Minute No. 125
Report "A" - Standing Policy Committee on Property and Development - November 25, 2008

Item No. 1 **Expropriation - Southwest Rapid Transit Corridor Project - Stage 1 (Queen Elizabeth Way to Jubilee Avenue Overpass) (Fort Rouge – East Fort Garry Ward) eFile FI-2(32)**

COUNCIL DECISION:

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

1. That the Acting City Solicitor/Manager of Legal Services be instructed to initiate expropriation proceedings, including preparing the necessary by-law for submission to Council, to acquire the properties identified in the report from the Director of Planning, Property and Development dated November 3, 2008, and required by the City for the Southwest Rapid Transit Corridor Project - Stage 1; and to effect the associated right-of-way openings required for the Southwest Rapid Transit Corridor Project - Stage 1.

2. That the Director of Planning, Property and Development be authorized to request the Province of Manitoba to waive the requirement for an expropriation inquiry, under clause 9(8)(a) of the Expropriation Act.

3. That subject to Council's confirmation of the proposed expropriation, that for this expropriation the Chief Administrative Officer be delegated the authority to approve statutory offers of compensation where the market value component is $750,000.00 or less (recognizing that the ancillary costs of the expropriation will likely result in an overall cost exceeding the market value component limit), and to settle expropriation claims not exceeding $750,000.00 (excluding interest and legal and appraisal fees).

4. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing, including execution of any necessary documents and preparation of any necessary by-laws.

Report "A" - Standing Policy Committee on Property and Development – November 25, 2008

DECISION MAKING HISTORY:

Moved by Councillor Fielding,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 10, 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 November 25, 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: Expropriation of Lands - Southwest Rapid Transit Corridor Project - Stage 1 (Queen Elizabeth Way to Jubilee Avenue Overpass)
City Centre Community
Fort Rouge – East Fort Garry Ward

FOR SUBMISSION TO: Standing Policy Committee on Property and Development

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

REPORT DATE: November 3, 2008

RECOMMENDATION:

1. That the Acting City Solicitor/Manager of Legal Services be instructed to initiate expropriation proceedings, including preparing the necessary by-law for submission to Council, to acquire the properties herein identified and required by the City for the Southwest Rapid Transit Corridor Project - Stage 1; and to effect the associated right-of-way openings required for the Southwest Rapid Transit Corridor Project - Stage 1.
2. Subject to the approval of Recommendation No. 1, that the Director of Planning, Property and Development be authorized to request the Province of Manitoba to waive the requirement for an expropriation inquiry, under clause 9(8)(a) of the Expropriation Act.
3. Subject to Council's confirmation of the proposed expropriation, that for this expropriation the Chief Administrative Officer be delegated the authority to approve statutory offers of compensation where the market value component is $750,000.00 or less (recognizing that the ancillary costs of the expropriation will likely result in an overall cost exceeding the market value component limit), and to settle expropriation claims not exceeding $750,000.00 (excluding interest and legal and appraisal fees).
4. That the proper officers of the City be authorized to do all things necessary to implement the foregoing, including execution of any necessary documents and preparation of any necessary by-laws.

Report Summary

Key Issues:

- Authorization to expropriate is required immediately to ensure that the City has a legal interest in all properties prior to advertising the construction tenders and to

ensure the City has possession of all property interests for construction to begin in 2009.

- The Director of Planning, Property and Development has the delegated authority to approve statutory offers of compensation where the market value component is $25,000.00 or less (recognizing that the ancillary costs of the expropriation will likely result in an overall cost exceeding the market value component limit). The Department recommends that for this expropriation the Chief Administrative Officer be delegated the authority to approve statutory offers of compensation where the market value component is $750,000.00 or less (recognizing that the ancillary costs of the expropriation will likely result in an overall cost exceeding the market value component limit), to better reflect the value of the land interests being acquired and expedite acquisition of those interests, and to approve settlement of expropriation claims not exceeding $750,000.00 (excluding interest and legal and appraisal fees).
- If an expropriated property owner accepts a statutory offer, the owner's claim is effectively settled. Therefore delegating authority to the Chief Administrative Officer to approve such offers necessitates amending the City Organization By-law No. 7100/97 to provide that for expropriation projects designated by Council, the Chief Administrative Officer is authorized to settle expropriation claims not exceeding an amount specified by Council, notwithstanding existing monetary limits in that By-law on settlement of expropriation claims (CAO: $100,000.00; EPC: $250,000.00).

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

( ) No

(X) Yes

Comment(s): The Director of Planning, Property and Development has the delegated authority to approve statutory offers of compensation where the market value component is $25,000.00, or less (recognizing that the ancillary costs of the expropriation will likely result in an overall cost exceeding the market value component limit). The Department

recommends that for this expropriation the Chief Administrative Officer be delegated the authority to approve statutory offers of compensation where the market value component is $750,000.00 or less (recognizing that the ancillary costs of the expropriation will likely result in an overall cost exceeding the market value component limit), to better reflect the value of the land interests being acquired and expedite acquisition of those interests, and to approve settlement of expropriation claims not exceeding $750,000.00 (excluding interest and legal and appraisal fees).

Regulatory Implications

(X) None

( ) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s):

Environmental Implications

(X) No

( ) Yes

Comment(s): No environmental issues are anticipated related to the proposed recommendations of this report.

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 Director of Planning, Property and Development has advised the Transit Department to budget $12.7 Million for the cost of property acquisition for the Southwest Rapid Transit Corridor Project. This amount has been included in the overall project budget approved by City Council on October 22, 2008. While the required funding has been approved, at the time of writing this report, a specific account has yet to be set up.

Report

REASON FOR THE REPORT:

The subject properties, identified in the attached Schedule “A”, are required for the development and implementation of the Southwest Rapid Transit Corridor Project - Stage 1. Council’s authorization to expropriate is required immediately to ensure that the City has a legal interest in all properties prior to advertising the construction tenders and to ensure the City is in possession of all property interests for construction to begin in 2009.

