Minute No. 612
Report - Standing Policy Committee on Property and Development - July 5, 2005

Item No. 23 **Sale of City-owned Lands adjoining 468 St. Anne's Road - Sobering Investments Inc.**
File FI-2.4(35)

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That the lands identified as "Subject City Property" on Misc. Plan No. 9924/3 be declared surplus to the City's requirements.

2. That the sale of the lands identified as "Subject City Property" on Misc. Plan No. 9924/3 be approved in favour of Sobering Investments Inc. for the purchase price of $35,000.00 in accordance with the terms and conditions of the Offer to Purchase contained in the report of the Director of Planning, Property and Development dated June 20, 2005.

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

Report - Standing Policy Committee on Property and Development - July 5, 2005

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,
That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 20, 2005, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On July 5, 2005, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submitted the matter to the Executive Policy Committee and Council.

Re: **Proposed Sale of City-owned Lands adjoining 468 St. Anne's Road - Sobering Investments Inc.**
Riel Community
St. Vital Ward

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

Original report signed by: **Director of Planning, Property and Development**

Report date: June 20, 2005

Recommendation(s):

That subject to Council declaring the lands identified as "Subject City Property" on Misc. Plan No. 9924/3, attached, surplus to the City's requirements:

1. That the proposed sale of the lands identified as "Subject City Property" on Misc. Plan No. 9924/3, attached, in favour of Sobering Investments Inc., for the purchase price of $35,000.00, be approved in accordance with the terms and conditions of the attached Offer to Purchase.
2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REPORT SUMMARY

Key Issues:

- On June 18, 2001, the Riel Community Committee recommended that the lands shown on Misc. Plan No. 9924/3 as "Subject City Property" be declared surplus and sold to the adjacent property owner, Sobering Investments Inc.
- The Planning, Property and Development Department is in receipt of an Offer to Purchase from Sobering Investments Inc.
- The Planning, Property and Development Department is recommending the terms and conditions of sale be approved.

Implications of the Recommendation(s):

General implications:

X	**None**
	For the organization overall and/or for other departments
	For the community and/or organizations external to the City of Winnipeg
	Involves a multi-year contract

Comment(s):

-

Policy implications:

X	**No**
	Yes

Comment(s):

-

Environmental implications:

X	**No**
	Yes

Comment(s):

- The City's standard terms and conditions of sale include provisions to protect the City's interests in the event that environmental contamination is discovered.

Human resources implications:

X	**No**
	Yes

Comment(s):

-

Financial implications:

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

Comment(s):

-

REASON FOR THE REPORT:

The Planning, Property and Development Department is in receipt of an Offer to Purchase City-owned lands adjoining 468 St. Anne's Road. Approval by the Standing Policy Committee on Property and Development is required for the proposed terms and conditions of sale as set out in the attached Offer to Purchase.

HISTORY:

Sobering Investments Inc. (Sobering) owns the adjacent lands to the north of the subject City-owned property as shown on Misc. Plan No. 9924/3.

On January 24, 2000, Sobering submitted a letter to the Department expressing interest in acquiring the City lands identified as "Subject City Property" on the said Misc. Plan. Sobering intends to consolidate the City property with its adjacent land to the north for the purpose of using the land as a parking lot to serve its business operation.

The sales matter was circulated to all City Departments and Public Utilities with no objections being received.

On June 18, 2001, the Riel Community Committee recommended that the subject City-owned property be declared surplus and sold to the adjacent owner, Sobering Investments Inc.

DISCUSSION:

Since making the initial expression of interest, Sobering Investments Inc. has for various reasons halted the negotiations with the Department on purchase of the subject City property. Sobering has now agreed to the proposed terms and conditions of sale.

Details of the Offer to Purchase are as follows:

Location:	St. Anne's Road, wet side, south of Hindley Avenue
Size:	±381.1m² (±4,102.7 sq. ft.)
Price Offered:	$35,000.00
Purchaser:	Sobering Investments Inc.

Sobering is not interested in proceeding at this time with the lease of additional City-owned lands as identified on the said Misc. Plan. This additional land is being reserved by the City for a future transportation right-of-way.

