Agenda - Council - March 22, 2006

Report - Standing Policy Committee on Property and Development - March 14, 2006

Item No. 2 Southwest corner of Waverley Street and Taylor Avenue - Short Game Golf Corp. and Manitoba Cardiac Institute (Reh-Fit) Inc. File FI-2.2(32)

STANDING COMMITTEE RECOMMENDATION:

On March 15, 2006, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That Caveat No. 2058699 be withdrawn provided that the Manitoba Cardiac Institute (Reh-Fit) Inc. acquires ownership of property identified as "Short Game Corp. Lands" on Misc. Plan No. 11074 and conveys such land to the City for $1.00, free and clear of any and all registered liens, charges, mortgages and encumbrances except any of the same placed by or through the City and any standard utility easements and pay all realty taxes presently owing on the property (±$25,000.00).

2. That upon acquiring title to the Short Game Corp. Lands, a lease be finalized between the City as Landlord and Manitoba Cardiac Institute (Reh-Fit) Inc. as Tenant in accordance with Option 1 identified in the report from the Director of Planning, Property and Development dated March 3, 2006.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing and protect the City's interests.

Report - Standing Policy Committee on Property and Development - March 14, 2006

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 15, 2006, 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 March 14, 2006, the Standing Policy Committee on Property and Development concurred in the administrative recommendation with the following amendment, namely:

- That the words “Option 3” be deleted in the third line of Recommendation 2 and the words “Option 1” substituted therefore,

and submitted the matter to the Executive Policy Committee and Council.

Re: **Southwest corner of Waverley Street and Taylor Avenue – Short Game Golf Corp. and the Manitoba Cardiac Institute (Reh-Fit) Inc.**
City Centre Community
Fort Rouge – East Fort Garry Ward

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

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

Report date: March 3, 2006

Recommendation(s):

1. That Caveat No. 2058699 be withdrawn provided that Manitoba Cardiac Institute (Reh-Fit) Inc. acquires ownership of property identified as "Short Game Corp. Lands" on Misc. Plan No. 11074 and conveys such land to the City for $1.00, free and clear of any and all registered liens, charges, mortgages and encumbrances except any of the same placed by or through the City and any standard utility easements and pay all realty taxes presently owing on the property (±$25,000.00).
2. That upon acquiring title to the Short Game Corp. Lands, a lease be finalized between the City as Landlord and Manitoba Cardiac Institute (Reh-Fit) Inc. as Tenant in accordance with Option 3 identified herein.
3. That the Proper Officers of the City do all things necessary to implement the intent of the foregoing and protect the City's interests.

REPORT SUMMARY

Key Issues:

- The Manitoba Cardiac Institute (Reh-Fit) Inc., hereinafter referred to as "Reh-Fit" has requested that the City not advance a claim for a payment based upon Clause 3. (d) of the City's April 12, 1996, Agreement with Short Game Golf Corp., in the event that the Reh-Fit acquires title to the property identified as "Short Game Corp. Lands" on the attached Misc. Plan No. 11074.
- Short Game Golf Corp. currently owns the subject property.
- The Reh-Fit intends to exercise its "Option to Purchase" and acquire the subject property from Short Game.
- The Reh-Fit has advanced a proposal to acquire the "Short Game Corp. Lands" and convey same to the City for $1.00, in consideration of the City not advancing a claim against the Reh-Fit for a payment based upon Clause 3. (d) of the City's April 12, 1996, Agreement with Short Game Golf Corp.
- The Planning, Property and Development Department is recommending withdrawal of Caveat No. 2058699 in lieu of the City not advancing a claim for payment based on Clause 3.(d) of the above referenced Agreement.

- Lease Options 1 and 2 require Council approval as neither is consistent with City policy dealing with the lease of lands to Non-Profit Organizations.

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:

	No
X	**Yes**

Comment(s):

The terms and conditions of the existing Lease Agreement between the City and Reh-Fit are not consistent with the City's current policy dealing with the lease of lands to Non-Profit Organizations; passed by Council on October 31, 1990 (i.e. no ongoing operating subsidies from the City will be required over the life of the development). The municipal realty taxes associated with the land could be considered an operating subsidy.