Under the Expropriation Act, before serving expropriated owners with notices for possession, the City must serve formal offers of compensation. Council has delegated to the Standing Policy Committee on Property & Development authority to approve such offers generally, and has delegated to the Director of Planning, Property and Development authority to approve offers up to $25,000.00. The Department recommends that for this expropriation the Chief Administrative Officer be delegated the authority to approve statutory offers of compensation where the market value component is $750,000.00 or less (recognizing that the ancillary costs of the expropriation will likely result in an overall cost exceeding the market value component limit), and to approve settlement of expropriation claims not exceeding $750,000.00 (excluding interest and legal and appraisal fees).

HISTORY:

On September 8, 2008, the Mayor and Premier jointly announced that development plans and a source of funding for the development of a rapid transit corridor had been identified. It is planned that the development of the Southwest Rapid Transit Corridor ("SRTC") will take place in two stages, as shown on attached Misc. Plan No. 13430: Stage 1 – Queen Elizabeth Way to Jubilee Avenue Overpass; Stage 2 –Jubilee Avenue Overpass to Bison Drive.

On October 22, 2008, Council considered and approved the Winnipeg Transit Department’s report entitled, "Southwest Rapid Transit Corridor – Stage 1", which identified sources of funding and engineering design for the SRTC – Stage 1.

On November 19, 2008, Council considered and approved the Planning Property and Development Department’s report requesting the authorization to negotiate the acquisition of all land interests for the SRTC – Stage 1.

In anticipation of the aforementioned Council approvals, the Planning, Property and Development Department ("the Department") initiated preliminary data collection such as title and encumbrance searches, plan preparation, contracting out of independent appraisals, etc.

The Department has established contact with all of the owners of the privately owned lands to discuss the land requirement needs for the SRTC – Stage 1 and how it may impact their respective properties. The Department has also presented the Owners with proposed terms and conditions to acquire the needed land from their respective properties.

Particulars of the properties to be expropriated are on the attached Schedule "A".

DISCUSSION:

The Winnipeg Transit Department has advised that all the privately-owned property requirements are needed in order to accommodate the construction of the SRTC – Stage 1, slated to commence in the spring of 2009.

It is the consensus of the Department and the Winnipeg Transit Department that expropriation proceedings need to be initiated. This will ensure possession of these properties required for the SRTC – Stage 1, and will establish a common date for valuation purposes.

The Department is continuing to actively negotiate proposed settlements with all of the property owners. Although it may be possible to reach early settlements for the required land interests, there are no guarantees that all land interests will be acquired in time for the tendering of the SRTC – Stage 1 scheduled for early 2009. In order to guarantee possession of all privately-owned land interests for the 2009 construction season, it is important for the expropriation process to commence immediately. The attached Schedule "B" illustrates an anticipated flow of events for the proposed expropriation (if an inquiry is required).

Under the Expropriation Act, once Council makes a declaration of expropriation, the City must serve notices of intended expropriation on all property owners (including tenants). Each owner has 30 days to object to the expropriation. If any owner objects, the City must notify the Province of Manitoba that due to the objection an inquiry is necessary. The time required to appoint an inquiry officer, hold the inquiry and await the inquiry officer's report may prevent the City from confirming the expropriation and obtaining possession of the properties in a timely way.

Under clause 9(8)(a) of the Expropriation Act, the Lieutenant Governor in Council, deeming it necessary or expedient in the public interest to do so in the circumstances, may direct the confirming authority to make its order confirming a declaration without an inquiry being conducted.

Given Winnipeg Transit's construction timelines, the Department recommends the City request the Province waive the need for an inquiry for this project.

After Council confirms the expropriation, before the City can serve expropriated owners with notices for possession it must serve formal offers of compensation.

Presently the Director of Planning, Property and Development has the delegated authority to approve such offers where the market value component is $25,000.00 or less (recognizing that the ancillary costs of the expropriation will likely result in an overall cost exceeding the market value component limit). Offers in excess of $25,000.00 plus ancillary costs must be approved by the Standing Policy Committee on Property & Development. The Department recommends that for this expropriation the Chief Administrative Officer be delegated the authority to approve statutory offers of compensation where the market value component is $750,000.00 or less (recognizing that the ancillary costs of the expropriation will likely result in an overall cost exceeding the market value component limit), to better reflect the value of the land interests being acquired and expedite acquisition of those interests, and to approve settlement of expropriation claims not exceeding $750,000.00 (excluding interest and legal and appraisal fees).

If an expropriated property owner accepts a statutory offer, the owner's claim is effectively settled. Therefore delegating authority to the Chief Administrative Officer to approve such offers necessitates amending the City Organization By-law No. 7100/97 to provide that for expropriation projects designated by Council, the Chief Administrative Officer is authorized to settle expropriation claims not exceeding an amount specified by Council, notwithstanding existing monetary limits in that By-law on settlement of expropriation claims (CAO: $100,000.00; EPC: $250,000.00).

The Planning, Property and Development has advised the Transit Department to budget $12.7 Million for the cost of property acquisition for the Southwest Rapid Transit Corridor Project. This amount has been included in the overall project budget approved by City Council on October 22, 2008. While the required funding has been approved, at the time of writing this report, a specific account has yet to be set up.

Financial Impact Statement

Date: November 3, 2008

Project Name:

Expropriation of Lands - Southwest Rapid Transit Corridor Project - Stage 1 (Queen Elizabeth Way to Jubilee Avenue Overpass)

COMMENTS:

The recommendations contained in this report include, among others, that subject to Council's confirmation of the proposed expropriation, that for this expropriation the Chief Administrative Officer be delegated the authority to approve statutory offers of compensation where the market value component is $750,000.00 or less (recognizing that the ancillary costs of the expropriation will likely result in an overall cost exceeding the market value component limit), and to settle expropriation claims not exceeding $750,000.00 (excluding interest and legal and appraisal fees).

While there are no direct financial implications associated with this report's recommendations, the Planning, Property and Development Department have advised the Transit Department to budget $12.7 Million for the cost of property acquisition for the Southwest Rapid Transit Corridor. To the extent that one or more statutory offers of compensation are within the recommended limit of $750,000, those acquisitions will be completed without further approvals of Standing Policy Committee on Property and Development.

