Minute No. 684
Report - Standing Policy Committee on Property and Development - September 12, 2005

Item No. 15 **Sale - Exchange - portion of Fairfield Avenue and City-owned Property for land owned by Henry Schmidt and Laurence Sielkie on Shore Street**
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 sale and exchange of lands between the City, Henry Schmidt and Laurence Sielkie be approved as follows:

   A. Henry Schmidt and Laurence Sieklie to receive title to Parcels A and B, shown as "Subject City Property" on Misc. Plan No. 12557, subject to Council's enactment of the necessary Closing By-law of Fairfield Avenue as shown on Misc. Plan No. 12431/1.

   B. The City to receive title to Parcels C and D shown as "Applicant's Property" on Misc. Plan No. 12557, all in accordance with the terms and conditions of the Offer to Purchase dated June 15, 2005, and subject to such additional terms and conditions that the Director of Planning, Property and Development and the City Solicitor/Manager of Legal Services consider necessary to protect the interest of the City.

2. 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 - September 12, 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 September 21, 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 September 12, 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 and Exchange of a portion of Fairfield Avenue and City-owned Property for Land Owned by Henry Schmidt and Laurence Sielkie on Shore Street**
Riel Community
St. Norbert Ward

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

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

Report date: August 29, 2005

Recommendation(s):

1. That the proposed sale and exchange of lands between the City, Henry Schmidt and Laurence Sielkie be approved as follows:

    a) Henry Schmidt and Laurence Sieklie to receive title to Parcels A and B shown as "Subject City Property" on the attached Misc. Plan No. 12557, subject to Council's enactment of the necessary Closing By-Law of Fairfield Avenue as shown on the attached Misc. Plan No. 12431/1, and

    b) The City to receive title to Parcels C and D shown as "Applicant's Property" on Misc. Plan No. 12557, all in accordance with the terms and conditions of the attached Offer to Purchase dated June 15, 2005, and subject to such additional terms and conditions that the Director of the Planning, Property and Development Department and the City Solicitor/Manager of Legal Services consider necessary to protect the interest of the City.

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 October 18, 2004, Henry Schmidt met with representatives of the Planning, Property and Development Department to discuss a proposed subdivision and realigning of building lots along Shore Street. Both Henry Schmidt and Laurence Sielkie are co-owners of Lots 1/13, Block 5, Plan 1991 as shown on the attached Misc. Plan No. 12557.
- In order to complete the subdivision as planned, Henry Schmidt and Laurence Sielkie proposed to acquire a portion Fairfield Avenue and City-owned property (Parcels A and B) from the City in exchange for those portions of their property (Parcels C and D) as shown on Misc. Plan 12557.

- The Planning, Property and Development Department recommends that the proposed sale and exchange of lands between the City, Henry Schmidt and Laurence Sielkie 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 a portion of Fairfield Avenue and City-owned property shown as Parcels A and B "Subject City Property" on the attached Misc. Plan No. 12557. Authority to approve the proposed terms and conditions of sale as set out in the attached Offer to Purchase rests with the Standing Policy Committee on Property and Development. Council approval for the adoption and enactment of the proposed closing is also required.

HISTORY:

On October 18, 2004, Henry Schmidt met with representatives of the Planning, Property and Development Department to discuss a proposed subdivision and realigning of building lots along Shore Street. Both Henry Schmidt and Laurence Sielkie are co-owners of Lots 1/13, Block 5, Plan 1991 as shown on the attached Misc. Plan No. 12557.

In order to complete the subdivision as planned, Henry Schmidt and Laurence Sielkie proposed to acquire a portion Fairfield Avenue and City-owned property (Parcels A and B) from the City in exchange for those portions of their property (Parcels C and D) as shown on Misc. Plan 12557.

Before an exchange could be contemplated, Fairfield Avenue (as shown on Misc. Plan No. 12431/1) needed to be closed. On January 25, 2005, Council approved the closing of Fairfield Avenue as shown on the said Misc. Plan.

DISCUSSION:

The Planning, Property and Development Department has concluded its negotiations with Henry Schmidt and Laurence Sielkie for the exchange of the subject properties. The Offer to Purchase dated June 15, 2005, is attached as Schedule "A".

