boarding and security standards for problematic vacant buildings.

The Public Service has identified an urgency to introduce a four-point strategy that includes a second tier of boarding specifications that enhances the physical security of a vacant building requiring an amendment to By-Law 79/2010.

Council approval is required to enact by-law changes and approve new permanent FTE positions and related departmental operating budget requirements.

IMPLICATIONS OF THE RECOMMENDATIONS

The application of enhanced boarding and security measures will improve security and safety of Vacant Buildings and is expected to decrease the number of fires or security incidents requiring police or fire resources to respond.

Additional BEO resources dedicated to the Vacant Buildings Program will increase the number of annual, billable inspections conducted for compliance with Schedule A – Maintenance of the Vacant Building By-law, improve timing and efficiency of the enforcement of security provisions of the bylaw and the issuance of Boarded Building Permits (when necessary) on both commercial and residential buildings, and result in more robust enforcement and community outreach and engagement. Through outreach and engagement, more vacant buildings in the community will be identified.

Revenues collected through associated regulatory fees, including the new application of non-compliant inspection fees to all Vacant Building By-law Compliance Orders, are expected to fully offset the cost of the additional staff resources and associated expenses.

Community By-law Enforcement Services Regulation Fee revenue will be increased by approximately $378,000 annually to recover costs associated with wages and benefits, equipment and operational expenses for four additional By-law Enforcement Officers.

HISTORY/DISCUSSION

While it is not illegal to own vacant properties and buildings, the owners must maintain these buildings and properties in compliance with the Vacant Building By-law and all other applicable City by-laws. The City's expectation is that the owners that have invested in these properties continue to invest time and resources to actively monitor, maintain, and secure their properties as not to negatively impact their neighbours or allow for conditions to deteriorate to a point that enforcement and emergency services of the City become involved.

The Vacant Building By-law regulates the condition of vacant buildings and discourages the boarding of vacant buildings. Owners of vacant buildings must take steps to ensure compliance with Schedule A – "Maintenance Standards for Vacant Buildings" and Schedule B – "Security Requirements for Vacant Buildings" of the by-law. These are minimum standards that the city imposes on owners to ensure that these buildings have minimal neighbourhood impacts and that the building itself can be maintained in a manner that will allow for it to be occupied.

The Problem Property Committee (PPC) was formed in October 2021. The initial members include Winnipeg Fire Paramedic Service (WFPS), Community Services (CmS), Planning Property and Development (PPD), and Winnipeg Police Service (WPS). This group was formed in response to the proliferation of problem issues occurring in vacant buildings such as break-ins and fires to those buildings. Since that time, participation has been expanded to include the CAO's Office, and the Public Health Department of the Province of Manitoba. The scope of the PPC has also expanded to include occupied problem properties.

The work of the PPC has resulted in several joint initiatives, activities, and recommendations from and to Council, these include:

- Implementation of fire recovery fees for fires at vacant buildings (Council January 2023)
- Delegation of authority for the issuance of a demolition permit for residential buildings without issuing a building permit (A report is currently in development for the SPC's consideration,)

- Joint operational group comprising of WFPS, WPS, and CBES proactively identified and inspected 103 problem properties from August 2022 – April 2023; 47 properties that were breached were immediately remediated.
- Implementation of a City-wide boarding contract for all departments involved with Vacant Buildings (Spring - Summer 2023).

The PPC concluded that problematic vacant buildings and their properties heavily tax enforcement and emergency response resources as they attend to these properties repeatedly to respond to security breaches or fire events. Over an extended period of time, this often leads to declining conditions of these buildings which then pose an even greater risk to the health and safety of City personnel and the neighbouring people and property.

For the purposes of this report and future enforcement of any amending by-laws affecting problematic boarded vacant buildings, these vacant buildings will be defined as those that have been *subject to two or more security breaches or one fire event.*

The strategies recommended in this report further support and align with the work of the PPC:

1 – Prevention & Target Hardening - Enhanced Boarding and Security Standards

The PPC identified that a common problem exists across a segment of vacant buildings where owners are not actively involved in the day-to-day maintenance and security of their vacant properties. This negligence results in poor response times to maintenance and security issues as they arise and results in conditions that often attract external parties to trespass and activities that may be illegal or damaging to the vacant building and property. The deteriorating conditions of the building and property create an undue risk that is further compounded when owners fail to respond to compliance orders to secure their buildings in compliance with Schedule B of the Vacant Building By-law.