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

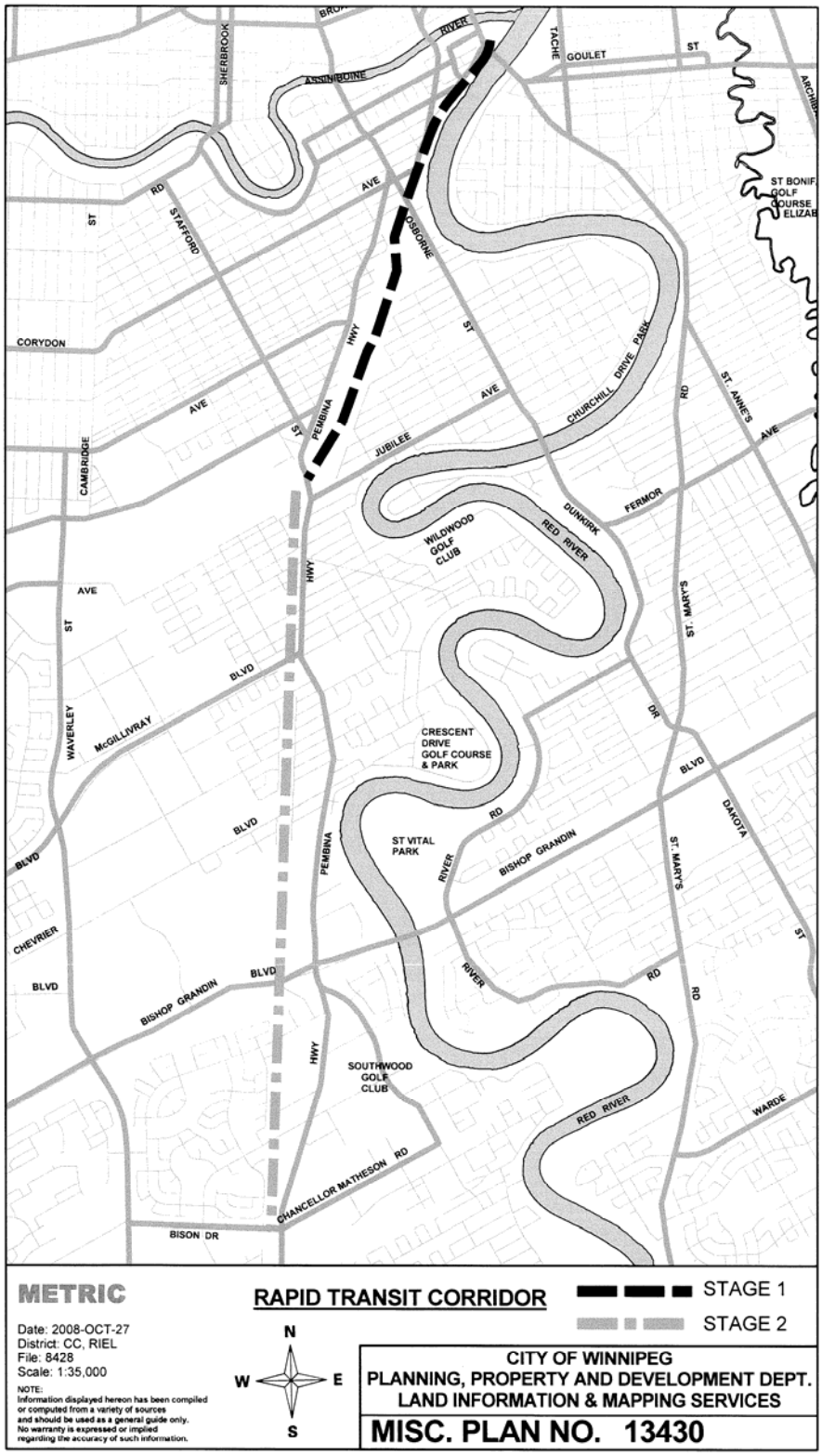
IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:
Legal Services Division
Winnipeg Transit Department

External Consultation With:

THIS REPORT SUBMITTED BY:
Department: Planning Property and Development
Division: Real Estate
Prepared by: Stewart Anderson
PPD File No. 8799, 8437, 8436, 8414, 7838/1, 8161, 31/119, et el

O:\Reports Directive\Real Estate\Acquisition\(sa)Rapid Transit Exprop Rpt Queensway to Jubilee - am edited.doc


SHERBROOK
ASSINIBOINE
RIVER
TACHE
GOULET
ST
ST BONIF GOLF COURSE ELIZAB
RD
STAFFORD
AVE
OSBORNE
ST
CORYDON
HWY
PEMBINA
AVE
CHURCHILL DRIVE PARK
RD
ST. ANNE'S
AVE
CAMBRIDGE
JUBILEE
FERMOR
DUNKIRK
RED RIVER
WILDWOOD GOLF CLUB
HWY
AVE
ST
ST. MARY'S
BLVD
WAVERLEY
McGILLIVRAY
CRESCENT DRIVE GOLF COURSE & PARK
DR
BLVD
DAKOTA
BLVD
RD
ST VITAL PARK
BLVD
PEMBINA
RIVER
BISHOP GRANDIN
ST. MARY'S
CHEVRIER
ST
BLVD
BISHOP GRANDIN
BLVD
RIVER
RD
RD
HWY
SOUTHWOOD GOLF CLUB
RED RIVER
WARDE
CHANCELLOR MATHESON RD
BISON DR
METRIC
RAPID TRANSIT CORRIDOR
STAGE 1
STAGE 2
Date: 2008-OCT-27
District: CC, RIEL
File: 8428
Scale: 1:35,000
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.
N
W
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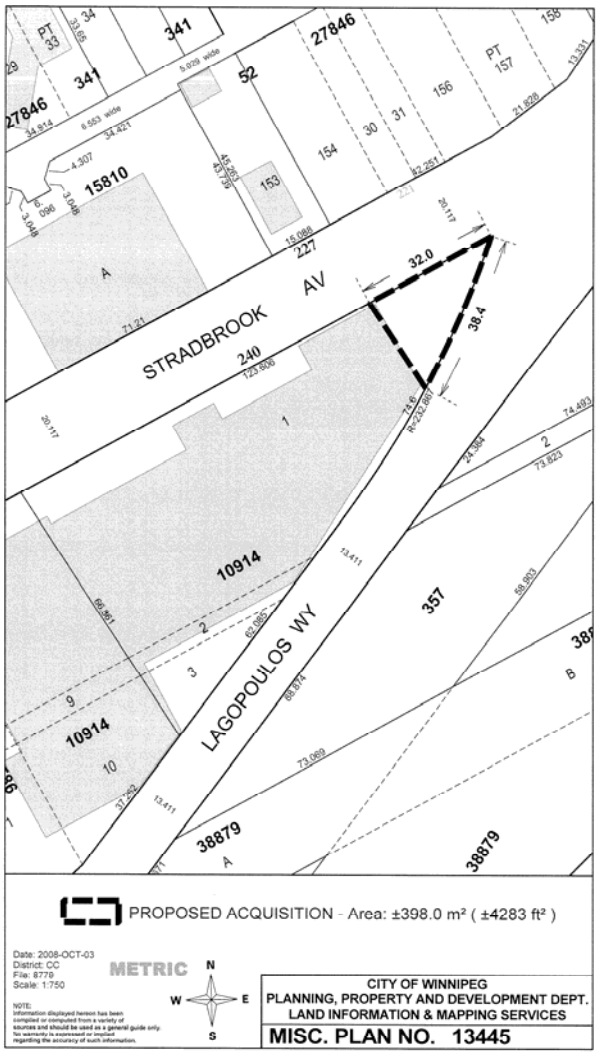
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 13430

