LOCAL GOVERNMENT POLICY EVOLUTION AND DEVELOPMENT

An Examination of Winnipeg's Residential Upgrading Program

by

BRUCE A. CHOCHINOV

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ABSTRACT

This thesis examines the process by which a local government makes decisions and implements policy, with the purpose of understanding this process and determining how it can be improved. An example of a local government policy is taken from the City of Winnipeg's Residential Upgrading Program. The effects of the Program are related back to the process which created the underpinning policy. The issues surrounding the Program are also examined to determine the reason for the policy making process's ineffectiveness. It is found that the assumptions upon which the original decision to create the Program was based have not altered. These assumptions are shown to be faulty and in need of change. It is the lack of change, or adaptation, which is at the root of the policy making process's ineffectiveness.

Effective policy making is reflected by a process made up of a series of consecutive, complimentary decisions. It is concluded that such a series of decisions was lacking in the process which produced the Residential Upgrading Program. Based upon this, a number of future scenarios were drawn describing the consequences of a number of policy decisions including the changing of the City's basic assumptions regarding the Program, the retention of these assumptions and the effects such a lack of policy evolution would bring, and the influence of possible Provincial policies on the situation. As well, a proposed program is set out based on an effective policy making process.

The conclusions of the thesis state that the policy making process which created and maintains the Residential Upgrading Program is not an effective one because it lacked, and continues to lack, an adaptative attitude. It is based on a single decision made in 1975, and the necessary consecutive, complementary decisions have not been made.

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* * * * * *

The city and its people comprise a live and living organism. If the city can go through an evolutionary process, just as has mankind, it will be able to deal with those complexities, differences, and changes. The new city must adapt or society will not survive. The responsibility for it is in all our hands.

Leonard J. Duhl

* * * * * *

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Chapter I

INTRODUCTION

This thesis will deal with the process by which a local government makes decisions and implements policy, with the purpose of understanding this process and determining how it can be improved. This will be done by examining the City of Winnipeg's Residential Upgrading Program and describing the decision and policy making process which produced and maintains it.

1.1 Background

In 1975, the City of Winnipeg perceived a threat from fire to residents of multi-unit buildings. In reaction to this perceived threat the Residential Upgrading Program was initiated with the adoption of By-law 1046/75, the Apartment Upgrading By-law. This By-law was followed in 1977 by By-law 1617/77, and this was in turn succeeded by By-law 3518/83 in 1983. The most recent By-law was proposed in the spring of 1985. The implementation of this program, and all its supplemental By-laws, caused a number of issues to arise, prompting reaction from owners of residential buildings. These issues and reactions have remained relatively unchanged throughout the ten years of the

Program's history. Although the City has attempted to deal with these issues, and has tried to understand the nature of the problem, it has not responded appropriately or effectively to the issues and circumstances surrounding the question of life safety. Because of this, the situation which currently faces both the City of Winnipeg and owners of multi-unit residential buildings is quite serious and complex. The great cost of the measures in the Program, and the question of what requirements are really necessary, have polarized the City and the owners. It is the process which the City has used to develop the Program which appears to be at fault. By not properly responding to the issues and forces surrounding the implementation of the Program, the City has allowed the situation to deteriorate to the point where they and those opposed to the Program (most notably the owners of residential buildings) are opposed rather than cooperating in order to find a solution.

1.2 Perspective

It is necessary, at this point, to set out the perspective from which this thesis is written, as well as the theoretical position from which the policy making process behind the Program is examined. As well, the subject matter is quite complex and the variables are interdependent to such a degree that a description of what will and will not be addressed must preface the body of the thesis.

The decision and policy making structure of local government (ie. the relative powers and responsibilities of the Committee on Environment, the City of Winnipeg's Building Commission and the City Council) is not the direct concern of this thesis. Rather, it is the evolution of policy within the structure, and the forces which affect this evolution that are of interest. The decisions related to the Upgrading Program are discussed in terms of the forces which initiated them as well as their place in the evolution of the policy underpinning the Program. Therefore, in the context of this thesis, the nature of the decision making process is important, but not necessarily the structure under which it was made.

The Upgrading Program, in specifying measures which describe specific technical requirements, is necessarily very complex. The technical specifications of the By-laws will not be set out in detail, although some may at times be referred to in specific examples of certain requirements. The impacts which the Program has fostered, and the issues which surround it, will become the basis for the arguments set out in this thesis. The relationships between the impacts and issues, as well as the relationships between these and the evolution of the Program are, again, quite complex. These relationships will be described in as organized way as possible so as to accentuate their relative importance without becoming confusing.

This thesis is written in an objective fashion. No group was targeted for special criticism or praise, and the only interest advocated is the better handling of local government policy application. Any criticism made is based on the findings of this thesis and should be taken as being constructive.

- **Theory**

All things must adapt to ecological forces and evolve in order to relate successfully to their environment. This is true for living things as well as the ideas and policies of man. Evolution is marked by adaptation which brings about improvements necessary for existence within a specified environment.[1] The environment, or the system, is the source of the forces which make adaptation necessary. The polices of a local government are under the same influence from the urban environment that any species of animal is from its natural environment. In both cases the absence of adaptation, and subsequent evolution, holds serious consequences. In the case of a species of animal, an inability to adapt may result in extinction. In the case of a policy stance of local government, serious conflicts with forces within, and representing, the urban environment will occur and unanticipated consequences will be the result. Unfortunately bad policies become extinct and die out but rarely!

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[1] Darwin, Charles. The Origin of Species and The Descent of Man, Bennet A. Cerf, Donald, S. Klopfer, The Modern Library, New York 1909, p.496.

The Ecological Analogy

The theoretical background from which the basis of this thesis originates is drawn from a number of areas of study including urban ecology and systems analysis. The use of this theoretical perspective is based on the assumption that the urban environment and the natural environment share certain common general characteristics. These characteristics are related to the systems which provide both types of environments with the interdependency and resilience they demonstrate. Interdependency is observed in the relationships between the components of each environment, and resilience in the way each component, and the environments as well, are able to react to change.[2] There is some risk in applying this analogy. However, this seems to lie in applying it too closely. The insights into the workings of the city which this analogy allows are of such value as to make the risk easily acceptable.

The use of the ecological analogy in dealing particularly with urban policy and decision making, is really an application of the 'systems approach' to planning.[3] This allows the urban environment to be viewed as a whole, and for the policies of local government to be treated as

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[2] Holling, C.S. and Goldberg, M.A., "Ecology and Planning", The Journal of The American Institute of Planners, July, 1971. p. 221.

[3] For a valuable treatment of the systems approach to urban ecology see: Christopher H. Exline, Gary L. Peters, and Robert P. Larkin, The City: Pattern and Processes in The Urban Ecosystem (Boulder, Co.: Westview Press, 1982).

incremental parts, or forces, within the overall system. As well, the relationship between such policies and the rest of the urban environment can be dealt with in the proper perspective in terms of their relative importance to each other.

In this thesis two analogous comparisons are made between the urban environment and the natural environment. These are:

1: that like the organic and inorganic components of the natural environment, the components of the urban environment are quite interdependent and

2: like the organisms existing within the natural environment, local government policies, as components of the urban environment, must adapt to changes in that environment.

The latter assumes a systems approach to decision making. This and the importance of feedback from the urban system to properly determine policy are underlying themes of this thesis.

The Urban Environment

As it is to be used in comparison to the natural environment, a few words concerning the urban environment must preface the body of this thesis. A clear definition of the term 'urban environment' as it is used here will aid in a clearer understanding of arguments set out latter.

The urban environment is made up of economic, political, cultural, social and geographic forces (market forces, public opinion, language, climate, etc.) and attributes (transportation systems, housing [conditions and supply], political organization, location, etc.). All of these components react, on many levels, with each other. This interaction, like the metabolism of the human body, produces the characteristic problems and pleasures of urban life.

The urban environment is an 'open system'. That is to say it is a system which is open to influence from external and internal sources as well as having influence on these in return. An example of such a force, or factor, is pollution, which is contributed to by the city and in turn influences the quality of life in that city. However, the forces with which this thesis is concerned are of a specific nature and scale. The major force dealt with here is a specific policy which has had an observable effect on the urban environment. The urban environment then, for the purpose of this thesis, will be a multi-variate open system which reactes to and is reacted to by the components of which it consists. This system can be compared to the natural ecological systems in that the components of each are interdependent and constantly under change.

1.3 Methodology

The gathering and synthesis of data and material for this thesis proved to be less straight forward than one would assume. Due to the topical nature of the subject matter (the Upgrading Program is currently undergoing change and is drawing the attention of policy makers, bureaucrats, building owners and the media) and its relative uniqueness, information on the background, administration and impact of the Program had to be garnered from a number of sources and then organized into a cohesive package. The data used in this thesis are derived primarily from personal interviews with key individuals who come in direct contact with the Residential Upgrading Program. As well, the review of reports, briefs and other literature dealing with the Program added to the information from the interviews. The review of pertinent literature related to ecological theory and the urban environment allowed the ecological analogy to be used in the examination of the policy process responsible for the Program.

1.4 Synopsis

As this thesis progresses, the questions set out at the end of this introductory chapter will be dealt with. Each section and chapter will add to the premises and conclusions of the arguments and allow the answers to the questions to be determined. The second chapter contains a review of the

background of the Program and the decision upon which it is based. The contents and administration of the first three By-laws 1046/75, 1617/77 and 3518/83, are laid out and will serve as a base for the discussion of issues surrounding the Program and its development over time.

The third chapter discusses the issues which surround the Program as well as the impacts it has had on the urban environment in general and on the owners of residential buildings specifically. These impacts are broken down into the basic effect of the Program, the reactions of the owners of residential buildings, and the reactions of the City in attempting to resolve the problems of the owners while trying to maintain the integrity of the Program as it is perceived by the political and administrative bodies responsible for it.

The fourth chapter describes the most recent review of the Program. The method of review, and the response received, as well as the findings of the review, are dealt with. The proposed changes to the By-law are discussed in terms of the policy stance of the City on the subject of life safety. This stance and the extent to which it has evolved, will also be examined.

In the fifth chapter, the findings of the thesis are discussed. These will deal with both the policy making process behind the Residential Upgrading Program as well as the Program itself. The future of the Program is speculated

upon as well. The possibilities of change in the policy making process as well as the policy, and the effects of these, are described.

The last chapter contains the conclusions of the thesis. The answers to the questions posed at the end of this chapter will be reiterated, and other findings will be commented on.

1.5 Questions

Before the subject matter of this thesis can be dealt with, the specific questions which it will serve to answer must be clearly defined. They are:

1: What is the nature of an effective local government policy making and implementation process,

2: Why is the process which produced and maintains the Residential Upgrading Program not an effective one,

3: What would be the nature of the Program if the process were effective, and

4: What may happen if the process remains unchanged?

These questions, as well as others related to them, are answered in the following chapters.

The need for a better understanding of how local government policies are produced and implemented is clear. Identifying fault in the local government policy making process, as well as determining what constitutes an effective policy making process should be a most immediate concern for planners and others who wish to see constructive policies applied with a minimum of negative effect.

This thesis deals with the process behind policy making in local government in the City of Winnipeg. It is dealt with in an objective manner best to display how aspects of the policy making process are flawed and how they may be improved upon. The Residential Upgrading Program is used as an example of local government policy making, and its description and discussion will lead to some understanding of the policy making process of local government in Winnipeg.

Chapter II

THE BY-LAWS: 1046/75, 1617/77 AND 3518/83

This thesis, in dealing with Winnipeg's Residential Upgrading Program, will follow a rough chronological pattern whenever possible, describing events and decisions in the general order in which they occurred (ie., the By-laws, their contents and administration will be discussed in the order in which they were adopted). By doing so it will be possible to isolate the impacts of the program and the various reactions to it for observation.

The following sections will set out the background of the decision by Council to adopt the Residential Upgrading Program. As well, the contents and administration of the By-laws which have made up the Program over the past decade will be described. The differences between these will serve to demonstrate how the Program has developed in relation the the lack of evolution of its underpinning policy.

2.1 The Residential Upgrading Program: Background

- **The Nature of the Question**

The question of life-safety in residential buildings in the event of a fire relates two aspects of the urban environment which, although closely associated in reality, are generally not dealt with equally by local government. These are:

1: the physical condition of a building with regard to fire safety, and

2: the economic questions related to multi-unit residential buildings.

While these are closely related, the difference in attention they receive from the City illustrates a 'gap' which lies between the position of the City on this question and that of the owners of residential buildings. This gap is the cause of the conflict from which many of the issues surrounding the Program arise. This will be discussed further in later chapters.

It is important to note that while fire safety is a problem <u>in</u> the urban environment, it is not a problem <u>of</u> the urban environment.[1] That is to say it is not induced by the characteristics of the city (while it is certainly accentuated by them). The major variable affected here is the economics of multi-unit housing, which is indeed a problem <u>of</u> the urban environment. The policy decision of Winnipeg's local government, with respect to life safety, would inevitably have to affect the natural equilibrium of the urban environment. To what degree this effect is felt would depend upon the nature of the policy and the program it produced.

The Program levelled civic policy at what was perceived as the questionable safety residential buildings provide their tenants in the event of a fire. In the early days of

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[1] N.H. Lithwick, <u>Urban Canada: Problems and Prospects</u> (Ottawa: CMHC, [1970]), p. 30.

the Program, guidelines were used, and owners of buildings which did not meet these had orders issued to them to do the necessary upgrading to improve the safety of their buildings. The question asked by the City at the time was "how can we make residential buildings safer?". The answer to which was simply, "upgrade them". The questions not properly considered were, and still are, "exactly how unsafe are these buildings in the event of a fire", "to what extent do the buildings need to be upgraded to be safe" and, "how can we upgrade residential buildings in a way which takes into consideration the economic and social impacts as well as those which are physical?". The answers to these questions are not as important as the fact that the City did not realize their importance and this led to the lack of evolution of the City's policy stance on the question of life safety. Having isolated the problem (life safety) the City narrowly defined the objective and the "simplest and most direct intervention" was selected.[2]

- **Well Defined Impacts/Reactions**

The unanticipated consequences of the Program have been wide reaching and severe enough to justify its examination. Though the program has not been completed (not all residential buildings comply with the By-law), a number of impacts have been felt. There have been both simple and complex reactions, and these have had effects which are both far reaching and of minor consequence.

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[2] Holling and Goldberg, p. 226.

2.2 By-laws 1046/75 and 1617/77

- **Causal Factors**

It was the desire to improve the safety of tenants in older apartment blocks which led to the formulation and adoption of a set of guidelines to improve life safety (these later became the basis for the first By-law). This came after a number of fires had occurred in Winnipeg apartment buildings, resulting in a number of deaths. The most notable of these occured on January 18, 1974 in the Hazelmere Apartment block. In this fire nine persons died from smoke inhalation.[3] Subsequent fires brought the issue of fire safety to the fore in the early years of the By-law's application.[4] Concern over the problem became widespread. In fact, if one were to attempt to identify where the initial concern began, by keying in on the Council, the Fire Department, the Environmental Planning Department or any one of a number of other bodies, one would find that the different groups involved reacted simultaneously to the problem.[5]

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[3] City of Winnipeg Department of Environmental Planning. Apartment Loss Study, for the Subcommittee of Housing, Committee on Environment, October, 1978. p.41.

[4] For example, the Fort Garry Court fire and the Preston Avenue rooming house fire, where a number of deaths occurred: Apartment Loss Study, pg. 41., and Gordon Courage, interview held in the offices of the Department of Environmental Planning, Winnipeg, Manitoba, June 27, 1985.

[5] Jim Hicks, interview held in the offices of the Department of Environmental Planning, Winnipeg, Manitoba, July 11, 1985.

An ad-hoc committee was formed consisting of officials from the Fire Department and the Provincial Fire Commissioner's office, as well as architects, builders and other knowledgeable individuals. In the spring of 1974, the committee prepared a set of 18 guidelines, these were presented to Winnipeg City Council after ratification by the Building Commission.

In drawing up the original 18 guidelines, the ad-hoc committee made a number of decisions. One of these was to form the By-law from guidelines and not regulations, the difference being; regulations strictly set out what can and cannot be done, while guidelines are more general and leave the administering body more room to maneuver. The latter were chosen, because there were (and still are) a large number of different types of blocks (due to age, design, building materials used, etc.) and the different effects a strict set of regulations would have on different buildings could not be foreseen. Guidelines were decided upon to allow variations and sub-policies to be determined as they became necessary, and a comprehensive By-law based on regulations was, for the time being, considered 'unwritable'.[6] Another decision made while drawing up the guidelines was to adopt the concepts found in the Manitoba Building Code and the National Building Code for new construction. This decision set the basic level of life safety for the Program. This level has been adhered to ever

[6] ibid.

since.[7]

The guidelines outlined the required steps which the professionals on the ad-hoc committee believed represented the most up to date level of fire safety achieveable in residential buildings. They may have set their sights this high, possibly trying to second guess Council, thinking that only a few of the 18 guidelines would be passed in a By-law. However, at the time, Council felt the 'problem' of life safety in residential buildings was of such a serious nature, and also represented a political issue which could not be ignored or even left unacted upon for any time, that they adopted 17 guidelines. It is important to realize the role the bureaucracy has in formulating policy. Though the politicians themselves perceived that the situation was serious, they relied (and continue to rely) on the bureaucrats for direction and counselling. It is this direction and counselling which set the tone for the original version of the Program.