The particulars of the proposed exchange are summarized as follows:

Location:	East side of Shore Street between Lee Boulevard and Fairfield Avenue
Size (City Property):	Parcel A – ±206.6m² (±2,224 sq.ft.)
	Parcel B – ±23.4m² (±252 sq.ft.)
Size (Applicant's Property):	Parcel C - ±49.3m² (±530 sq.ft.)
	Parcel D - ±178.3m² (±1,920 sq.ft.)
Price Offered:	$1.00
Adjustments:	From date of enactment of the By-law.

The Planning, Property and Development Department recommends that the exchange of the subject properties be approved for the following reasons:

a) Henry Schmidt and Laurence Sielkie will be subdividing their land with the intention of realigning the lot lines from thirteen lots to seventeen lots. These lots will ultimately be sold and placed on the tax roll.

b) At this time, the City has one buildable residential lot, which will be available for sale. Depending upon further subdivisions of privately owned holdings to the north and south along Shore Street, the City may be able to create a possible 1 to 2 realigned buildable lots.

c) Most of the owners on Shore Street to the south of the subject property intend on realigning their lots, therefore, it would be in the City's best interest to be a partner of this realigning process.

d) The proposed terms and conditions of the exchange as recommended by the Department are in accordance with the City's standard terms and conditions and include special items required by the City and Public Utilities.

e) The Purchaser will be responsible for all costs associated with the exchange.

Financial Impact Statement

Date: Aug. 25, 2005

Project Name:

First Year of Program 2005

Proposed Exchange of Land on Shore Street between Lee Blvd. and Fairfield Ave.

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

Additional Comments:

The proceeds of the exchange of $1 will be credited to the Land Operating Reserve Fund.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

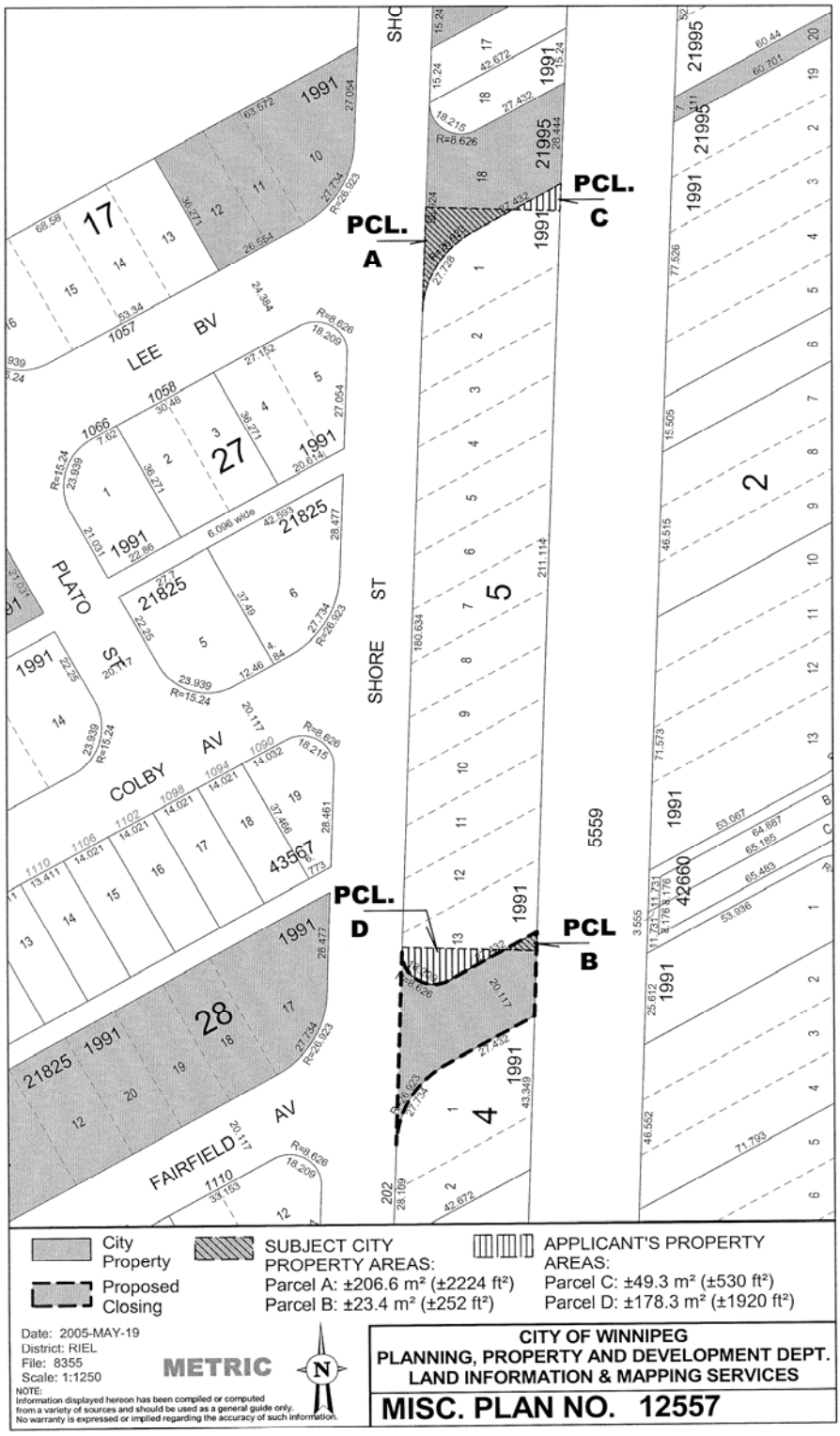
IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

