Minute No. 115
Report - Standing Policy Committee on Property and Development - January 9, 2007

Item No. 29 **Sale/Exchange of Lands located at the northeast corner of Main Street and Commonwealth Avenue**
File FI-2.4(34)

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

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 subject City property shown outlined on Misc. Plan No. 11774/1 be declared surplus to the City's requirements.

2. That the sale and exchange of lands between the City and Silpit Industries Co. Ltd. be approved as follows:

   A. Silpit Industries Co. Ltd. to receive title to the subject City property (Parcels A and B, Plan 24442) shown outlined on Misc. Plan No. 11774/1.

   B. The City (at no cost) to receive from Silpit Industries Co. Ltd. title to the property required for the street widening shown in broken outline on Misc. Plan No. 11774/1, all in accordance with the terms and conditions of the Offer to Purchase dated November 22, 2006, 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.

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 – January 9, 2007

DECISION MAKING HISTORY:

Moved by Councillor Swandel,
That the recommendation of the Standing Policy Committee on Property and Development be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On January 9, 2007, 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/Exchange of Lands located at the Northeast corner of Main Street and Commonwealth Avenue
Lord Selkirk – West Kildonan Community
Old Kildonan Ward

FOR SUBMISSION TO: Standing Policy Committee on Property and Development

ORIGINAL REPORT SIGNED BY: Director of Planning Property and Development

REPORT DATE: December 15, 2006

RECOMMENDATION:

1. That the subject City property shown outlined on Misc. Plan No. 11774/1, be declared surplus to the City's requirements.

2. That subject to the approval of Recommendation No. 1, the proposed sale and exchange of lands between the City and Silpit Industries Co. Ltd. be approved as follows:

   a) Silpit Industries Co. Ltd. to receive title to the subject City property (Parcels A & B Plan 24442) shown outlined on Misc. Plan No. 11774/1, and

   b) The City (at no cost) to receive from Silpit Industries Co. Ltd. title to the property required for the street widening shown in broken outline on Misc. Plan No. 11774/1, all in accordance with the terms and conditions of the attached Offer to Purchase dated November 22, 2006, 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.

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:

- On October 26, 1988, Council adopted the recommendation of the Committee on Public Works approving the legal closing of the public lane (DAC 53/85) shown outlined and identified as "Subject City Property on Misc. Plan No. 11774/1.
- The lane was closed in anticipation of selling it to the adjoining property owners, or as an exchange for property required for the future widening of Main Street.
- Ongoing negotiations have resulted in Silpit Industries Co. Ltd. submitting an Offer to Purchase involving a sale and exchange of City-owned property for land required for street right-of-way.

- The Planning, Property and Development Department is recommending the approval of the sale and exchange of lands without compensation as the value of the lands that the City will be receiving for the widening of Main Street is considered equal to or more than the value of the City lands.

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 is in receipt of an Offer to Purchase involving a sale and exchange of City-owned property for land required for street right-of-way, which requires approval by the Standing Policy Committee on Property and Development.

HISTORY:

On October 26, 1988, Council adopted the recommendation of the Committee on Public Works approving the legal closing of the public lane (DAC 53/85) shown outlined and identified as “Subject City Property” on Misc. Plan No. 11774/1. The lane was closed in anticipation of selling it to the adjoining property owners, or as an exchange for property required for the future widening of Main Street.

Details of the subject City-owned property are as follows:

Location:	Commonwealth Avenue, north side, east of Main Street
Legal Description:	Parcels A & B Plan 24442
Size:	207.4 square metres (2,233.0 square feet)
Zoning:	“C2” – Commercial District

DISCUSSION:

Ongoing negotiations have resulted in Silpit Industries Co. Ltd. submitting an Offer to Purchase involving a sale and exchange of City-owned property for land required for street right-of-way. The proposed sale and exchange of lands between the City and Silpit Industries Co. Ltd. provides for the following:

a) Silpit Industries Co. Ltd. to receive title to the subject City property (Parcels A & B Plan 24442) shown outlined on Misc. Plan No. 11774/1, and

b) The City (at no cost) to receive from Silpit Industries Co. Ltd. title to the property required for the street widening shown in broken outline on Misc. Plan No. 11774/1, all in accordance with the terms and conditions of the attached Offer to Purchase dated November 22, 2006, 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.

The Purchaser will be required to consolidate the subject City property (Parcels A & B, Plan 24442) with its adjoining property Lots 1/5, Block 1, Plan 1264.

