Minute No. 59

Report - Standing Policy Committee on Property and Development - November 21, 2006

Item No. 1 Cancellation of Building Restriction Caveat - 210 Langside Street File EC(BRC)

COUNCIL DECISION:

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

1. That the Building Restriction Caveat against the property commonly known as 210 Langside Street be cancelled in order that the owner of the property may proceed with an application before the Municipal Board of Manitoba to have the caveat cancelled.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

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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 November 29, 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 November 21, 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:	**Approval of Application before the Municipal Board of Manitoba to cancel a Building Restriction Caveat**
FOR SUBMISSION TO:	**Standing Policy Committee on Property and Development**
ORIGINAL REPORT SIGNED BY:	**Ursula B. Goeres City Solicitor/Manager of Legal Services**
REPORT DATE:	**November 6, 2006**

RECOMMENDATION:

That Council pass a resolution recommending the cancellation of a Building Restriction Caveat against the property commonly known as 210 Langside Street in order that the owner of the property may proceed with an Application before the Municipal Board of Manitoba to have the caveat cancelled.

Report Summary

Key Issues:

The current property owner has made application to the Municipal Board in accordance with *The Municipal Board Act* to cancel a building restriction caveat that was filed in 2000, based on an agreement between a previous owner and West Broadway Housing Limited. West Broadway Housing Limited has since been dissolved. The City had no involvement in that matter. However, *The Municipal Board Act* provides that where lands affected by a building restriction are located in the City of Winnipeg, a person seeking to obtain an Order of the Municipal Board to cancel the building restriction can only do so if Council has passed a resolution recommending the removal of the caveat.

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

() None

(x) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s): If the building restriction caveat is removed by Order of the Municipal Board, the use of the property will be regulated by the City's zoning by-laws in the usual manner.

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):

Report

REASON FOR THE REPORT:

Subsection 104(3) of *The Municipal Board Act* provides that where lands affected by a building restriction caveat (a "brc") are located in Winnipeg, no order of the Municipal Board may be made to cancel the brc unless Council has by resolution, recommended such cancellation and a certified copy of its resolution is filed with the Board.

HISTORY:

D.R. Knight Law Office, on behalf of the current property owner, 4892292 Manitoba Ltd., has made application to the Municipal Board for removal of the brc in favour of West Broadway Housing Limited which caveat restricts the use of the property to an "owner occupied" single family residential purpose only. According to the application, West Broadway Housing Limited has been dissolved by the Manitoba Corporations Branch.

Title to the property (210 Langside Street) was in the name of Marie Joy Brooks who entered into a Building Restriction Agreement with West Broadway Housing Limited dated September 29, 2000, which agreement provided as follows:

"1. The Property shall be used for owner occupied, single family residential purposes only and no attached or semi-detached house, duplex or apartment, rooming house or any house designed for more than one family shall be erected on the Property nor the house erected on the Property as of the date of this Agreement converted to any such use.

2. The grantee (Marie J. Brooks) agrees to obtain from any subsequent purchaser or transferee from him a covenant to observe the building restrictions set forth in this Agreement and including this paragraph.

3. This covenant shall be binding on and enure to the benefit of the respective heirs, executors, administrators, successors and assigns of the parties."

The term of the Agreement was 30 years from October 1, 2000.

The Municipal Board has indicated by letter of September 25, 2006 that it would schedule a hearing upon receipt of a certified copy of a resolution of Council of The City of Winnipeg recommending the cancellation requested.

DISCUSSION:

The City of Winnipeg had no involvement in the Agreement entered into between West Broadway Housing Limited and Marie Joy Brooks and the brc registered with respect thereto.

The materials received from the Municipal Board indicates that in order to proceed with the Application, the Municipal Board will also require the written consents of all of the interested or affected persons which usually includes at a minimum the owners of each property located within 100 meters of the property. The materials indicate that upon receiving all the required materials, Notice of a Hearing at which the Board will consider the matter will be published in a local newspaper.

The Director of Planning, Property and Development advises that the property is zoned "R2-T" which is consistent with that portion of West Broadway. If the caveat is removed, the owner could possibly construct/convert to a two-family dwelling or, with a Conditional Use Order, establish a multiple family dwelling.

A search of the records of the Manitoba Corporations Branch indicates that the corporation West Broadway Housing Limited was dissolved in February, 2005, when it failed to file its required annual return. The administration understands that this property was a Lions Housing project. That initiative, incorporated as West Broadway Housing Limited, operated to deliver affordable housing prior to the City's Winnipeg Housing and Homelessness Initiative "WHHI". It is surmised that the caveat was filed to protect the investment made by West Broadway Housing Limited in the area, and was intended to ensure that a subsidy provided to the purchaser would result in long-term residency.

Financial Impact Statement

Date: October 31, 2006

Project Name: **First Year of Program** **2006**

Approval of Application before the Municipal Board of Manitoba to cancel a Building Restriction Caveat

	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	-	-	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

There are no financial implications associated with the recommendations of this report.

Radhika Abeysekera
Manager of Finance & Administration
Corporate Services Dept.

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

Planning, Property and Development Department

External Consultation With:

n/a

THIS REPORT SUBMITTED BY:

Department: Corporate Services Department
Division: Legal Services
Prepared by: William R. Stovel
File No.: R.5/2006(1)