**Minute No. 535**
**Report - Standing Policy Committee on Property and Development - June 24, 2008**

**Item No. 18** **Cancellation of Building Restriction Caveat - 205 Bloomer Crescent (Charleswood-Tuxedo Ward)**
**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 No. 2758067 against the property commonly known as 205 Bloomer Crescent be cancelled in order that the solicitor for 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.

**Report - Standing Policy Committee on Property and Development - June 24, 2008**

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 July 9, 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 June 24, 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.

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| **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:** | **Phil Sheegl<br>Director, Planning, Property and Development Department** |
| **REPORT DATE:** | **June 16, 2008** |

**RECOMMENDATION:**

That Council passes a resolution recommending the cancellation of Building Restriction Caveat No. 2758067 against the property commonly known as 205 Bloomer Crescent in order that the solicitor for 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 solicitor for 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 2002, based on an agreement between Solarch Design Ltd. and Robert Soloway. *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): There are no financial implications associated with the recommendation of this report.

## 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:**

Application DASSF 525/2007 was made April 5, 2007, to subdivide the properties located at 205 Bloomer Crescent and 436 Elmhurst Street. Title to the property at 205 Bloomer Crescent owned by Robert and Karen Niedzwiecki under Certificate of Title 2052358 is subject to the brc. Before the subdivision under DASSF 525/2007 can be registered, the Winnipeg Land Titles Office requires the discharge of the brc.

Mr. James Dixon with the Law Firm of Monk Goodwin, on behalf of the current property owners, has made application to the Municipal Board for removal of the brc in favour of Solarch Design Ltd.

The agreement between Solarch Design Ltd. and Robert Soloway attached to the caveat, requires the owner to abide by the "Architectural Controls" set forth in Solarch's "Offer to Purchase" for the Deer Grove Subdivision Plan 33790 under DASZ 18/1994.

The Municipal Board will 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 Solarch Design Ltd. and Robert Soloway and the brc registered with respect thereof.

Mr. Dixon advised that Solarch Design Ltd. has agreed that the Caveat is no longer required and can be discharged.

The Director of Planning, Property and Development advises that the property is zoned "R1-L - Residential - Single Family" which is consistent with the immediate surrounding area. There is an existing two storey single family residence constructed in 2005 on the

property. If the caveat is removed, the owner would still be bound by the existing zoning bylaws under the R1-L designation.

It is surmised that the caveat was filed to protect the property values in the area by ensuring any construction on the land by the purchaser would meet the “Architectural Controls” set by the developer.

## Financial Impact Statement Date: June 13, 2008

## Project Name:

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

**COMMENTS:**

The recommendation included in this report is that Council passes a resolution recommending the cancellation of Building Restriction Caveat No. 2758067 against the property commonly known as 205 Bloomer Crescent in order that the solicitor for the owner of the property may proceed with an Application before the Municipal Board of Manitoba to have the caveat cancelled.

There are no financial implications associated with this recommendation.

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

**IN PREPARING THIS REPORT THERE WAS:**

**Internal Consultation With and Concurrence By:**

Planning, Property and Development Department Zoning and Land Development Branches

**External Consultation With:**

n/a

**THIS REPORT SUBMITTED BY:**

Department Planning, Property and Development
Division Development and Inspections
Prepared by: Richard Sherby, Geomatics Administrator
PPD File No. DASSF 525/2007

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