Some problems were anticipated. Owners of older residential buildings were obviously going to feel the impact of the measures set out in the By-law. However, the safety of citizens was a concern which outweighed all others, and no great concern was as yet felt for the owners of the buildings in question. The City assumed that the

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[7] Ad Hoc Committee to review the administration of the Existing Residential Buildings Improvements By-law 1617/77. A Study of Winnipeg's Upgrading Program for Existing Residential Buildings, prepared by J.S. Hicks, J. Coulter, F.L. Nicholson, March, 1979. p.2.

'natural resilience' of the urban system would be able to absorb these consequences. However, the impact of the Program was to be too severe.[8] As well, the decision was well within an area of Council's responsibility; the physical condition of buildings in the City of Winnipeg.

Though the decision of Council was conceived with sincerity, two assumptions were made which inspired, and still dominate, the actions related to the Upgrading Program. They are:

> 1: that there is a serious life safety threat in Winnipeg's residential buildings, and
>
> 2: that all the requirements outlined in the By-laws are necessary to bring life safety to an acceptable level.

These are very serious assumptions, for if a life safety threat of the magnitude perceived by the City does not exist, and/or if the requirements of the By-law(s) are excessive, then the impact the Program has had is a result of Council's over-reaction to the question of life safety. One indication of the City's perception of the measures necessary to bring life safety to an acceptable level is that the concepts behind these measures follow closely those found in the Manitoba Building Code and the National Building Code for new construction. The application of such measures on older buildings can have quite a severe effect. This will be discussed further in the next chapter. Because of the nature of the issue (the safety of citizens) another level of government would not describe the program as

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[8] ibid, p. 227.

unnecessary or extreme, as this would not be politically expedient. However, they may be forced to take steps to counter some of the impacts which the City does not perceive to be within its area of responsibility. The Provincial Government may find itself in this position in the near future because of the role of Rent Regulations. This is also discussed in the next chapter.

At first the question of fire safety in residential buildings was to be administered through the Building By-law. The guidelines set out by the Ad-hoc committee being adopted by Council in resolution, the Building Commission was given the power to issue orders for improving life safety under the Building By-law. A few orders were issued, but the legality of administering the guidelines in this way was questioned and in the end a new and separate By-law had to be drawn up.[9] This accounts for the year between the preparation of the guidelines (spring 1974) and the adoption of the first life safety By-law (summer 1975). During this time action was being taken and orders were issued to owners of apartment blocks.[10] On August 20, 1975 the first By-law addressing the upgrading of residential buildings for fire safety was adopted. By-law 1046/75 contained 17 guidelines "pertaining to improvements" to be made to all existing apartment buildings in the city of

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[9] Jim HIcks, August 22, 1985.

[10] ibid.

Winnipeg.[11]

Because the fire-related deaths, which prompted the issue of fire safety, occurred in older apartments, these were targeted as the structures most in need of 'upgrading'. The inspections for the new By-law were structured by year of construction and undertaken in ascending order (oldest buildings first). As well, inspectors knew of buildings which were in extremely poor conditions and were perceived to be definite 'fire traps'. These were also targeted first and, being mostly older buildings anyway, fit into the schedule of inspection quite well.

After a structure was inspected and an order sent out, the owner(s) of the building were given one year to complete the work required. So while the guidelines were flexible, in that different methods, techniques and materials could be used, the work had to be completed and the building completely upgraded within the time frame given. This issue of the time allowed for compliance would become one of the most important issues surrounding the next By-law.

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[11] City of Winnipeg By-law 1046/75, Schedule 'A'.

- **Contents and Administration**

At first, only buildings which were originally constructed as apartments were affected by the Program.[12] However an administrative change was later made to include all other residential buildings except for one and two family dwellings. This change was made generally in response to fires in buildings not thought of as 'apartments' and specifically in response to the fire in a Preston Avenue rooming house on January 31, 1977. It resulted in the adoption of By-law 1617/77 on June 1, 1977, which was identical to 1046/75 except that it defined its area of effect as being 'residential occupancies', a term used to refer to apartments and other similar multi-unit residential buildings affected by the By-law.[13]

By-law 1046/75, as well as all subsequent upgrading By-laws, was passed under section 485(1) of the City of Winnipeg Act. The By-law states that the Building Commission:

> should consider all existing apartment buildings to determine which one or more, if any, alterations or appliances should be made or installed in each case in order to have said buildings comply with the guidelines adopted by Council.

---

[12] The term 'apartment buildings' was not properly defined in By-law N046/75 and because of this, multi-unit residential buildings such as rooming houses, which today fall under the Upgrading Program, were not inspected.

[13] City of Winnipeg By-law 1617/77, Section 1(a).

This statement illustrates a most significant characteristic of this By-law. While the administration must 'consider all existing' buildings described in the By-law, each building can be affected differently. One building may need the application of all or nearly all of the 17 guidelines, while another may only need to comply with one or two, depending on the buildings current 'life safety level' in the event of a fire. This most often is related to the age of the building, with older buildings requiring the most extensive upgrading. In reality, most, if not all, of the buildings defined as being within the jurisdiction of the By-law needed alterations of some kind to meet all of the guidelines. It was the flexibility of having 'guidelines' over the rigidity of administrating 'regulations' which made the first two By-laws basically different than what is currently in use. And it was this flexibility which allowed an administration somewhat inexperienced in implementing such a Program to be able to feel confident in applying these By-laws.

When the Building Commission, on the report of a City inspector, decided that a building did not meet the By-law, and one or more guidelines had to be applied, an order was sent out requiring the owner, or his representative, to make certain alterations or appliances as stipulated in the order. Within fourteen days of receiving the order the owner, or his representative, put in a proposal specifying the work to be done.

If an owner felt that he had not been dealt with fairly by a decision of the Commission, he may have appealed to the Committee on Environment within fourteen days of the decision. The ruling of the Committee on Environment was final.

The guidelines in both By-laws 1046/75 and 1617/77 were implemented at first by applying them to buildings which were known to be in 'the worst condition'. The idea was to immediately minimize the chance of further deaths by addressing the worst cases first. Since a comprehensive order had to be drawn up for each building implementation was quite time consuming. As a result, some buildings had orders applied to them during the earliest stages while others were left until By-law 3518/83 replaced 1617/77.

To understand the nature of the By-laws, and to appreciate the level of life safety the City desired for residential buildings, a review of the guidelines, and their emphases, is necessary.

- **The Guidelines**

The seventeen guidelines listed in both By-laws 1046/75 and 1617/77, can be categorized in terms of the measures, or areas of fire safety they address.

Warning

The first two guidelines dealt with the warning of tenants and fire officials of the occurrence of a fire. Guideline number one states that the buildings affected

"should have an automatic fire alarm system", and that it be built reflecting specifications found in the Building and Electrical By-laws.[14] The second guideline adds to this by saying that buildings more than 3 stories high or containing more than 30 suites shall have the fire alarm system connected to an "approved Central Alarm Station". This is how the first two guidelines were set out in both By-law 1046/75 and 1617/77. They were modified in 1980 by By-law 2687/80 which deleted guideline number two and replaced it with one stating that 'the fire alarm system shall be connected to the headquarters of the Municipal Fire Alarm Telegraph or other approved Central Alarm Station". It also stated that this was so if the building exceeded 60 feet in height (not three stories as 1046/75 had stated), and this was to be measured between the grade and the floor of the uppermost storey. As well, the new guideline would be in effect if the building was made 'of combustible construction as defined by the Manitoba Buildings Code, and exceeds three storeys in building height or contains more than 30 suites".

Egress

The next group of guidelines deals with the accessibility of exits. Guideline number three states that there should be two exits which are 'separate and independent' as well as 'remote from each other' in a building affected by the By-law. Guideline number four deals with fire escapes,

[14] By-laws 1046/75 and 1617/77 were passed prior to the recent technological advances in smoke alarms, consequently, these were not included untill 1983.

saying they can be used to "improve egress facilities", and that they should be constructed according to the Building By-law. Exit stair shafts and other shafts are dealt with in guideline number five, which says that they should be enclosed and the materials used should not have less than a 3/4 hour fire resistance rating.

Guideline number six allows for some leeway. It reads, 'where it is impractical to comply with recommendations No.s 3 and/or 5 the building should be sprinklered and the fire alarm system should be connected to a central reporting agency". This guideline makes allowances for buildings which, because of structural characteristics, cannot have more than one exit, and/or the exits cannot be enclosed, without incurring costs which would make it impractical. The seventh guideline says that occupants should be able to escape through exit doors without the use of a key, and that these doors should comply with the Building By-law. This is complemented by guideline number eight; "Exit doors should be identified as required by the Building By-law." These last six guidelines (numbers 3 through 8) address exit accessibility by providing for enough proper exits for the occupants and making sure these are identifiable and usable.

Escape Time

The next four guidelines deal with prolonging the amount of time available for escape from a fire. Number nine deals with the doors between public corridors and the apartments themselves. According to the guideline these "should have a fire protection rating of at least 20 minutes" or "be of the solid core type at least 1 3/4 inches thick". This would lengthen the time it would take a fire to either reach the corridor from an apartment, or enter a apartment from a corridor. The tenth guideline provides that the materials used to finish walls and ceilings of public corridors "should have a flame spread rating of not more than 150". As well, number eleven says that the flame spread ratings of walls and ceilings in an exit 'should not exceed 25". This guideline allows for the doors as well as their frames and trim to exceed a flame spread rating of 25 but to be less than 150, providing the said doors, frames, and trim do not make up more than 10% of the wall or ceiling area of an exit. These last two guidelines deal with the spreading of a fire either vertically or horizontally through ceilings and walls, again providing for the containment of a fire and the lengthening of the escape time.

Similar to guideline number six, number twelve provides some leeway by allowing fire retardant paints or the installation of a sprinkler system to be considered in lieu of guidelines number ten and eleven, where they might be "difficult or impractical to comply with".

Storage

Number thirteen and fourteen deal with storage. They provide that separations between storage, locker and mechanical rooms and the rest of the building should have a fire resistance rating of at least 3/4 of an hour. Also, number fourteen states that combustible material 'should not be placed, stored or kept on, under or at the bottom of a fire escape or other means of egress". The authors of these guidelines recognized that fires can start in places where building or cleaning materials, or other types of goods, are stored, and the observance of these guidelines should prevent this sort of fire from starting in an exit or spreading from a storage area.

Lighting and Electrical

Guideline number fifteen allows for the provision of proper emergency lights, as per the Building and Electrical By-laws, to make egress easier at night or in dense smoke. Number sixteen says that the "electrical installation should be adequate for the purpose, in good repair and working order and free from fire and accident hazards".

The last guideline is a 'catch all' which allows for any instance when a situation may be encountered which is not covered by the sixteen previous guidelines. It states:

> If it is felt that any unsafe condition exists, even if not related to the items referred to above, steps should be taken to the extent necessary to abate the unsafe condition.

These guidelines are identical in both By-laws 1046/75 and 1617/77, the difference between the two will be dealt with in the next section. It is important, however, to recognize that the orientation of the By-laws was not toward the preservation of residential buildings in the event of a fire, though this would be a desirable side benefit. The goal of the By-laws was to provide for the safety of occupants of residential buildings in the event of a fire.

- **Development of Sub-Policies**

After the first By-law was passed, and the Building Commission began to receive feedback from the City's inspection department, a number of different ways for meeting each guideline were noted. Sets of sub-policies were quickly accumulated describing how the guidelines could be applied; basically one set of policies for each type of building.[15] These policies grew in number and complexity as time passed, and as the administrators became more familiar with the workings and consequences of the Program. The sub-policies were routinely updated.

They were organized with the guidelines found in the By-law stated first, followed by the complementary policies for each. For each guideline there were three types of policies; a general set which applied to all buildings covered by the By-law; policies for 'Type II buildings', and policies for 'Type I' buildings'. Type II buildings were defined as:

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[15] Jim Hicks, July 11, 1985.

> converted conventional type dwellings which do not exceed three stories in height, and are generally speaking not occupied by more than ten residents and which do not exceed 1,100 square feet in building area.[16]

Type I buildings were simply those buildings which were not Type II buildings.

Whereas the guidelines themselves where fairly general, the policies for each were quite specific, attempting to take into account the many and varied possibilities which the different kinds of buildings found in Winnipeg would present. The 1978 policies were not the first set, but one in a long series of updated, evolving sets of policies which, as time progressed and experience in administering the program grew, became increasingly more comprehensive and complex. In terms of the actual policy which underpinned the Program itself, the development of these sub-policies signified little evolution. They simply helped the administrators of the Program to more efficiently implement the guidelines found in the By-law. The sub-policies did not reflect the concerns of owners past the inclusion of equivalencies.

By-laws 1046.75 and 1617/77 were rather simple in content, however they represented an extreme policy which was, in the first few years of the Program's implementation, having noticable effect on the owners of multi-unit residential buildings. Though the next By-law would be more

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[16] Winnipeg Building Commission, Policies and Guidelines for The Residential Upgrading By-law. May, 1978.

complex, the extreme nature of the Program's requirements would not change.

2.3 By-law 3518/83

- **Causal Factors**

On the 27th of July, 1983, By-law 3518/83 was adopted by Council. It was called the Existing Residential Buildings Improvements By-law. It remains the current operating By-law for the City of Winnipeg's Upgrading Program, though a new By-law has been drafted and is now before Council. In the drafting of By-law 3518/83 there was the same desire for improving the life safety of Winnipeg's residential buildings that was evident when the previous By-laws were drafted half a decade earlier. As well, the same perception of a great danger from fire in residential buildings remained.

What prompted the drafting of a new By-law to replace 1617/77 was the realization that it was no longer 'the best' By-law in the eyes of the administrators. It had become evident that the concerns of the owners of residential buildings must be considered as well as the safety of tenants. As well, the experience and knowledge which the administrators of the upgrading program had accumulated in the implementation of the first two By-laws was considerable. It produced enough understanding of what must be done to residential buildings (in the City's view) to

raise their level of life safety to that which was perceived as desirable by the City, and of how to go about implementing such safety measures, that the By-law which had been 'unwritable' in 1975 was now considered writable. The basic measures of the By-law remained the same, though the specificity and the rigidity of their requirements increased.

The drafting of the By-law was not a simple task. Late in 1978 the City realized that the then current By-law (1617/77) had weaknesses and had drawn considerable concern from owners of residential buildings as well as planners. The administration now felt able to address some of these. An Administrative Review was undertaken by a committee whose members included the Chief of the City's Fire Department, the head of the Building Inspections Division of the Department of Environmental Planning, and the Deputy Director of the Department of Environmental Planning. Their findings led to the first daft of By-law 3518/83 in late 1980.[17] The authors of the new By-law took the time they did out of a desire to put forward a piece of work they felt confident in.[18]

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[17] Ad Hoc Committee to review the administration of the Existing Residential Buildings Improvements By-law 1617/77. A Study of Winnipeg's Upgrading Program for Existing Residential Buildings, prepared by J.S. Hicks, J. Coulter, F.L. NIcholson, March, 1979.

[18] Jim Hicks, August 22, 1985.

After the first draft was written, meetings of the Environment Committee and Council, along with some changes to the draft, held up its adoption until July of 1983, over 4 1/2 years from the time it was decided a new By-law was needed. Through this time the two basic assumptions:

1: that there is a serious life safety threat in Winnipeg's residential buildings and,

2: that all the requirements outlined in the By-laws are necessary to bring life safety to an acceptable level,

prevailed; the ideologies of the City remained intact.

Guidelines had been used in the previous By-laws because not enough was known about the way different buildings would be affected by the measures the City wanted applied. Without this knowledge the City had previously felt it could not set out regulations which would direct owners in exactly what had to be done to their buildings. Guidelines outlined what measures were needed (ie.,buildings needed a fire alarm system, proper egress, etc.) but did not go into the detail regulations do in terms of how these measures are to be implemented. By-law 3518/83 is, generally, a combination of the guidelines of By-laws 1046/75 and 1617/77, and the policies which were developed to help implement them. The change from a By-law based on guidelines to one based on regulations was the formal manifestation of the earlier expansion of knowledge the administrators of the Program experienced.

After the change from guidelines to regulations, the most important difference between the first By-laws and 3518/83 is that under the first By-laws owners were given a set time in which to comply with all of the guidelines, while under the current By-law the different measures are set out in phases (Table 1).

Table 1

Phases of By-law 3518/83

Phase	**Date of Compliance**	
	Division I	Division II
Phase one		
Schedule "A"- Smoke Alarms	Oct. 1/84	Oct. 1/84
Phase two		
Schedule "B"- Fire Alarm System	Apr. 1/86	Oct. 1/86
Schedule "E"- Electrical	Apr. 1/86	Oct. 1/86
Phase three		
Schedule "C"- Means of Egress	Apr. 1/88	Oct. 1/88
Schedule "D"- Compartmentation	Apr. 1/88	Oct. 1/88

By phasing the different measures, the administrators of the Upgrading Program hoped to make the new By-law fairer to owners of residential buildings. It certainly did not make

it easier to implement. By the time 3518/83 was put into effect the administration had become quite used to 1617/77 and the workings of this By-law. Administrators had to become accustomed to, and understand the implications of, the new By-law. By-law 3518 is a 'blanket By-law', it applies to all buildings in the city which fall under the definition of a 'residential occupancy'. So while buildings were inspected and orders given out one at a time under the previous By-laws, under 3518/83 all buildings were affected equally and simultaneously.

