Report - Standing Policy Committee on Property and Development - April 29, 2008

Item No. 12 Sale - City Land West of 325 Dufferin Avenue - Neechi Foods Co-op Ltd.
(Mynarski Ward)
File FI-2.4(34)

STANDING COMMITTEE RECOMMENDATION:

On May 7, 2008, 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 City-owned property located west of 325 Dufferin Avenue, shown shaded on the Misc. Plan No. 6133/4 be declared surplus to the City's requirements.

2. That the sale of the subject City-owned property located west of 325 Dufferin Avenue shown shaded on Misc. Plan No. 6133/4, to Neechi Foods Co-Op Ltd. for the price of $1.00 be approved, in accordance with the terms and conditions of the Offer to Purchase dated April 11, 2008, subject to the City receiving credit in the amount of $14,000.00 (the appraised value) and all costs incurred to the date of closing, for the land contribution under the Aboriginal Participation Component of the Winnipeg Partnership Agreement.

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 29, 2008

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 7, 2008, 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 29, 2008, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

RE: Proposed Sale of City Land West of 325 Dufferin Avenue – Neechi Foods Co-Op Ltd.
Lord Selkirk-West Kildonan Community
Mynarski Ward

FOR SUBMISSION TO: Standing Policy Committee on Property and Development

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

REPORT DATE: April 16, 2008

RECOMMENDATION:

1. That Council declare the City-owned property (located west of 325 Dufferin Avenue) shown shaded on the attached Misc. Plan No. 6133/4 surplus to the City's requirements.
2. That subject to the approval of Recommendation No. 1, the sale of the subject City-owned property located west of 325 Dufferin Avenue shown shaded on Misc. Plan No. 6133/4, attached, to Neechi Foods Co-Op Ltd. for the price of $1.00 be approved, in accordance with the terms and conditions of the attached Offer to Purchase dated April 11, 2008, subject to the City receiving credit in the amount of $14,000.00 (the appraised value) and all costs incurred to the date of closing, for the land contribution under the Aboriginal Participation Component of the Winnipeg Partnership Agreement.
3. That the Proper Officers of the City do all things necessary to effect the intent of the foregoing.

Report Summary

Key Issues:

- Neechi Foods Co-op Ltd. has submitted an unsolicited offer to purchase the subject City property for $1.00 in order to develop a planned expansion to its existing building at 325 Dufferin Avenue.
- The Planning, Property and Development Department is recommending approval of the sale to Neechi Foods Co-op Ltd. as the proposed sale is in accordance with the City's *"Offers to Purchase City-owned Property Policy"*.
- The sale is subject to the City receiving credit for its land contribution of $14,000.00 (the appraised value) and all costs incurred to the date of closing, for the land contribution under the Winnipeg Partnership Agreement.

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): The recommended sale of the subject City property is in accordance with the City's *"Offers to Purchase City-owned Property Policy"*. Condition #3 of the Policy states:

> *"The Department may act on unsolicited offers for City-owned property and will sell these properties at or below market value when mandated by Council-approved policies or programs. The Municipal Aboriginal Pathways Strategy (MAPS), the Affordable Housing Initiative (AHI), the Winnipeg Housing and Homeless Initiative (WHHI) and the Economic Opportunity Framework are examples of these policies and programs."*

The Winnipeg Partnership Agreement is an example of an approved policy or program.

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): The City will seek credit for the land provided toward the project under the Winnipeg Partnership Agreement including all costs incurred to the date of closing.

Report

REASON FOR THE REPORT:

The Planning, Property and Development Department is in receipt of an unsolicited Offer to Purchase the City-owned property located on the north side of Dufferin Avenue, west of 325 Dufferin Avenue shown shaded on Misc. Plan No. 6133/4. Standing Policy Committee on Property and Development approval is required for the sale.

HISTORY:

The City acquired title to the subject property in 1972, as part of an Urban Renewal Partnership in redeveloping the land within the block north of Dufferin Avenue between Aikins and Robinson Streets. The land north of the subject City property has been developed into single storey housing units.

Details of the subject property are as follows:

Location:	Dufferin Avenue, north side, west of 325 Dufferin Avenue
Legal Description:	Lots 15 and16, Plan 31,649
Certificate of Titles:	1372858 and1379147
Roll Number:	14001473500 and 14001496000
Assessment:	$14,890.00
Size:	3,432 square feet
Zoning:	“C2” - Commercial Community

The Department has determined that there is no City requirement for the subject property.

DISCUSSION:

Neechi Foods Co-op Ltd. owns the property at 325 Dufferin Avenue and is interested in acquiring the subject City property in order to develop a planned expansion to its existing building at 325 Dufferin Avenue. The Department has received the attached unsolicited Offer to Purchase from Neechi Foods Co-op Ltd.