SCHEDULE "A"

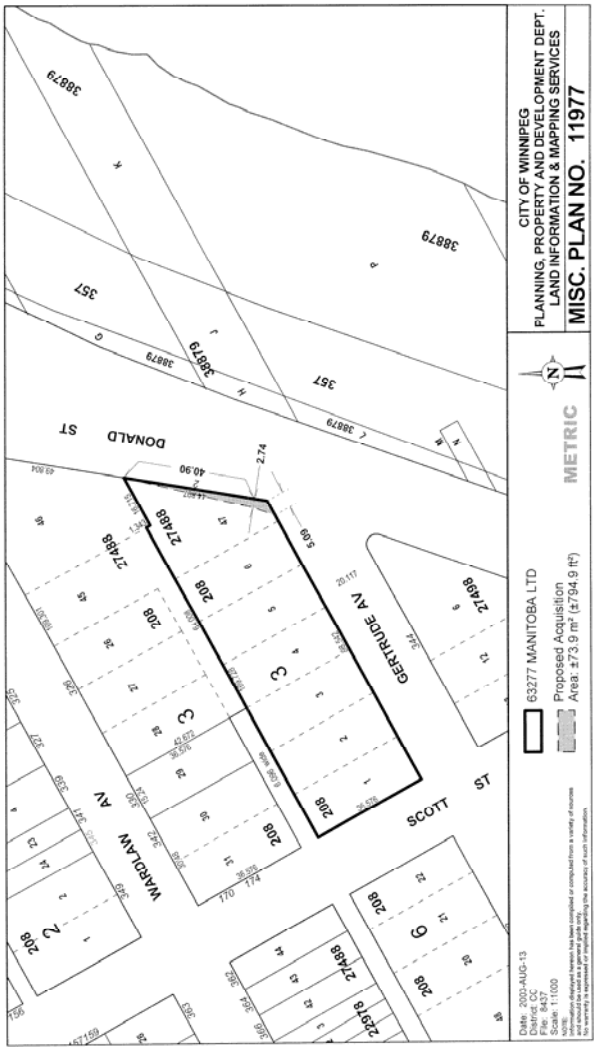
Property #1

Location:	*240 Stradbrook Avenue,.*
Legal Description:	*Lots 1 – 3, Plan 10914*
Certificate of Title:	*1063005*
Registered Owner:	*70943 Manitoba*
Realty Roll No.:	*12031706500*
Assessment (2008):	*$6,034,000*
Zoning:	*"RMFL" Res. – Multi Family*
Property Taking:	*398.0+/-m^2 (4,284.18+/- sq. ft.)*
Description:	*Partial taking, northeast corner of property, grassed area.*


STRADBROOK AV
LAGOPOULOS WY
32.0
38.4
PROPOSED ACQUISITION - Area: ±398.0 m² (±4283 ft²)
Date: 2008-OCT-03
District: CC
File: 8779
Scale: 1:750
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 13445

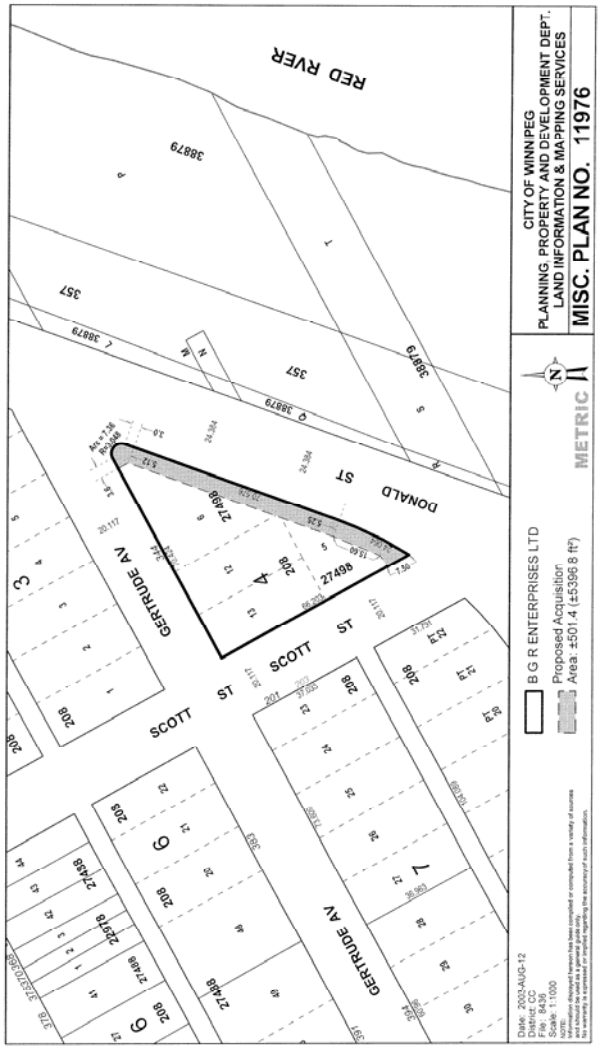
Property #2

Location:	*2 Donald Street*
Legal Description:	*Lots 1-6, Plan 208, Lot 47, Plan 27488*
Certificate of Title:	*1376140*
Registered Owner:	*63277 Manitoba Ltd.*
Realty Roll No.:	*12021146100*
Assessment (2008):	*$1,097,000*
Zoning:	*"C2" - Commercial*
Property Taking:	*73.9+/- m^2 (794.9+/-sq. ft.)*
Description:	*Partial taking, frontage along Donald Street.*



