Agenda – Council - July 26, 2006

Report - Standing Policy Committee on Property and Development – July 4, 2006

Item No. 24 Sale - City-owned Land Adjacent to 1221 Sherwin Road – Alphair Ventilating Systems Inc.
File FI-2.4(31)

STANDING COMMITTEE RECOMMENDATION:

On July 19, 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 the lands identified as "Subject City Property" on Misc. Plan No. 11780 be declared surplus to the City's requirements.

2. That the sale of the lands, identified as "Subject City Property" on Misc. Plan No. 11780, be approved in favour of Alphair Ventilating Systems Inc. for the purchase price of $45,000.00 in accordance with the terms and conditions of the Offer to Purchase outlined in the report from the Director of Planning, Property and Development dated June 28, 2006.

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 4, 2006

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 19, 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 July 4, 2006, 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 Land Adjacent to 1221 Sherwin Road – Alphair Ventilating Systems Inc.**
Assiniboia Community
St. James – Brooklands Ward

FOR SUBMISSION TO: Standing Policy Committee on Property and Development

ORIGINAL REPORT SIGNED BY: Director of Planning, Property and Development

REPORT DATE: June 28, 2006

RECOMMENDATION:

1. That Council declare the lands identified as "Subject City Property" on Misc. Plan No. 11780, attached, surplus to the City's requirements.
2. That subject to the approval of Recommendation No. 1, the sale of the lands identified as "Subject City Property" on Misc. Plan No. 11780, attached, in favour of Alphair Ventilating Systems Inc., for the purchase price of $45,000.00, be approved in accordance with the terms and conditions of the attached Offer to Purchase.
3. 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:

- The Planning, Property and Development Department are in receipt of an Offer to Purchase from Alphair Ventilating Systems Inc.
- Alphair Ventilating Systems Inc. intends to consolidate the subject City property shown shaded on Misc. Plan No. 11780, with its adjacent holding to accommodate additional storage area and future facilities for its business operations.
- 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

( ) Involves a multi-year contract

Comment(s):

Policy Implications

(x) No

( ) Yes

Comment(s):

Regulatory Implications

(x) None

( ) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

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):

Report

REASON FOR THE REPORT:

The Planning, Property and Development Department are in receipt of an Offer to Purchase the Subject City Property adjoining 1221 Sherwin 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:

The subject City property shown shaded on Misc. Plan No. 11780 is a former lead track, no longer in use by Canadian National Railways (CNR) and the Canadian Pacific Railway (CPR). Both CNR and CPR have a 'Right of Use' interest as set out in By-law 9357, and Agreement dated July 1, 1961.

Details of the subject City property are as follows:

Location:	East side Sherwin Road, north of 1221 Sherwin Road
Legal Description:	Lot 17, Plan 7092 and Parcel A, Plan 8638
Certificate of Titles:	918772, A25823
Roll Number:	07010857000
	07010825000
Assessed Value (2006):	$27,350.00
Zoning:	"M2" - Industrial District
Size:	2026.0m² (21,808 sq.ft.)

The Planning, Property and Development Department have determined that there is no City requirement for the Subject City Property shown outlined on Misc. Plan No. 11780.

DISCUSSION:

The purchaser advises that the purchase of the subject City property will accommodate additional storage areas and future facilities for its business operations.

The Department supports the proposed sale of the subject City property for the following reasons:

1. The property will be placed on the tax roll at the closing of the sale.
2. The Purchaser will be responsible for all costs related to a Plan of Survey for consolidation of the subject City property with the Purchaser's adjacent lands.
3. The proposed purchase price of $45,000.00 is supported by an internal appraisal ($45,000.00).

4. The sale will eliminate the liability for the City associated with holding this property.

5. The proposed terms and conditions of sale, as recommended by the Department, are in accordance with the City's standard terms and conditions and include the following special conditions:

   (a) The Purchaser agrees that the sale is subject to the City obtaining a 'Release of Interest' of By-law 9357, from Canadian National Railways and Canadian Pacific Railway within 60 days following the approval of Standing Policy Committee on Property and Development, and
   (b) The purchaser agrees to accept the subject City property with the existing railway track in place.

