Minute No. 394
Report - Standing Policy Committee on Property and Development – April 3, 2007

Item No. 13 **Sale of Vacant City Property located on the northwest corner of Marion Street and rue Youville**
File FI-2.4(35)

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That the criteria of the Policy adopted by Council on December 6, 2006, with respect to unsolicited Offers to Purchase be waived in this instance.

2. That the sale of the subject City property outlined on Misc. Plan No. 11094/1 be approved in favour of Tom and Shui-Lan Chan at a price of $38,000.00 in accordance with the Offer to Purchase attached to the report from the Acting Director of Planning, Property and Development dated March 22, 2007, and upon 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 and achieve the intent of Council.

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 – April 3, 2007

DECISION MAKING HISTORY:

Moved by Councillor Swandel,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 18, 2007, 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 April 3, 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 of Vacant City Property located on the Northwest corner of Marion Street and Rue Youville
Riel Community Committee
St. Boniface Ward

FOR SUBMISSION TO: Standing Policy Committee on Property and Development

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

REPORT DATE: March 22, 2007

RECOMMENDATION:

1. That Council, in this instance, waives that portion of City Policy adopted on December 6, 2006, pertaining to principles guiding the process of sale of City-owned property since the proposed sale to the adjoining owner would promote orderly development.
2. That subject to the approval of Recommendation No. 1., the sale of the subject City property shown outlined on Misc. Plan No. 11094/1 be approved in favour of Tom and Shui-Lan Chan at a price of $38,000.00 and in accordance with the attached Offer to Purchase dated February 13, 2007, and upon 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 and to achieve the intent of the Standing Policy Committee on Property and Development.
3. That the Proper Officer of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report Summary

Key Issues:

- The subject property was acquired in Tax Sale on February 27, 2001.
- The City demolished the building, which existed on the subject property in 1999.
- Initially, on October 25, 2002, the adjoining owners of 407 Marion Street (Oriental Pearl Restaurant), made a request to the Planning, Property and Development Department to purchase the subject City property for the purpose of adding it to their existing holding.
- The Planning, Property and Development Department is recommending that the sale of the subject City property shown outlined on Misc. Plan No. 11094/1 be approved in favour of Tom and Shui-Lan Chan at a price of $38,000.00 and in accordance with the attached Offer to Purchase dated February 13, 2007.

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): 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 the subject City-owned property located at the Northwest corner of Marion Street and Rue Youville shown outlined on Misc. Plan No. 11094/1. Council approval is required to waive that portion of City Policy adopted on December 6, 2006, pertaining to principles guiding the process of sale of City-owned property. Approval by the Standing Policy Committee on Property and Development is required for the sale of the subject City-owned property

HISTORY:

On July 8, 1999, the registered owner of the subject property shown outlined on Misc. Plan No. 11094/1 was ordered to repair or demolish the building in accordance with the requirements of the Winnipeg Building By-law. The order was not complied with and the City demolished the building pursuant to Subsection 12.6 of the aforementioned By-law.

The City acquired the subject property by way of Tax Sale on February 27, 2001.

Particulars of the property are as follows:

Location:	Northwest corner of Marion Street and Rue Youville
Legal Description:	Lot 2, Plan 29,256
Certificate of Title:	1783610
Roll No.:	06081310000
Assessed Value:	$59,300.00
Appraised Value:	$40,000.00
Zoning:	C-2 Commercial District
Size:	±501.1m² (±5,393.9 sq. ft.)

The costs incurred to date by the City pursuant to the acquisition of the subject property via the tax sale process are $39,674.57.

DISCUSSION:

On October 25, 2002, Mr. Tom Chan, the adjoining owner of 407 Marion Street (Oriental Pearl Restaurant), made a request to the Planning, Property and Development Department to purchase the subject City property for the purpose of adding it to their existing holding for parking purposes.

The proposed disposition of the property was circulated to all City Departments. The Public Works Department advised that it would require a corner cut at the southeast corner of the subject City property identified on Misc. Plan No. 11094/1. Costs associated with the Survey Plan are to be charged to Account No. 003-181000-180604 (WO 1833000100). No other Civic needs were identified nor were any utility easements identified.