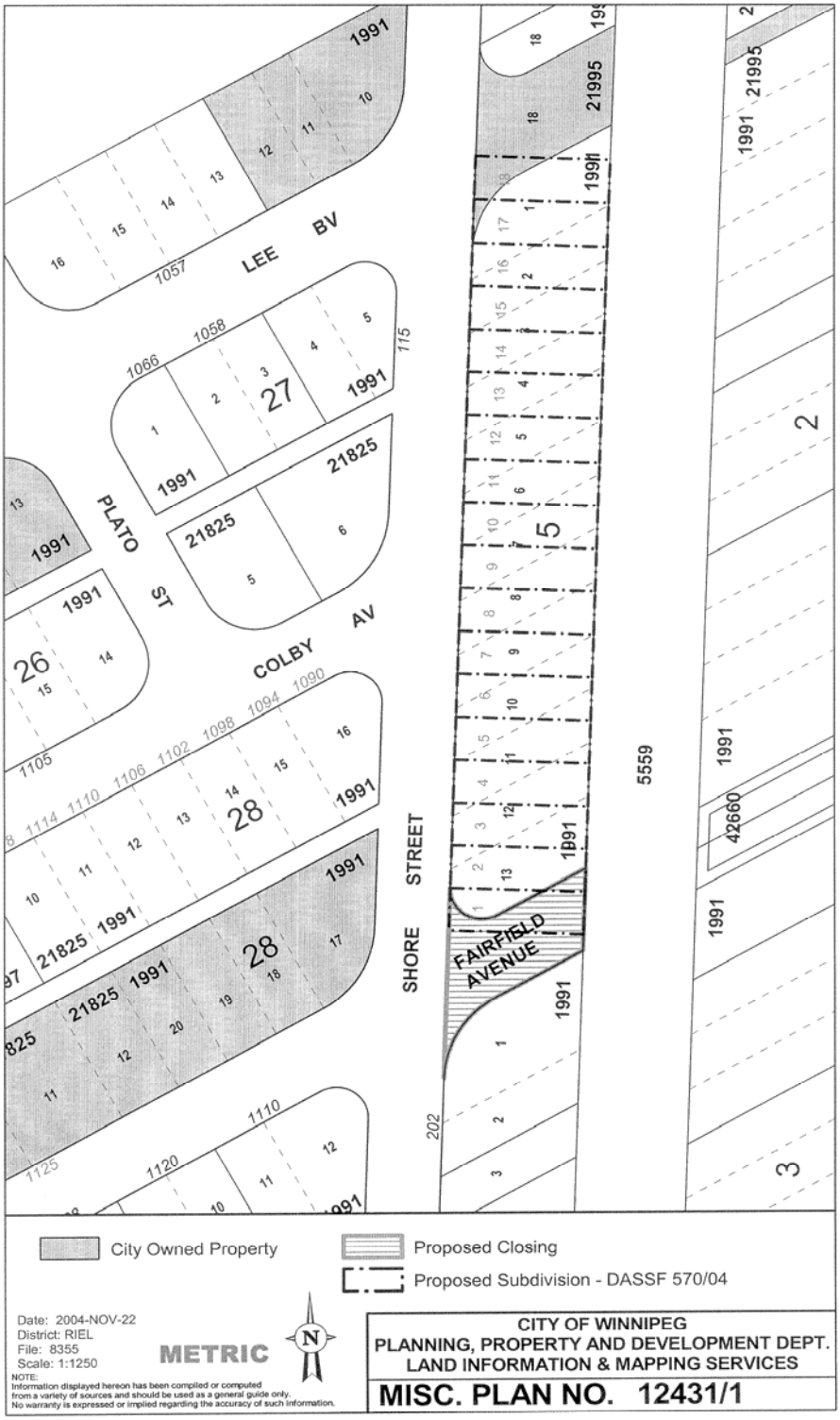
No consultation was required in the preparation of this report.

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate
Prepared by: Joedi Pruden
PPD File #: 8355

Document name: o:\reports directive\real estate\sales\(jp)exchange,shore.doc


PCL. A
PCL. C
PCL. D
PCL B
SHORE ST
LEE BV
PLATO S
COLBY AV
FAIRFIELD AV
City Property
Proposed Closing
SUBJECT CITY PROPERTY AREAS:
Parcel A: ±206.6 m² (±2224 ft²)
Parcel B: ±23.4 m² (±252 ft²)
APPLICANT'S PROPERTY AREAS:
Parcel C: ±49.3 m² (±530 ft²)
Parcel D: ±178.3 m² (±1920 ft²)
Date: 2005-MAY-19
District: RIEL
File: 8355
Scale: 1:1250
METRIC
NOTE:
Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only. No warranty is expressed or implied regarding the accuracy of such information.
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 12557


LEE BV
PLATO ST
COLBY AV
SHORE STREET
FAIRFIELD AVENUE
1057
1058
1066
1105
1090
1094
1098
1102
1106
1110
1114
1120
1125
115
202
5559
42660
City Owned Property
Proposed Closing
Proposed Subdivision - DASSF 570/04
Date: 2004-NOV-22
District: RIEL
File: 8355
Scale: 1:1250
METRIC
NOTE:
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CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 12431/1

Schedule "A"

Schmidt
File: 8355

OFFER TO PURCHASE

Subject to Council enactment of the necessary by-law to effect the legal closing of Fairfield Avenue, shown as "Proposed Closing" on the attached Misc. Plan 12557, the Undersigned (hereinafter called "the Purchaser") hereby offers to purchase from The City of Winnipeg (the "City"), the following lands: -

Parcels A and B (that portion shown as "Subject City Property" on Misc. Plan No. 12557, attached hereto).

(hereinafter called the "lands")

for the sum of $1.00 cash, the receipt of which is hereby acknowledged.

1. (1) The purchase price is payable as follows:

(a) By payment of $1.00 cash as noted above; and

(b) By the transfer at no cost to the City, of the real property which property is shown as "Applicants Property" Parcels C and D on Misc. Plan No. 12557 attached hereto, and which is free and clear of encumbrances and restrictions, on the date of closing, possession and adjustments as set out in Clause 3(1) herein.

And upon the following terms and conditions:

2. (1) The payment of $1.00 as set out in clause 1(1) herein 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 Council (in the event that Council approval is required), herein after called the "Date of Approval".

3. (1) The date of closing, possession and adjustments shall be sixty-one (61) 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.

4. 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 Tax 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 within ten (10) days from date of notice of the approval of the sale by the City.

(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.

5. The Purchaser will obtain possession of the lands at the Purchaser's own expense, which includes, without limiting the generality of the foregoing, obtaining their own Surveyor's Building Location Certificates, Surveyor's Staking Certificates and Zoning Memorandum and in connection therewith acknowledges and is aware that the City does not provide Declarations of Possession.

6. The Purchaser acknowledges that in submitting this Offer to Purchase, the Purchaser relies entirely upon personal inspection of the lands, independent of any representation made by or on behalf of the City. Any error or discrepancy in the description or in the dimensions of the lands as contained herein shall not entitle the Purchaser to any compensation in respect thereof nor shall it entitle the Purchaser to the cancellation of this Offer to Purchase.

7. It is agreed that no representation, warranty, collateral agreement or condition affecting this offer or the land is expressed herein. The City does not warrant the quality, condition or sufficiency of the lands for any use or purpose. The lands are deemed to be taken by the Purchaser in an "as is" condition and at the Purchaser's own risk and 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.

8. All existing improvements (if any) in or on the said lands shall remain as part of the freehold.

9. (1) On October 22, 2003 Council gave final reading to the Fairfield Park Local Improvement District (LID). The LID project is to install a full range of services within the District including a land drainage retention pond, land drainage sewers, wastewater sewers, watermains, concrete pavement, certain boulevards, sidewalks, walkways and underground hydro and telephone. Lot line connections for the district were approved by Council under separate by-laws and are to be installed with the District Services.

   (2) Attached to this offer as Schedule "A" are two (2) tables outlining the Estimated Levy Rates for the various levies and The Schedule For Assessment of these Levies.

   (3) The Purchaser acknowledges that in purchasing the subject lands that the Purchaser is responsible for the Purchaser's share of payment of the final local improvements as generally laid out in Table 1 of Schedule "A".

10. (1) There are presently no municipal services in the street to service the subject property. These services are scheduled to be installed in 2005 through the Fairfield Park Local Improvement District Project, which services include the installation of lot line connections. The Purchaser acknowledges that no building permit will be issued until such time as all of the municipal services in the adjoining streets have been constructed and installed.

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

12. 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 sixty (60) days from the Date of Approval, but in any event, prior to closing;

    (2) maintain the lands in safe condition at all times during the conduct of any work done in pursuance of this Clause 12; and

    (3) restore the lands to the same condition as prior to its entering in or upon same in pursuance of this Clause 12;

(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.

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 sixty (60) 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 12.

AND FURTHER if the City has not been advised of any non-compliance of the lands to Provincial Environmental standards within sixty (60) days from the Date of Approval, but in any event, prior to closing, 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.

13. (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 Manitoba Hydro, MTS Allstream Inc., Centra Gas, or The City of Winnipeg, and/or any of their respective successors and/or other utilities, for the maintenance of existing and future facilites 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 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 easement before the Transfer of Land issues.

14. 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 its sole cost, effort and expense, do all things as are necessary, including but not limited to causing to be prepared a Plan of Survey to effect the said sale of the Lands, suitable for registration at the Winnipeg Land Titles Office, and other such documentation as may be required.

(2) 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.

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

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

16. No current legal survey was made of the property to determine if there are any encroachments from adjoining lands.

Offer to Purchase Page 4

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

18. 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. Furthermore, the Purchaser acknowledges and understands that its proposed use and development of the lands may require applications for re-zoning, variances or conditional uses, amendments to Plan Winnipeg, which applications, resulting land dedication charges (if any) are to be at the sole cost and responsibility of the Purchaser.

19. 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.

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

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

22. 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.

23. The Purchaser agrees that the City may register Caveat/s 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 agreement.

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

HEINRICH SCHMIDT, Box 326, Arnes, Manitoba, R0C 0C0
LAURENCE GEORGE SIELKIE, 3457 Henderson Hwy, East St. Paul, MB R2E 1A8