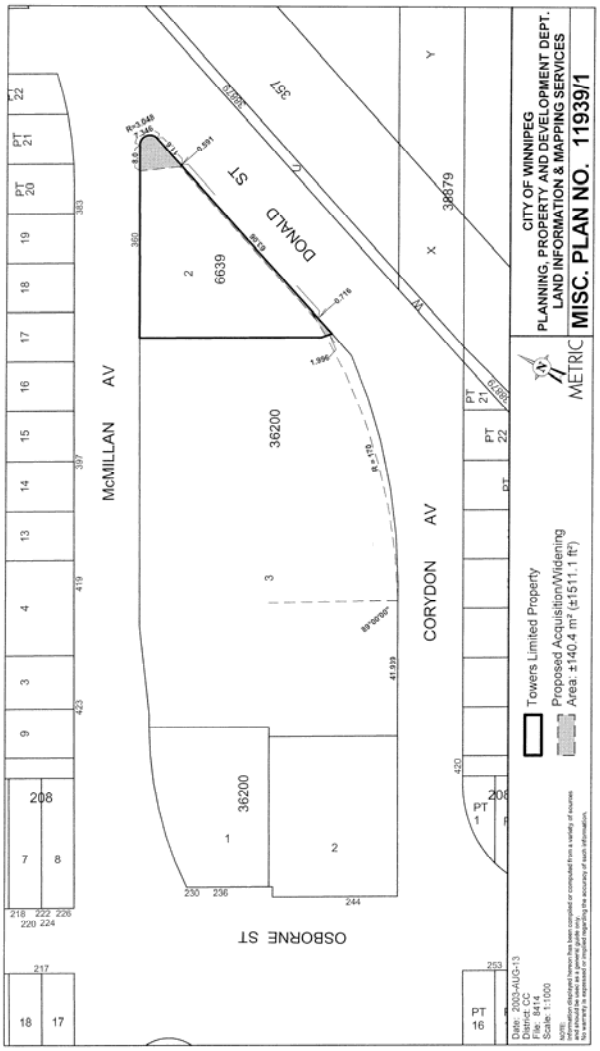
Property #3

Location:	*344 Gertrude Avenue*
Legal Description:	*Lot 12 -13, Blk 4, Plan 208, Lot 5-6, Plan 27498*
Certificate of Title:	*1234649*
Registered Owner:	*BGR Enterprises Ltd*
Realty Roll No.:	*12021171100*
Assessment (2008):	*$425,100*
Zoning:	*"C2" - Commercial*
Property Taking:	*501.4 +/- m^2 (5396.8 +/-sq. ft.)*
Description:	*Partial taking, +/- 5m wide strip of land fronting on Donald Street*



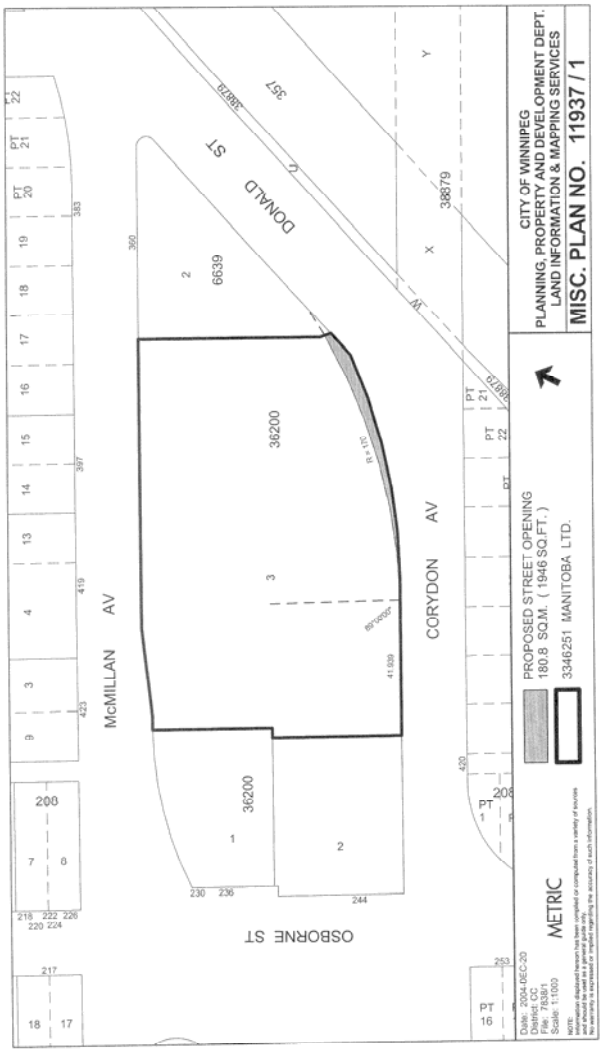
Property #4

Location:	*360 McMillan Avenue*
Legal Description:	*Lot 2, Plan 6639*
Certificate of Title:	*121409*
Registered Owner:	*Towers Ltd.*
Realty Roll No.:	*12021284100*
Assessment (2008):	*$787,000*
Zoning:	*"C2" - Commercial*
Property Taking:	*140.4+/- m^2 (1511.1+/- sq. ft.)*
Description:	*Area 1 Partial taking Northeast corner, grassed area; Area 2 approximate 1 meter wide strip of land along Donald Street.*