Financial Impact Statement

Date: June 15, 2006

Project Name:

First Year of Program **2006**

Proposed Sale of City Property north of and adjacent to 1221 Sherwin Road - Alphair Ventilating Systems Inc.

	2006	2007	2008	2009	2010
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	45,000	744	744	744	744
Net Cost/(Benefit)	$ (45,000)	$ (744)	$ (744)	$ (744)	$ (744)
Less: Existing Budget Amounts	(45,000)	(744)	(744)	(744)	(744)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Revenues of $45,000 represent the proceeds of disposition of the property, the sale of which is assumed to close prior to the end of 2006, and will be credited to the Land Operating Reserve. Revenues of $744 in 2007 and onward represent the municipal portion of realty taxes from the property based on the following assumptions: the property is added to the tax roll effective Jan. 1/07, the assessed value equals the sale proceeds of $45,000, and the portioning and mill rates remain constant at 65% and 0.025448 respectively.

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

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

No consultation was required in preparation of this report.

External Consultation With:

No consultation was required in preparation of this report.

THIS REPORT SUBMITTED BY:

Department	Planning Property and Development
Division	Real Estate
Prepared by:	Barry Lucyk
PPD File No.	4340

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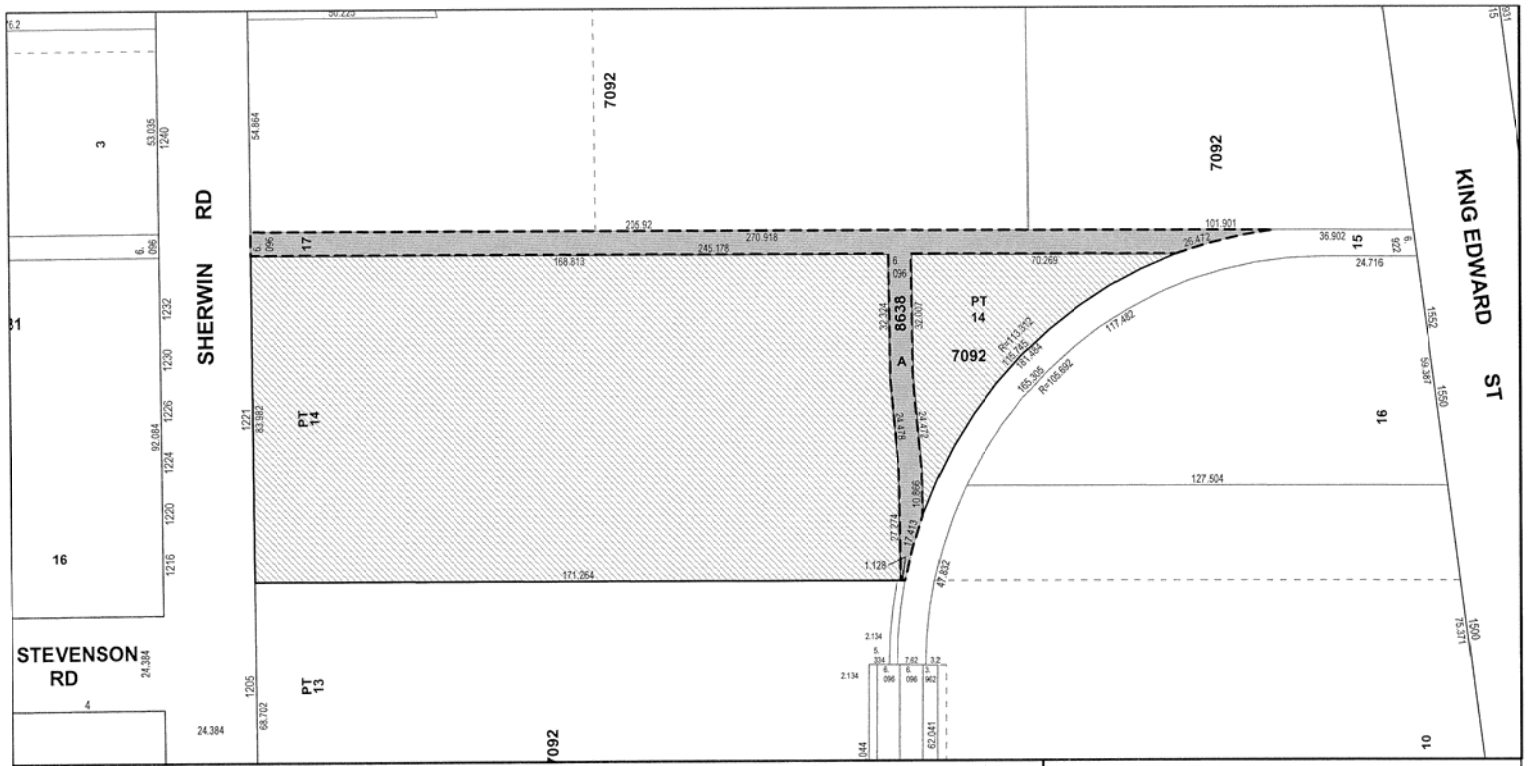
SHERWIN RD
KING EDWARD ST
STEVENSON RD
7092
PT 14
PT 13
8638
A
16
17
15
10
Date: 2002-DEC-17
District: ASBA
File: 4340
Scale: 1:1250
NOTE:
Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only.
No warranty is expressed or implied regarding the accuracy of such information.
Subject City Property
Area: +/- 2026.0 sq.m. (+/- 21808 sq.ft.)
Applicant's Property
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 11780

File No: **4340**

INDUSTRIAL/COMMERCIAL

OFFER TO PURCHASE

The Undersigned (hereinafter called "the Purchaser") hereby offers to purchase from The City of Winnipeg (the "City"), subject to Council declaring the lands as surplus, the following lands: -

Lot 17, Plan 7092 and Parcel A, Plan 8638, shown as "Subject City Property", on Misc. Plan No. 11780 attached hereto: (hereinafter called the "Lands");

for the sum of $45,000.00 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 $6750.00, 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 & Development and/or City Council (in the event that Council approval is required), hereinafter 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 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 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. 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, and amendments to Plan Winnipeg, which applications and resulting land dedication charges (if any) are to be at the sole cost and responsibility of the Purchaser.

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

(2) 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.

(3) It is understood and agreed that the terms, conditions and covenants contained in this Clause 9 shall not merge but shall survive closing.

10. 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.

11. (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. 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. The Purchaser will assume any and all costs for any relocation of utility distribution facilities.

(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.

12. 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 such documentation as may be required to ensure that the Lands to be conveyed by the City and the Purchaser's adjoining property shown outlined as "Applicant's Property" on Misc. Plan No. 11780 attached (and contained in certificate of title # 1208608), are consolidated so as to constitute a single and indivisible parcel. The Purchaser does hereby acknowledge that in complying with this obligation it may be required to arrange for the discharge and re-registration of existing encumbrances against the Purchaser's adjoining property.

(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) To pay the applicable Land Titles Office registration fees and Land Transfer Tax in respect thereto.

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

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

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

16. 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.

17. 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.

18. 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.

19. The Purchaser acknowledges and agrees that the existing trackage on the Lands are owned by Canadian Pacific Railway. The removal of any existing trackage on the Lands and any costs associated therewith shall be the responsibility of the Purchaser.

20. The Purchaser acknowledges and agrees that no access to the consolidated site shall be allowed from King Edward Street.

21. The Purchaser acknowledges and agrees that the sale of the Lands is subject to the City obtaining "Form of Release Agreements" signed by both the Canadian Pacific Railway and Canadian National Railways, within 60 days of the Date of Approval, in order to release each of the Canadian Pacific Railway and the Canadian National Railways 'right of use' interest as set out in By-law 9357 and agreement dated July 1, 1961, failing which, the sale of the Lands shall be null and void and the City shall return the deposit in full to the Purchaser.

Industrial/ Commercial Offer to Purchase

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

Alphair Ventilating Systems Inc.
Name (Please Print) Address

Purchaser's Registration No. (G.S.T.) 10016 3427 RT0001

IN WITNESS WHEREOF the Purchaser has signed this document in

Winnipeg, Manitoba, this 7th day of June 2006

Witness

Authorized Signature

Andrew Mikalauskas, C.E.O
Name and Title of Authorized Signature (Please print)

Witness

Authorized Signature

Rodney Harder, CFO
Name and Title of Authorized Signature (Please print)

THE CITY OF WINNIPEG

Per: _____
DIRECTOR of Planning, Property and Development

Approved as to details:

Planning, Property and Development

Approved as to form:

for City Solicitor/Manager of
Legal Services

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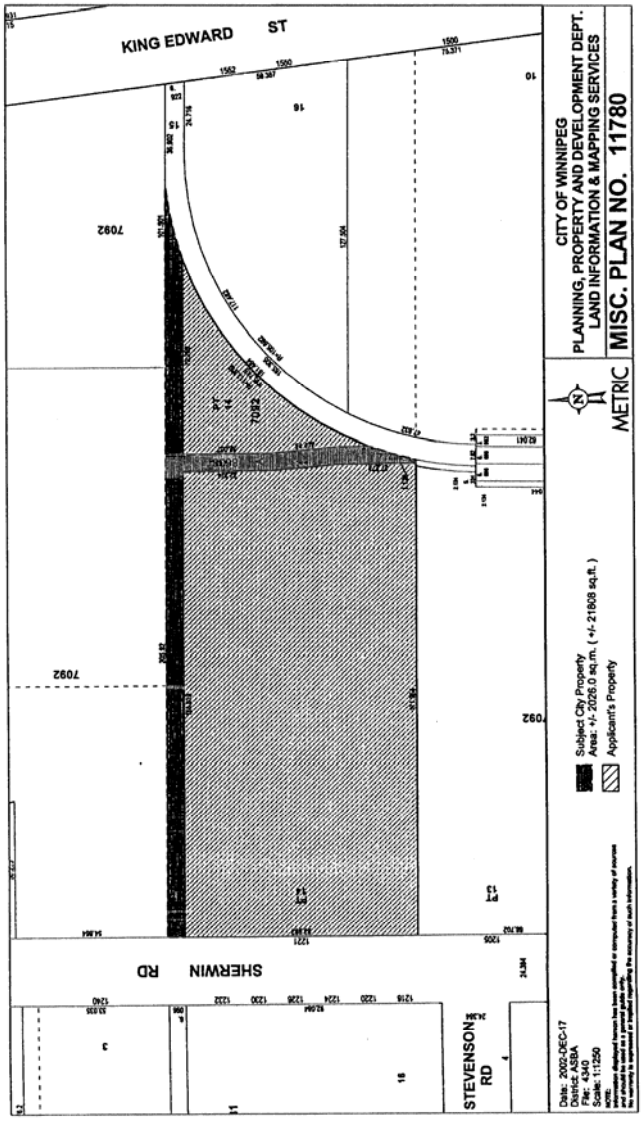
KING EDWARD ST
SHERWIN RD
STEVENSON RD
7092
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 11780
METRIC
Subject City Property
Area: +/- 2026.0 sq.m. (+/- 21808 sq.ft.)
Applicant's Property
Date: 2002-DEC-17
District: ASBA
File: 4340
Scale: 1:1250

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: _____ 20 ____ _____
(Signature of Applicant)

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