The Planning, Property and Development Department recommends that the sale to Sobering Investments Inc. be approved for the following reasons:

a) The property would be on the tax roll at the closing of the sale.

b) The purchaser will be responsible for all costs relating to the survey and consolidation of the property with the Purchaser's adjacent property (Lots 17, 18 and 19, Plan 2015).

c) The proposed sale price is supported by an internal appraisal report.

d) The sale will eliminate the liability for the City associated with holding this parcel of vacant land.

Financial Impact Statement

Date: June 16, 2005

Project Name:

Proposed Sale of City-owned Lands adjoining 468 St. Anne's Road - Sobering Investments Inc.

First Year of Program 2005

	2005	2006	2007	2008	2009
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
External	-	-	-	-	-
Grants (Identify)	-	-	-	-	-
Reserves, Equity, Surplus, Other	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	35,225	675	675	675	675
Net Cost/(Benefit)	$ (35,225)	$ (675)	$ (675)	$ (675)	$ (675)
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ (35,225)	$ (675)	$ (675)	$ (675)	$ (675)

Additional Comments:

Proceeds of sale equal to $35,000 will be credited to the Land Operating Reserve. Incremental municipal property tax revenue of $225 in 2005 (assumes parcels added to the tax roll effective Sept. 1/05) and annual tax revenues of $675 from 2006 onward will be credited to the General Revenue Fund. Note that the estimate of taxation revenue is based on the assessed value equalling the purchase price and the portioning and mill rates remaining unchanged at 65% and 0.029686 respectively.

"Original signed by"
Mike McGinn, CA
Manager of Finance

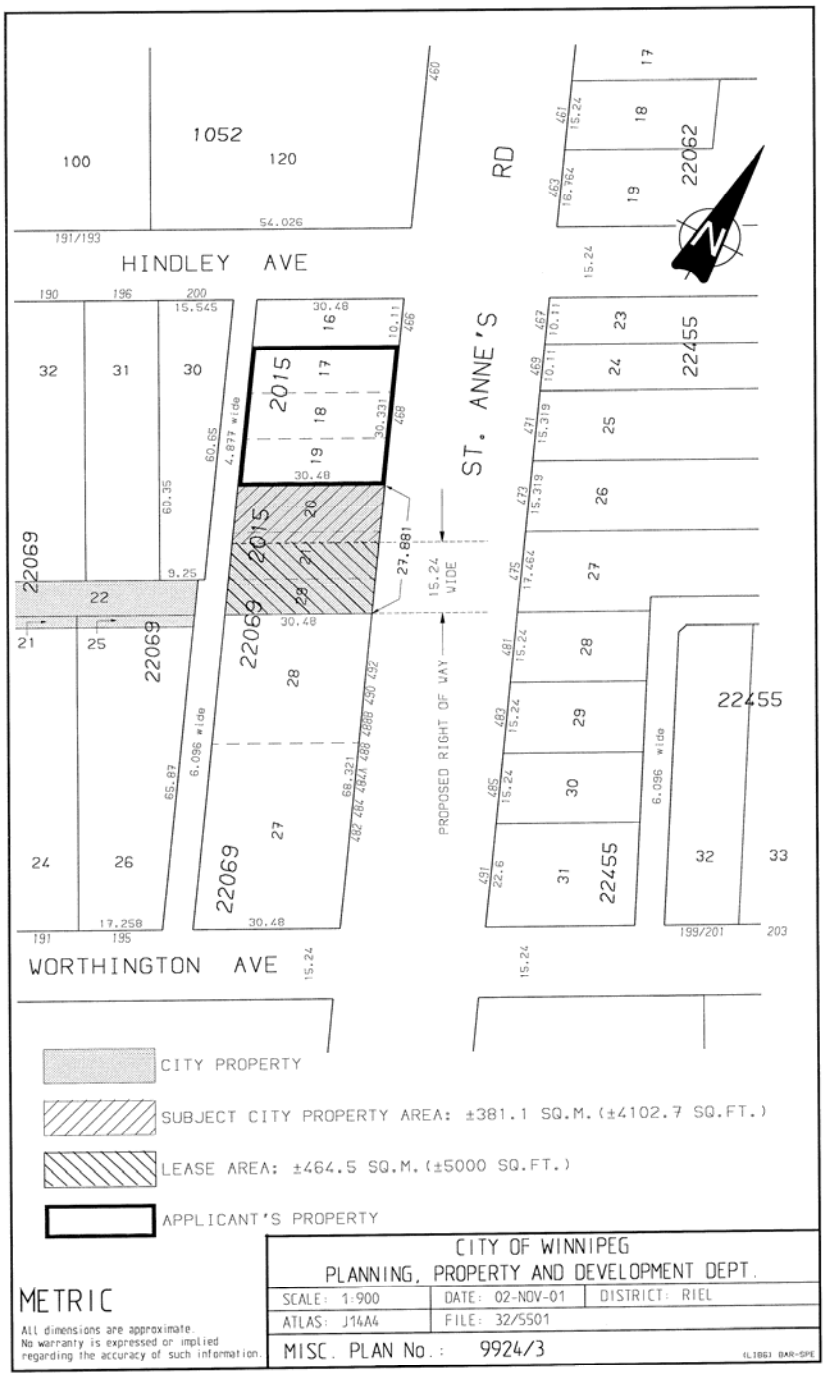
IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

No consultation was required in preparing this report.

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate
Prepared by: Barry Lucyk
PPD File #: 32/5501

Document name: o:\reports directive\real estate\sales\(bl)adj468stannesrd.doc


HINDLEY AVE
WORTHINGTON AVE
ST. ANNE'S RD
PROPOSED RIGHT OF WAY
15.24 WIDE
CITY PROPERTY
SUBJECT CITY PROPERTY AREA: ±381.1 SQ.M.(±4102.7 SQ.FT.)
LEASE AREA: ±464.5 SQ.M.(±5000 SQ.FT.)
APPLICANT'S PROPERTY
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
METRIC
All dimensions are approximate.
No warranty is expressed or implied regarding the accuracy of such information.
SCALE: 1:900
DATE: 02-NOV-01
DISTRICT: RIEL
ATLAS: J14A4
FILE: 32/5501
MISC. PLAN No.: 9924/3

File No: 32/5501

INDUSTRIAL/COMMERCIAL

OFFER TO PURCHASE

The Undersigned (hereinafter called "the Purchaser") hereby offers to purchase from The City of Winnipeg (the "City") the following lands: -

Lot 20 and Part of Lot 21, Plan 2015 WLTO identified as "Subject City Property" on Misc. Plan No. 9924/3, attached hereto

(hereinafter called the "Lands")

for the sum of $35,000.00 cash, and upon the following terms and conditions:

1. (1) Attached to this Offer is the Purchaser's certified cheque payable to "The City of Winnipeg" in the amount of $5,250.00, and represents an amount equal to fifteen (15%) of the purchase price which the Purchaser tenders by way of deposit, and which sum shall be applied to the purchase price if the sale is approved by the City's Standing Policy Committee on Property and Development and/or City Council (in the event that Council approval is required), herein after called the "Date of Approval". The Purchaser agrees to pay the balance of the purchase price, interest and adjustments on or before the date of closing.

(2) If the Purchaser fails to pay the balance of the purchase monies, interest and adjustments on or before the date of closing as in sub-clause (1) above provided, the City may, at its option, cancel the sale and retain the deposit as liquidated damages.

2. (1) The date of closing, possession and adjustments shall be one hundred and twenty (120) days following the Date of Approval or earlier as mutually agreed to.

(2) The Purchaser agrees to pay as an adjustment an amount equal to the total of such taxes, rates and charges which would have been levied or charged against the Lands as though the Lands had been entered on the assessment rolls of the City as privately owned and subject to taxation, which adjustment shall be calculated from the date of adjustments to and including the last day of the current taxation year.

(3) The Purchaser shall pay interest in lawful money of Canada on all monies remaining outstanding and payable to the City as of the date of adjustments, which interest shall be calculated at the rate per annum equivalent to the prime lending rate in force by the City's Banker at the date of adjustments plus one (1%) percent, computed from the date of adjustments to and including the date all such monies and interest as aforesaid have been fully paid to the City.

3. Goods and Services Tax

(1) The Purchaser agrees to pay to the City all Goods and Services Tax applicable on the sale of the Lands or, if the Purchaser is a registrant under the Goods and Services legislation, the Purchaser shall advise the City in writing of its registration number. The Goods and Services Tax is to be paid, or the registration number provided, to the City on or before the date of closing or the date the balance of monies is paid to the City, whichever is the earlier.

(2) If the Purchaser fails to pay the Goods and Services Tax or fails to provide its registration number as prescribed in sub-clause (1) of this Clause, the Purchaser agrees that all of the Purchaser's rights and interests in respect of the Lands shall, at the City's sole discretion, be fully ended without notice or any formality and all monies paid to the City by the Purchaser shall be retained by the City free from every claim.

4. The Purchaser will obtain possession of the Lands at the Purchaser's own expense.

5. The Purchaser will accept Title to the Lands subject to all exceptions, reservations and encumbrances expressed or implied in the City's Title.

6. The sale of the Lands to the Purchaser shall be subject to the provisions of the By-laws of the City of Winnipeg and all amendments thereto.

7. The Purchaser agrees that the City may register and maintain a caveat against the Lands to ensure the performance of the covenants on the part of the Purchaser herein set forth, and the Purchaser agrees to grant and does hereby grant to the City an interest in the Lands according to the tenor of this Offer.

8. Upon approval of the sale by the City, the Purchaser agrees to make application to the City Assessor (in form set out in Exhibit "A" attached) to have the Purchaser's name added to the Assessment Roll of the City as the Real Owner in respect of the Lands.

9. The Purchaser agrees that in the event the Purchaser, at its sole cost, conducts or causes to be conducted an Environmental Site Assessment and/or soil testing of the Lands, it shall:

(1) ensure that all work done in connection with such Environmental Site Assessment and/or soil testing is completed no later than ninety (90) days from the Date of Approval, and

(2) maintain the Lands in safe condition at all times during the conduct of any work done in pursuance of this Clause 9; and

(3) restore the Lands to the same condition as prior to its entering in or upon same in pursuance of this Clause 9; and

(4) indemnify and save harmless the City from and against all damages and claims arising out of or in any way attributable to the conduct of any such Environmental Site Assessment and/or soil testing; and

(5) provide copies of any such Environmental Site Assessment and/or Report concerning soil testing of the said Lands to the City for its own use, at no cost to the City no later than ninety (90) days from the Date of Approval.

AND in the event it is determined as a result of said Environmental Site Assessment and/or soil testing, that contamination levels exceed Provincial Environmental Standards for the intended use of the Lands and documentation to that effect is produced to the City within ninety (90) days following the Date of Approval, but in any event, prior to closing, the City, at its sole option, shall be entitled to:

take remedial action to bring the contamination levels to within the Provincial Environmental Standards;

OR

cancel the sale and return all monies paid in respect of the proposed sale by the Purchaser to that date, PROVIDED that the Applicant shall have first satisfied all conditions of this Clause 9.

AND FURTHER if the City has not been advised of any non-compliance of the Lands to Provincial Environmental standards within ninety (90) days from the Date of Approval, the Purchaser agrees to complete its purchase as herein contemplated and to indemnify the City against any and all claims arising from or in any way connected with the existence of contaminants of any kind at the Lands.

10. (1) The Purchaser acknowledges that the City is not providing any warranty as to the environmental condition of the Lands.

(2) The Purchaser agrees that it will rely solely upon its own investigations in determining the degree of contamination, if any, existing on and within the Lands and the extent of contamination, if any.

(3) The Purchaser shall indemnify and save harmless the City from and against all claims, costs and damages arising from or in any way connected with the existence of contaminants of any kind in or on the Lands.

(4) It is understood and agreed that the terms, conditions and covenants contained in this Clause 10 shall not merge but shall survive closing.

11. The Purchaser acknowledges and agrees that notwithstanding any other terms, conditions or provisions in this agreement that:

(1) The City has given no representations or warranties with respect to the Lands or with respect to the value thereof or with respect to the Purchaser's intended uses or development or redevelopment thereof or with respect to the environmental condition of the Lands;

(2) The Purchaser has inspected or investigated the Lands, the title thereto, the permitted encumbrances, any tenancies and all other matters material to the Purchase and the proposed use of the lands and that it is relying solely upon its own independent inquiries and investigations and the advice of its own consultants and there are no representations, warranties, guarantees, conditions, collateral agreements, covenants and agreements except those expressly set forth herein;

(3) The Purchaser agrees that it is purchasing the Lands on an "as is", "where is" basis, and is purchasing the Lands based entirely on its own examinations without any representation by or on behalf of the City or any agent of the City. The Purchaser acknowledges that it has relied entirely upon its own inspection and investigation with respect to quantity, quality and value of the Lands;

(4) Any information supplied to the Purchaser by the City or its agents or representatives is and was supplied without any representation or warranty, and that the responsibility for verification of any such information shall be the responsibility of the Purchaser; and

(5) The Lands are deemed to be taken by the Purchaser at the Purchaser's own risk with all faults and imperfections whatsoever. The Purchaser agrees with the City that the application of "Buyer Beware" shall apply to the offer in the strictest meaning.

12. (1) The Purchaser agrees that the sale of the Lands shall be subject to any easement which may be required by a public utility, including, but not limited to the Manitoba Hydro, MTS Allstream Inc., Centra Gas Manitoba Inc., or The City of Winnipeg, for the maintenance of existing and future facilities together with the right to enter upon the Lands at any time, with or without equipment for said purposes and subject to the owner covenanting not to erect or cause to be erected upon the easement area any building or structure without the prior written consent of the public utility or The City of Winnipeg requiring such easement.

(2) The Purchaser to enter into agreements satisfactory to the said utilities or The City of Winnipeg.

(3) The Purchaser acknowledges that the City may grant the easements before the Transfer of Land issues.

13. In consideration of the sale of the Lands by the City to the Purchaser, the Purchaser covenants and agrees as follows:

(1) The Purchaser shall at the Purchaser's sole cost, effort and expense, do all things as are necessary, including but not limited to causing to be prepared, a Plan of Survey, suitable for registration at Winnipeg Land Titles Office, together with such documentation as may be required to ensure that the Lands to be conveyed by the City and the Purchaser's adjoining property legally desreibed as Lots 17, 18 and 19, Plan 2015 in the Winnipeg Land Titles Office (hereinfafter called the "Adjoining Lands"), are consolidated so as to constitute a single and indivisible parcel. This agreement shall run with the Lands and the Purchaser's adjoining property and shall bind the Purchaser, its successors and assigns and its successors in title.

(2) The Purchaser does hereby acknowledge that in complying with this obligation, the Purchaser may be required to arrange for the discharge and re-registration of existing encumbrances against title(s) to the Adjoining Lands.

Offer to Purchase – Sobering Investments Inc.

(3) The Purchaser to pay the applicable Land Titles Office registration fees and Land Transfer Tax in respect thereto.

14. No commission is payable by the City on the sale of the Lands.

15. Time shall be of the essence of this Offer.

16. The Purchaser will not file any caveat or other encumbrance against the Lands before the transfer of the Lands to the Purchaser.

17. The word "Purchaser" shall have a plural meaning in the event that more than one party is making this offer, and the masculine shall mean the feminine or neuter as the case may be.

18. The Purchaser acknowledges and agrees that sale of the Lands by the City is subject to the approval of City Council or its delegated authority.

19. The Purchaser is hereby advised that soil conditions in Winnipeg are of the glacial till variety which are composed of Lacustrine Clays with Silt Intrusions. The Purchaser shall be responsible for any increased costs of development due to this random stratification.

20. If the Purchaser does not enter into a lease with the City of Winnipeg to lease the City land shown as "Lease Area: +/- 464.5 sq. m." on Misc. Plan No. 9924/3 attached, prior to November 1, 2005, then the Purchaser shall be required to construct a fence along the length of the southerly limit of the Lands, so that the two properties are separated. The construction of the fence shall be in accordance with development standards set out by the City of Winnipeg and completed within a timely manner.

21. If the Purchaser does enter into a lease with the City of Winnipeg to lease the City land shown as "Lease Area: +/- 464.5 sq. m." on Misc. Plan No. 9924/3 attached (and as set out in clause 20 herein) prior to November 1, 2005, then at the expiry or termination date of the Lease, the Purchaser agrees to install a fence along the length of the southerly limit of the Lands, so that the two properties are separated. The construction of the fence shall be in accordance with development standards set out by the City of Winnipeg and shall be completed by the Purchaser within a timely manner.

The full, true and correct name of the Purchaser is as follows: -

_____

Name (Please Print) Address

Purchaser's Registration No. (G.S.T.)_____

IN WITNESS WHEREOF the Purchaser has signed this document in

_____, _____, this _____ day of _____2005

_____ _____

Witness Authorized Signature

_____

Name and Title of Authorized Signature (Please print)

Offer to Purchase – Sobering Investments Inc.

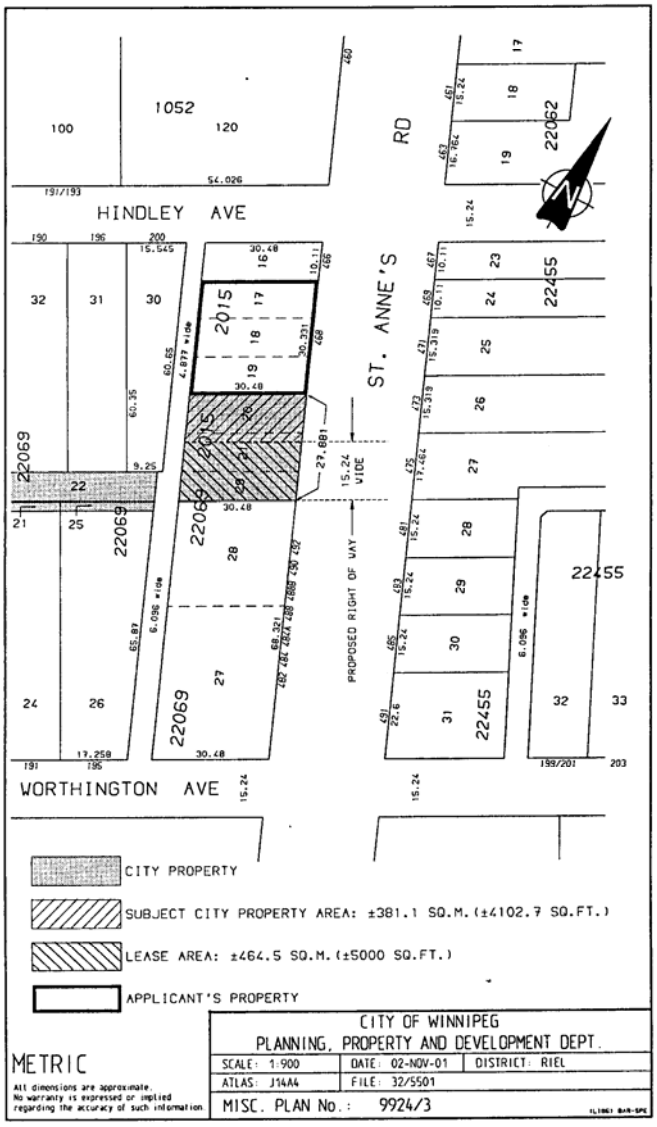


EXHIBIT "A"

Real Owner Application

To the City Assessor

(Name of Municipality) Roll No. _____

1. I/We _____
(Print Full Name)

request that my/our name(s) appear in the Assessment Roll of the City of Winnipeg in respect to the following property, pursuant to Section 12(1) of "The Municipal Assessment Act", Cap. M 226 S.M..

2. Description of Properties: (Give description of all property in respect of which you wish your name to appear).

Part of Lot or Section	Lot or Section	Block or Township	Plan or Range	Interest in Property

3. Mailing Address _____
4. Place of Residence _____
5. Name and Address of Registered Owner _____
(Print)

_____
(Print)

6. Description of building on property:

Dwellings _____

Other Buildings _____

7. Date of Purchase _____ 8. Purchase Price _____

Date: _____ 20 ___ _____
(Signature of Applicant)

Office of the City Assessor
The City of Winnipeg _____
(Signature of Registered Owner)