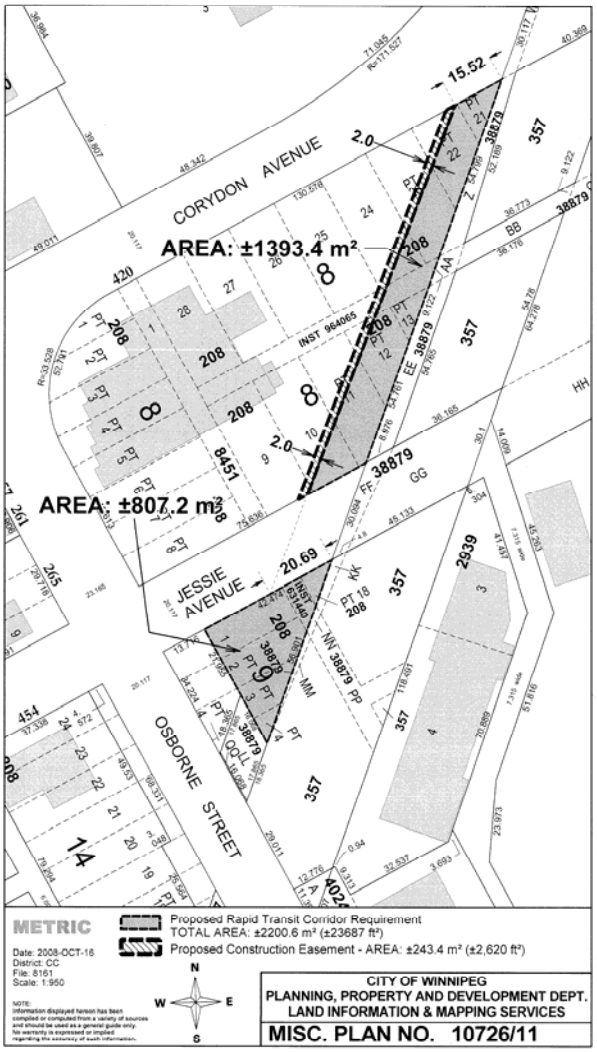
Property #5

Location:	*230 Osborne Street*
Legal Description:	*Lot 3, Plan 36200*
Certificate of Title:	*2038127*
Registered Owner:	*3346251 Manitoba Ltd.*
Realty Roll No.:	*12021275300*
Assessment (2008):	*$1,369,000*
Zoning:	*"C3" – Commercial Corridor*
Property Taking:	*180.8 +/- m^2 (1946+/- sq. ft.)*
Description:	*Partial taking, strip of land running along Donald Street*



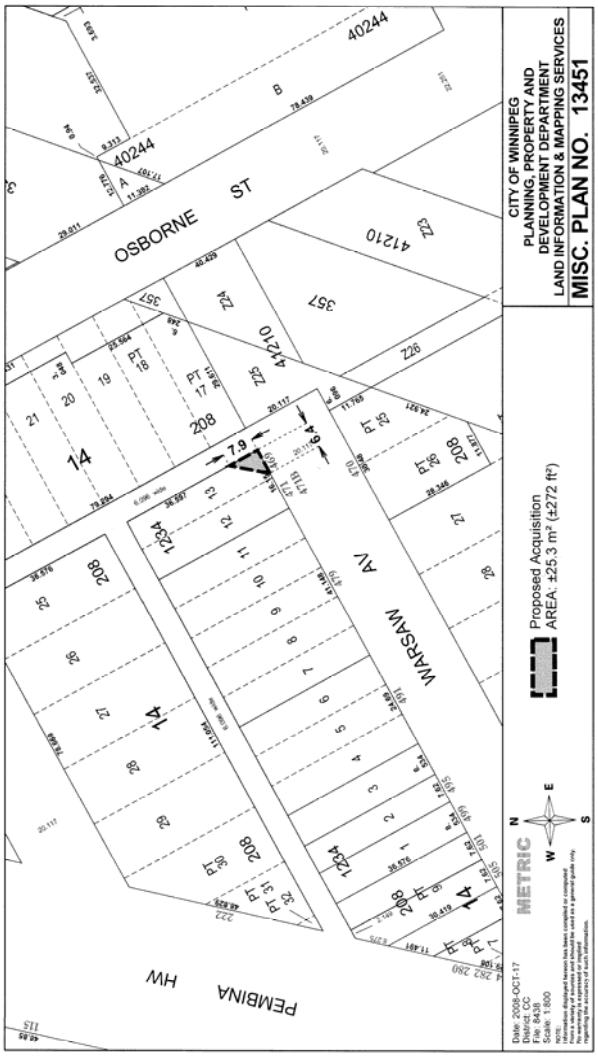
Property #6

Location:	*420 Corydon Avenue*
Legal Description:	*Part Lots 1-8 Blk 8, Plan 208, Part Lots 11-13 Blk 8, Plan 208, et el*
Certificate of Title:	*A64979, A64980, A64981, et al*
Registered Owner:	*Masonic Memorial Temple Ltd.*
Realty Roll No.:	*12021316200*
Assessment (2008):	*Mixed $611,000 (Institutional) $273,900 (Other)*
Zoning:	*"M1" - Industrial*
Property Taking:	*2,200.6+/- m^2 (23,687+/-sq. ft.)*
Description:	*Partial taking and temp. construction easement, strip of land along east side of asphalt parking lot and gravel parking lot.*


CORYDON AVENUE
JESSIE AVENUE
OSBORNE STREET
AREA: ±1393.4 m²
AREA: ±807.2 m²
15.52
20.69
2.0
2.0
METRIC
Proposed Rapid Transit Corridor Requirement
TOTAL AREA: ±2200.6 m² (±23687 ft²)
Proposed Construction Easement - AREA: ±243.4 m² (±2,620 ft²)
Date: 2008-OCT-16
District: CC
File: 8161
Scale: 1:950
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 10726/11