On December 6, 2006, Council adopted the *"Offers to Purchase City-owned Property Policy"*, which enables the Department to act on unsolicited offers for City-owned properties under certain conditions. Condition #3 of the Policy states:

> *"The Department may act on unsolicited offers for City-owned property and will sell these properties at or below market value when mandated by Council-approved policies or programs. The Municipal Aboriginal Pathways Strategy (MAPS), the Affordable Housing Initiative (AHI), the Winnipeg Housing and Homeless Initiative (WHHI) and the Economic Opportunity Framework are examples of these policies and programs."*

In the context of Condition #3 above, The Winnipeg Partnership Agreement is an example of one the above programs.

The Planning, Property and Development Department is recommending that the proposed sale of the City-owned property shown shaded on Misc. Plan No. 6133/4 to Neechi Foods Co-op Ltd. be approved at a price of $1.00, for the following reasons:

a) The sale is consistent with Council policies.
b) The Ward Councillor is supportive of the proposed sale.
c) The property would be placed on the tax roll at the time of closing of the sale.
d) The purchaser would be responsible for all costs related to the acquisition of the subject property.
e) The sale is subject to the City receiving credit for its land contribution of $14,000.00 (the appraised value) and all costs incurred to the date of closing, for the land contribution under the Winnipeg Partnership Agreement.

Financial Impact Statement Date: April 15, 2008

Project Name:

Sale of City land west of 325 Dufferin Avenue - Neechi Foods Co-op Ltd.

COMMENTS:

The recommendations in this report include:
1. That Council declare the City-owned property (located west of 325 Dufferin Avenue) shown shaded on the attached Misc. Plan No. 6133/4 surplus to the City's requirements.
2. That subject to the approval of Recommendation No. 1, the sale of the subject City-owned property located west of 325 Dufferin Avenue shown shaded on Misc. Plan No. 6133/4, attached, to Neechi Foods Co-Op Ltd. for the price of $1.00 be approved, in accordance with the terms and conditions of the attached Offer to Purchase dated April 11, 2008, subject to the City receiving credit in the amount of $14,000.00 (the appraised value) and all costs incurred to the date of closing, for the land contribution under the Aboriginal Participation Component of the Winnipeg Partnership Agreement.

There are no material financial implications associated with this recommendation (note: there is an opportunity cost of $14,000 assuming the property could be sold at appraised value on the open market).

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

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

N/A

External Consultation With:

N/A

THIS REPORT SUBMITTED BY:

Department	Planning, Property and Development
Division	Real Estate
Prepared by:	Barry Lucyk
PPD File No.	3280

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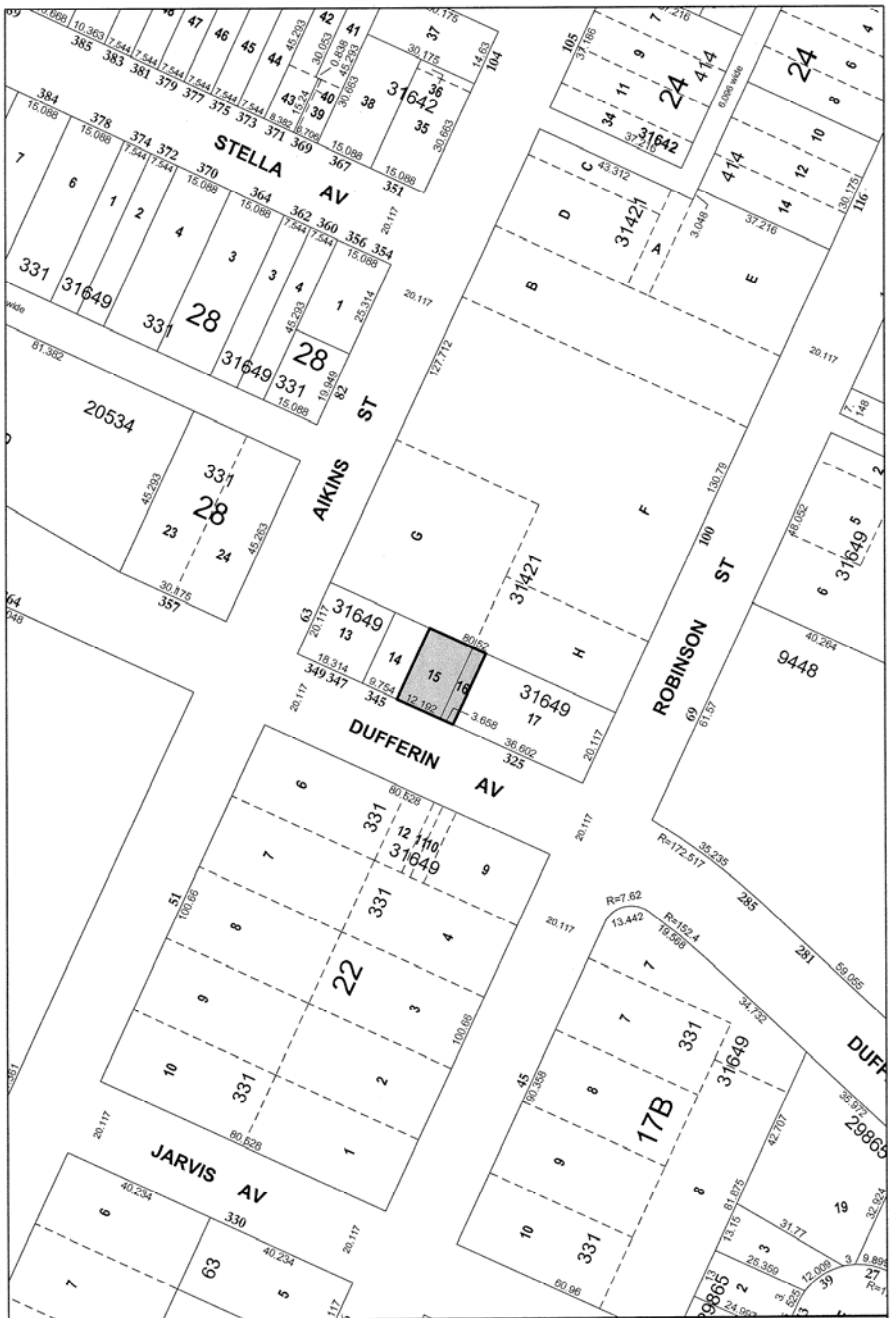