A review of CBES records of the 755 orders issued over a seven-year period ending March 31, 2023, found that less than half (46%) of Schedule B Boarding (Security) Compliance Orders were voluntarily complied with by building owners. Additionally, 184 (24%) orders are still not complied with**,** and 135 (18%) orders were remediated by the City. The remaining orders were closed because of demolition or a change of ownership.

WFPS operational records for fire and rescue responses to vacant buildings that were actively enforced under the Vacant Building By-law through Annual Schedule A inspections estimates a total of 1565 apparatus responses from January 1, 2019, to December 31, 2021. It should be noted that these responses do not include those made to buildings that appeared to be vacant at the time of the fire and later referred to CBES for investigation.

The number of calls for service made to WPS in relation to vacant buildings is unknown as service calls to this department are often made in duplication and may include buildings that are reported to be vacant, but the actual occupancy status was unknown at the time of their attendance.

With the objective of identifying opportunities to mitigate the risks associated with problematic vacant buildings, CBES consulted with members of the WFPS and WPS and the following conditions at vacant buildings were identified:

1. Conditions related to security and safety that could be improved at <u>all</u> vacant buildings:

a. Storage of vehicles are subject to squatting and/or fire-related events.
b. Storage of combustible materials on the exterior yards or accessory buildings are subject to fire-related events.

2. Conditions related to security and safety that could be improved at <u>problematic vacant buildings only</u>:
    a. Building conditions have deteriorated making it difficult to effectively secure the building.
    b. Existing boarding specifications in Part 2 of Schedule B – Security Requirements of the Vacant Building By-law are inadequate and are breached by external parties too often.
    c. Squatting or loitering of unauthorized individuals on the property causes increases in calls to WPS and may lead to fire-related events or other bylaw violations.
    d. Owners are not engaged in the security responsibilities of their property which allow for problems to remain undetected for long periods of time.
    e. Owners put a heavy reliance on enforcement and emergency services to respond to and correct security breaches to the vacant building instead of maintaining their building on their own.

3. Other areas of enforcement that could further promote owners to be more involved with their properties or act to reoccupy or improve their properties:
    a. Service of Orders and other documents may not be reaching the owner.
    b. Owners are not responding or taking steps to comply with compliance orders.
    c. Owners of residential buildings are not taking steps to remove boards and begin the process of maintaining and securing the building in a conventional manner.

The review also found that owners who complied with Schedule A and B of the Vacant Building By-law did not attract the same level of external security threats and impacts as buildings owned by owners who do not actively comply with the Vacant Building By-law. Hence, the obligations and related costs of the proposed new measures (enhanced boarding and security) would be applicable only to the owners of vacant buildings whose vacant building was subject to at least one Schedule A inspection and subsequently impacted by two documented security breaches that were resolved by the City or one documented fire event that was responded to by the City.

A summary of the review and related solutions:

- **Applicable to all owners of vacant buildings:**
    - The storage of combustible materials in any part of the property, including in garages or other accessory structures, is prohibited.
    - Vehicles or derelict vehicles are prohibited from being parked or stored on the property and subject to removal to impound.
    - Vacant Building By-law Compliance Orders
        - If the address for service is that of the vacant building, a copy of any compliance order may be posted on the front door or any other conspicuous place on the property. A Vacant Building By-law

Compliance Order that has been posted will be deemed served seven days after the order was posted.
        - All open Vacant Building Orders will be listed on the City's Open Data Portal.
    - All compliance orders issued under the Vacant Building By-law will now be subject to Non-Compliant Inspection Fees.

- **Applicable at the discretion of the Designated Employee to the owners of Problematic Vacant Buildings that have been subject to two security breaches or one fire event in or at their vacant building or property:**
    - Install Boarding that meets the second tier of higher security specification and methodology (For example: thicker plywood, use of 2x4 bracing, use of torx and hex screws).
    - Conduct or arrange for security patrols and submit documentation for review upon request of an enforcement officer.
    - Install a security fence.
    - Install security cameras.
    - Install motion sensor lighting.
    - Entry and continued occupancy on the property of the vacant building is prohibited.

The enhanced boarding and security obligations will remain in place until such a time the property is legally occupied or demolished.

2 – Capacity to address Vacant Building and Financially Incentivize owners to re-engage with their vacant buildings through Increased Inspection and Enforcement Activities.

The application of the Non-Compliant Inspection Fee to all third and subsequent inspections for any Vacant Building By-law compliance order is intended to incentivize compliance with orders, especially with any orders to secure a vacant building. A similar fee was previously approved by Council in 2019 for application towards non-compliant inspections of Neighbourhood Liveability By-law compliance orders.

Vacant Building Statistics – 2022:

- 562 on Jan 1, 2022
- 685 as of Dec 31, 2022
- 327 were added.
- 204 were removed.

The 2022 statistics demonstrate that over the course of 2022, CBES administered and enforced the VBB in respect of 889 vacant buildings (685 + 204 that were removed).

CBES completed 451 (51%) Annual Schedule A inspections, an average of 90 per officer. Of those inspections 74% (334) were non-compliant with Schedule A - Maintenance of the Vacant Building By-law. The cost of non-compliant Schedule A inspections is $1290, while compliant Schedule A inspections are $650.

Based on these statistics, it is estimated that an additional 335 to 400 Annual Schedule A inspections could be conducted with the additional capacity of four By-law Enforcement Officer positions (BEOs). The projected incremental revenue from these additional Annual Schedule A Inspection fees, taking a conservative approach using the low end of estimated additional Schedule A inspections (335), would be approximately $378,000.

In reference to Table 1 below, in the five years from 2018 - 2022 there has been a growth of vacant buildings reported to CBES and added to the City's administration and enforcement. The addition of four BEOs will increase the number of annual Schedule A inspections completed; however, these inspections do not have an immediate impact on the number of vacant buildings removed. The removal of vacant buildings is generally due to either being demolished or remediated and reoccupied and will depend on other factors specific to the property owner. However, greater regulatory tools, penalties, and the timely application of such will influence the decisions of property owners to act on their vacant property. In this regard, we expect property owners to act in a timelier manner to either demolish or re-occupy those buildings based on the proposed strategies in this report.

Another significant consideration in projecting the number of vacant buildings that will be actively administered by the City is the shift from a reactive program to a more robust proactive enforcement program that engages communities. Having the capacity to proactively seek out vacant buildings and engage the community will result in a larger stream of intake. The addition of four BEO positions will allow for more robust enforcement of vacant buildings and the capacity to move from a reactive, complaint-based system to a more proactive approach to vacant building identification through community outreach and engagement. In this regard, CBES expects an increase in the number of vacant buildings in the short to medium term (3-5 years). Given these considerations, CBES will further revisit its staffing in the next multi-budget planning process.

Value #		2018	2019	2020	2021	2022
1	# of VB added - by year	198	376	248	254	327
2	# of VB Removed - by year	264	253	298	235	204
3	Change (+/-)	-66	123	-50	19	123
4	# of VB on Dec 31 - by year	471	594	545	565	685
5	**# of VB Inspected/monitored/processed - by year**	**735**	**847**	**843**	**800**	**889**
6	**VB Annual Schedule A Completed - by year**	**355**	**454**	**457**	**431**	**451**
7	VB Annual Schedule A Not Completed - by year (V5-V6)	380	393	386	369	438

Table 1

3 – Community Outreach and Engagement

BEOs currently conduct inspections to investigate potential vacant buildings or respond to new maintenance and security public complaints at vacant buildings. Enforcement officers also attempt to conduct annual Schedule A Inspections (interior and exterior) of all known vacant buildings once per year. Increasing the capacity of CBES will create an opportunity for officers to further engage concerned community members to identify problematic vacant buildings and unknown vacant buildings. A proactive part of these BEOs' duties will be to engage with

community members; provide them with education on the issues related to vacant buildings including identification and the City's enforcement processes.

4 – Access to Information to Improve Community Engagement

It is a current practice, to mitigate risk for compliant and otherwise conventionally secured vacant buildings, to not share the addresses of vacant buildings publicly.

It is apparent that non-compliant and especially problematic vacant buildings are visible within a community whether it is publicly reported or subject to multiple calls for service by the public. As part of this strategy and to increase monitoring for security and safety of non-compliant and problematic vacant buildings at a community level, a list will be made available through the City's Open Data Portal that will allow residents and business owners to confirm if a building is actively enforced with any open Vacant Building Compliance Order(s).

The addresses of any vacant building that is compliant or becomes compliant with the VBB will not appear in this public report.

Supporting Data and Jurisdictional Scan

As part of the review of the Vacant Building By-law, a jurisdictional scan was conducted to see what eight other cities (Vancouver, Surrey, New Westminster, Edmonton, Calgary, Regina, Toronto, and Ottawa) are doing in regards to the security and safety issues found at vacant buildings.

It has been determined that all these municipalities are addressing vacant buildings on some level, and that Winnipeg is the only city that:

- has a stand-alone bylaw that deals with vacant buildings only.
- has a dedicated enforcement unit that monitors and enforces maintenance and security standards of vacant buildings.

FINANCIAL IMPACT

Financial Impact Statement

Date: April 18, 2023

Project Name: Strategies to Address Problematic Vacant Buildings

First Year of Program **2023**

	2023	2024	2025	2026	2027
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 157,500	$ 387,000	$ 396,000	$ 402,000	$ 409,000
Less: Incremental Revenue/Recovery	157,500	387,000	396,000	402,000	409,000
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Direct costs include the additional staffing requirements for four (4) permanent FTE By-Law Enforcement Officer positions (salary and benefits $315,000 per year), employee related adiministrative costs ($5,000 per year), and associated fleet related costs ($58,000 per year), required to increase the number of annual billable inspections conducted for compliance with Schedule A of the Vacant Building By-Law. Salaries and benefits increase annually in accordance with collective agreements.

Incremental Regulation Fee revenue is estimated to be $378,000 (annualized in 2023) based on assumptions that 335 additional annual Schedule A inspections could be completed with the additional By-Law Enforcement Officer resourses. Revenues increase by 2% annually for inflation each year 2024 onwards.

The amounts for 2023 have been prorated assuming an August 1, 2023 implementation date.

No additional mill rate support is required.

Ozzy Garrett CPA, CGA - April 18 / 23

Ozzy Garrett CPA, CGA
Acting Manager of Finance
Community Services Department

CONSULTATION

This Report has been prepared in consultation with:

- Winnipeg Fire Paramedic Services
- Winnipeg Police Services
- Legal Services Department

OURWINNIPEG POLICY ALIGNMENT

Good Health and Well-Being

Objective #3
Proactively identify and address threats to community safety and well-being. Promote physical and mental health by mitigating, planning for, responding to, and recovering from, emergencies, disasters and crime.

Policy 4.8 - Building Safety. Enforce compliance with building codes and property maintenance standards, to ensure housing quality, safe building occupancy, and extended building lifecycles.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Consideration was given as to whether this report connects to the Winnipeg Climate Action Plan and its Goals and Objectives, and it was determined that the Winnipeg Climate Action Plan is not applicable to this specific report.

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

Goal 2 – The city actively plans for and partners in affordable housing.

Objective A – The city's capacity and commitment to advancing affordable housing initiatives are increased.

Objective D – Existing affordable rental housing stock is maintained and improved.

Many vacant properties were previously affordable housing. Subsequent to fires or the development of uninhabitable conditions, properties became vacant. Each vacant building that burns, diminishes capacity for affordable housing. By reducing the number of vacant building fires, potential affordable housing is maintained.

SUBMITTED BY

Department: Community Services Department
Division: Community By-law Enforcement Services
Prepared by: Winston Yee, Manager
Date: April 22, 2023
File No: CMS-2023-11

Attachments:

Appendix A – SUMMARY OF AMENDMENTS TO THE VACANT BUILDING BY-LAW 79/2010

Appendix B – Amending By-law