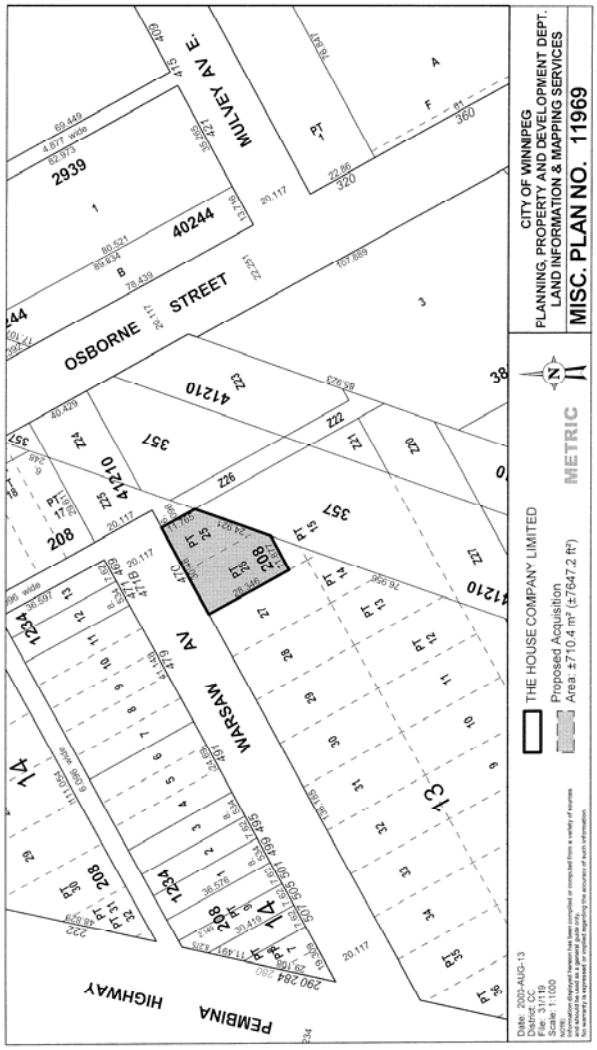
Property #7

Location:	*471 Warsaw Avenue*
Legal Description:	*Lots 12 – 13, Plan 1234*
Certificate of Title:	*1826495*
Registered Owner:	*Andy Peng Cheng Ling*
Realty Roll No.:	*12097528500*
Assessment (2008):	*$233,500*
Zoning:	*"C2" – Commercial*
Property Taking:	*25.3 +/- m^2 (272 +/- ac)*
Description:	*Partial taking, corner of parking lot.*



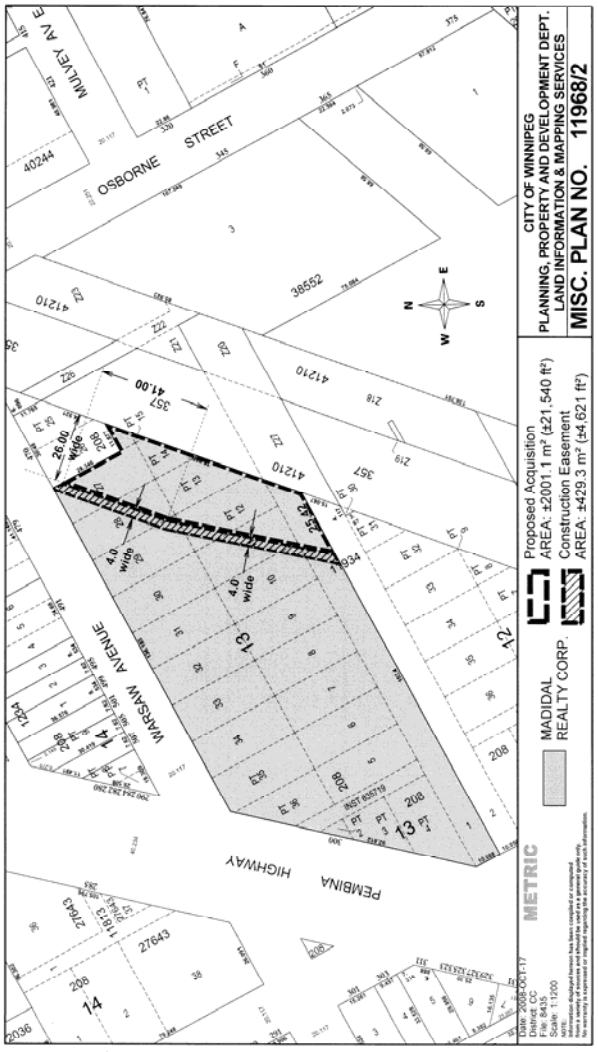
Property #8

Location:	*470 Warsaw Avenue*
Legal Description:	*Part Lots 25 – 26, Blk 13, Plan 208*
Certificate of Title:	*2154450*
Registered Owner:	*Andy Peng Cheng Ling*
Realty Roll No.:	*12021444000*
Assessment (2008):	*$151,000*
Zoning:	*"C2" – Commercial*
Property Taking:	*710.4 +/- m^2 (7,647.2 +/- ac)*
Description:	*Total taking, improved property with a 4,599 sq. ft. building.*