Of the options presented in this report, only Option 3 is consistent with the City's current policy dealing with the lease of lands to Non-Profit Organizations.

Environmental implications:

X	**No**
	Yes

Comment(s):

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):

Under the current Lease Agreement between the City and Reh-Fit (approved by Council on June 23, 2004), the City is responsible for the payment of the realty taxes associated with the land until December 31, 2101. The financial implications of the options presented are as follows:

Option 1

Approval of a replacement Lease Agreement with the Manitoba Cardiac Institute (Reh-Fit) Inc. to include the "Short Game Corp. Lands" together with the City-owned property currently leased to the Manitoba Cardiac Institute (Reh-Fit) Inc. until December 31, 2102 would be on the same terms and conditions as above and will require the City to pay the municipal realty taxes associated with the land until December 31, 2102 (i.e., the City would forego annual municipal property taxes of $3,300.00 and would incur annual "out-of-pocket" expenses of $3,100.00 for the school tax portion).

Option 2

As the Short Game site represents additional lands, subsequent to the approval by Council of the extension of the lease until December 31, 2101, the payment of the related school taxes would be the responsibility of the Reh-Fit. The City would still forego $3,300.00 in annual municipal taxes on the land component of the Short Game site but would not incur an annual "out-of-pocket" expense of $3,100.00 for payment of school taxes.

Option 3

A replacement Lease Agreement with the Reh-Fit could be executed with the City to include the "Short Game Corp. Lands" together with the City-owned property currently leased to the Reh-Fit until December 31, 2102. The Agreement would provide for the payment of all of the realty taxes (municipal and school) for both the land and building components of the Short Game site to be the responsibility of the Reh-Fit.

REASON FOR THE REPORT:

The withdrawal of Caveat No. 2058699 and addition of land to the existing Lease requires approval by the Standing Policy Committee on Property and Development.

HISTORY:

On August 9, 1995, Council approved the sale of the land identified as "Short Game Corp. Lands" on the attached Misc. Plan No. 11074 subject to a caveat establishing both a "Use Restriction" and a "Reversionary Right" in favour of the City to part of the property shown in broken outline on the said Misc. Plan. Clause 3. (d) of the City's April 12, 1996, Agreement with Short Game Golf Corp. provided for the following:

> *"To renegotiate with the City, the Purchase Price in the event that the land is used for something other than the Short Game Centre, it being hereby understood that the renegotiated Purchase Price shall be determined by an independent appraiser acceptable to both the City and the Purchaser."*

Short Game subsequently entered into an Agreement with Reh-Fit to sub-lease part of the adjacent Reh-Fit leased land for access and parking purposes. The City, as Landlord of the adjacent land consented to the Sub-Lease. The said Agreement with Short Game also granted Reh-Fit with an "Option to Purchase" the Short Game property for $1.00. Reh-Fit has always given the indication that the Short Game property was vital to planned expansion and to its long-term vision for the Reh-Fit facility.

In the fall of 2001, Short Game discontinued business operations.

Over the years, Short Game has on several occasions advanced proposals to the Planning, Property and Development Department to, initially, eliminate the "Use Restriction" and subsequently sell the property back to the City. The Department and the Standing Policy Committee on Property and Development have not found any of the proposals presented by Short Game to be acceptable.

At its meeting held on April 15, 2003, the Standing Policy Committee on Property and Development received an Administrative report in regard to the foregoing as information.

Reh-Fit advised that Short Game defaulted on its mortgage and Reh-Fit acquired the Short Game mortgage from the mortgagee, paid realty tax arrears, and on December 15, 2003, became a mortgagee in possession of the property.

DISCUSSION:

The Reh-Fit has just completed construction of a major extension and redevelopment of its facility on the City-owned property shown hatched on Misc. Plan No. 11074, attached. On June 23, 2004, Council approved an extension to the ground lease in favour of the Reh-Fit from December 31, 2027, to December 31, 2102. The lease extension provided for the same terms and conditions of the original lease, which includes an annual rental rate of $1.00 plus an amount

equivalent to realty taxes on the building improvements only. The City is responsible for payment of the realty taxes for the land.

By way of letter dated November 24, 2005, the Reh-Fit advised the Department that it paid realty taxes on the Short Game property in 2002 in the amount slightly in excess of $28,000.00. The amount of realty tax arrears presently owing against the property is approximately $25,000.00.

The Reh-Fit has formally requested that the City provide written acknowledgement that in the event the Reh-Fit acquires title to the Short Game property, either by way of mortgage sale, realty tax redemption, option to purchase or by way of agreement from Short Game, that the City will not advance a claim to renegotiate the purchase price. The "Option to Purchase" is open to Reh-Fit from January 15, 2006 to March 15, 2006. In addition, Reh-Fit has advanced a proposal to convey the Short Game property to the City for $1.00, free and clear of any and all registered liens, charges, mortgages and encumbrances except any of the same placed by or through the City and any standard utility easements and pay all realty taxes presently owing on the property (±$25,000.00).

Lease Option 1:

In the event the Reh-Fit acquires title to the Short Game property and conveys same to the City, the Reh-Fit has proposed that a replacement Lease Agreement with the Reh-Fit be executed with the City to include the "Short Game Corp. Lands" together with the City-owned property currently leased to the Reh-Fit until December 31, 2102.

As previously noted, the terms and conditions of the original Reh-Fit lease and extended lease include an annual rental rate of $1.00 plus an amount equivalent to realty taxes on the building improvements only. The City is responsible for payment of the realty taxes for the land. In the context of the Short game site, the total amount of taxes (municipal and school) for the land component is currently $6,400.00.

Under this approach, the City would be responsible for the payment of realty taxes (municipal and school $6,400.00) on the land component of the Short Game site (i.e., the City would forego the annual collection of the municipal portion $3,300.00 and would incur annual "out-of-pocket" expenses of $3,100.00 for the school tax portion).

Although this request made by the Reh-Fit is consistent with the lease extension approved on June 23, 2004, it is not consistent with the City's current policy dealing with the lease of lands to Non-Profit Organizations passed by Council on October 31, 1990 (i.e. no ongoing operating subsidies from the City will be required over the life of the development).

Lease Option 2:

Council approved an extension to the existing ground lease on June 23, 2004, in favour of the Reh-Fit from December 31, 2027, to December 31, 2102 under the same terms and conditions of the original lease. The Short Game site represents an addition of land and consequently, at the very least, the payment of the school taxes would be the responsibility of the Reh-Fit. While municipal taxes on the land component of the Short Game site would be absorbed internally and considered an operating subsidy, the school taxes represent "out-of-pocket" expenses that the City would incur.

The Reh-Fit has advised that it is of the opinion that it should not be responsible for the payment of school taxes, since it is providing a health and wellness service to the general public and absorbing significant costs related to the acquisition of the Short Game site which would ultimately be conveyed to the City.

Again, this option is not consistent with the City's current policy dealing with the lease of lands to Non-Profit Organizations passed by Council on October 31, 1990 (i.e. no ongoing operating subsidies from the City will be required over the life of the development).

Lease Option 3:

A replacement Lease Agreement with the Reh-Fit could be executed with the City to include the "Short Game Corp. Lands" together with the City-owned property currently leased to the Reh-Fit until December 31, 2102. The Agreement would provide for the payment of all of the realty taxes (municipal and school) for both the land and building components of the Short Game site to be the responsibility of the Reh-Fit.

This option would be consistent with the City's current policy dealing with the lease of lands to Non-Profit Organizations.

CONCLUSION:

Under any one of the replacement *Lease Options* described above, the following would apply:

- The City would regain ownership to the Short Game Site for $1.00 (which it is presently not entitled to under the terms and conditions of Agreement with Short Game) and be entitled to the building assets occupying the site at the end of the lease.
- The development of the Short Game site by Reh-Fit would provide the City with new tax revenue (at the very least from the building component).
- The terms and conditions of the proposed replacement Lease would allow for similar development as provided under the current Lease Agreement with Reh-Fit.
- The Reh-Fit has advised that any new development would be consistent with, and complementary to, the health and wellness theme of the current facility.
- The proposed terms and conditions of a replacement Lease would provide that plans for development of the Short Game site would be subject to prior approval by the Director of Planning, Property and Development.
- The "MP-S" Industrial District zoning that applies to the land is restrictive, insofar as it permits certain recreational facilities and limited number of manufacturing, retail and service uses.

Lease Options 1 and 2 require Council approval as neither is consistent with City policy dealing with the lease of lands to Non-Profit Organizations.

Financial Impact Statement

Date: March 2, 2006

Project Name:

First Year of Program 2006

Southwest corner of Waverley Street and Taylor Avenue – Short Game Golf Corp. and the Manitoba Cardiac Institute (Reh-Fit) Inc. - OPTION 1

	2006	2007	2008	2009	2010
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	$ 3,100	$ 3,100	$ 3,100	$ 3,100	$ 3,100
Less: Incremental Revenue/Recovery	25,000	-	-	-	-
Net Cost/(Benefit)	$ (21,900)	$ 3,100	$ 3,100	$ 3,100	$ 3,100
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ (21,900)	$ 3,100	$ 3,100	$ 3,100	$ 3,100

Additional Comments:

The incremental revenue consist of realty tax arrears that would be paid by Reh-Fit to acquire the Short Game lands. Direct costs represent estimated annual school taxes that would be paid by the City related to the Short Game lands. There would also be an opportunity cost of approximately $3,300 per annum consisting of the municipal portion of property taxes that would not be collected.

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

Financial Impact Statement

Date: March 2, 2006

Project Name:

Southwest corner of Waverley Street and Taylor Avenue – Short Game Golf Corp. and the Manitoba Cardiac Institute (Reh-Fit) Inc. - OPTION 2

First Year of Program 2006

	2006	2007	2008	2009	2010
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	25,000	-	-	-	-
Net Cost/(Benefit)	$ (25,000)	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ (25,000)	$ -	$ -	$ -	$ -

Additional Comments:

The incremental revenue consist of realty tax arrears that would be paid by Reh-Fit to acquire the Short Game lands. There would be an opportunity cost of approximately $3,300 per annum consisting of the municipal portion of property taxes that would not be collected.

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

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Financial Impact Statement

Date: March 2, 2006

Project Name:

Southwest corner of Waverley Street and Taylor Avenue – Short Game Golf Corp. and the Manitoba Cardiac Institute (Reh-Fit) Inc. - OPTION 3

First Year of Program 2006

	2006	2007	2008	2009	2010
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	28,300	3,300	3,300	3,300	3,300
Net Cost/(Benefit)	$ (28,300)	$ (3,300)	$ (3,300)	$ (3,300)	$ (3,300)
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ (28,300)	$ (3,300)	$ (3,300)	$ (3,300)	$ (3,300)

Additional Comments:

The incremental revenue in 2006 consists of realty tax arrears of $25,000 that would be paid by Reh-Fit to acquire the Short Game lands plus $3,300 in municipal property taxes on the land. Incremental revenues from 2007 onward represent municipal property taxes on the Short Game lands.

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

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

Legal Services Division

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate
Prepared by: John S. Zabudney
PPD File #: 2588/C-1 (II)

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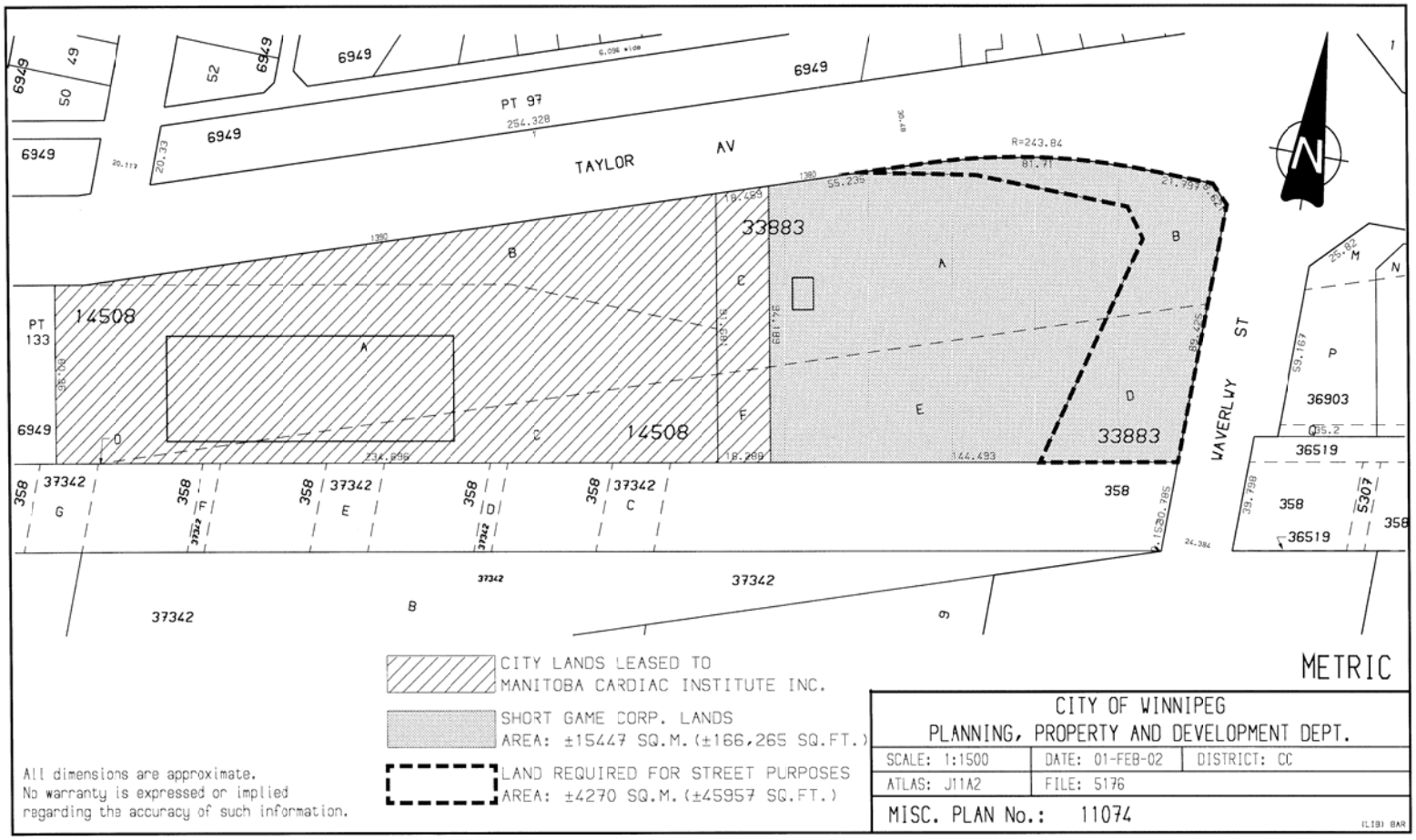
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CITY LANDS LEASED TO MANITOBA CARDIAC INSTITUTE INC.
SHORT GAME CORP. LANDS AREA: ±15447 SQ.M. (±166,265 SQ.FT.)
LAND REQUIRED FOR STREET PURPOSES AREA: ±4270 SQ.M. (±45957 SQ.FT.)
All dimensions are approximate.
No warranty is expressed or implied regarding the accuracy of such information.
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
SCALE: 1:1500
DATE: 01-FEB-02
DISTRICT: CC
ATLAS: J11A2
FILE: 5176
MISC. PLAN No.: 11074
(LIB) BAR