Report of the Standing Policy Committee on Property and Development dated September 12, 2002

Proposed Riverbank Land Acquisition on D'Arcy Drive - Lot 12, Block 11, Plan 7003
File FI-2(35) (Vol. 10)

4. The Standing Policy Committee on Property and Development has been advised the owner of the subject property is prepared to sell this riverbank property to the City. The property is required for the Winnipeg Parkway System and is one of few remaining acquisitions required to complete the Fort Garry Parkway and the Trans Canada Trail in the area. The proposed acquisition is not part of a Council approved program and therefore requires consideration by Council.

On October 15, 2001, the Riel Community Committee recommended to the Standing Policy Committee on Property and Development that the Director of Planning, Property and Development be authorized to attempt the negotiation, at a reasonable price, for the proposed acquisition of the riverbank land, identified as subject property on Misc. Plan No. 11195/2, opposite 43 D'Arcy Drive, taking into consideration the legal costs for the acquisition of said property.

On October 30, 2001, the Standing Policy Committee on Property and Development authorized the Director of Planning, Property and Development to commence negotiations for the proposed acquisition of this riverbank property.

The particulars of the subject property are as follows:

Location:	On the left bank of the Red River directly opposite 43 D'Arcy Drive between Agassiz Drive and Glengarry Drive
Legal Description:	Lot 12, Block 11, Plan 7003
Certificate of Title:	1269543
Registered Owner:	William G. and Joan L. Challis
Zoning:	"R1-9" (residential)
Realty Roll:	03053783000
Assessed Value (2002):	$11,500.00
Current Taxes:	$307.71
Site Size:	Frontage = 26.374 metres (86.5 feet) Total lot area = 1950 square metres (20,990 square feet) Area above 230.1 metre flood elevation line = 1330 square metres (14,316 square feet)
Property Description:	Mainly rectangular shaped vacant riverbank lot on the left bank of the Red River and on the east side of D'Arcy Drive with numerous shrubs and trees and bordered on each side by grassed public

parkland. Roughly two-thirds of the land area is above the 230.1 metre flood elevation line.

In 1958 the then owners of the lands forming part of Subdivision Plan 7003, executed an Agreement dated October 22, 1958, that provided for the consent of the former Rural Municipality of Fort Garry to the subdivision and the servicing of the lands subject to a covenant that restricted the erection of buildings or structures of any kind on Blocks 10, 11, 12 of Plan 7003 (the riverbank portion). A Building Restriction Caveat regarding this covenant was subsequently filed in 1959 against all of the affected lands, including the subject property.

Since that time the City has taken the position with any potential developer of the riverbank lands that in order to protect the vista of the Red River at this location and for the benefit of the general public and, more particularly, those homeowners on the west side of D'Arcy Drive, no development would be permitted on this riverbank stretch of D'Arcy Drive (Blocks 10, 11,and 12, Plan 7003).

As indicated on Misc. Plan No. 11195/2, the City has acquired most of the riverbank lands along D'Arcy Drive, i.e. as they have been offered for sale to the City. Lots 3 and 4, Block 11; and Lot 3, Block 12; Plan 7003, do not contain sufficient buildable area above the top of the riverbank to permit development. Were it not for the building restriction caveat, the subject Lot 12, Block 11, Plan 7003, meets the criteria permitting the development of a residential dwelling.

The owners of the subject property, who also owned and resided at 43 D'Arcy Drive, were not previously interested in selling the property. They retained the property for personal recreational use. One of the owners has died and the surviving owner plans to sell both the dwelling at 43 D'Arcy Drive and the subject riverbank property. The owner is prepared to sell this property to the City at a price of $85,000.00.

On November 15, 2001, the Real Estate Division, Planning, Property and Development Department submitted a purchase proposal requesting that the owner consider a price of $58,000.00 because the current owner was well aware that the City in 1990 had purchased the adjacent Lot 11, Block 11, Plan 7003 for $58,000.00.

On May 2, 2002, the owner advised that she would accept no less than $85,000.00 payable on or before September 15, 2002.

In support of her proposed asking price the Owner advised (on July 5, 2001) that she has contacted a number of professionals in the real estate field and they had advised her that fair market value would be in the $90,000.00 to $100,000.00 range; also, that the Building Restriction Caveat should not preclude her from receiving fair market value. Furthermore, she stated (on May 2, 2002) that since the time when the City made the initial offer on the property back in 1989, inflation at an average rate of three percent, combined with the annual property taxes she has paid since 1989, would add up to $89,860.00.

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The City's Riverbank Management Engineer and the Zoning and Permits Branch of the Planning, Property and Development Department advised that in terms of zoning and physical characteristics the land meets the criteria for a buildable site, and were it not for the building restriction caveat, a building permit could be issued.

The Real Estate Division prepared an internal appraisal to determine the estimated market value "as if" there were no building restriction caveat. Buildable riverbank land in the City is a relatively scarce commodity and, as such, it is difficult to estimate how high a price someone is willing to pay to secure such a site, particularly a site as desirable as the subject property. Were it not for the caveat, the owner's asking price is in the low end of the probable range in market value. Should the owner retain legal representation and try to sell the land on the open market, the City's costs to acquire the property could dramatically increase.

The Planning and Land Use Division of the Planning, Property and Development Department advised that although the subject riverbank is not listed as one of the top six priority riverbank acquisitions it is required for the Winnipeg Parkway System and it is one of the few remaining acquisitions required to complete the Fort Garry Parkway and the Trans Canada Trail in the area. Additionally, the Division is concerned that development of the land by a private party, should that occur, would serve to interrupt any public pathway along this stretch of riverbank.

All options considered and based on the various internal/external legal and administrative advice/opinions provided, the Planning, Property and Development Department considers that the potential benefits of further negotiations are greatly outweighed by the potential risk and uncertainty of not resolving this matter quickly. As such the recommendation is to pay the owner her asking price of $85,000.00 and finalize this transaction as quickly as possible.

On July 29, 2002, the Riel Community Committee recommended that its Land Dedication Reserve Account be the funding source for the proposed acquisition of the riverbank land, identified as subject property on Misc. Plan No. 11195/2, opposite 43 D'Arcy Drive.

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The Standing Policy Committee on Property and Development recommends:

I. That the acquisition of the subject property, outlined on Misc. Plan No. 11195/2, be approved at a price of $85,000.00 and in accordance with the terms and conditions that are satisfactory to the Director of Planning, Property and Development and the City Solicitor/Manager of Legal Services.

II. That the source of funding for the property acquisition be the Riel Land Dedication Reserve Fund.

III. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing, including the execution of any documents related thereto.