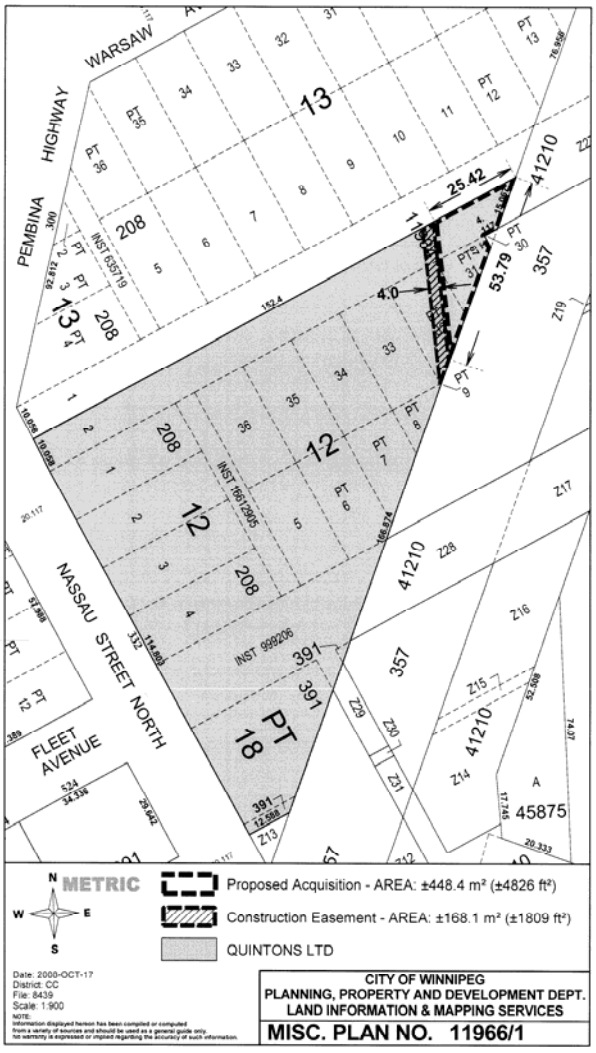
Property #9

Location:	*300 Pembina Highway*
Legal Description:	*Pt Lots 2-4 Blk 13, Plan 208, Pt Lots 12-15 Blk 13 Plan 208, et. el.*
Certificate of Title:	*1545179, 1545180, et. el.*
Registered Owner:	*Madidal Realty Corp.*
Realty Roll No.:	*12021446100*
Assessment (2008):	*$2,355,000*
Zoning:	*"M2" Industrial*
Property Taking:	*2001.1+/- m^2 (21,540 +/- sq. ft.)*
Description:	*Partial taking and temp. construction easement, car dealership, asphalt lot at rear of building.*


CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 11968/2
Proposed Acquisition
AREA: ±2001.1 m² (±21,540 ft²)
Construction Easement
AREA: ±429.3 m² (±4,621 ft²)
MADIDAL
REALTY CORP.
METRIC
OSBORNE STREET
MULVEY AVE
WARSAW AVENUE
PEMBINA HIGHWAY
26.00 wide
4.0 wide
4.0 wide
25.42
41.00
38552
41210
40244
27643
Date: 2008-OCT-17
District: CC
File: 8435
Scale: 1:1200

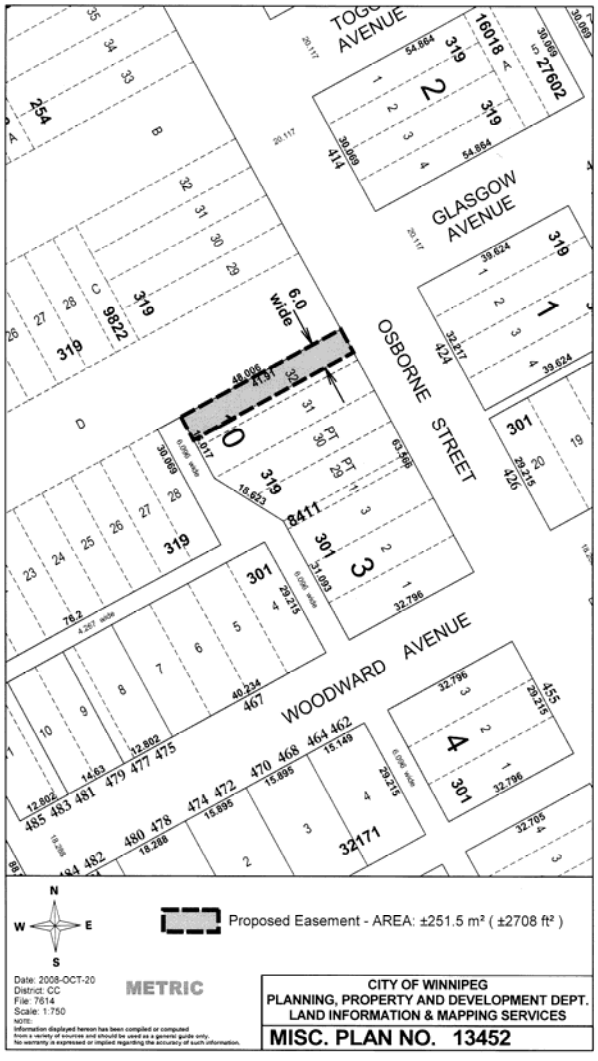
Property #10

Location:	*332 Nassau Street North*
Legal Description:	*Pt Lots 6-8 Blk 12, Plan 208, Pt Lots 31-33 Blk 12 Plan 208, et. el*
Certificate of Title:	*A801140, A80141, D282646*
Registered Owner:	*Quintons Ltd.*
Realty Roll No.:	*12021372200*
Assessment (2008):	*$1,292000*
Zoning:	*M2 & M3 - Industrial*
Property Taking:	*448.4+/- m^2 (4,826.3+/- sq. ft.)*
Description:	*Partial taking and temp. construction easement, graveled parking storage area.*



Property #11

Location:	*425 Osborne Street*
Legal Description:	*Lots 29/32, Blk 10, Plan 319, Pt Lots 1/3 Blk 3 Plan 301, et. el*
Certificate of Title:	*1210421, 1210419*
Registered Owner:	*Imperial Oil Limited*
Realty Roll No.:	*12015153200*
Assessment (2008):	*$273,000*
Zoning:	*C3 – Commercial Corridor*
Property Taking:	*251+/- m^2 (2,701+/- sq. ft.)*
Description:	*Vacant Lot, Former Gas Station, Partial taking (Easement)*



SCHEDULE "B"

PROJECTED TIME LINE - EXPROPRIATION (WITH INQUIRY*)
SOUTHWEST RAPID TRANSIT CORRIDOR PROJECT – STAGE 1

Projected Date	Required Event
November 25, 2008	Standing Policy Committee on Property and Development concurs in recommendation of Planning, Property and Development Department to initiate expropriation
December 17, 2008	Council approves recommendation to initiate expropriation, passes expropriation by-law and makes declaration of expropriation
January to April 2009	Inquiry process and receipt of inquiry officer's report
February 2009	Standing Policy Committee on Property and Development approves any statutory offers of compensation over $750,000.00
May 2009	Council confirms expropriation
May 2009	City registers and serves all documents including statutory offers of compensation and notices for possession
June 2009	Advertise tender for construction
July 2009	Possession of expropriated properties, award construction tender, commence construction

*An inquiry can be triggered by any expropriated owner (including a tenant). The Province of Manitoba has the authority to waive the inquiry where it deems it necessary or expedient in the public interest to do so in the circumstances.