Subject City Property
Area: ±318.9 m² (±3432 ft²)

Date: 2008-FEB-05
District: LSWK
File: 3280
Scale: 1:1250

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. 6133 / 4

File: 3280

INDUSTRIAL /COMMERCIAL

OFFER TO PURCHASE

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

North Side Dufferin Avenue, shown outlined as "Subje ct City Property" on Misc. Plan No. 6133/4 attached hereto,

(hereinafter called the "Lands")

for the sum of $ 1.00 cash, the receipt of which is hereby acknowledged and upon the following terms and conditions:

1. (1) The purchase price is payable as follows:

(a) By payment of $1.00 cash as noted above.

2. (1) The payment of $1.00 as set in clause 1 (1) above 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), hereinafter called the "Date of Approval". If the Purchaser fails to pay the adjustments on or before the date of closing, the City may, at its option, cancel the sale and retain the deposit as liquidated damages.

2. (1) The date of closing, vacant possession and adjustments shall be sixty (60) days following the date that both Clauses 12 and 13 herein have been satisfied, or later 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.

(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. The Purchaser agrees to accept title # 1373858 subject to a right of way for all purposes and as appurtenant to Parcel H Plan 31421, WLTO, over and upon said Lot 16 in RL 35 Parish of St John. The Purchaser agrees to accept title # 1379147 subject to caveat #H68282 with the City of Winnipeg.

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. The Purchaser agrees that in the event the Purchaser, at its sole cost, conducts or causes to be conducted an Environmental Site Assessment of the Lands, 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 9; and

(3) restore the Lands to the same condition as prior to its entering in or upon same in pursuance of this Clause 9; 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

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 9.

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.

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

(2) 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.

(3) 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.

(4) It is understood and agreed that the terms, conditions and covenants contained in this Clause 10 shall not merge but shall survive closing.

11. 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

Manitoba Hydro, MTS Allstream Inc., 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. The Purchaser shall 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.

13. 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 having a Plan of Survey prepared by a Manitoba Land Surveyor, together with such documentation as may be required to ensure that the Lands to be conveyed by the City are consolidated with the Purchaser' s adjoining property contained in Certificate of Title No. 1405133 and legally described as: "Sp ecial Plot Lot 17, Plan 31,649" WLTO so as to constitute one indivisible parcel. The Purchaser does hereby acknowledge and agree that the consolidation will be done by way of the transfer of the Lands to be conveyed by the City and that in complying with this obligation the Purchaser may be required to arrange for the discharge and re-registration of existing encumbrances against the Purchaser's property described herein, or, in the case of amending the description of the land described in the mortgage or encumbrance, to obtain the consent of all persons that have a claim or interest in priority to the mortgage or encumbrance.

(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.