2.4 Contents and Administration

As did By-law 1617/77 before it, By-law 3518/83 applies to all 'residential occupancies", as defined in section 1 (definitions) of the By-law. Also, like By-law 1617/77, it was passed under section 485(1) of the City of Winnipeg Act. There are, however, some major differences in administration between this By-law and its predecessors. As stated in the previous section, 3518/83 is a composite of the measures set out in the guidelines of the earlier By-law and the administrative experience represented by the sets of policies which were used to implement these measures. In the policies, residential occupancies were broken down into two groups, 'Type I' Buildings and 'Type II' Buildings. For each 'Type' of building, under each guideline, there would be 'Division' 1, 2 and 3 policies. By-law 3518/83 uses

these same divisions and defines two types of buildings; Division I Buildings and Division II Buildings. A Division I Building is defined in the By-law as being:

> a building containing a residential occupancy, having a maximum building height of three storeys, and which was originally designed for use by one or two families but has been converted so as to provide more than two suites or more than one suite with a commercial occupancy.

A Division I Building is defined simply as "a building containing a residential occupancy of a type which does not fall within the definition of a Division II Building."[19] This separation of building types was done to accommodate the differences between actual apartment blocks and dwellings such as rooming houses, which, due to their nature, pose some extra difficulties in terms of compliance. Generally, the By-law allows for Division II Buildings by setting out later completion dates for upgrading, and describes special measures for the application of the By-law.

One outstanding characteristic of By-law 3518/83 is its complexity. To properly understand its role some explanation is necessary. The following is a summary of the By-law's various measures and their requirements, and how they are organized.

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[19] City of Winnipeg By-law 3518/83, Sect. 1.

- **The Regulations**

Schedule "A"- Smoke Alarms

The requirement of only smoke alarms in this first phase is significant. Smoke alarms were not required in either By-law 1046/75 or 1617/77. This was because, at the time, smoke alarms had not reached the level of technological refinement they had in 1983. An owner who received an order under 1617/77 had to upgrade his building in accordance with all all of the measures in the By-law, and was required to do this within the original year, with a possible two or three year extentsion. However the owner of a building affected by the current By-law had over one year simply to put in smoke alarms which were not even a requirement of the earlier By-laws. The second owner would not have to comply with some of the same measures as the first owner until April or October of 1986 (See Table 1). "Schedule "A" of the By-law had a compliance date of October 1, 1984.[20] Because the simple installation of battery powered smoke alarms does not require a building permit, no inspections were done until compliance date had passed, and no orders were sent out. The publication of the By-law, and subsequent announcements by the City, were to be sufficient to notify <u>all</u> owners of residential buildings of the requirements of By-law 3518/83.

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[20] City of Winnipeg By-law 3518/83, Section 15.

The smoke alarm itself is a battery operated alarm which will:

> detect a concentration of smoke at a specified level, causing the device to emit an audible alarm signal to alert those occupants within the suite of a fire emergency. This alarm signal is not to be confused with a general fire alarm signal which notifies everyone throughout the entire building.[21]

This schedule of the By-law goes on to describe the type of smoke alarms required and their proper placement.

Schedule "B"- Fire Alarm System

This first part of phase two of the By-law (as well as Schedules "C","D", and "E") have not yet been implemented. The original deadlines for compliance for this phase were April 1, 1986 for Division I Buildings and October 1, 1986 for Division II Buildings (Table 1). While both Schedules "A" and "B" deal with early warning and detection of a fire, the measures set out in Schedule 'B' are more complicated and require more effort, on the part of the owner to comply, and on the part of the City to implement. This schedule also distinguishes between Division I and Division II Buildings in that it allows for pull stations (alarm boxes) to be placed in the latter so that 'in no case shall it be possible for an occupant to leave the building without passing a manually actuated signalling box."[22] In Division I Buildings the regulations for the placement of pull

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[21] City of Winnipeg By-law 3518/83, Schedule "A", Section A.1.1(1).

[22] City of Winnipeg By-law 3518/83 Schedule "B", section B.4.2(2).

stations are much more complex and exacting.

The purpose of Schedule "B" is to 'provide a reliable means of detecting a fire at an early stage in its development and to provide an early warning to all occupants within the building so as to enable the safe evacuation of the building."[23] The major difference between the two is that Schedule "B" prescribes a measure to warn the entire building, while "A" outlines the use of smoke detectors which serve to warn only individual suites. The fire alarm system described in 'B' is also a more expensive measure than the smoke detectors, which are relatively inexpensive and easy to install.

Schedule "E"- Electrical Circuits in Suites

This schedule is the second half of phase two and deals with the wiring of suites in residential buildings.[24] As it is related to Schedule "B", in the sense that it requires work of an electrical nature, it has the same time frame and deadlines. The purpose of this schedule is to reduce the risk of electrical fires within suites caused by:

1: inappropriate wiring methods, and

2: overloaded and overfused circuits.

It details the placement of receptacles and other electrical devices such as an overcurrent device and a circuit breaker, as well as stating where they should be located and in what

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[23] City of Winnipeg By-law 3518/83, Schedule "B", Section B.1.1(1).

[24] Schedule "E" follows Schedule "B" here because the dates for compliance for each are the same. (see Table 1)

number.[25]

Schedule "C"- Means of Egress

This schedule makes up one half of the third phase of By-law 3518/83, and deals with the means of egress available to tenants in residential buildings. The deadlines for this phase are April 1, 1988 for Division I buildings, and October 1, 1988 for Division II buildings. (Table 1)

In this phase, the schedules ("C" and "D") are set out in two parts, the first describing how the measures related to each schedule are to be implemented in Division I Buildings and the next part describing the same for Division II Buildings. Generally, the two parts are set up the same. The same basic measures are necessary for both types of Buildings, but the requirements differ due to some allowances based on differences in design and construction.

Schedule 'C' describes five aspects of egress for both Division I and Division II Buildings. These are;

1: Number of exits and location

2: Fire resistance of finish materials

3: Number of exit signs and location

4: General lighting and emergency lighting

5: Storage of combustible materials

Each of these is explained in great detail, and many alternatives are set out. It is really this schedule and the next which illustrate the complexity of the By-law, and

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[25] City of Winnipeg By-law 3518/83, Schedule "E", Section E.1.1(1).

represent the greatest cost in terms of compliance.

Schedule "D"- Compartmentation

This is the second half of the last phase. It deals with the containment of a fire after it has broken out. Its purpose is described as ' to make it possible to contain a fire within a specified area for a sufficient period of time so as to allow for the safe evacuation of the building."[26]

The deadlines for this schedule are the same as those for Schedule "C". It is easily as, if not more, complex than the latter. It sets out how the different areas of the building must be separated from one another to contain a fire and allow the occupants time to escape. The requirements are quite extensive. Suites, non-residential uses, and storage, laundry and service areas (such as a furnace room) must all be isolated by an acceptable fire separation. The schedule describes the types of materials and techniques allowed for each area under different circumstances. The doors to be used in both Division I and Division II Buildings are set out in tables. There are 10 types of doors listed in the By-law; different doors are considered acceptable for different locations, according to the tables.[27]

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[26] City of Winnipeg By-law 3518/83, Schedule "D", section D.1.1(1).

[27] As an example of the complexity of this schedule; a "D1" door (a door having a 3/4 hour fire protection rating) is acceptable for use between storage and laundry rooms and stairways in Division I Buildings which exceed three storeys. Division I Buildings lower than three storeys may also use 'D2", "D3", "D4" and "D6" doors for that

The measures above apply to both Division I and Division II Buildings. Because the two types are different in many ways there are specific areas of concern for each in terms of compartmentation. For Division I Buildings exterior exits as well as refuse chutes (two characteristics not commonly found in Division II Buildings) also require compartmentation. In Division II Buildings the separation of the basement and the remainder of the building is important as a basement can be considered the equivalent of a separate service area.

2.5 Summary

With the By-laws making up the City's Residential Upgrading Program having been described, some general observations and comparisons can be made before the impacts of their measures are discussed in the next chapter.

One thing all three By-laws had in common was the basic areas of concern which they addressed. These can simply be listed as; warning, egress, containment and electrical safety.

There are differences between the first two By-laws (1946/75 and 1617/77) and that which is currently in place (3518/83). The first, and simplest, is the addition of smoke alarms as an added method of warning in the current By-law. Smoke alarms were not included in the earlier By-laws because the technology surrounding them had not

particular location.

risen to the point it is at today, where they can be considered a reliable warning device.

The next difference deals with the timing of the measures. The earlier By-laws applied all of the measures, within a limited time period, to specific buildings, and owners were given a set time to complete all of the upgrading required. The current By-law is organized in three phases and the same measures are spread out over a longer time table. This change came in response to the concerns of owners who found compliance with the measures in a limited time too difficult. The phasing of the measures suggests one problem for the future. While the first phase is relatively simple and inexpensive, the following phases become increasingly complex and require more elaborate, and expensive, work. The 'shock', so to speak, of the program to the owners will come in the later stages as the last two phases are implemented.

The next difference is an administrative one. The first two By-laws were implemented by having the inspections division inspect and issue orders on individual buildings. At first these were older buildings and those considered historically to be special cases. By-law 3518/83 is administered in quite a different way. No orders are issued, and no one group of buildings is given priority. The By-law affects <u>all</u> buildings defined as 'residential occupancies' equally, and the onus is on the owner to

understand the requirements of the By-law and comply with them.

The last, and probably most basic, difference is that the first By-laws were sets of guidelines and 3518/83 is a set of regulations.

Though the Program itself has developed over the last decade, the nature of the impact it has had and the issues which have surrounded it have not changed. This is indicated by the type of changes made and the emergence of a 'gap' between the City and the owners of residential buildings. The requirements of the measures became progressivly more severe, and the complexity of By-law 3518/83 indicates this severity. As well, the changes in the administration of the Program did not reflect any changes in the basic perceptions of the City, or their assumptions with regard to the question of life safety, and these changes would be the type necessary to properly react to the signals which were then coming from the urban environment in general and the owners specifically.

This chapter set out the contents and administration of the By-laws and discussed the changes the Program went through between 1975 and 1983. It has been demonstrated here that though the Program did change and even develop, it did not evolve. This was because the policy upon which it is based was not adapted in reaction to the concerns of owners of residential buildings.

Chapter III

ISSUES AND IMPACTS

After reviewing the contents and administrative backgrounds of the By-laws which form the backbone of the Residential Upgrading Program, the next step is to outline and discuss the issues surrounding the Program as well as its impacts. An attempt has been made to separate the issues and impacts to better understand the former, and explain the latter. By doing this the nature of the policy making process and its effects on the urban environment can be made clear.

3.1 Issues Surrounding the Upgrading Program

As suggested in the last chapter, the issues surrounding the Program are related to a gap which has appeared between the way the City and the owners of residential buildings each view the question of life safety and the requirements which are necessary to address this question. Basically, the City has concerned itself with the physical question of life safety and the owners, while also conscious of the need for life safety measures, are concerned with the economic effect the Program will have on them. This gap does indeed exist, with the City rallying to improve what it perceives to be a serious fire danger and the private owners responding by

lobbying against the Program and arguing that the situation, and their position, are not being considered fairly. This conflict will become clearer in this chapter as the issues are described in proper detail.

The issues related to the Program will be dealt with by discussing four key areas: the need for fire safety, the economics involved in owning and operating a residential building, the 'types' of owners, and the issue which has become central to all of the discussion related to the Upgrading Program, the cost of compliance. Additionally, the issue of building loss and the role of Rent Controls will be discussed.

- **Fire Safety in Residential Buildings**

Of the four areas examined in this section, this is the area which best outlines the City's policy stance.

The question of fire safety in Winnipeg's residential buildings was, for the purposes of this thesis, first raised in 1974 when, after a number of deaths due to fires in residences, City Council was faced with growing concern from the public, the media, and other interest groups. This fervor of concern grew and, fanned by media attention, demanded action by the City. The process involved in the development and adoption of the first life safety By-law, 1046/75, has been dealt with in the previous chapter. The nature of the City's response to the issue of life safety has not. This response, and the City's commitment to it, will be discussed here.

In Winnipeg there have been a number of fires in residential buildings over the years, and lives have been lost because of them. However, a disastrous loss of life due to a fire in a residential building has not occurred in Winnipeg.[1] The term 'disastrous', used here, would describe a fire where a large number of individuals lose thier lives. Though any accidental death due to fire is a tragedy, only a large-scale fire responsible for a great for a great number of deaths would be a disaster. The distinction between a disastrous fire and any other fire cannot be made more exact without some value being put on a human life. At what point does a fire become a disaster, after five deaths, ten, twenty, one hundred? This is not a fair question, but it is one which must be dealt with. A disastrous fire is one where the loss of life would be surprising. It may not be surprising if a man lost his life in a fire started by a cigarette he was smoking when he fell asleep. It would, however, be surprising, and quite alarming, if another five or ten people lost their lives in the same fire because they were not adequately warned or could not find an adequate means of egress. This definition of a 'disaster' is by no means the last word. However, it serves to describe a type of fire which could be called disastrous. Such a fire has not occurred in Winnipeg and if the fatal fires in residential buildings for a ten year period (1973-1982) are examined, no pattern of either increasing or decreasing

[1] Jim Hicks, August 22, 1985.

numbers of deaths can be found.[2] The City's counter argument is that a catastrophe could happen in Winnipeg and it is the responsibility of the City to prevent this if it can.

This becomes a moral argument in which, it becomes clear, there can be no winner. The question of what constitutes a disaster is a difficult one, and, realistically, the point at which a government must act is not clearly defined. Is action warranted after one death, or after a dozen, or should the City wait until an obvious disaster has occurred before it acts? Also, what degree of action is warranted in any given situation? Should a large number of measures be enacted because a disaster may occur? The answers to these questions are moot as it does not seem to depend on the number of deaths, but on whether it is politically expedient to act or politically dangerous not to. The decision to act was not, however, simply a coldly political one. The Council's concern for the safety of the citizens of Winnipeg was, and is, very real.

Once the decision to act had been made it could not be denounced by anyone, and has not been to date. That the safety of individuals in the event of a fire is an important consideration cannot, and would not, be rejected by anyone. It was, however, the nature of the decision and the measures

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[2] As illustrated by the table appended to; Shelter Corporation of Canada Limited. "Fire Fatalities in Multi-Family Buildings City of Winnipeg (1974-1983)", unpublished report prepared by Shelter Corporation of Canada, June 3, 1985.

outlined by the City's By-laws which have been, and continue to be, questioned and criticized. The discussion returns to the City's two assumptions:

> 1: that there is a serious life safety threat in Winnipeg's residential buildings and,
>
> 2: that all the requirements outlined in the By-law are necessary to bring life safety to an acceptable level.

The first assumes that there is an immediate and significant threat of fire in residential buildings. Whatever the threat of fire, and the threat is always present to some degree, it should have not come upon civic administrators unexpectedly, as it has not increased monumentally over the past decade. The threat has always existed. As well, the assumption does not differentiate between types of buildings or buildings of different ages. The City has, in its policies and other statements, realized that older buildings and those in disrepair pose greater hazards in the event of a fire. However, the measures in the By-laws were set out to be implemented in <u>all</u> residential buildings regardless of age or building type.[3]

The second assumption has, as indicated, drawn the most fire. The original guidelines presented to Council, from which By-law 1046/75 was formed, represented all of the most desirable fire safety requirements which could be

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[3] It is true that the administration of the first two By-laws was chronological in nature, starting with the oldest buildings, and that under those By-laws only the oldest were affected. However, if the By-law had been left unaltered it would eventually have been administered to newer buildings as well.

implemented. In writing the first By-law no attempt was made to temper those requirements and through subsequent changes they have become more stringent. In the report of the Administrative Review Committee, A Study of Winnipeg's Upgrading Program for Existing Residential Buildings (March, 1979) the position of the City on this point is well stated:

> concepts used in the program follow very closely the concepts of life safety which are established by both the Manitoba Building Code and the National Building Code for new construction.[4]

By basing the measures in the By-laws on building codes the City requires existing buildings to be upgraded to a level of life safety approaching that of new construction. These measures become quite extreme, especially when older buildings are considered. The construction techniques and materials in use during, for example, the 1920's are not at all comparable with those in use after the Second World War. Forcing 'newer' standards on older buildings obviously requires major, expensive work. This extreme is made all that more questionable when compared to its necessity.

The argument against the Upgrading Program, pertaining to the City's stand on the level of fire safety necessary, is that to force the most extensive level of upgrading on all buildings is not right, particularly when considering that the threat to safety is not on a level which warrants such

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[4] Ad Hoc Committee to review the administration of the Existing Residential Buildings Improvements By-law 1617/77. A Study of Winnipeg's Upgrading Program for Existing Residential Buildings, prepared by J.S. Hicks, J. Coulter, F.L. Nicholson, March, 1979. p.2.

action.

- **The Economics of Ownership**

An extremely important underlying factor in the discussion of the life safety By-law is the economic realities inherent in the ownership and operation of multi-unit residential buildings. This sub-section will not go into great detail regarding the monthly or annual costs of owning and/or operating a residential building. However, the underlying elements of ownership which govern the financial success or failure of a building will be touched upon.

There are certain realities of residental building ownership which need to be understood before the impact of the Program can be examined. The most important reality, and one which the public sector must fully appreciate in order to deal properly with the owners of residential buildings, is that the ownership and operation of such a building is a <u>business.</u> With the realization that owners are businessmen, and that making a profit is the underlying reason for owning property, one can begin to understand what motivates owners and what would be necessary to make them respond, in a positive way, to orders calling on them to upgrade a building. Profit is the key. If an owner is forced into a situation where his building will not turn a profit he will attempt to cut his losses. If a building cannot be made to turn a profit in any circumstance, the

possibility of it being taken out of the market becomes very real.