Name (Please Print) Address

Purchaser's Registration No. (G.S.T.) N/A

IN WITNESS WHEREOF the Purchaser has signed this document in

WINNIPEG, MANITOBA, this 15th day of JUNE 2005

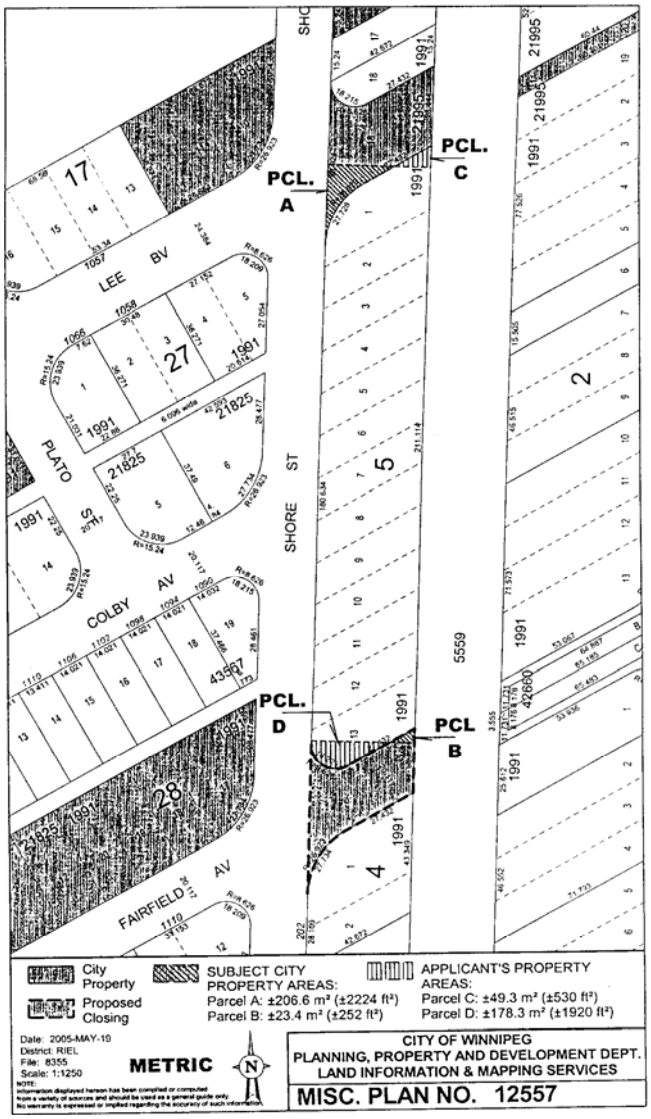
S. Boone
Witness

H. Schmidt
Purchaser

S. Boone
Witness

L. Sielkie
Purchaser

Offer to Purchase Page 6



Offer to Purchase Page 7

Exhibit "A"

Real Owner Application

To the City Assessor

_____ Roll No. _____

(Name of Municipality)

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: _____ 19 ____ _____

(Signature of Applicant)

Office of the City Assessor _____

The City of Winnipeg (Signature of Registered Owner)

TABLE 1

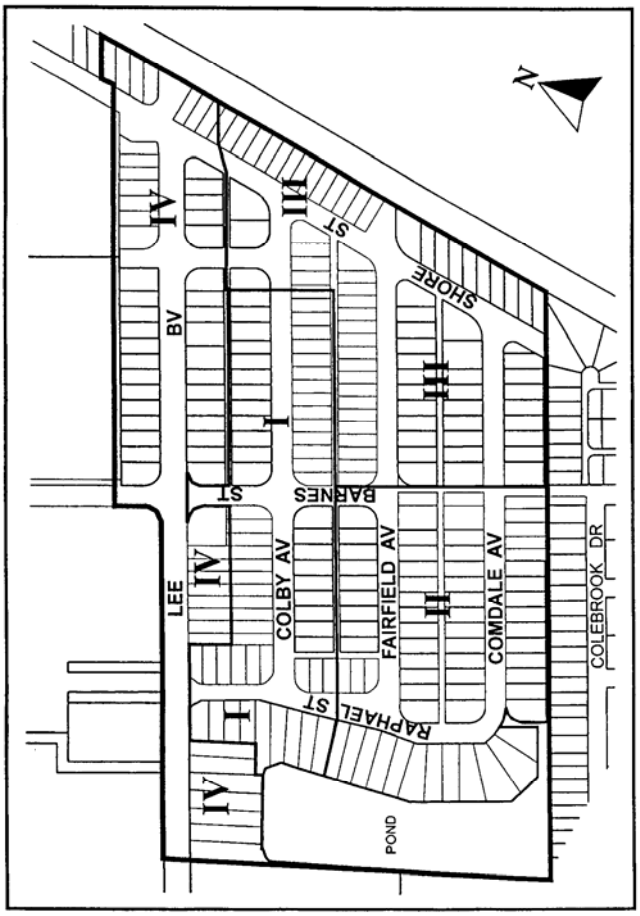
ESTIMATED LEVY RATES*		
Levy	Total Levy Amount if paid in Lump Sum	Annual Levy Rate*†
Pond	$0.50/sq. ft.	$0.05/sq. ft.
Stage I	$124.93/fr.ft.	$11.86/fr. ft.
Stage II	$94.78/fr. ft.	$8.99/fr. ft.
Stage III	$127.09/ft. ft.	$12.06/fr. ft.
Stage IV	$91.91/ft. ft.	$8.72/fr. ft.
Lot Line Connections	$3500.00/connection	$332.09/connection

* Final levy amounts will be adjusted based on actual costs
** Based on equal distribution over 25 years

TABLE 2

SCHEDULE FOR ASSESSMENT OF LEVIES			
		Initiation of Levies for Properties In:	
Year	Construction	Stage I	Stages II, III and IV
2004 & 2005	Pond & Stage I Services & Lot Line Connections	-	-
2005 & 2006	Stages II, III & IV Services	Levies for Pond, Stage I Services & Lot Line Connections (2006)	-
2007		Plus Levies for Stages II, III & IV Services	Levies for Pond, Stages I, II, III & IV Services & Lot Line Connections

Offer to Purchase Page 9



FAIRFIELD PARK LOCAL IMPROVEMENT DISTRICT