The Ward Councillor has no objections to the proposed sale and exchange of lands.

The Planning, Property and Development Department is recommending the approval of the sale and exchange of lands without compensation as the value of the lands that the City will be receiving for the widening of Main Street is considered equal to or more than the value of the City lands.

Financial Impact Statement Date: December 13, 2006

Project Name:
Proposed Sale/Exchange of Lands located at the Northeast corner of Main Street and Commonwealth Avenue

COMMENTS:

As the primary recommendation in this report involves a proposed sale and exchange of lands between the City and Silpit Industries Co. Ltd. without compensation, there is no financial impact associated with this report.

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

3494

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

No consultation was required in the preparation of this report.

External Consultation With:

No consultation was required in the preparation of this report.

THIS REPORT SUBMITTED BY:

Department Planning Property and Development
Division: Real Estate
Prepared by: Gerry Anderson
PPD File No. 6849

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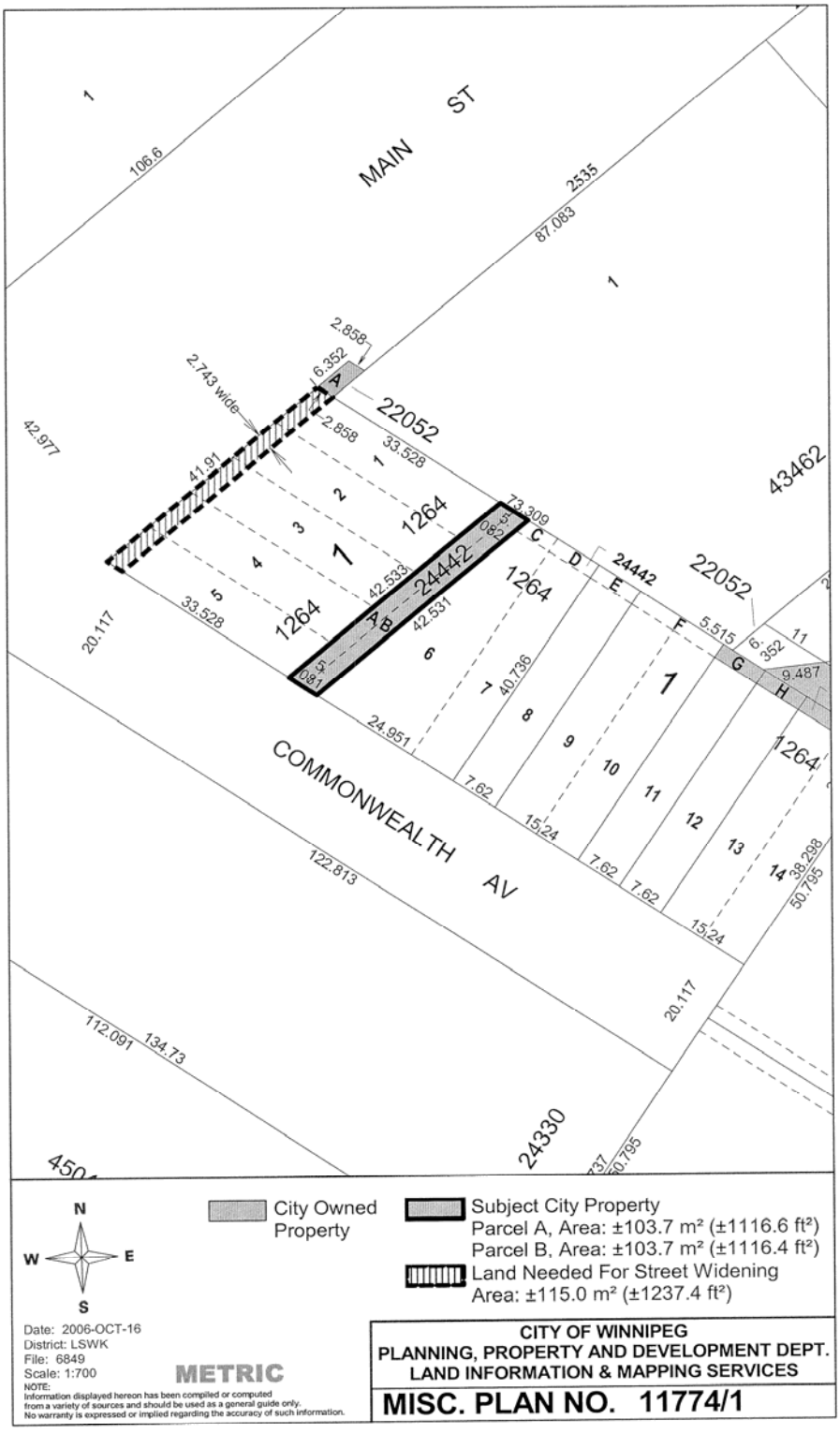
MAIN ST
COMMONWEALTH AV
22052
1264
24442
43462
24330
2.743 wide
City Owned Property
Subject City Property
Parcel A, Area: ±103.7 m² (±1116.6 ft²)
Parcel B, Area: ±103.7 m² (±1116.4 ft²)
Land Needed For Street Widening
Area: ±115.0 m² (±1237.4 ft²)
N
S
E
W
Date: 2006-OCT-16
District: LSWK
File: 6849
Scale: 1:700
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. 11774/1

