



# **Corporate** NO: R016

# **Report** COUNCIL DATE: January 24, 2000\_

## **REGULAR COUNCIL**

**TO: Mayor & Council**    **DATE: January 19, 2000**

**FROM: General Manager, Planning & Development**    **FILE: 0021-004**  
**0023-9011**

**SUBJECT: Building Permit Fees for Repairs to Leaky Condominiums**

## **RECOMMENDATION**

It is recommended:

1. That Council provide assistance by way of a grant to the owners of the condominiums which require repairs associated with building envelope failure and which meet the criteria identified in Appendix A of this report in the amount of 100 percent of building permit fees which assistance will be provided at time of issuance of the related building permit;
2. That Council provide assistance in the form of a grant to the owners of any condominium project which has already received a building permit for building envelope repairs and for which the associated fees have been paid subject to the criteria in Appendix A, and that staff be directed to include in the 2000 budget the amount of \$19,000 to cover the potential costs of these types of grants;
3. That Council delegate the authority to staff to issue the grants identified in 1. and 2. above subject to the applicant meeting the eligibility criteria listed in Appendix A to this report;
4. That staff be directed to provide an annual report to Council in January of each year identifying the value of the grants which were issued in the preceding 12 months along with the total amount of such grants issued to date;
5. That a copy of this report be forwarded to the delegation which appeared before Council on October 27, 1999 related to the "leaky condo" issue.

## **BACKGROUND**

At its Regular meeting on December 13, 1999, Council considered Corporate Report No. 2109 titled "Building Permit Fees for Repairs to Leaky Condominiums". A copy of this previous report is attached. Council referred the report back to staff for a report back to Council on providing assistance to leaky condominium owners by way of a grant in the amount of 100% of the building permit fees associated with building permits issued for repairs to leaky condominiums. Council also requested that the report identify the potential costs to the City of such assistance.

## **DISCUSSION**

As was discussed in Corporate report No. R2109 (copy attached), based on legal advice the City cannot directly waive building permit fees in relation to repairs to leaky condominiums due to restrictions in the Municipal Act taken in conjunction with common law. To achieve the effect of waiving the building permit fees, Council will need to take the approach of providing a grant in the amount of the building permit fees. There are two approaches which Council may consider with respect to the administration of such grants. These are described below along with the "pros" and "cons" associated with each approach:

### **Option 1: Council Formally Considers Each Grant Application**

Under this option, each application for a grant to offset the costs of building permit fees would be forwarded to Council for consideration and approval. It is possible that the number of such grant applications could range up to several each month over the course of the next few years.

#### **Pros:**

- Under the City's current policy for grants, it is normal for City Council to individually consider each grant application and as such, this approach would be consistent with current policy.
- Council would be aware on an on-going basis of the budget impact of the building permit fee grants being issued.

#### **Cons:**

- The process of reporting to Council on each application would be cumbersome and time consuming for both Council and staff, and would cause some delays in the issuance of building permits for the repairs to leaky condominiums depending on Council meeting dates.
- The work associated with preparing reports to Council would involve staff time which would add more costs to the administration of the grants and would negatively affect the ability of staff to deliver other services in a timely manner.

### **Option 2: Council Allows Staff to Issue Grants on the Basis of Council-Adopted Criteria**

Under this option, Council would formally adopt eligibility criteria which would be used by Building Division staff to evaluate each grant application which is received by the City. Staff would issue grants for those applications meeting the appropriate eligibility criteria at the same time as the building permit for the related project is issued. The grants would in essence take the form of no building permit fees being collected for

building permits related to eligible projects.

**Pros:**

- This option would minimize the administration and related costs associated with the issuance of grants.
- The process would act to assist in expediting the issuance of building permits for repair work to leaky condominiums.

**Cons:**

- Council would not be aware on an on-going basis of the actual budgetary impact of the grants being issued. This could be offset by having staff provide a report to Council on an annual or semi-annual basis which documents the amount of the grants which have been issued under the policy.
- The approach is inconsistent with the approach taken by the City with respect to the issuance of other forms of grants.

Based on the above, it is recommended that Council adopt Option 2 as the approach for administering the grant applications in relation to building permit fees for repairs to leaky condominiums.

**Grant Eligibility**

Based on normal life cycle considerations in relation to any building, on-going maintenance work is required to maintain the building envelope as it ages. The "leaky condo" issue primarily relates to premature building envelope failure. To distinguish between normal maintenance and premature failure of a building envelope, it is appropriate to limit the building permit fee grant eligibility to buildings constructed within 20 years of the date of the building permit application for building envelope repairs. Repairs on buildings older than 20 years would fall into the category of normal maintenance and should not be eligible for such a grant.

Based on legal restrictions contained in Section 182 of the Municipal Act, the City cannot provide a grant/assistance to a commercial or business undertaking. Buildings which are primarily "rental" are considered to be a commercial or business undertaking and, therefore, should not be given a grant by the City. These "rental" buildings are typically distinguished from "ownership" situations by virtue of their status relative to the Condominium Act.

To ensure that the leaky condominium repairs are designed and constructed in accordance with applicable regulations and good engineering practice, condominium owners are required to hire a Building Envelope Professional to design and supervise the construction of the repair work. In support of the policy recommended in this report, the Building Envelope Professional will be required, in conjunction with the submission of the building permit application, to provide the City with a letter which certifies that the repair work covered by the application is related to building envelope failure. Further, the Building Envelope Professional will be required to provide a written estimate of the building repair costs associated with that failure. This estimate will form the basis on which the normal building permit fees are calculated and on which the grant will be based.

The owners or a representative of the owners of the dwelling units for which the building permit application is made will be required to submit a formal grant application to the City in the form attached as Appendix B for consideration by staff.

In summary, the eligibility criteria for a grant to offset the costs of building permit fees should include the following:

1. The building which is the subject of repairs covered by the building permit application cannot be older than 20 years old at the date of application for the building permit;
2. The building must not be primarily a rental building (i.e., typically not covered by requirements of the Condominium Act);
3. A Building Envelope Professional must certify that the repair work which is the subject of the building permit application is related to premature building envelope failure and must provide a certified estimate of the construction value of the repair work associated with such envelope failure;
4. The owners or a representative of the owners of the building must submit a grant application in the form attached as Appendix B.

### **Budget Impact**

Building permits for repairs to leaky condominiums are not typically issued on a dwelling unit basis but rather a single building permit is issued for the repairs for all the dwelling units in an entire project (i.e., the units governed by one Strata Council). As such, the value of the repair work covered by a typical building permit is the cumulative value of the repair work required on each of the dwelling units within the project. This approach has the effect of reducing the cost of the building permit on a per unit basis since the building permit fee schedule works on a "sliding scale" basis. The larger the value of the construction work covered by the building permit, the lower the building permit fees are per \$1000 of construction value.

Based on building permits which have already been issued by the City for building envelope repairs to leaky condominiums and the experience of others, it appears that average repair costs on a per unit basis can range from a low of \$2000 to \$3000 per unit to as much as \$20,000 per unit. Assuming that the average "strata" project requiring building envelope repair work contains 50 dwelling units, the repair work could range from a low of approximately \$100,000 to over \$1 million. The building permit fees for construction work (based on the fee schedule in the Surrey Building Bylaw) is approximately 1% of the construction value for a project with a value of \$100,000 and approximately 0.77% for a project with a value of \$1 million. As such, for a 50 unit project with repair work valued at \$100,000 (\$2000 per unit), the building permit fees would total approximately \$1000 or approximately \$20 per dwelling unit. For a 50 unit project with repair work valued at \$1 million (\$20,000 per unit), the total building permit fee would amount to approximately \$7700 or approximately \$154 per dwelling unit.

Members of the delegation to Council, have informed staff that "leaky condo" problems are known to exist in buildings constructed since the early 1980s. Based on building permit records, the City of Surrey has issued building permits for approximately 25,000 multiple residential dwelling units since 1980. To assess the budget impact in not collecting building permit fees for condominium repair work on buildings constructed since 1980, some estimate needs to be made regarding the number of units which will require building envelope repairs. At this time, there is no accurate estimate of the number of dwelling units in Surrey which require repairs and therefore the following estimates should be considered as very crude estimates. If it is assumed that:

- Council adopts the grant approach recommended in this report; and
- 10% of the multiple residential units which have been constructed since 1980 will require repairs; and
- the average repair costs will be approximately \$10,000 per unit and, therefore, the average value of

the building permit fee per unit will be \$80;

then the budget impact to the City would be calculated by the following equation:

$$(25000 \text{ units} \times 10\%) \times \$80 \text{ per unit} = \$200,000$$

On the other hand, if it is assumed that:

- 40% of the multiple residential units which have been constructed since 1980 will require repairs; and
- the average repair costs are \$20,000 per unit and, therefore, the average value of the building permit fee per unit will be approximately \$154;

then the budget impact would be:

$$(25000 \text{ units} \times 30\%) \times \$154 \text{ per unit} = \$1,155,000$$

It must be emphasized that these figures are only crude estimates at best since the number of units requiring repairs and the value of such repairs could vary significantly from the assumptions which have been documented above.

It should also be noted that it is probable that the budget impact will be spread out over a few years and as such the impact on the City's budget in any particular year may only be some fraction of the above estimates.

### **Retroactivity of Grants**

A number (i.e., approximately 11) of condominium owners (i.e., Strata Councils) have already applied for and received building permits for building repairs related to building envelope failure. In these cases building permit fees were paid in accordance with the fee schedule in the Building Bylaw. The building permit fees related to these previous projects total approximately \$19,000. There are two options which Council may consider with respect to these previously issued building permits. These options along with the "pros" and "cons" of each approach are documented below:

#### **Option 1: Provide No Assistance**

##### **Pros:**

- No precedent would be set to suggest that changes in City policy should be retroactive to previous applications or approvals. A precedent in this regard could have significant ramifications.

##### **Cons:**

- The owners of leaky condominiums who have already taken out building permits for repairs would probably view the City as being inequitable if they were not given the same consideration as other leaky condominium owners.

## **Option 2: Provide Assistance in the form of a Grant**

Under this approach, assistance in the form of a grant in an amount equal to 100% of the building permit fees paid for these previous permits would be provided subject to the applicant complying with the eligibility criteria documented in Appendix A.

### **Pros:**

- This approach would be viewed as providing equitable treatment between owners of leaky condominiums.

### **Cons:**

- In most circumstances, changes in City policy or procedures regarding any matter are effective on the date on which they are adopted by Council and retroactivity is not considered (i.e., if the DCCs are reduced as was the case with Commercial DCCs in 1998, the City applies the reduced rate only to those projects which are processed after the policy is adopted by Council and does not reimburse those projects that paid the higher rate prior to the change). However, since this approach is simply assistance in the form of a grant which is based upon building permit fees previously paid it should not set a precedent related to retroactivity.

It is recommended that Council adopt Option 2 in relation to considering grant applications for projects where building permits have already been issued and the related fees already paid. Since the building permit fee revenue was recognized in previous years, it will be necessary for Council to budget funds in 2000 to cover the costs of the assistance related to these building permits from prior years. An amount of \$19,000 should be included in the 2000 budget to cover the costs of providing this assistance.

This report has been reviewed by Legal Services.

## **CONCLUSION**

In accordance with Council's direction that the building permit fees associated with repairs to leaky condominiums be waived, it is recommended that Council authorize staff to issue a grant in the amount of 100 percent of the normal permit fees stipulated in the Surrey Building By-law which grant is to be provided to the applicant concurrently with the issuance of the related building permit subject to the applicant meeting the eligibility criteria documented in Appendix A. It is further recommended that Council authorize staff to issue a grant in the amount of 100% of the building permit fees where applications are received from the Strata Councils of condominium projects who were issued building permits (having paid the fees) in previous years for repairs related to building envelope failure subject to the applicants meeting the criteria documented in Appendix A. A copy of this report should be forwarded to the delegation which appeared before Council in October, 1999 regarding leaky condominiums.

Murray D. Dinwoodie

General Manager

Planning & Development Department

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