From this reality of owners being businessmen follows the reality that a profit can be made from rental property. This must be so because so many rental properties, of all rental levels, exist in the hands of private owners, who are, by the definition given here, motivated by profit.[5] To simply state that it is possible to make money from these buildings is not enough. What is required to turn a profit must also be addressed.

To an increasing degree, the ownership/operation of a multi-unit residential building requires a certain amount of capital and a required degree of expertise. This is true for all buildings but especially so for those which are older.

Older residential buildings, because of the maintainance necessary and the typically low rental rates, are operated on a narrow margin of profit. Capital is necessary to buy the building with a fair amount of equity and be able to also afford the costs which cannot be considered routine maintenance (ie. major heating, plumbing, or electrical repairs). As well, a certain amount of expertise is necessary to operate a building. This is the ability to deal with the financial, legal and operating decisions which become necessary, as well as the experience which will

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[5] John Bracy, interview held in the offices of the Rent Regulation Bureau, Winnipeg, Manitoba, December 3, 1985.

enable an individual to make the proper decisions. As the ownership and operation of a residential building is a business there is (or should be) hope that some of the problems of housing can be addressed by capitalizing on the profit motive of owners. The ownership of a residential building parallels the ownership of any business in the need for capital and experience, and in the necessity of producing a profit.

- **The Owner: Scoundrel or Businessman**

This sub-section flows logically from the previous one, expanding the description of the owner as a businessman, better defining his role in housing provision, and dealing with the label of 'slum landlord'.

For the purpose of dealing with the topic of the Upgrading Program, there seems to be two basic types of owners. These can be referred to as large-scale owners and small-scale owners. Differentiating between these two will help make the impacts discussed in the next section clearer. While the scale of ownership does not affect the way a building is currently affected by the Program, in terms of the work necessary for compliance, it does affect how the owner may react to its implementation.

All owners do have one common characteristic. As discussed in the last section, they are businessmen and profit is the motivating factor where their properties are concerned. However, there are a number of differences

between the two types of owners, and these need to be outlined here.

The first major difference is the matter of scale. The large-scale owner, as the label implies, will own a number of properties, while the small-scale owner may only own one or two. In fact the former may well be a company and not an individual while the latter will almost always be one or possibly two individuals. Differences in scale are also found in the amount of operating capital available, an extremely important consideration. The large-scale owner will have a more powerful, or secure, financial situation, while the small-scale owner will be in a weaker position financially. The reason for this is the difference in the nature of ownership. The large-scale owner owns and operates a number of buildings as a business, and does so on a full-time basis. The small-scale owner may have bought the property as an investment, possibly for retirement purposes. He may manage the building on a part-time basis and may, at times, have to use personal funds earned through his principal income source to do major maintainance or upgrading.[6]

It becomes obvious that the small-scale owner cannot, and is not prepared to, run one or two properties at a deficit. While a large-scale owner would be able to do so, if

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[6] If the owner is retired and supplements his pension with profits from the building his 'other income', from which he may have to draw to pay for upgrading costs, would be his pension.

necessary, by compensating for the loss through profits from other buildings, or even other business ventures. However, the large-scale owner would prefer to find a way to limit costs rather than going into the red for any length of time. So while the economics of ownership are the same for both types of owners, the nature of ownership will determine how economically feasible that ownership can be.

Slum Landlords

The term 'slum landlords' has, over the years, been used as a general catch-phrase to describe almost all owners of low-rental residential buildings. At the same time this very negative label implies an owner to be unscrupulous, uncaring, cold-hearted and lacking the conscience which would force him to think of his tenants before he thinks of his own financial situation. This labelling of owners is not only innacurate, it is unfair. The percentage of owners who could fairly be labelled 'slum landlords' is relatively small.[7] However, these individuals, through their actions take up a disproportionate, amount of administrative time in terms of inspections, By-law orders and court time, as well as a disproportionate amount of media attention. This leads most people to grouping the majority of owners in this category.

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[7] Bill Harrison, interview held in the offices of the Core Area Upgrading and Maintenance Program, Winnipeg, Manitoba, October 30, 1985.

This topic of 'slum landlords' has been dealt with here (albeit briefly) because it became clear during the research done for this thesis that many people perceived this to be an issue. The indiscriminate labelling of owners as 'slum landlords' only serves to widen the gap between the position of the City as a policy and administrative body and that of the owners of residential buildings by reinforcing the traditional conflict between the two.

- **The Cost of Compliance**

Cost is the most central issue in the debate over the Upgrading Program. Owners of residential buildings consider the profit margin of a building to be quite important. When a major cost threatens to abruptly cut this margin, owners become concerned. In the case of the Upgrading Program, this concern is mixed with a certain scepticism concerning the necessity of all of the Program's requirements, especially the most expensive ones. This leads to further alienation between local government and building owners. This is unfortunate as the subject which both are most concerned with, the provision of housing, tends to suffer.

The buildings which are most seriously affected by the cost of compliance are those which, because of the nature of their construction, are far removed from the current codes under which new buildings are constructed. This is a matter of age, the buildings in question being those constructed

prior to 1930.[8] These generally fall into two broad categories:

1: those built as apartment buildings and,

2: those originally built as some other residential building (ie. single family dwelling) but which has since been converted to a multi-unit use.

One predominant characteristic of the housing stock in question is its rental rate. Low rental buildings are, for the most part, those most seriously affected, and, generally, older multi-unit buildings tend to be inhabited by low-income residents. Those which do accommodate tenants with higher incomes are usually not located near lower-income areas and, because of the higher rent scale, have a larger profit margin and are in a less serious economic situation.

Within this older, multi-unit, low-rental housing stock the buildings remain diverse in one important way; their condition. The structural soundness of a building has direct bearing on the number of years it can remain usable without complete rehabilitation. This is not so much a question of relative age as it is of the original quality of construction and the building's maintainance history. For example, a building constructed in 1925 and poorly

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[8] This is not an arbitrary date. Construction of apartments, for example, practicly ceased after the start of the Great Depression and only began in earnest after World War Two, when modern building techniques were utilized. This can be determined from the number of these buildings remaining today. (1981 Apartment Block Inventory, City of Winnipeg, Department of Environmental Planning).

maintained over the course of its existence could conceivably have to be demolished, while a building constructed in 1913 remains standing due to better overall maintainance. This is not to say that age is not a fair measure by which to gauge the life expectancy of buildings as generally older buildings are demolished before newer ones. However, it does not mean all or most buildings constructed in 1925 will be demolished before any built in 1927.

Though the older, low-rental buildings are those most seriously affected, the current By-law covers all 'residential occupancies'.[9] Newer buildings also require upgrading but were not really affected by the first two By-laws and so far have had to comply only with phase one of By-law 3518/83 and, as mentioned above, do not have as severe a set of economic constraints as older buildings.

The actual cost of compliance is as high as it is because of the level of fire safety which the City stresses as being necessary. It is a cost which most if not all owners never expected and many are not prepared for. The original By-law, 1046/75, caught many owners by surprise, and some owning the oldest and must uneconomical buildings had the shortest time to comply.[10] Cost, as perceived by the City,

[9] City of Winnipeg By-law 3518/83, Section 1 (definitions).

[10] One year was the original time given to owners. After the By-law had been in effect for a time extensions were given. Later the overall time frame was lengthened and today a long-term phasing is used. Those owners first affected, however, were put into a very serious

was related to time, as many owners sought extensions. The policy for the current By-law was made to allow for this relationship and a system to phase the measures was established. Some experts are skeptical and say the method of phasing the measures to allow the most extensive and most expensive requirements to be implemented last simply postpones the severe costs, and that problems will occur when the time comes for their implementation.[11]

As important as it is to understand the nature of ownership as it relates to profit, it is equally important to realize, in dollar terms, the approximate cost of compliance for the entire program. That is, the aggregate of all the costs of all owners of residential buildings related to the Program. As every building is different from every other building any attempt to produce an exact overall cost for the Program would be futile. The number of different buildings, and owners, and the different situation facing each makes this type of cost description rather meaningless. However, some formulization of the overall scale of cost for the whole Program is necessary to realize the importance of the City's policy stance on this question.

An average per unit cost was determined to be the desired base unit to work with. For with such a cost the overall cost could be determined by multiplying it by the number of residential units in the City of Winnipeg. A number of

situation.

[11] Gord Courage, June 27, 1985.

problems opposed this type of determination. Most of these dealt with the per unit cost. As stated above, each building is, in some way, different from every other building. These differences produce different costs. One difference is age. The cost for older buildings may be different than for newer buildings because of the type of measures which must be applied. Some newer buildings already have a fire alarm system and this cost could be either avoided or lessened. However, newer buildings tend to be taller and the measures for high rise buildings would apply to them, but not to some older buildings. The design of a building is also an important factor to consider when attempting to formulate an overall cost. Buildings not originally designed as apartment blocks (ie., older, larger, homes) but which have been converted to multi-unit use will likely require substantial alterations to comply with the Program's requirements. One specific example of such an alteration would be those needed to provide the level of egress required by the By-law. An older converted dwelling may conceivably have only one inner staircase and thus only one exit. Either a second means of egress would have to be built in or some other equivalency found.

Due to this large variance in the types of buildings, and thus their requirements for compliance, the per-unit cost varies enormously. An educated estimate of a range of per-unit costs could be made. Such a range, from

approximately $400 to $2,000 or more per unit, does little to provide a measurable and meaningful overall cost. It does, however, demonstrate the variability of the situation owners find themselves in and the need for the City to somehow respond to them on a more varied and almost individual basis.

If this range were to be multiplied by the number of apartment units in the City of Winnipeg this partial cost (the number of Division II units are not included) would reflect a tremendous range. The number of apartment units in existence in 1981 was approximately 55,000.[12] Table 2 shows the results of this estimation.

Table 2

Variable Costs of Upgrading Apartment Units

55,000 units x $400 = $22,000,000.

55,000 units x $2,000 = $110,000,000.

These figures, as stated above, are not very meaningful. However, the point that the cost of compliance is quite high can still be made. Speculating, on the further cost of upgrading the Division II Buildings and adding this to a mean of the costs described above it could be said that the

[12] 1981 Apartment Inventory, City of Winnipeg, Department of Environmental Planning; Research Division.

Program will cost in the neighborhood of $100,000,000.00 or more. This, to put it into perspective, is the equivalent of the cost to the three levels of government of the first five years of the Core Area Initiative. That is a substantial cost indeed.

- **Building loss**

The next issue to be dealt with will be the question of residential building loss due to the application of the Upgrading Program. This is one of the most complex and potentially serious of all the issues surrounding the Upgrading Program. This is due to two factors:

1: the nature of the loss of buildings, in that the cause of loss cannot be determined exactly, and

2: the seriousness of the loss of buildings given the low vacancy rates, especially for low-rental buildings.

The only facts which arguments concerning residential building loss can be based upon are the actual numbers of buildings lost over a period of time. The number of different elements at work on a building (ie., age, poor maintenance, accidents, fire, building materials, civic By-laws, etc.) make it difficult, if not impossible, to determine accurately the cause of loss. All of these different elements of loss are at work when the building is lost. However, at the point at which it is lost there may have been one element which gave it a final 'push'.

In a hypothetical example, an apartment building constructed very early in this century is lost. Over the

past three or four decades it had accommodated increasingly poorer sets of tenants, as the area it was located in deteriorated. It had also changed ownership a number of times over the past twenty years. The economic viability of the block became increasingly lower for subsequent owners because of rising costs due to the age of the building and inflation, the availability of financing, and the dropping off of the rental level. Just prior to the time of loss, the building required a new boiler and some plumbing work, as well as having a sizable mortgage and tax payments. If the date was in fall of 1976, and the building had been inspected in the early stages of the administration of By-law 1046/75, the year allowed for compliance would have gone by and the owner would be in violation of the By-law. If no buyer could be found for the building, and no other alternative seized upon by the owner, the building would be lost. Without the costs of the Upgrading Program being added to the other costs, the building may have remained in the market for a longer time. The enormous cost of complying with all of the guidelines in By-law 1046/75 in one year could have been the last straw for a small-scale owner.

This example is a description of the type of loss which occurred during the worst period of loss over the past decade and a half. Table 3 illustrates the number of buildings demolished between 1973 and 1984. It shows a

dramatic increase in demolitions during the year of 1976, one year after the first By-law was adopted. Coupled with what has been discussed in this chapter, as well as in Chapter Two, this information allows some observations to be made.

Table 3

Historical Housing Demolition Trends (1972-1984)

YEAR	No.	YEAR	No.
1972	54	1979	112
1973	51	1980	158
1974	151	1981	236
1975	122	1982	272
1976	359	1983	88
1977	197	1984	130
1978	150		

(compiled by the Department of Environmental Planning, from permit data [numbers describe apartment and row demolitions])

The great majority of residential buildings which are lost on a yearly basis are older buildings. If the Upgrading Program can be linked to the problem of building loss, a definite relationship follows. When By-law 1046/75 was administered in 1975 apartment buildings were inspected oldest first. As well, only one year was allowed for

compliance with all of the measures in the By-law. This means that those buildings which were in the worst situation in terms of economic viability, were lacking all modern fire safety characteristics, and were the most likely to be lost next in any case, had to be upgraded to meet the most rigid measures in the history of the Program within a time frame which has been deemed too short for most owners to comply in. Of the buildings which were lost in 1976 some could be said to have been lost due to the application of the Upgrading Program. However, those buildings lost were in the most vulnerable group and had to comply with a By-law which has been altered since. To say that loss of residential buildings is as likely to occur today in the same numbers as in 1976, is to disregard the relationship between coincidental factors which caused the original set of losses.

With the 'worst' apartments already lost, and the Program now being adjusted to regard the situation of the owners to some degree at least, the threat of the same type of loss occurring again is not great.

As shown by Table 3, the pattern of residential building demolitions is not an escalating one but a fairly random one. This is because it is dependent on a large number of factors. However, when a number of these coincide the rate of loss will increase, as occured in 1976. The natural loss of residential building units can be allowed for, and

reacted to, through heads up policy making and beter management of buildings.

- **Rent Controls**

In 1976, the Provincial Government introduced The Residential Rent Regulations Act, better known as Rent Controls. Administered by the Rent Regulation Bureau, Rent Controls apply to almost all residential premises in the province. The major exceptions are buildings under five years old, and those with rents over a given amount (this amount changes yearly). The Act allows for regulated rent increases which decrease proportionately every year.

The administration and ramifications of Rent Controls will not be discussed in detail, except for their relationship to the Upgrading Program. This relationship is an important one and may be part of an answer to the problem of the cost of the Program for the owners if the necessary evolution of policy does not take place. However, this relationship is also extremely complex, and some of the more subtle effects have not yet been felt.

Some effort must be made here to describe how the Resideintial Rent Regulations will affect the owner's of multi-unit residential buildings. In addition to the percentage increase allowed under the Act, further increases are allowed to cover operating expenses (reg. No.13) and capital expenses (reg. No.16). In determining the rent increase, the difference in operating expenses from one year

to the next is taken into account. These expenses include such things as maintenance, management fees, property taxes and utilities. The upgrading measures are not covered under this regulation. Capital expenses are also taken into account when the increase is determined, and these do cover some of the upgrading measures.

Capital expenses are retrieved over time, depending on the specific expense. For example, the cost of an air conditioner or a dishwasher can be retrieved over a period of four years. That is: "one quarter of the acquisition or replacement cost of" the unit is retrieved each year. Under the regulations, only the central alarm system and the intercom system are upgrading measures which are dealt with specifically. The cost of these can be retrieved over a six year period.[13]

Smoke alarms (phase one of By-law 3518/83) are not dealt with specifically in the regulations. However, it is the policy of the Province to allow the cost of smoke alarms to be retrieved over a one year period, because of their relatively low cost. An example of how this would work is set out in Table 4.

Considering that phase one of the By-law is the only phase which has come due as yet, the Province has provided for the problem of cost quite well so far. The first part of the second phase, a central alarm system, is also covered by the regulations.

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[13] Residential Rent Regulation Act, Regulation No.16(c).

Table 4

Smoke Alarm Cost Retrieval Through Rent Controls

if: one alarm = $14.00, and
three alarms are needed per suite

then: 3 alarms x $14.00 = $42.00
(retrieved over 1 year [12 months])
$42.00/ 12 months = $3.50 increase/suite/month

Regulation No.16(d) reads:

> Such other items and the portion of the costs thereof as may be determined to be a capital expense by a rent regulation officer or panel.

This allows for costs not already specified in the regulations to be included as capital costs. Theoretically, all costs of the Upgrading Program may be retrievable in time. It may take a longer period to compensate for most of the measures,a decade or more perhaps, but the potential for full retrieval of costs does exist within the regulations. As well, the rent increase, once it has been made, cannot be revoked after the costs are retrieved. Therefore, an owner who has the required capital, and who is able to wait to retrieve his costs, can be completely reimbursed for upgrading a building. Even the cost of interest paid out (in the case of a loan) or interest lost (in the case of ready capital expended) can be made up within a year or two after the principal costs have been retrieved because the

rent level does not decrease. However, because the business of property ownership and management is quite dependent upon cash flow the prospects of waiting six years to a decade, or more, to retrieve costs encured during upgrading tends to discourage many owners.

Another feature of the regulations which has dissuaded a number of owners from taking advantage of this system is the paper work involved.[14] Financial information for a 12 month period prior to an increase is necessary before the increase is allowed. This not only entails considerable work in many cases but also means that retrieval cannot begin for more than a year after the costs were encured.[15] As well, the compiling and determining of the operating and capital expenses requires some degree of knowledge of the regulations, and a considerable investment in time. This effort may not seem beneficial to a small-scale owner for two reasons; lack of knowledge of the potential for retrieval of costs through Rent Controls, and the lack of the time and/or expertise necessary.

The part played (and yet to be played) by Rent Controls in the reduction of the gap between the City and the owners of residential buildings is not yet clear. Although most of the measures set out in the current By-law are not dealt with specifically in the regulations, there is room for this

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[14] John Bracy, December 3, 1985.

[15] Interview with Lewis Rosenberg in the offices of Apex Agencies, November 27, 1985.

addition. While such a large role for the Provincial Government would not encourage the evolution of the City's policy of Residential Upgrading it would alleviate to some degree the problems being experience by owners because of the Program. The discussion of the issues surrounding the Residential Upgrading Program has, among other things, emphasised the seriousness of the Program's effect, as well as its complexity.

3.2 The Impacts of The Upgrading Program

With the By-laws of the Program described, and the major issues outlined, the impacts of the Upgrading Program can be discussed. The impacts, and the reactions to them, give a good indication of the nature of the evolution taking place.

First, the impacts on the owners of residential buildings will be discussed, along with their reactions and the subsequent actions taken by the City to affect the administration of the Program. Next, the impact the Program seems to have had on the safety of residential buildings in Winnipeg will be examined.

- **Impacts On Owners**

As expressed in the last section, the major area of impact concerning the owners of residential buildings is the cost of complying with the By-law. The severity of this impact is dependent on two factors:

1: the type of building, and

2: the type of owner.

First, the type of building is a factor in cost because buildings which are in a condition which demands more work to comply with the Program will, naturally, incur higher costs. For example, an older building will be more expensive to upgrade than a newer one. This is so because the older building had few or no guidelines to meet in terms of fire safety, while a newer building, one built in the 1960's for example, would have had to comply with some guidelines upon construction and this would alleviate some of the pressure of compliance with the current By-law. So the age of a building is logically one factor in the cost of compliance and the impact of the program on the owner of a building.

The nature of the owner is also a factor. The large-scale owner is better able to handle the cost of compliance than the small-scale owner. This is so because, by definition, the large-scale owner has the capital available to do the work necessary. The large-scale owner would also have the expertise to be able to apply for and receive a rent increase which would allow the cost of compliance to be retrieved. The small-scale owner, while he may have the expertise, would not have the capital which is available to his larger counterpart and would have a harder time financially to comply, or not be able to comply at all and thus have to sell the property or even close it.

The cost of compliance, then, is easily the most serious impact of the Upgrading Program on owners of residential buildings in Winnipeg. Other impacts flow from the cost or come as a result of the reaction of owners to the impact of the Program. With the general impact (of cost) having been defined, the nature of this impact can be discussed. This is done in terms of the reactions by owners.

This introduces another factor, or rather an adjunct to the 'type of owner'. This is the willingness of an owner to comply with the Program. Unwillingness to comply may result for a number of reasons. For example; an owner who lacks an understanding of the By-law will be reluctant about going ahead with work which may not actually be necessary or meet the regulations satisfactorily. Also, a lack in belief in the Program or its relevance may cause an owner to procrastinate and fight regulations he doesn't agree with.[16] Finally, unwillingness may also come as a result of an owner believing that a profit can be made through non-compliance. This last example would, in most cases, rely on the owner's belief that the Program is not absolutely essential and that a serious fire hazard does not exist in the building(s) involved. This can be translated into a willingness to stall in order to 'milk' the properties for income while not paying out for upgrading. This type of action will be dealt with further on in this section.

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[16] Jim Hicks, October 30, 1985.

The willingness or unwillingess on the part of owners manifests itself in what can be described as both positive and negative reactions. The positive reactions are quite simple to describe, while the negative reactions are somewhat more complex and varied but nevertheless share common characteristics.

The first reaction which will be described as positive is the application by owners for extentions on the one year which was the time limit allowed for compliance under the first By-law (1046/75). Regardless of the reasons for the application for extension, this can be considered a positive reaction because it inevitably forced the City to realize that the very short time limit of a year was not sufficient for compliance.

Another positive reaction is the general compliance with the Program. Owners who sympathize with the goal of the Program, life safety in the event of a fire, and who attempt to familiarize themselves with the measures set out and to comply with them with reasonable prudence and in good faith are dealt with fairly, and with as much leniency as possible.[17] Though many apply for extensions or question the need for some of the measures, general compliance with what has been set down in the By-law is the avenue most owners eventually take. This is quite a positive reaction because it makes the administration of the Program easier.

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[17] ibid. July 11, 1985.

A positive reaction, and one which is most constructive to the Program in general, is an owner's attempt to find an equivalency. That is, to replace a method or material set out in the By-law with another which produces the same effect. This will be done when an owner will save time and/or money by substituting different, but compatible, methods or materials. All the Program's By-laws have allowed the Building Commission to modify or vary any of the requirements of the By-law in cases where such modifications would achieve the same end as the original requirements.[18] When an equivalency was suggested and found acceptable it was, in the case of By-laws 1046/75 and 1617/77, added to the policies used to administer the Program. Today an equivalency is akin to a legal precedent and allowed, or even suggested, in like cases.

As stated earlier, negative reactions are somewhat more complex than positive ones. These are usually manifested in attempts to stall the process of compliance through the exploitation of what is apparently a lenient system of enforcement. It is again necessary to point out that a minority of owners choose this course, but they cause the majority of administrative headaches and backlogs. Again, a certain expertise is needed here by the owners. However, unlike that needed to operate a building in a financially sound manner, this expertise centres around the ability to

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[18] City of Winnipeg By-laws 1046/75 (sect.4), 1617/77 (sect.5), 3518/83 (sect.12).

use an intimate knowledge of the legal and administrative systems which support the Program, to dodge its enforcement.

As mentioned above, this type of reaction by a minority of owners can be at least partially if not wholly attributed to the current system of By-law enforcement. By-law court, which is where all cases of By-law contravenation are dealt with, meets only once a week and is kept busy hearing a wide variety of cases concerning the breach of By-laws dealing with pet ownership and other minor issues, as well as the larger issues such as those related to housing. Because of this broad case load and the infrequent convening of the court, a case which concerns a breach of the current life safety By-law might not be heard for months. As well, the fines which have been imposed on owners who are found guilty of being in breach of the By-law have been substantially lower than the maximum allowed.[19] The maximum amount as penalty for an individual is a fine not exceeding one thousand dollars ($1,000.00), and for a corporation a fine not exceeding five thousand dollars ($5,000.00).[20] It is not unusual for an individual guilty of an offence to be fined $200.00. That person can be fined an additional amount for each day he is in breach of the By-law. However, if work is being done on the building, in any form, in an attempt to comply no extra fine is levied. While the problem of an overloaded By-law court remains, that of

[19] Bill Harrison, October 30, 1985.

[20] City of Winnipeg By-law 3518/83 (sect.25(a)).

ridiculously low fines does not. Recently, individuals found guilty have been fined amounts which come close to or, in some cases, even equal the maximum. This is definitely a positive step necessary to make the By-law more effective. If an owner can be in breach of the By-law until he is found guilty in court he may receive revenue from the property in question for months without having to pay for upgrading and only be fined a nominal amount, maybe not quite one month's rent for a suite. By levying the maximum fines the court would be taking away this aspect of profit from non-compliance.

The problem of an increasingly inadequate By-law court is an issue which is likely to be pursued in the near future. With the increased exposure of the life safety By-laws through media and through the Core Area Rehabilitation and Upgrading and Maintenance Program (CARUMP) which is an arm of the Core Area Initiative, the need for a more effective system to deal with housing issues related to civic By-laws is becoming more apparent. The establishment of such a court would help to make the system which surrounds the Program more workable but, like Rent Controls, would not reflect an evolution in the Upgrading policy at City Hall.

- **Reactions by The City**

The initial and most basic impact of the Upgrading Program on owners, the cost of compliance, has been discussed. There is a second 'level' of impacts which apply

to the owners as well. These are based on the reactions by the City to feedback on the administration of the Program and its By-laws, and represent the evolutionary process of civic By-laws and policies. The first reactions dealt with will be those which are basically technical changes of the contents and administration of the Program's By-laws. That is, changes which do not include wholesale dismantling and restructuring of the By-law.

As mentioned in Chapter Two, By-law 1046/75 was directed at the general target of 'all existing apartment buildings". This was understood by the administrators of the Program to be a sufficient description of the buildings which required upgrading. This was probably because the administrators had previously determined which buildings were the worst threats to life safety in the event of a fire and which needed immediate attention. These buildings were the older apartments, structures which were built originally for use as apartments. On January 31, 1977 a fire occurred in a rooming house at 877 Preston Avenue. This was an old (1906) 31 suite brick building not originally constructed as a multi-unit structure. Eight people died in the fire and it can be considered the worst multi-death fire in the last decade after the 1974 Ellice Avenue fire which killed nine people.[21] This brought up the question of whether the definition of buildings affected by the By-law was adequate

[21] Shelter Corporation, "Fire Fatalities in Multi-Family Buildings, City of Winnipeg 1974-1983," unpublished report, June 3, 1985. (attached table).

and whether provisions should be made to include buildings such as the Preston Avenue rooming house. The City acted fairly quickly and on June 1, 1977, four months after the Preston Avenue fire, By-law 1617/77 was adopted. The term used to describe buildings affected by the By-law was the 'residential occupancy", and it was defined as:

> **(a) 'Residential occupancy' means an occupancy used for sleeping accommodation excluding:**
>
> > **(i) those occupancies in which persons are detained for penal or correctional purposes, or for involuntary detention, or whose liberties are restricted.**
> >
> > **(ii) those occupancies in which persons because of age, mental, or physical limitations require special care or treatment;**
> >
> > **(iii) those occupancies designed and used for residential purposes for occupancy by one or two families only;**
>
> **and the term shall include but is not limited to apartments, boarding houses, rooming houses, residential clubs, convents, dormitories, hotels, hostels, houses containing more than two families, lodging houses, monasteries, motels and residential schools and colleges.**[22]

This alteration to the By-law had a definite impact on owners of buildings who, prior to June 1, 1977, were not required to meet the guidelines of the Program. With the adoption of By-law 1617/77 a large number of buildings and their owners were drawn into the fray.

Another reaction by the City was to change the policies used to administer the By-laws of the Program. The most prominent type of change involved equivalencies. As

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[22] City of Winnipeg By-law 1617/77, Section 1 (Definitions).

described in the last section, an equivalency is the replacement of a method or material with another which produces the same result, usually either for a lower cost or in less time. Program administrators kept the Policies of By-law 1046/75 and 1617/77 updated by adding equivalencies which were found to be acceptable. This had a positive impact on the owners, whose alternatives broadened as the policies were updated over time. As well, the development of the Program was aided by this updating.

One other reaction by the City was to allow extentions on the one year originally set out in the notices to owners under By-laws 1046/75 and 1617/77. Owners found it difficult if not impossible to comply with all of the seventeen guidelines in the space of one year. Many applied for extensions but because, the political will of City Council and the Committee on Environment, at the time, was still quite strong concerning the issue of life safety, few extensions were given. As time passed two things happened; the number of fires occurring which resulted in deaths dropped, and the concerns of the owners were being organized and becoming more obvious to the City. Well into the administration of the second By-law, 1617/77, extensions had become easier to get and the Committee of Environment's policies were undergoing a change. In late 1978, a policy was adopted which increased the initial time allotted for compliance from the one year to three or four, depending on the nature of the building.

This reaction by the City had a positive impact on owners in that they now had a more reasonable time to comply with the Program. It also benefitted the administrators of the Program by decreasing the number of appeals for extensions and thus decreasing the amount of administrative time spent. However, this did not indicate an actual evolution of the City's policy stance as it only served to postpone the required compliance.

The second set of reactions by the City to be discussed here are those of a more major nature. Those which brought about the significant change from By-law 1617/77 to 3518/83. This change is significant because it displays the nature of the City's position toward the Upgrading Program by the type of changes made.

The development of By-law 3518/83 was a process which began just after the first By-law was put into action. However, the major change was triggered by a few significant factors. These were:

1: the realization that the 'unwritable By-law' could now be written due to increased knowledge and experience,

2: the Apartment Loss Study (1978), and

3: the Administrative Review (1979).

Though the education of the administrators of the Program, through their own work, was an ongoing process, the point at which it was decided that they were able to formulate a 'better' By-law to replace 1617/77 was

significant. Both the confidence to do this and the understanding that a better By-law was needed were the underpinning factors behind the change.

The Apartment Loss Study

In 1978 the issue of residential building loss due to the administration of the Upgrading Program came to the fore with the publication of the Apartment Loss Study.[23] This study originated within the offices of the Department of Environmental Planning, and was very controversial in content. It was most likely prompted by the rise in the demolition of residential buildings in 1976 (see Table 3).

The study's main concern was the relation between the implementation of civic By-laws and 'apartment loss'. The authors identified three By-laws as being instrumental in the loss of residential buildings; the Health By-law, the Maintenance and Occupancy by-law, and the Apartment Upgrading By-law. The study stated, however, that though

> the maintenance and occupancy and health By-laws have provoked building closures in the past, these By-laws are enforced less comprehensively, primarily on a complaint basis, and there is no reason to expect sharp increases in the future.[24]

The upgrading By-law was described as an 'ongoing program", and if not changed it would precipitate further losses.

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[23] City of Winnipeg, Department of Environmental Planning, Ad-hoc Committee on Housing. The Apartment Loss Study, (1978).

[24] ibid, p. 28.

At this point the flaw in the logic of the study must be uncovered. The fact that the upgrading By-law did indeed play some part in the loss of residential buildings in the mid-1970's has been accepted. However, the assertion that changing the By-law would change this relationship is false. The Program's content has not changed significantly in the past ten years, in terms of the measures applied and their costs. Because the relationship between residential building loss and the civic upgrading program is not a simple one, the continuing existence of the Program, with all measures intact, has not led to a loss of residential buildings similar to that experienced in 1976. A number of other factors, as discussed earlier in this chapter, must be at work coincidently to cause a large number of losses. The change made in the amount of time allowed owners to comply did make a difference, but so did the fact that most of the worst buildings, having been demolished, no longer exist to be affected. The threat of loss caused by the Upgrading Program has abated, this is borne out by the numbers in Table 3, but it will remain a factor in loss on the same scale as the Health By-law and the Maintenance and Occupancy by-law.

The Apartment Loss Study did play a pivotal part in the creation of By-law 3518/83. Along with the administration's realization that the production of such a By-law was possible, the study was a catalyst, in a sense. The

controversy of a study being released by the Department of Environmental Planning, which questions the administration of a By-law implemented by that same department, forced the issue of apartment loss and the By-law, into the open.

Subsequently, Council ordered an ad-hoc committee to be struck to complete an 'administrative review' of the Upgrading Program. The Chairman of the Building Commission, the Chief of the Fire Department, and the Supervisor of Building Inspections formed the committee which obviously had, as one of its main purposes, to respond to the assertions made in the Apartment Loss Study. The committee's report was released in March of 1979 and, while stating that certain changes could be made to the By-law, it basically reasserted the position of the City on the subject of residential life safety.[25]

The report recommended that the measures in the By-law be maintained but the timing be changed to allow more time for owners to comply. The committee felt that this would alleviate the financial burden of the owners and lessen the number of losses. The report stated:

> cost would be more reasonable because more time would be allotted for compliance, thus increasing the chances of improvements being financed internally from the operation of the properties. Therefore it is felt that the rate of loss of housing units would be sufficiently reduced to

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[25] Ad Hoc Committee to review the administration of the Existing Residential Buildings Improvements By-law 1617/77. A Study of Winnipeg's Upgrading Program for Existing Residential Buildings, prepared by J.S. Hicks, J. Coulter, F.L. Nicholson, March, 1979.

make this factor acceptable.[26]

As well, the committee members realized that the increase in the time allowed owners for compliance would also increase the administrative work load by stretching out the time it would take to complete the program. In reaction to the Apartment Loss Program the Ad Hoc Committee report stated:

> To date the program has covered most of the apartment buildings constructed prior to 1930. These are the ones that could be expected to have the most difficulty in meeting the standards and therefore require the greatest amount of work to achieve upgrading. The remaining apartment buildings should not need as much work and the rate of loss in the future should be considerably less.[27]

What had started out, in 1975, as a quick reaction to a life safety problem, perceived by the City as being serious, had evolved into a complex long-term administrative responsibility

The result of the administrative review was City Council's call for a new life safety By-law which maintained the integrity of the original fire safety measures, and yet allowed for the financial troubles of the owners. Late in 1979 the administrators of the Upgrading Program perceived that the work undertaken in 1975 had evolved to a point where major change was possible, necessary and solicited. An enormous amount of energy went into the drafting of what became By-law 3518/83. The desire to both address the

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[26] Ibid. p.3.

[27] ibid. p.2.

perceived fire safety problem and alleviate the problems experienced by owners was quite genuine. However, though the administration of the Program developed through the phased time structure and the delineation of Division I and Division II Buildings, and the measures were modified, the ideology upon which the City's position was based did not change.

3.3 Summary

In the discussion of the issues and impacts of the Program, a number of key observations were made. Those which pertain to the evolution of the City's policy stance will be summarized here.

- **Fire Safety**

It was shown that the actual danger from fires in residential buildings is considerably lower than that which is intimated by the City's assumptions. The number of deaths, though a serious concern, does not warrant either the fervor with which the City addressed the issue or the stringent requirements which are set out by the Program.

- **Ownership of Residential Buildings**

The ownership of residential buildings demands a source of capital and a certain degree of expertise and experience. Large-scale owners seem to have the advantage over small-scale owners in terms of their ability to react to the Upgrading Program and retain possesion of their buildings.

- **Cost of Compliance**

This has emerged as the central issue as the stringent requirements of the Program force large costs on the owners of residential buildings. The impact of cost is dependent on two factors; the type of building and the type of owner, with older buildings and small-scale owners being the hardest hit.

- **Impacts**

The major impact on the owners is the cost of compliance. This, along with other impacts, generates a series of positive and negative reactions. These reactions should have indicated to the City the nature of the problems of the Program. However, the City misinterpreted the signs, and the changes which did take place, while reflecting progress and development of the Program itself, did not reflect evolution of the City's policy stance in response to these impacts.

The next step is to examine the most recent review of the City's Residential Upgrading Program and discuss the current status of the assumptions and perceptions which are its base.

Chapter IV

THE CURRENT SITUATION

The implementation of the City's Residential Upgrading Program, up to this point, has taken a full decade. Over this time a number of changes to the Program have occurred.

The most obvious changes have been made to the By-laws themselves which, over the past decade, have made up the Program. These changes are what mark the development of the Program, and the subsequent lack of evolution of the City's policy in terms of the question of life safety.

The belief by the City in the integrity and necessity of its 1975 decision remains. However, because of the education the politicians and the administrators of the City have received at the hands of the owners of the residential buildings, experts in related fields, and other interested parties, the way in which the Program is best to be implemented, as perceived by the City, has changed. This chapter will outline and discuss the most recent developments in administration and implementation of the Upgrading Program to determine the extent, if at all, the policy of the City has evolved.

4.1 The Current Review

The most recent page in the history of the City's Upgrading Program includes a review of the current By-law (3518/83) undertaken in response to concerns voiced by owners of residential buildings. The By-law, passed in 1983, expanded the number of buildings affected by the Program by altering the way it was administered. Previous By-laws required an order to be sent to the owner after an inspection had been made of a residential building to determine what work was required to comply with the By-law. Under By-law 3518/83 all buildings are required to comply with the measures set out within a set time frame. This means that since earlier By-laws were implemented on a chronological basis, that is older buildings first, newer buildings not yet affected by the Program were all brought into range at once. This had the effect of enlarging the pool of owners who might make comment on and/or petition against some or all of the requirements of the By-law.

The pressure by the building owners prompted the City to set up an Ad Hoc Committee to review the current By-law. The Committee, made up of three City Councillors, held public meetings on three occasions at which formal, well developed, cases were brought forward which set out the nature of the owner's concerns and proposed changes to the By-law which would, from the owners' point of view address major problems caused by the Program. After examining the

current By-law, as well as taking into consideration the presentations made at the public meetings and a technical study commissioned by them, the Ad Hoc Committee made changes to the By-law and released the proposed version of the By-law in September of 1985. A meeting of the Committee on Environment was set for November 18, 1985 to review the proposed By-law and hear any reaction to it from owners.

It is important to point out here that the administrators of the Program had come to realize that a void existed somewhere between the technical administration of the Program and the policy decisions which support it. The issue of the necessity of certain measures of the Program has been raised in terms of their cost versus the level of safety they achieve. The response of the City to this has been to repeat its assertion that it is desirable to have all residential buildings comply with a set of measures which, as clearly as possible, follow the current building codes for new construction. The possibility that, in fact, the threat to life safety is not, and never has been, great enough to warrant such large-scale measures has either not been properly considered by Council, or has been completely rejected. The reactive decision made amidst the fervor of concern in 1975 has cemented the notion that the measures are necessary because lives of citizens may be in danger.

The Ad Hoc Committee did make changes which had as their design the alleviation of some of the burden carried by the

owners. This was to be done by having an impact on the cost of compliance, but these changes fell short of those desired by the owners. So when the proposed By-law was to be discussed at a Committee on Environment meeting on November 18, 1985, a number of owners and their representatives spoke out. Among the groups represented were the Manitoba Landlords Association, the Property Managers Association of Manitoba, as well as a number of large developers and owners of single unit condominiums. The concerns were, predictablly, centered around the measures, their questionable necessity, and the cost of compliance. Unfortunately, while the City could now understand the problems of the owners and sympathize with them, their only reaction, in terms of changes to the By-law, was to spread out the time of compliance by pushing back the dates by which work must be completed, and easing the requirements for Division II Buildings.

On the surface, because of the relative steadfastness of the City's postion on 'necessary' measures, it seems that the evolutionary process, applied to this particular policy, has not progressed as it should. However, by sounding out those responsible for the formulation, the decisions, and the administration of the Program's four By-laws, a definite set of feelings is discerned. These can be summarized as;

1: a real desire to aid owners,

2: a commitment to the integrity of the program and a belief that the measures are indeed necessary,

3: an acceptance of the view that the City's mandate does not require/allow it to subsidize owners financially, and

4: that by allowing longer periods of time for compliance with the By-law the pressure on the owners of residential buildings is alleviated.[1]

The first of these is a fact. Those who administer the Program do not, as a group, have any axes to grind and are not targeting the owners of residential buildings unnecessarily. Over the past decade they have realized that the owners face a real predicament and can understand that by pressuring them the situation would only deteriorate.

The second and third points made above, taken together, are part of the basic shortcomings of civic government in Winnipeg. The decision made in 1975 to react to a perceived life safety threat by subjecting existing buildings to a rigorous set of measures based on building codes for new construction can be regarded as impulsive and poorly considered. The number of deaths due to fire has not been great, and has not risen appreciably over the last decade. That the original decision was made under considerable public and media pressure, and with noble intent does not excuse the City. By standing by this decision, in the face of opposition and arguments to the contrary, and while recognizing the negative impacts it has had, the subsequent and existing administrators and policy makers have, in this instance, not allowed evolution to occur an an acceptable

[1] Interviews with Jim Hicks, Bob Nicholson, and Chris Lorenc; and the Report of the Ad Hoc Committee on the Proposed By-law.

level. Along with this determined stand on the necessity of the Program rides the almost traditional mandate of the City government; that economic or social concerns lie in the realm of responsibility of another level of government. The 'tough' stand the City takes here, while not acknowledging their proper responsibility, is unacceptable for a civic government.

If these first three beliefs are taken alone a conflict seems to emerge. The City realized that the plight of the owners is serious and wishes them no ill will. However, the measures which are causing the problem will not be relaxed as they are 'necessary', and no financial help can be expected from the City as it is not, and cannot be, responsible for economic affairs. The conflict, then, is that the City will agree that the plight of the owners is real but will not react by either lessening the measures or providing financial help. This conflict disappears, from the City's point of view, when the fourth point is considered. The City believes the owners of residential buildings will benefit from having more time to comply, in that it will enable them to spread the compliance to the By-law over a longer period of time and thus spread the cost out as well.

By again changing the timing of the measures the City has not reacted to the true nature of the problem, and that is cost and not timing. Arguments along these lines, presented

by owners at the November 18, 1985 meeting, of the Committee on Environment will be discussed in a later section. Though the administrators and policy makers responsible for the Program are sincere in their desire to respond to the plight of owners of residential buildings, and in their belief that one dimensional administrative adjustments of such things as time limit will do this, their failure to encourage, or even allow, the policy underpinning the program to be adapted to the real situation is not acceptable.

4.2 The Proposed By-law

The work of the Ad Hoc committee resulted in some changes to the By-law, but not the changes most owners would have liked to see. The committee, consisting as it did of three City Councillors, reflected in its determinations the sentiments and opinions of the City as they have been since 1975. In the eyes of the City, and the committee, there still exists a situation which threatens lives to such an extent that the measures found in the By-law are necessary. The Changes presented by the Ad Hoc committee were made in good faith, and were made by the committee while they tried to balance the concerns of the owners and the need to maintain the integrity of the By-law. Consequently the concerns of the owners were not met and the unease which caused the review originally still remains.

- **Background**

This subsection will briefly describe the reports and other information which the Ad Hoc Committee considered in their review of By-law 3518/83 and the subsequent production of the proposed By-law. What cannot be documented is the importance which the Committee placed on each piece of data, or the position each member took in relation to the rest in the deliberations with the Committee. In examining the different reports and submissions, and observing the differences which emerge in terms of the stand each committee member took, and relating this to what was finally proposed, it became obvious that personal opinions and perceptions played a key role in anybody's standpoint on the question of life safety.

The material which the Ad Hoc Committee could have used came from three sources. These are:

1: submissions made at public hearings,

2: professional reports contracted by the City and,

3: the perceptions and knowledge the Committee members had about the Program.

There were a number of submissions made at the three public hearings which were held to plumb the feelings the public in general, and the owners specifically, had regarding the Program. The general feeling of owners was of scepticism and concern over the need for <u>all</u> the measures set out in the By-law to be applied to <u>all</u> residential buildings. By far one of the most challenging reports came

from Shelter Corporation of Canada Ltd., a large property management firm which has a portfolio representing over 2000 residential units in the city of Winnipeg.[2]

At the second public hearing (held on June 3, 1985) Shelter Corporation submitted a report titled Fire Fatalities in Multi-Family Buildings, City of Winnipeg 1974-1983 in which they reccomend that the By-law be modified to reflect the facts presented in the report. The report stated that "the existing mid and high rise residential buildings (exceeding three (3) stories/four (4) floors in height) are safer than the existing low rise buildings".[3] This conclusion was based on a review of the deaths due to fire in residential buildings between 1974 and 1983. These fires were divided into three groups:

> 1: fires originating within the victim's suite and contained in that suite,
>
> 2: fires originating within the victim's suite and spreading beyond the suite without causing further loss of life, and
>
> 3: fires originating in an area other than the victim's suite.

By grouping the fires thus some conclusions were drawn concerning the performance of the buildings in each case. Regarding fires originating within the victim's suite: 26

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[2] Shelter Corporation, 'Fire Fatalities in Multi-Family Buildings, City of Winnipeg 1974-1983", June 3, 1985. and 'Comments on The Report of the Ad-Hoc Committee Appointed to Review The Existing Residential Improvements By-law 3518/83", November 18, 1985.

[3] Shelter Corporation, 'Fire Fatalities in Multi-Family Buildings, City of Winnipeg 1974-1983", June 3, 1985. p.3.

deaths occurred as a result of such fires (18 single deaths, 4 multi-fatalities), the fires were generally caused by the victim, and the buildings 'functioned properly to restrict the fire to the individual suite compartment". In fires which spread beyond the victim's suite but which caused no further loss of life; the building "functioned properly by protecting the other occupants within their suites, and/or providing them with safe egress", and that in buildings exceeding 3 stories/4 floors in height no fire spread beyond the victim's suite. With regard to fires originating outside the victim's suite; "the building has not performed properly", no such fire occurred in a building exceeding 3 storeys/4 floors in height, the multi-fatalities occurred in buildings constructed in or prior to 1925, and these buildings do need to be upgraded "to provide an acceptable combination of early warning and compartmentation".

The conclusion of the report; mid and high rise buildings are safer than low rise buildings, and older buildings are more in need of upgrading than newer buildings. The report recommended:

> that the balance of the By-law be significantly modified. Buildings should be grouped according to type of construction and age. Any required upgrading should take into account the fire safety record of the particular type of building, and be considered from the perspective of providing rudiments of life safety, not the letter of the current building code.

This represents a very organized, professional, and responsible reply to the proposals set out by the Ad Hoc Committee.

After the first public hearing on April 29, 1985 the Ad-Hoc Committee recommended that the Board of Commissioners hire a private consultant, Rolf Jensen and Associates Ltd., to review the existing By-law 3518/83 and the proposed amendments "with respect to the question of whether or not the standards are the maximum or minimum standards that should be imposed on existing residential buildings built prior to the standards required in the present National Building Code for new residential construction with regard to fire safety, early warning systems, fire alarm systems and smoke alarm systems..."[4]

The report, Technical Review of City of Winnipeg By-law 3518/83 Existing Residential Building Improvements By-law and Proposed Amendments, was dated May 29, 1985 and was, as the title suggests, a technical review of the By-law and proposals. In it the measures set out by the Upgrading Program are evaluated by comparing them to standards set out for new construction. The report stated that "the concepts and philosophy upon which the By-law is based are sound and do not contradict any presently acceptable fire protection principles".[5] It may be true that the philosophies and

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[4] Ad-Hoc Committee to review the Existing Residential Improvements By-law 3518/83. Report of the Ad-Hoc Committee to Review the Existing Residential Improvements By-law 3518/83, prepared by Councillors C. Lorenc, D. Brown, G. Savoie, October 23, 1985. p.2.

[5] Rolf Jensen and Associates, Ltd., 'Technical Review of the City of Winnipeg By-law 3518/83 Existing Residential Buildings Improvements By-law and Proposed Amendments", Don Mills, Ontario, May 29, 1985. p.12.

concepts of the By-law are sound if only measured against technical requirements, but the report did not take into account the question of whether or not the measures are needed, nor was it responsible for such an analysis. The City directed the firm as to the nature of the enquiry and received back the technical report it wanted. That it did not also commission a report on the necessity of applying standards for new construction to existing residential buildings does not indicate that the members of the Committee were purposely skewing the submissions, but that they did not perceive the problem as being a question of whether the premises of the Program were correct. That is, whether the assumption that there is sufficient danger to warrant the measures set out in the program is a valid one. This illustrates the perception gap which exists between the City and the owners, where the City still depends on a flawed perception of the problem, fueled by an almost purely technical view of the situation, while the owners perceive the actual problem as being a more fundamental one related to the premises upon which the Program is based. It is this reluctance or inability on the City's part to realize that basic policy changes need to be made, and because these changes (which are basically decisions) have not been made the evolution of the Program has been constrained.

The last source of information, the perceptions and knowledge the Committee members brought with them to their

deliberations, may have been the strongest source in terms of affecting the nature of the Committees' proposals. The changes which were proposed are discussed in the next subsection, and generally address the technical requirements of the Program rather than the more fundamental changes which the owners feel are necessary.

- **The Form of The Proposed By-law**

This sub-section will describe the proposed By-law and the differences between it and By-law 3518/83. As well, the premises which were used in the review of the By-law will be discussed to help show the current stand of the City on the Upgrading Program.

Unlike the change which saw By-law 1617/77 repealed and a very different By-law, 3518/83, adopted, the proposed change from By-law 3518/83 is not a drastic one. Many changes were made, but they were mostly refinements and variations and not the refashioning of the By-law the owners hoped for. No measures were dropped entirely; that is, the areas of warning, egress, containment and electrical were maintained . However three major modifications were made. These are:

1: the easing of requirements related to Division II Buildings,

2: the extension of the deadlines for compliance with the By-law, and

3: the addition of a new schedule dealing with high rise buildings (those over 6 stories in height).

Division II Buildings

The first of the changes to be dealt with will be those related to Division II Buildings. This will be discussed first because it is the most positive modification and the one which displays the greatest development of the Program.

The residential buildings affected by the Program have been divided into two groups; Division I Buildings, which are regular apartment buildings, and Division II Buildings, which are buildings which were previously single-family dwellings but are now divided into 3 or more units. The measures as they applied to Division I and Division II Buildings were not very different under By-law 3518/83. The differences in the way the measures were applied existed because of the differences in the physical nature of Division I and Division II Buildings, and how these differences affected the application of the Program. The proposed By-law cut back on the requirements applicable to Division II Buildings. This is assumed to be in recognition of the cost of upgrading a building which is essentially a converted house to comply with the same life safety requirements applicable to apartment blocks (which, in turn, are similar to requirements for new construction). An example of this cut back of requirements can be found by comparing Schedule "B" of By-law No 3518/83 and the proposed By-law, this is the Schedule which deals with the fire alarm system.

The only difference between the requirements for Division I and Division II Buildings in Schedule "B" of By-law 3518/83 is in reference to the location of 'pull stations', where the description of the placement of these in Division I Buildings is quite specific and elaborate, the required placement of the pull stations in Division II Buildings can be described in one sentence:

> no case shall it be possible for an occupant to leave the building without passing a manually actuated signalling box.[6]

However, the requirements for the two types of buildings in Schedule "B" of the proposed By-law are quite different. The requirements for Division I Buildings remain generally unchanged. Except for some technical rearrangement of the requirements, which specify when certain things are or are not necessary, the same measures are applicable. The requirements for Division II Buildings, however, are different in one important way. An equivalency of sorts is allowed in the proposed By-law, in that Division II Buildings "which are used for residential purposes only and where every suite has access to two (2) separate exits...a smoke alarm system will be permitted", while Division II Buildings which do not have access to two separate exits are still required to have a fire alarm system as described in the By-law. As well, the substitution of the fire alarm system with a simpler smoke alarm system is permitted only

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[6] City of Winnipeg By-law 3518/83, Schedule "B", section B.4.2(2); see also section 2.5 of Chapter of this thesis.

if the individual alarms are placed properly and are on a separate electrical circuit.

This is a sample of the lessening of the requirements for Division II Buildings. Both Schedule "C" and "D" of the proposed By-law have reduced requirements for Division II Buildings as well. Most sections in these schedules which refer to Division II Buildings were eliminated, leaving only basic, simple requirements. This easing of the By-law's regulations regarding Division II Buildings is, along with the extension of the dates for compliance with the By-law, and the generation of a separate schedule to deal with high rise buildings, one of the major changes proposed by the Ad Hoc Committee.

Deadlines

The second major change is the extension of deadlines for compliance with the schedules of the By-law. Table 5 compares the proposed deadlines with those found in By-law 3518/83. The element of time has been the one factor which the City has adjusted, over the past decade, in response to the issue of the cost of compliance. The Ad Hoc Committee explained that the proposed extensions were in response to requests from owners for more time in order that the costs could be accommodated.[7] However, the nature of the measures is such that the extension of deadlines simply postpones the

[7] Ad-Hoc Committee to review the Existing Residential Improvements By-law 3518/83. Report of The Ad-Hoc Committee to Review the Existing Residential Improvements By-law 3518/83, prepared by Councillors C. Lorenc, D. Brown, G. Savoie, October 23, 1985. p.17.

cost of compliance.

If, for example, a building requires $10,000 worth of upgrading to comply with the second phase of the By-law, the deadline date for compliance will not affect this cost. By moving this date the cost would only come due a year later because the work would be delayed as the owner waited for the deadline to grow near before he spent any money. It is the cost of the measures which is the impediment for the small-scale owner, not its timing. By stretching out the timing of the measures the City is simply stretching out the timing of the costs, not reducing the financial burden.

While the extension of deadlines is seen as a positive step, it is more of a temporary action which postpones whatever impact the Program will have. Unlike the extensions granted in 1976-1977 under By-law 1046/75 and 1617/77, the proposed extensions are not necessary to ease what may be an emergency situation. The phasing of the measures begun in By-law 3518/83, was a necessary move, while the proposed extensions would be a postponement of the Program.[8]

High Rise Buildings

The last major change proposed by the Ad Hoc Committee is the inclusion of a set of requirements related exclusively to buildings over six (6) storeys in height. As discussed

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[8] It is interesting to note that the extensions proposed prior to the public meetings were only for one year (ie. 1986 to 1987) while the final proposal sets these extensions at two years (see Table 5).

Table 5

Comparison of Phase deadlines of By-law 3518/83 and the proposed deadlines

	By-law 3518/83	Proposed
Division I Buildings		
Phase one		
Schedule "A"-	Oct. 1/84	Oct. 1/84
Phase two		
Schedule "B"-	Apr. 1/86	Jan. 1/88
Schedule "E"-	Apr. 1/86	Jan. 1/88
Phase three		
Schedule "C"-	Apr. 1/88	Jan. 1/90
Schedule "D"-	Apr. 1/88	Jan. 1/90
Division II Buildings		
Phase one		
Schedule "A"-	Oct. 1/84	Oct. 1/84
Phase two		
Schedule "B"-	Oct. 1/86	Jan. 1/88
Schedule "E"-	Oct. 1/86	Jan. 1/88
Phase three		
Schedule "C"-	Oct. 1/88	Jan. 1/90
Schedule "D"-	Oct. 1/88	Jan. 1/90

in the previous chapter, the City's Upgrading Program progressed from affecting only older-apartment buildings to including Division II Buildings, and later including newer high rise structures as well. High rise buildings (the By-laws define them as buildings exceeding six (6) storeys in height) were actually included in the Program all along. The first two By-laws included high rise buildings, as they applied to all 'apartments' or 'residential occupancies'.[9] However, at the time, the Program was being applied to buildings on an oldest first basis and the inspections never progressed to newer buildings, and most high rises are newer. By-law 3518/83 also applied to high rise buildings, as well as all other 'residential occupancies', and reference is made to them in section 14:

> All buildings exceeding six (6) storeys in building height shall be subject to additional requirements as determined by the Commission (the Winnipeg Building Commission) using Subsection 3.2.6 of the Manitoba Building Code as a guide.[10]

It became apparent to the administrators of the Program that high rise residential buildings would require special attention, thus an additional schedule was added to the proposed By-law; Schedule "F"- Additional Requirements for High Buildings.[11] The schedule set out in the proposed

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[9] The buildings affected by By-law 1046/75 were referred to as "apartments", while those affected by 1617/77 were refered to as 'residential occupancies". Neither term excluded high rise buildings.

[10] City of Winnipeg By-law 3518/83, section 14.

[11] Report of the Ad Hoc Committee Appointed to Review the Existing Residential Improvements By-law 3518/83.

By-law is a revised version of a set of requirements for high rise buildings, the original of which was circulated prior to the public hearings. The Ad Hoc Committee's report[12] explains the reason for the revised version:

> For high rise Division I buildings, (over six storeys in height), it was felt that ideally every building should be able to meet the requirements that had been developed and distributed earlier and which formed the basis of the public hearings. However, it was difficult to justify the high cost of complying with some of these provisions and therefore, it was decided to only recommend those features which carried the highest priority. Accordingly, the need to provide smoke control measures and emergency generators have been dropped from the recommendation and the proposals pertaining to elevators, sprinklers, and standpipe systems have been altered considerably.[13]

While the inclusion of requirements which isolate high rise buildings can definitely be considered a development of the Program, in that it expands the implementation of the measures into these structures in a more specific manner, it is not evolution. It is just the same old policy of applying the most stringent code possible, only now directed specifically at high rise buildings. In the statement above the City obviously feels the 'requirements' developed have been further boiled down out of necessity and now make up a set of features which carry the 'highest priority'. If

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October, 1985. Appendix A.

[12] Ibid. Appendix B.

[13] Ad-Hoc Committee to review the Existing Residential Improvements By-law No.3518/83. Report of the Ad-Hoc Committee to Review the Existing Residential Improvements By-law No.3518/83, prepared by Councillors C. Lorenc, D. Brown, G. Savoie, October 23, 1958. p.2 of the covering letter.

these requirements are thought of by the City to be 'boiled down', then this is another indication of how the administrators of the Program, and the policy makers behind them, have failed to adapt their way of thinking about the question of life safety and the impact of their Program.

In the 'scope and purpose' of Schedule "F" it is described as a set of requirements additional to those contained in the other five schedules. These additional requirements include:

1: a Central Alarm Control Facility located on the main floor which would include a control for a voice communication system, the ability to send a message to loud speakers in all areas of the building, the fire alarm control unit and, a panel which would indicate the nature of the alarm and the area of the building it originates from.

2: a Voice Communications System for buildings higher than twelve (12) storeys. This would consist of a series of loud speakers 'which are designed and located so as to be heard in all suites and in all other parts of the building except for elevator cars."[14] This section also allows an acceptable paging system to be modified to meet this requirement.

3: an Elevator in each high rise building must comply with the Manitoba Building Code (Article 3.2.6.3 thereof) in that it be acceptable for use by firefighters, be key-operated and identified on the same floor as the Central Alarm Control Facility.

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[14] Ad-Hoc Committee to review the Existing Residential Improvements By-law No.3518/83. Report of the Ad-Hoc Committee to Review the Existing Residential Improvements By-law No.3518/83, prepared by Councillors C. Lorenc, D. Brown, G. Savoie, October 23, 1983. Appendix 'A' (sect. F.3.2(1)) F.3.2(1) of the Proposed By-law. Appendix 'A' of the Ad Hoc Committee's Report.

4: Sprinklers in every 'mercantile occupancy, restaurant, or licensed beverage establishment and every storey or part thereof intended for the storage or handling of hazardous substances."[15]

5: a Standpipe and Hose System shall exist in every high rise building and shall be acceptable to the Fire Department. (This system must also conform with a number of technical requirements set out in the proposed By-law), and

6: Doors, in all high rise buildings, opening into an exit stairwell, should be identified with the number of that floor. Those which are to be used for emergencies shall not have locking devices, and it should be possible to gain access to a floor of the building from an exit stairway at intervals of five storeys or less.

Though these requirements may be somewhat 'boiled down' compared to those originally proposed, and they have been presented here in yet a further distilled manner, they still have not been accepted by the owners of high rise buildings, or the private owners of condominiums.[16] The gap still exists between what the City and the owners perceive as being acceptable. However, by directing requirements specifically at high rise buildings the City has prompted a very organized and strong reaction from large-scale corporate owners.

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[15] ibid.

[16] Representatives of both of these groups made presentations at the November 18, 1985 meeting of the Committee on Environment which dealt with the proposed By-law.

4.3 Summary

The most recent review of the Residential Upgrading Program did little to assuage the legitimate concerns of owners of residential buildings, and served to further cement the basic assumptions held by the City over the past decade. The review was called for, once again, in response to the concerns being voiced by owners of residential buildings. Public hearings were held at which briefs and presentations were made on the proposed changes to the Program. Though the premises of the City's position were brought into question at the hearings, the City, in its final proposal to the Committee on Environment, did not make any recommendations which reflected the changes desired by the owners concerning the very basic assumptions of the Program, and this failed again to properly adapt the policy behind the Program.

The proposed By-law held three changes from the previous By-law 3518/83. These were;

1: decreased requirements for Division II Buildings,

2: the extension of dates for completion of phases 2 and 3, and

3: the addition of a new set of requirements for high rise buildings.

The current situation, then, is one which sees little change in the Program in terms of the necessary adaptation and subsequent evolution. With the examination of the most recent set of formal confrontation between the City and the

owners of residential buildings it has been shown that, though the City may better appreciate the magnitude of the owners' predicament and even its nature, what must be done to defuse the situation (the adaptation of policy) still eludes them. The City's policy underpinning the Residential Upgrading Program has not been adapted to reflect reality and thus the Program has not evolved. The next chapter will summarize the findings of the examination of the Program and set out some proposals.

Chapter V

FINDINGS AND CONCLUSIONS

The four questions which have been central to this thesis are:

1: What is the nature of an effective local government policy making and implementation process,

2: Why is the process which produced and maintains the Residential Upgrading Program not an effective one,

3: What would be the nature of the Program if the process were effective, and

4: What may happen if the process remains unchanged?

As well, a number of sub-issues and additional questions have arisen in the discussions of the preceding chapters. Some of the more major additional issues have been:

- The economics of ownership
- The types of owners
- Building loss
- Fire safety, cost versus necessity
- Rent controls

This chapter will summarize the findings of the thesis by organizing the material presented into three sections.

The first section will evaluate the process used to produce the policy which underpins the Residential Upgrading Program. The City's point of view will be presented, and

the aspects of it which have caused problems identified. The process which produced the life-safety policy will be analyzed and contrasted to a process which is more effective at producing policies.

The next section will speculate on the future of the Program. A description of what is needed to improve the existing program will be made and scenarios describing possible future consequences of the Program, depending on different situations, will be discussed.

The next section will outline a proposed residential upgrading program based on the needs described in the preceding section, and based as well on an effective policy making process as discussed in the evaluation.

Overall these three sections will synthesize the findings of the thesis and lay the foundation for the conclusions.

5.1 Evaluation Of The Policy Making Process

While the Residential Upgrading Program did develop over time, the changes which were made responded only in a superficial way to the forces at play in the urban environment. They did not reflect the necessary progress which would have taken place in the minds of the administrators of the Program had an effective process been in place.

The ad-hoc nature of the City's response to feedback from the owners of residential buildings reflects the nature of

its ineffective policy making process. This point can be illustrated by quickly reviewing the major changes to the Program and the feedback these received. This is done by breaking the history of the Program into four phases. Each phase represents a major change to the Program.

1: 1974-1975 - The policy makers of the City became aware of a threat from fire to occupants of residential buildings. Upon consultation with members of the bureaucracy, a set of assumptions were adopted and a Program formulated which reflected those assumptions. By-law 1046/75, consisting of 17 guidelines based on building codes for new construction, was adopted. The Program was aimed at <u>all</u> 'apartment buildings', though inspections were done on an 'oldest first' basis. Feedback from owners was unorganized at this time, however its potent nature was obvious.

2: 1977 - A fire in a rooming house awakened the City to the fact that the Program did not include such dwellings. The Program had not made any special allowance for these buildings other than to apply the same 'emergency' measures to them and include them in an expanded definition of buildings affected, and changed the reference from 'apartment buildings' to 'residential occupancies'. No evolution of the City's policy stance was evident. Such policies which dealt with <u>how</u> the

Program could be more effectively implemented were developed, and these did help administrators better understand the basic impact of the Program.

3: 1983 - Eight years of implementation of the Program had brought out much opposition and the first notice of the manifestation of conflict. Apartment loss, one sign that something was wrong, was attributed to the Program. Although the loss of buildings in the 1975-1976 period was an isolated loss, it did represent the problem of the cost of compliance which owners were experiencing. The Apartment Loss Study helped spur on an Administrative Review which was due in light of the growing understanding of how to best implement the Program. A new By-law was proposed and adopted, and the changes made to the Program, both in terms of contents and administration, were substantial. This phase shows a fair amount of development of the Program. This is reflected in the changes made; the introduction of phased implementation, the application of the Program to all residential buildings simultaneously and the definition of Division I and Division II buildings. Some evolution of the City's policy stance can be perceived here. This is reflected in the separation of 'residential occupancies' into Division I and II buildings. This separation shows, to some degree, that

the City's application of their second assumption 'that the requirements outlined in the By-laws are necessary to bring life safety to an acceptable level' has been altered in the case of Division II buildings. The realization that some buildings are different and require somewhat modified requirements represents a small adaptation of the policy. However, the process of policy development was still terribly behind schedule.

4: 1986 - The recent review of the Program occurred due to concerns being voiced by owners. These concerns are now better articulated as the owners have become more organized and have been represented by corporations and organizations which have the time and expertise to put forward strong opposition. The changes which came as a result of the review did very little to advance the development of the Program, and did even less to advance the City's policy making process. Such changes as the addition of a new schedule of requirements aimed directly at high rise buildings, and the extension of the deadlines for compliance, are a further manifestation of the administration's growing knowledge of how to implement life safety measures, as well as an attempt to placate the owners by giving them more time. The change involving Division II buildings does represent an extension of the evolution which occurred

in 1983. The City now realizes that there is quite a difference between rooming houses and apartment buildings, and that the requirements for each should reflect this. This is not, however, applied to all buildings. No recognition was made that buildings of different age, building type, or financial situation should have different sets of requirements. This realization, and a subsequent decision to change the Program would constitute evolution of the policy and a proper step in the policy making process.

In a way, the City's initial decision which produced the Residential Upgrading Program was a policy experiment. By producing a policy which was extreme in the effect it had on owners of residential buildings, the City unconsciously set the question of life safety into a critical public forum. If the City had been prepared to closely monitor this forum a different Program would have emerged. However, the City, after making the initial decision, went about its business, and while it reviewed parts of the Program and did change administrative points, a new decision on the seriousness of the situation or the measures actually necessary to address the situation was not made.

Responsible policy is reflected by a process made up of a number of consecutive decisions, the first of which may be extreme in nature intentionally to serve as a type of policy experiment to determine the proper policy needed. This is

done to produce an immediate reaction. The initial decision would over ride the resilience of the urban system and impose a "massive shock" which would generate dramatic signals of change.[1] The value of this type of policy experimentation is better understood when compared to one where incremental decisions or changes are depended on. The urban system is resilient enough to absorb a number of incremental decisions, even if they are improper. It is only after a series of these decisions accumulate do the signals for change occur. At that point it may be too late to rectify the situation easily. So while the shock to the system is the same from a series of improper decisions and actions as that of a single extreme experimental decision, the latter can be quickly reacted to as the necessity of change is made obvious almost immediately.

The signals for change come in some form of reaction, or feed-back, from some part of the urban environment. The next decision made would be in reaction to this feedback, and would make up for the extremity of the original decision. Further feedback and a number of successive decisions over time would produce a policy which reflects the measures necessary to defuse the original problem.

The City of Winnipeg's decision which originally, and unintentionally, acted as a 'policy experiment' by forcing out an immediate reaction (the reaction of the owners and that of other concerned individuals) was not followed by a

[1] Holling and Goldberg, p.221.

series of decisions which would have resulted in the adaptation and evolution of the policy. Such adaptation does not occur randomly, it is a directed process, a learning process.[2] As Edgar Dunn stated:

> In short, where the learning process is not understood and consciously applied, adaptation to new problem situations that are complex tends to vacillate between the paralysis of inaction and the temptation of solutions visualized, or at least merchandised, as a holistic panacea.[3]

Whether intended or not, a decision which is experimental in nature fills a need in the area of urban policy development. Due to the complex nature of the urban environment, with its sub-systems and interdependent components, the simulation of policy decisions in a laboratory setting becomes virtually impossible. To attempt to predict what effect some decision may have by simulating the environment within which it will operate one must account for every one of a tremendously large number of variables. Even if all measurable variables could be included in the equation, the more qualitative variables (culture, politics, etc.) must be accounted for as well, and these elude the researcher due to their unmeasurable qualities. So without an accurate simulation to direct policy makers in what effect their decisions might have, policy experiments in the real world become a viable alternative. The decision which quickly forces the nature

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[2] Dunn, p.158.

[3] ibid, p.156.

of its effect to be displayed quickly serves to determine whether the approach presented will have a negative or positive impact, and what that impact will be. The decision can then be promptly modified to avoid the negative impacts which that approach would have had. The importance of the consecutive decision process cannot be overstated. Without a series of decisions which modify (adapt) the policy to feedback from the environment, conflict with serious consequences will be the result.

In examining the reaction over time by the City to the feedback it received, two things become obvious; that the City's preconceptions of the life safety situation have persisted and, that the process which would have produced an effective policy and program has not materialized. The two are directly related. Without the willingness and ability to change the perception of a problem, the process necessary to deal with the problem will not even exist. It is, as stated above, a learning process, and in the case of the City of Winnipeg an ability to update perceptions and react to valid feedback would be the equivalent of the ability to learn. The City reacted by changing the By-laws without changing their assumptions or perceptions of the question of life safety. The policy making process now in place is a static, one-shot effort, not the dynamic process necessary.

In chapter three these assumptions were shown to be inappropriate and in need of revision. The City must cancel

the 'red-alert' which has surrounded their thinking for the past decade. The realization that an overly severe attitude has been the cause of much of the conflict between the City and owners would allow the proper changes to be made to the Program, and its evolution would take place.

One point which needs to be made is that the issues surrounding the Program will not go away without some fundamental change to the policy making process. It is not possible for the Program, in its present form, to run through to fruition and not cause the manifestation of the growing need for some policy change or intervention. This manifestation could come in a number of forms. The main forms are, the loss of a number of buildings, as occurred in 1975-1976, due to their owners' financial inability to comply, and/or a chronic shortage of apartment units in the private sector, with a proportionate drain on the public purse due to the need to fill the void with public housing, and/or a large-scale change over of ownership where many buildings are turned over from small-scale owners to large-scale owners, where the latter are better able to ride the current of the Program.

One difference between biological evolution and the evolution of policy at the local level lies with the human nature of the participants in the latter. When a plant or animal adapts to an environmental change it is doing the 'right thing' in that doing anything else could likely lead

to extinction and, for a living thing, that would be 'wrong'. However, in dealing with things of a more human nature the difference between 'right' and 'wrong' becomes blurred by opinions and different interpretations of data. In the case of the Upgrading Program, both the administrators and politicians of the City feel they are 'right' in their position of not adapting in any way toward what the owners perceive as the 'right' direction in terms of life safety in residential buildings.

As we have seen, however, the initial reaction by the City (the initiation of the Program and By-law 1046/75) was if not hasty, at least overzealous. Therefore, the deliberate refusal to adapt toward a more considerate approach to life safety is, in a way, wrong. The City may find that to move to the position of the owners is to move too far, and that an 'adaptation' toward this position, in reaction to the arguments and data presented would be the 'right' thing.

5.2 Choices For The Future

After describing and discussing the issues and forces related to the Residential Upgrading Program, and examining the need for a change in the City's policy making process, the question arises; "what will be the future of the Program?" This question will be dealt with in this section.

A number of futures may be envisaged for the Program. Possible scenarios regarding the policy making process of the City, the City's ideology as it is related to the process, and the policy itself can be set out.

Before proceeding to the scenarios, a description of what is wrong with the policy underpinning the Program, or rather what is needed to make it function better, is necessary. It is important to realize that these are not physical needs, or the need for changes in the administrative structure. They are actually shifts in the attitudes and the way those who are in charge of the administration of the Program think. As stated in the previous section, a dynamic policy making process is preferable to one which is static. The City must react to the environment in which it operates, not try to overpower it. As time goes by the Residential Upgrading Program will continue to exert an increasing amount of pressure on the owners of residential buildings. The following scenarios will describe a few possible results of this continued pressure.

The first scenario is based on the assumption that some very major, and very positive, deviations from the 'traditional' local government policy making and problem solving methods will take place. In terms of the Upgrading Program, this would mean that the process by which the policy behind the Program is produces and/or maintained would be altered or righted.

This would, of course, be preceded by a change in attitude in the local government. Specifically, a change in how the City views the problem of fire safety and the solution to this problem. The City would regularly reassess the Program and the effect it is having. If it causes problems in the urban environment the Program, and the policy(s) upon which it is based, would be altered to eliminate or lessen the problems while still realizing the original objectives. Even these objectives can be modified if it is found that they are based on incorrect or outmoded premises.

In this scenario, the Program and the underlying policy would be altered. The perception of an extremely hazardous situation facing tenants of multi-unit residential buildings would be matured to have all the policy to be rooted more firmly in reality. With this accomplished, the requirements of the Program would be modified to reflect the actual danger to tenants, and to lessen it while being sensitive to the position of the owners. In this scenario the process which is used to produce the policy behind the Program becomes dynamic, and reacts to the environment the Program must function in. This would require a substantial shift in the way the City currently perceives the issue of life safety, and the danger facing occupants of residential buildings.

The second scenario would see no deviation from the current treatment given to policy making. The 'process' used by the City would remain static. That is, after a decision is made and a policy established the reasoning behind the policy is internalized within the government and becomes the permanent stand point from which any question relating to the policy is dealt with.

In this scenario all of the requirements of the Program would stand unchanged. The measures would continue to reflect the codes for new construction and the 'manifestations' described in the previous section would occur and continue until some equilibrium was reached.

It was pointed out earlier that the negative impacts of the Program are the manifestations of the need for the policy to be adapted to the environment it is being implemented in. The two major manifestations, building loss and the change over of ownership, will likely occur to some degree as the Program is implemented. It is difficult to gauge to what degree either of these will occur. Even if the rate at which these impacts will manifest themselves cannot be determined, a description of them can still be made.

As in the 1975 and 1976 period, building loss could again be attributed to the Residential Upgrading Program. The earlier phase of loss was brought on by a number of coincidental factors coming to bear on residential

buildings. Another phase of loss will likely occur whenever the third and most stringent phase of the current By-law comes due. The pushing back of the timing of the phases has temporarily postponed this. If no appreciable change in policy occurs before the last phase is due, or no subsidizing policy is introduced at another level of government, many buildings will be lost when they become economicly impossible to upgrade.

The change over of ownership will be prompted by much the same forces as building loss. The difference being that buildings turned over (sold to larger scale owners) will be those which remain viable even after upgrading is considered but are still not feasible operations for small-scale owners. When small scale owners are faced with the decision to either sell their buildings cheap or go into debt to upgrade them, many will sell.

The near future may see a combination of these impacts, but to what degree either of them will occur only time will tell.

The third scenario is really a speculative look at policy reactions other than the one underpinning the Program, which could negate some of the negative impacts of the Program can occur.

The first to be considered will be a policy of the City's which allows for some type of financial help for the owners of residential buildings, either in a direct loan, a grant,

or a tax break.[4] However, this is not likely as it would be unlike the City to take such a precedent-setting step away from their traditional area of responsiblity and toward what has been the territory of the Provincial and Federal Governments.

The more likely occurance would see the Provincial Government introduce the required policy. This may expand the present role of the Rent Regulations in the allowance for the cost of upgrading to be retrieved over a period of years. The new policy would allow all costs, upon completion of the work and accompanied by the proper supporting paper work, to be retrieved through rents in no more than ten years. Even in the first scenario the Rent Regulations would play a large role considering the existing allowances. Again, it is important to realize that this retrieval of costs is only applicable to owners of buildings under rent controls. Those owners of buildings which are under five years old or have rents above a certain level, are not qualified for retrieval of costs through the controls.[5]

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[4] The proposals for a new By-law replacing 3518/83 do include one financial allowance, though it is far from being sufficient. It is the proposal to assess permit fees for the work necessary in upgrading a building at 'a nominal fee of $1.00.' Ad-Hoc Committee to review the Existing Residential Improvements By-law 3518/83. Report of the Ad-Hoc Committee to Review the Existing Residential Improvements By-law 3518/83, prepared by Councillors C. Lorenc, D. Brown, and G.Savoie, October 23, 1985. p.17.

[5] Under Regulation 16 of the Residential Rent Regulations, the cost of smoke alarms, central alarm systems, and 'such other items and the portion of costs thereof as may be

Another possibility may be the Provincial Government introducing a program which would give financial assistance to building owners who cannot afford to retain their buildings because of the cost of upgrading. This might come in the form of a direct subsidy, partially forgivable low interest loans, or the writing down of interest on and/or guaranteeing loans from financial institutions. Again, in this case Rent Controls would still play an important part of any package offered by the Provincial Government.

These scenarios serve to describe what may happen given certain situations. The next section will describe a proposed upgrading program. This would be a program to deal with the actual life safety threat from fire facing occupants of multi-unit residential buildings. It is written as a program based on a policy produced by an effective policy making process.

5.3 A Proposed Upgrading Program

In this proposed program the very technical aspects inherent in this type of program will not be dealt with as they are beyond the scope of this study, and would, in any event, follow the basic structure of the proposal.

The two assumptions upon which this proposed program is based are:

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deemed to be a capital expense by a rent regulation officer or a panel' may be retrieved. See also chapter 3 of this thesis under **Rent Controls.**

1: that some threat to life safety does exist in Winnipeg's residential buildings, and

2: that a set of requirements which reflect this threat and respond to it are needed.

These are the assumptions which a 'better evolved' Civic perception would reflect. They deal with the question of life safety in a realistic and less fervent way.

This section will be divided in two; the contents of the proposed By-law, and the administration.

- **Administration**

The way the measures of an Upgrading Program are administered is just as, if not more, important than the nature of the requirements of each measure. The failing of the current program is in its almost irresponsible administration of the measures. It is irresponsible in that it treats all buildings, with the exception of Division II buildings as being equal, while this is definitely not the case.

The Upgrading Program should divide residential buildings two ways for the purpose of administration:

1: by age and type, and

2: by financial capabilities.

By doing this the measures would be applied in a more meaningful manner. Each building would be dealt with independently and its distinct problems given the proper treatment while not having to have it comply to a number of

requirements unwarranted in its situation. Though under the current By-law the task of administering the Program in such a manner would be a herculean task, with the revised Program proposed here the administration would become less arduous.

By dividing residential buildings by age and type two main groups would emerge; older wood-frame buildings and newer structures which reflect newer construction techniques and materials. It would be found that the measures would have to be applied differently to the two groups. The latter group, newer buildings, would probably comply with many of the requirements of the By-law and may need only minor changes to an already existing system to ensure compliance. The former group, older buildings, will undoubtablly need substantial upgrading to meet the requirements of the By-law, in that no warning system or proper egress alternatives may exist.[6]

To complement this division by age and type, a further division by financial characteristics is also necessary. They produce two major groups of buildings. Those which would not be threatened by the financial burden caused by the Program and those which would be threatened. This would depend both on the nature of the building's profit margin as well as the financial situation of the owner.

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[6] In applying the measures to this group, rooming houses would be given special consideration.

By combining these two methods of categorization it is likely three major groups of buildings will emerge:

1: newer buildings which will not be threatened financially by the Program,

2: older buildings which will not be threatened financially by the Program, and

3: older buildings which will be threatened by the Program.

These three groups would form a logical base for the administration of the Program. By labelling them 'Type I", 'Type II", and "Type III' buildings, and structuring the requirements to reflect the situation each type of building represents, the administrators of the Program would be reacting more responsibly to the actual situation found in the urban environment.

Within the requirements for each type, sensitivity for the building's financial situation in relation to the amount and type of work which must be done is a necessity. Treating each building individually within the applicable set of guidelines (Type I, II, or III) would make for a more realistic and effective Program.

- **Contents**

The basic measures of all of the By-laws adopted under the Upgrading Program will be retained. These are; warning, egress,compartmentation and electrical. However, the requirements which must be complied with under each measure will not be as extreme as the existing Program's.

Fire Alarm System

The requirement of smoke alarms will remain the same. The value of these inexpensive warning devices is uncontested and they should remain as an integral part of the early warning system. Some type of integrated system which could warn the residents of a building of the threat of fire must be included. The system described in the current By-law could be retained.

Egress

The requirements under this measure should be made much simpler than what is found in the current By-law. A simple set of requirements which provides for two acceptable means of egress from each suit, and unhindered egress from the building would be sufficient. The current By-law has requirements for types of finishes used for walls, ceilings, doors, etc.. Assuming the early warning system is in place and operating, there is no need for a wall to be able to repel fire for 3/4 of an hour as it should only take moments for a building to be evacuated. It is an obvious requirement, though, that no finish material be of an extremely flammable nature.

A requirement which deals with the storage facilities of a building is also necessary. Flamable materials and/or materials which are prone to spontaneous combustion should not be stored improperly. No means of egress should be adjacent to a storage facility.

Compartmentation

The implementation of this measure should depend on the buildings need for compartmentation. Because every building is different some will need adequate separations between areas of the building to be installed while others will already have them. Newer buildings, because of the use of concrete and other more modern materials and methods in their construction, are less likely to need compartmentation than older buildings.

Electrical

The requirements of the proposed By-law are not extreme, and should be retained. They basically call for the existence of a sufficient number of proper electrical outlets so that circuits within a suit would not become overloaded.

5.4 Summary

The Residential Upgrading Program was conceived and baptized during a time of political fervor over the issue of life safety in the event of a fire. In terms of the City of Winnipeg's Residential Upgrading Program, the conflict which has persisted between the City and the urban environment reflects the ineffectiveness of the City's decision and policy making process to produce a policy which properly interacts with that environment. The City failed to react

to the signals sent out by the owners of residential buildings after the decision which produced the Program was made in 1975, and the City has continued to improperly react through the following years.

The record of Winnipeg's Residential Upgrading Program over the past decade has illustrated the complexity of the relationship between a civic policy decision and the urban environment. During this time the Program developed and became the cause for much concern for owners of residential buildings. The impact which the Upgrading Program has had on the area of housing generally, and the owners of residential buildings specifically, has been dealt with in some detail in earlier chapters.

The facts indicate that the underpinning perceptions and assumptions of the Program have not changed and, as these have been shown to be unrealistic, the consequences of such a lack of evolution of policy can be quite serious.

With the investigation of the Residential Upgrading Program comes the realization that the City of Winnipeg's policy making process is not an effective one. This has been established through the description and discussion of the history of the Program and its impacts. An effective policy making process is one where the policy is continually updated in relation to the reactions of the urban environment. The policy underpinning the Residential Upgrading Program has remained static since its adoption in

1975. The Program has undergone change, however this change represents only superficial reactions by the City. No matter how sincere the City's intentions are in the protection of citizens from fire nor how sincere their wish to make the Program's impacts as painless as possible, the attitude and ideology with which they approach the issues surrounding the Program do not allow a proper reaction to the situation.

The attitude which the City has toward the Program is formulated partly in certain assumptions. The assumptions were hastily conceived and, though reflecting all good intentions, resulted in the implementation of measures which have turned out to be overzealous and unnecessary. The perception of the life safety question has been kept incubated in the bureaucracy and is retrieved by the policy makers whenever the Program must be reviewed or otherwise dealt with.

5.5 Conclusions

The conclusions presented here reflect the questions first set out in the introduction. These deal generally with the effectiveness of local government policy making processes, and specifically with the policy making process underpinning the City of Winnipeg's Residential Upgrading Program. The questions have been answered in the body of this thesis, and these answers form the larger part of the conclusions.

Additional conclusions have been drawn based on the insight gained in the writing of this thesis.

1) The nature of an effective local government policy making process is one which adapts to the problem or situation at which the policy is directed. This is done through a series of decisions reflected in changes in policy. The decision making process is a learning process where those who generate policy (politicians and bureaucrats alike) grow more knowledgeable about the problem, as well as their policy's effect on it, as time goes by.

2) The policy making process behind the Residential Upgrading Program is not effective because it is static. It may be said that it is not a process because it currently has no forward momentum, the policy is not being altered to match the situation. However, there is potential for the process to be put on track and begin adapting the life safety policy of the City to the situation reflected in the urban environment. This will likely occur over some time, if at all, with the changing of ideologies and certain assumptions at both the City Council and the bureaucratic level.

3) The nature of the Program, if it were to be based on an effective policy making process, would be more realistic in its demands on owners of residential buildings. It would not apply such overzealous measures, as it would reflect the actual danger of fire in these buildings.

4) If the policy making process behind the Residential Upgrading Program remains unchanged, static, the effects may be quite serious. If the process does not change immediately there will be some manifestation of the problems owners are having with the Program. Some building loss will occur as certain buildings become completely unviable financially. No owner would be able to, or would risk trying to, operate such a building under these circumstances. There will also be buildings which will be viable under certain owners but not others. These buildings will gravitate to the 'large-scale' owners, and the 'small-scale' owners selling these buildings will likely not retrieve much from the sale.

If this particular process remains static for the full term of the Program the effects described above will reoccur on a larger scale. The true effects of the Program will be felt. These are difficult to determine due to the number of independent variables which may or may not play a part. If neither the City nor the Provincial Government steps in with some policy which fills the financial vacuum the Program will create for many owners, the situation would be left to the market forces. If certain owners do not become aware of, or for some other reason do not respond to, the possibility of retrieval of costs through Rent Controls the manifestations will be even more serious. It becomes obvious that to avert the dire consequences of the City's

decision in 1975 to take this stand on life safety measures some initiative must be shown somewhere. This initiative could be at the local level with a change in the policy making process, at the Provincial level with some stop-gap measure, or even at the level of the owners with continued pressure on the City to change the Program and with ways to comply without suffering financial loss.

5) In relatively minor issues/policies the bureaucracy retains the policy and regurgitates it to Council whenever necessary. Unlike other larger issues which are on the minds of Councillors almost daily, this type only surfaces from time to time. Therefore, the bureaucrats must shoulder much of the responsibility for the success or failure of such a policy.

6) The Program is just an example of one policy and one policy making process. The problem with policy making processes in the local government are the same, to greater or lesser degrees, for all policies. Ongoing, incremental, innovative decision making is a necessity in the running of a modern urban centre.

This thesis has dealt with only one example of local government policy and policy making process. This subject is quite a large and ponderous one, though no less important because of this, and it must be the decision makers in local government and not only the academics and students of the city, who must realize this importance and act to create more effective and responsive policy making in the future.

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