File No: 6849

INDUSTRIAL/COMMERCIAL

OFFER TO PURCHASE

The Undersigned (hereinafter called "the Purchaser") hereby offers to purchase from The City of Winnipeg (the "City") the following lands: -

The Subject City Property shown as Subject City Property Parcels A and B on Misc. Plan No.11774/1

(hereinafter called the "Lands")

for the sum of $1.00 cash, the sufficiency of which is received.and upon the following terms and conditions:

1. (1) The date of Closing, Possession and adjustments shall be on or before 120 days from the date of approval of the sale.

(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.

2. 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 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.

(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.

3. The Purchaser will obtain possession of the Lands at the Purchaser's own expense.

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

5. 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 it's proposed use and development of the lands may require applications for rezoning, variances or conditional uses and/or 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.

6. 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.

7. Upon closing of the sale, 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.

8. (A) The Purchaser agrees that in the event the Purchaser, at its sole cost, conducts or causes to be conducted an Environmental Site Assessment, it shall

(1) ensure that all work done in connection with such Environmental Site Assessment is completed no later than ninety (90) days from the Date of Approval, and

(2) maintain the Lands in safe condition at all times during the conduct of any work done in pursuance of this Clause 8; and

(3) restore the Lands to the same condition as prior to its entering in or upon same in pursuance of this Clause 8; and

(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

(5) provide copies of any such Environmental Site Assessment of the said Lands to the City for its own use, at no cost to the City no later than ninety (90) days from the date of approval.

AND in the event it is determined as a result of said Environmental Site Assessment, 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 ninety (90) days following the Date of Approval, 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 8.

AND FURTHER if the City has not been advised of any non-compliance of the lands to Provincial Environmental standards within 90 days from the Date of Approval, 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.

(B) The Purchaser will permit the City to, at it's discretion and expense (within 90 days of approval) conduct or have conducted on it's behalf an environmental assessment of the Applicant's Property to be transferred to the City for street widening. The Purchaser acknowledges and accepts that should the City determine that there are environmental concerns or contamination, it may elect to cancel the proposed transaction and report the results of such testing to the Provincial Government.

9. (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, Manitoba Telephone System, Centra Gas, 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.

(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.

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. In consideration of the sale of the lands by the City to the Purchaser, the Purchaser covenants and agrees as follows:

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 and registered at the Winnipeg Land Titles Office, such documentation as may be required to ensure that the lands to be conveyed by the City and the Purchaser's adjoining property legally described as Lots1/5 Block 1 Plan 1264 (herein called the "Purchaser's adjoining property") 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.

12. In consideration of the sum of One ($1.00) Dollar paid to the Purchaser by the City (the receipt and sufficiency of which is hereby acknowledged by each of the parties hereto), the Purchaser hereby grants to the City an option to purchase the lands shown as "Land Needed For Street Widening" consisting of an area of approximately 115.0 sq. m. (approximately 1237.4 square feet) as shown on Misc. Plan No. 11774/1 (hereinafter called "Land Needed For Street Widening"). It is understood and agreed that upon being notified by the City that the City requires for street widening purposes the Land Needed For Street Widening, the Purchaser shall forthwith transfer the Land Needed For Street Widening to the City, without compensation, at no cost to the City, and free and clear of any and all encumbrances.

The Purchaser covenants and agrees not to build on the Land Needed For Street Widening any building or other structure whatsoever.

The provisions contained in this clause shall not merge but shall survive the closing of this transaction of purchase and sale.