Because of the location, size, utility and access constraints of the subject property, the Department considers that it would be extremely difficult to successfully market this property through a public offering. Offering the subject property to the adjoining owner would, in this instance, be the most logical form of disposition.

It is the opinion of the Department that the subject property should be sold directly to Tom and Shui-Lan Chan, since:

1. the sale would support orderly development by facilitating expansion of the existing business operations; and
2. the best value will be obtained for the citizens of Winnipeg.

The Planning, Property and Development Department have concluded its negotiations with Tom and Shui-Lan Chan.

Details of the Offer to Purchase are as follows:

Purchaser:	Tom and Shui-Lan Chan
Price Offered:	$38,000.00
Condition:	The Purchaser acknowledges that the City upon receiving ownership of the subject property demolished the said commercial building leaving the south and east concrete foundation walls of the building in the subject property along both Marion Street and Rue Youville. Furthermore, the Purchaser acknowledges and agrees that the future removal of the said concrete foundation walls or any other debris contained within the subject property shall be at the Purchaser's sole cost, effort and expense.

The Planning, Property and Development Department recommends the sale of the subject City property located at the North West corner of Marion Street and Rue Youville as shown on Misc. Plan No. 11094/1 to Tom and Shui-Lan Chan for the following reasons:

a) The proposed sale price is supported by an internal appraisal as to its market value.
b) The Ward Councillor has no objections to the sale of the subject property.
c) The property would be placed on the tax roll at the closing of the sale.

d) Negotiations with the Purchaser have concluded with the final offer now having been presented.
e) The sale will eliminate the liability for the City associated with holding this parcel of vacant land.
f) Considering the location and size constraints associated with the subject property, it would be difficult to successfully market this property through a public offering.

Financial Impact Statement

Date: March 19, 2007

Project Name:

First Year of Program 2007

Proposed Sale of Vacant City Property located on the Northwest corner of Marion Street and Rue Youville

	2007	2008	2009	2010	2011
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	38,314	629	629	629	629
Net Cost/(Benefit)	$ (38,314)	$ (629)	$ (629)	$ (629)	$ (629)
Less: Existing Budget Amounts	(38,314)	(629)	(629)	(629)	(629)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Revenues in 2007 consist of the proceeds of disposition of $38,000 + $314 in municipal property tax revenue. The latter amount is based on the assumptions that the assessed value of the property equals the sale price, the portioning & mill rates are 65% and 0.025448 respectively, and that the property is added to the tax roll effective July 1, 2007. Revenues from 2008 onward represent municipal realty taxes for the full year based on the same assumptions. Proceeds of disposition will be credited to the Land Operating Reserve while realty taxes will be credited to the General Revenue Fund.

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

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

No internal consultation was required in the preparation of this report.

External Consultation With:

No external consultation was required in the preparation of this report.

THIS REPORT SUBMITTED BY:

Department: Planning, Property and Development
Division: Real Estate
Prepared by: Joedi Pruden
PPD File No. 32/7246

O:\Reports Directive\Real Estate\Sales\(jp)411Marion.doc


GOULET ST
RUE YOUVILLE
MARION ST
29256
1930
11
12
13
14
15
16
17
19
323
319
13.716
37.338
33.338
20.117
15.24
13.106
8.716
4.0
5.0
401
407
400
412
422
PT 3
SUBJECT CITY PROPERTY
502.1 SQ.M.
PROPOSED STREET OPENING
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
SCALE: 1:500
DATE: 2002-NOV-22
DISTRICT: RIEL
ATLAS: G13B4
FILE: 32/7246
MISC. PLAN No.: 11094/1

File: 32/7246

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:

Part SP Lot 2, Plan 29256 WLTO identified as "Subject City Property" excepting for the area identified as "Proposed Street Opening" on Misc. Plan No. 11094/1, attached hereto

(hereinafter called the "Lands")

for the sum of $38,000.00 cash, and upon the following terms and conditions:

1. (1) Attached to this Offer is the Purchaser's certified cheque, bank draft or money order payable to "The City of Winnipeg" in the amount of $5,700.00, and represents an amount equal to fifteen (15%) percent 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 and Development and/or City Council (in the event that Council approval is required) and/or its delegated authority, 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, possession and adjustments.

   (2) If the Purchaser fails to pay the balance of the purchase monies, interest and adjustments on or before the date of closing, possession and adjustments 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 one hundred and twenty (120) days following the date of completion of the registration of the road opening plan in the Winnipeg Land Titles Office, whichever is the later.

   (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 closing, possession and 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 closing, possession and 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 closing, possession and 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, possession and adjustments 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 his 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, which includes, without limiting the generality of the foregoing, obtaining his own Surveyor's Building Location Certificates, Surveyor's Staking Certificates and Zoning Memorandum and in connection therewith acknowledges and is aware that the City does not provide Declarations of Possession.

5. The Purchaser acknowledges that in submitting this Offer to Purchase, the Purchaser relies entirely upon personal inspection of the Lands, independent of any representation made by or on behalf of the City of Winnipeg. Any error or discrepancy in the description or in the dimensions of the Lands as contained herein shall not entitle the Purchaser to any compensation in respect thereof nor shall it entitle the Purchaser to the cancellation of this Offer to Purchase.

6. All existing improvements (if any) in or on the said Lands shall remain as part of the freehold.

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

8. The Purchaser agrees that in the event the Purchaser, at his sole cost, conducts or causes to be conducted an Environmental Site Assessment and/or soil testing of the Lands, he shall:

   (1) ensure that all work done in connection with such Environmental Site Assessment and/or soil testing 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/or soil testing; and

   (5) provide copies of any such Environmental Site Assessment and/or Report concerning soil testing 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 and/or soil testing, 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, but in any event, prior to closing, the City, at is 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 10.

   AND FURTHER, if the City has not been advised of any non-compliance of the Lands to Provincial Environmental standards within ninety (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.

9. (1) The Purchaser acknowledges that it is aware that prior to title of the Lands vesting with the City, the Lands were developed with a single storey commercial building which was used as a restaurant.

(2) The Purchaser acknowledges that the City upon receiving ownership of the Lands demolished the said commercial building leaving the south and east concrete foundation walls of the building in the Lands along both Marion Street and Rue Youville. Furthermore, the Purchaser acknowledges and agrees that the future removal of the said concrete foundation walls or any other debris contained within the Lands shall be at the Purchaser's sole cost effort and expense.

(3) The Purchaser acknowledges that there is sufficient existing municipal watermain and sewer services located within Rue Youville to service the Lands. Furthermore, the Purchaser agrees that the installation of sewer and water lot line connections from the said municipal services located within Rue Youville to the Lands shall be at the Purchaser's sole cost effort and expense.

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

(5) The Purchaser agrees that it will rely solely upon its own investigations in determining the degree of contamination, if any, existing on and within the Lands and the extent of contamination, if any.

(6) The Purchaser shall indemnify the 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.

(7) It is understood and agreed that the terms, conditions and covenants contained in this Clause 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 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 Manitoba Hydro, MTS Allstream Inc., Centra Gas Manitoba Inc., or The City of Winnipeg, and/or any of their respective successors and/or other utilities, for the maintenance of existing and future facilites 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 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) Any removal or relocation of a public utility as a result of a proposed subdivision will be at the expense of the Purchaser. Information on electrical and gas service to new subdivisions can be obtained from the local Manitoba Hydro District Office.

(4) The Purchaser at its own expense shall be responsible to provide any Easement Plan that may be required to effect registration of the Easement Agreement in the Winnipeg Land Titles Office.

(5) The Purchaser acknowledges that the City may grant the easement before the Transfer of Land issues.

12. The City shall at its cost, effort and expense, do all things as necessary, including but not limited to causing to be prepared and registered at the Winnipeg Land Titles Office a Plan of Survey which will legally open as street that portion of SP Lot 2, Plan 29256 shaded and identified as "Proposed Street Opening" on Misc. Plan No. 11094/1.

13. The Purchaser is hereby advised that soil conditions in Winnipeg are of the glacial till variety which is composed of Lacustrine Clays with Silt Intrusions. The Purchaser shall be responsible for any increased costs of development due to this random stratification.

14. 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 his proposed use and development of the Lands may require applications for re-zoning, variances or conditional uses, amendments to Plan Winnipeg, which applications, resulting Land dedication charges (if any) are to be at the sole cost and responsibility of the Purchaser. Nothing in this Offer shall be construed as placing any duty or obligation upon the City to grant such rezoning, variance or conditional use orders and/or amendments to Plan Winnipeg when the Purchaser's application for same is made to the City.

15. The Purchaser agrees that the City may register Caveat/s 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.

16. 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.

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

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

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

Offer to Purchase Page 5

20. 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.

21. 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.

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

_____

Name (Please Print) Address

Purchaser's Registration No. (G.S.T.) _____

IN WITNESS WHEREOF the Purchaser has signed this document in

_____, _____, this _____ day of _____ 20_

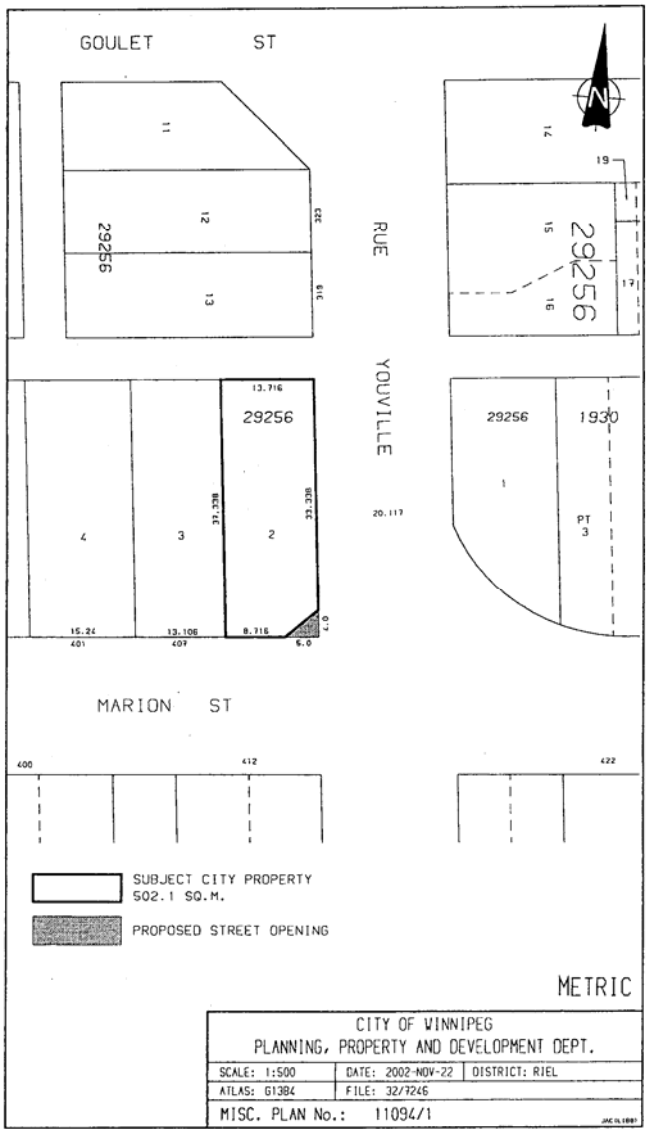
_____ _____

Witness Purchaser

_____ _____

Witness Purchaser

Offer to Purchase Page 6



Offer to Purchase Page 7

Example Only

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: _____ 19 ____ _____

(Signature of Applicant)

Office of the City Assessor _____

The City of Winnipeg (Signature of Registered Owner)