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

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

Neechi Foods Co-op Ltd. 325 Dufferin Avenue
Name (Please Print) Address

Purchaser's Registrat ion No. (G.S.T.) 122384837

IN WITNESS WHEREOF the Purchaser has signed this document in

Winnipeg, Manitoba, this 11th day of April 2008

R. Rothney
Witness

Authorized Signature

Louise Champagne, President
Name and Title of Authorized Signature (Please print)

R. Rothney
Witness

Authorized Signature

Ferne Chartrand, Secretary
Name and Title of Authorized Signature(Please print)

ACCEPTED this _____day of _____, A.D., 2008

THE CITY OF WINNIPEG

Per: _____

Director of Planning, Property and Development Department

Approved as to details:

Approved as to form:

EXHIBIT "A"

For information purposes only, not to be filled out with the Offer to Purchase

Real Owner Application

To the City Assessor

_____ Roll No. _____
(Name of Municipality)

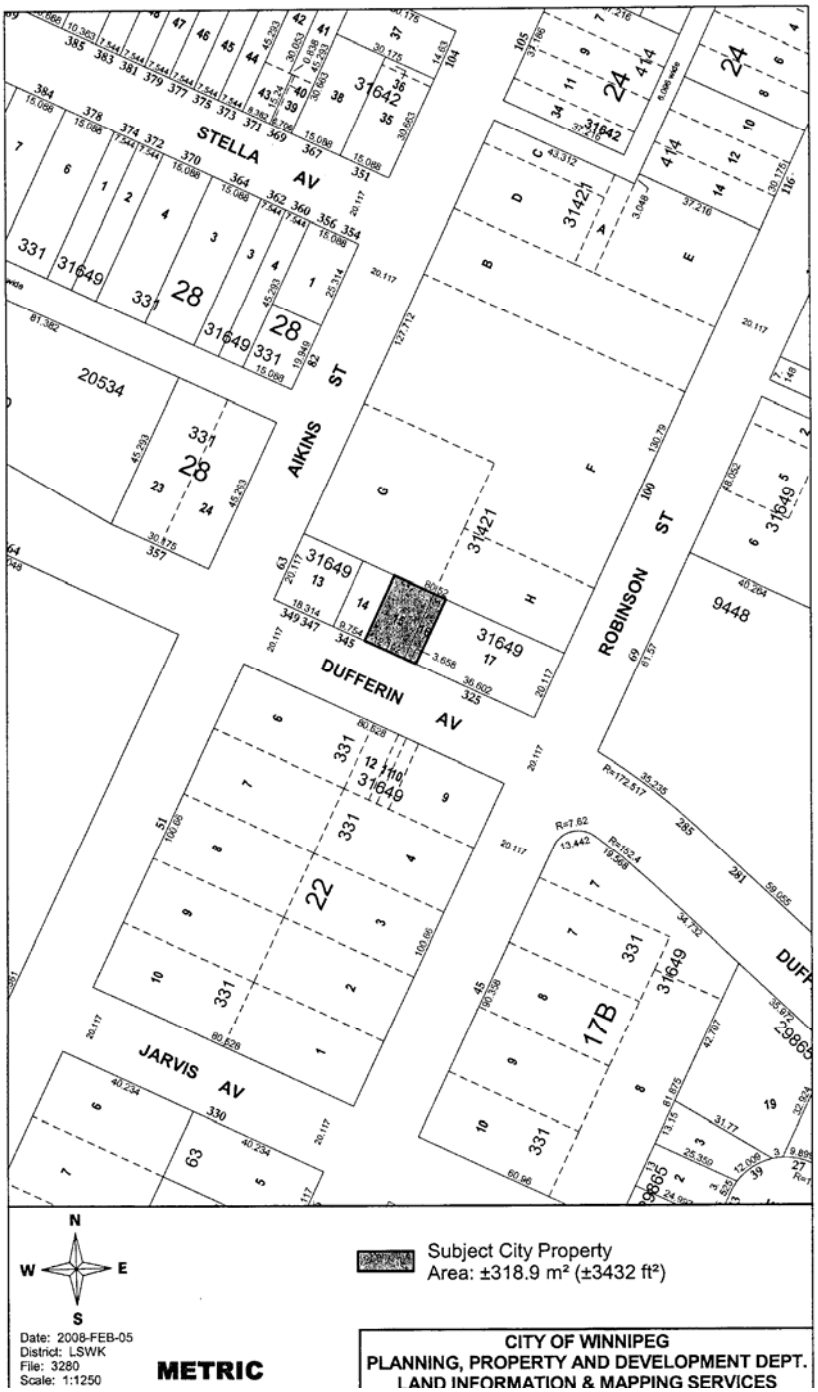
1. I/We_____
(Print Full Name)
request that my/our name(s) appear in the Assessment Roll of the City of Winnipeg in respect to the following property, pursuant to Section 12(1) of "The Municipal Assessment Act", Cap. M 226 S.M..
2. Description of Properties: (Give description of all property in respect 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: _____ 2008 _____
(Signature of Applicant)

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


STELLA AV
AIKINS ST
ROBINSON ST
DUFFERIN AV
JARVIS AV
N
W
E
S
Subject City Property
Area: ±318.9 m² (±3432 ft²)
Date: 2008-FEB-05
District: LSWK
File: 3280
Scale: 1:1250
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES