Winnipeg

Corporate Services Department • Services généraux

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File No.: CL.52000(5)

April 26, 2001

Glowacki & Libitka
Barristers and Solicitors
601 – 63 Albert Street
Winnipeg, MB R3B 1G4

Attention: John S. Petryshyn

Dear Sir:

Re: **Winnipeg Polish Canadian Branch No. 246 The Royal Canadian Legion et al. v. The City of Winnipeg and The Assessor for the City of Winnipeg Queen's Bench File No. CI 00-01-21274**

I am assisting Ms Paubrun with this file.

Upon further review of the pleadings, we note that we neglected to plead and rely upon section 278 of *The City of Winnipeg Act*. In accordance with the Queen's Bench Rules we are required to specifically plead any statute upon which we rely:

> 25.06(4) Where a party's claim or defence is founded on an Act or Regulation, the specific sections relied on shall be pleaded.

Accordingly, please find enclosed a draft copy of an Amended Statement of Defence. Please advise whether you will provide written consent to filing the amended pleading, failing which we will file a Motion to amend the pleadings.

Yours truly,

URSULA B. GOERES
Per:

NADINE S. SILVERMAN
Solicitor
NSS/lc Encl.

(6-15)

STEEL, J.A. (for the Court):

It is clear that the action is barred by reason of s. 278 of *The City of Winnipeg Act*, S.M. 1989-90, c. 10. This applies regardless of whether the taxing of the property in question was *ultra vires* or not. The appeal is dismissed with costs.

THERE WAS AN AMENDMENT TO THE CITY DEFENCE, THEY FORGOT TO INCLUDE S.278. WHAT WOULD THE COURT DONE WITHOUT IT. SHORT ANS, THERE WAS A SUBLIMINAL DESIRE TO HAVE THE COURT GO NO FURTHER THAN, NORWOOD EDMONTON, WHERE STATUTE OF LIMITATIONS WAS ADOPTED IN LIEU OF THE PROPERTY ULTRA VIRIES WHICH ACCORDING TO ABEL SKINER 2nd ASSUMPTION, NO S.278 WILL PROTECT YOU FROM (ASSESSOR) EXCEEDING HIS JURISDICTION WHICH WAS ESTABLISHED WITH NEW DEFINITION OF "LICENSED PREMISES" IN 1995/97 AND 1999. THIS WAS NOT A CALCULATION AS SUGGESTED IN 1st ASSUMPTION, WE WERE NOT APPEALING AMOUNT BUT THE UNADDRESSED EXEMPTION FOUND IN THE REGULATIONS, NOT THE ACT OF THE MAN LIQUOR CONTROL ACT.

J.A.

C.J.M.

J.A.