The rights contained in this clause shall run with the Land Needed For Street Widening and shall enure to the benefit of the City, its successors and assigns, and the burdens contained in this clause shall be binding upon the Purchaser and the Purchaser's successors in title, and the owners and occupiers for the time being of the Land Needed For Street Widening.

13. The City may, at it's option and discretion as to timing, attend to the survey required by the Winnipeg Land Titles Office in order to dedicate the lands to be widened as street right of way.

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 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.

18. 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.

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

SILPIT INDUSTRIES CO. LTD 300-70 ARTHUR STREET WPG MB R3B 1G7
Name (Please Print) Address

Purchaser's Registration No. (G.S.T.) 10455 7107RT

IN WITNESS WHEREOF the Purchaser has signed this document in

WINNIPEG, MANITOBA, this 22ND day of NOVEMBER 2006

Witness Authorized Signature

DAVID S. KAUFMAN PRESIDENT
Name and Title of Authorized Signature (Please print)

K. Anderson
Witness Authorized Signature

Name and Title of Authorized Signature (Please print)

ACCEPTED this _____day of _____, A.D., 2006

THE CITY OF WINNIPEG

Per:_____

DIRECTOR

Planning,Property and Development Department

Approved:

_____

Planning Property and Development Department

Certified as to form:

_____

for City Solicitor/Manager of Legal Services

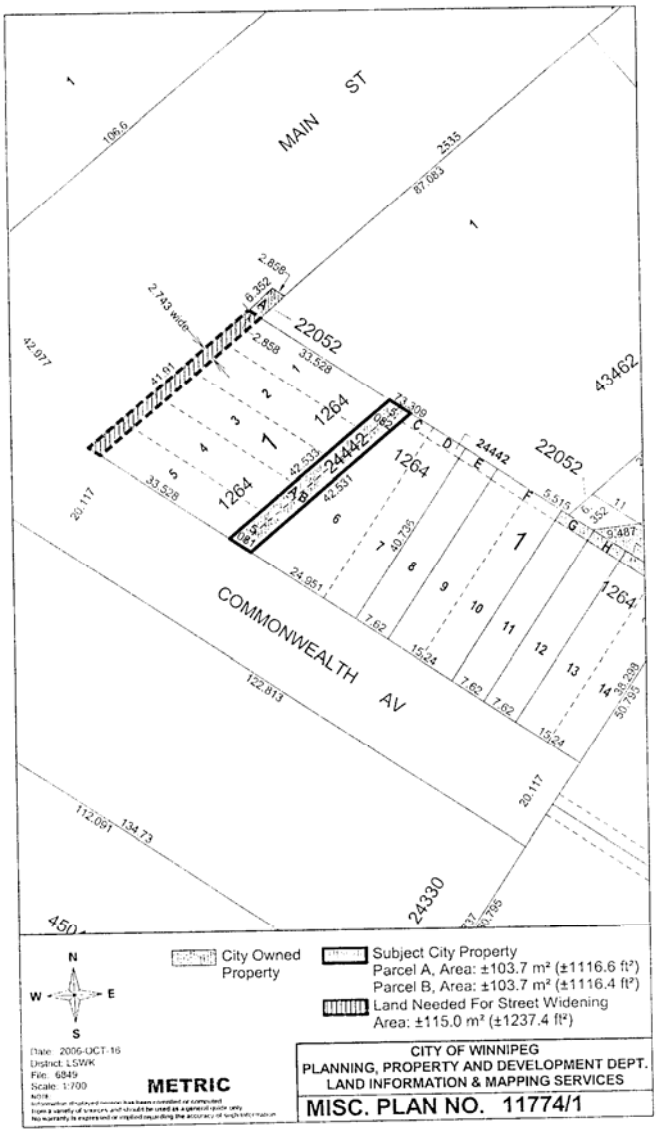
MAIN ST
COMMONWEALTH AV
22052
43462
24442
1264
24330
City Owned Property
Subject City Property
Parcel A, Area: ±103.7 m² (±1116.6 ft²)
Parcel B, Area: ±103.7 m² (±1116.4 ft²)
Land Needed For Street Widening
Area: ±115.0 m² (±1237.4 ft²)
N
W
E
S
Date: 2006-OCT-16
District: LSWK
File: 6849
Scale: 1:700
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 11774/1

EXHIBIT "A"

Real Owner Application

To the City Assessor

(Name of Municipality) Roll No.

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	Range	Interest in Property

DRAFT

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: 200 (Signature of Applicant)

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