Agenda – Executive Policy Committee – March 19, 2009

Report – Standing Policy Committee on Infrastructure Renewal and Public Works – March 10, 2009

Item No. 2 Local Improvement Projects to be funded and constructed in 2008 – Plaza Drive
(River Heights-Fort Garry Ward)
eFile SL(2008)

STANDING COMMITTEE RECOMMENDATION:

On March 10, 2009 the Standing Policy Committee on Infrastructure Renewal and Public Works concurred in the recommendation of the City Centre Community Committee, as amended, and submits the following to Council:

1. That the following Local Improvement projects be proceeded with, namely:

   A. 5' x 4" Concrete Sidewalk - 5 feet wide (4 inches thick) on the north side of Plaza Drive from the west line of Pembina Highway to a point approximately 378 feet west of the west line of Pembina Highway, Work Order No. 1220220108. [Note: The property on the north side of the street will be assessed for the construction of this improvement.]

   B. Ornamental Street Lighting on Plaza Drive from the west line of Pembina Highway to a point approximately 630 feet west of the west line of Pembina Highway, Work Order No. 1220270108.

2. That the following Local Improvement projects not be proceeded with, namely:

   A. Wastewater Sewer in Plaza Drive from the west line of Pembina Highway to a point approximately 630 feet west of the west line of Pembina Highway, Work Order No. 1220010108.

   B. Watermain in Plaza Drive from the west line of Pembina Highway to a point approximately 630 feet west of the west line of Pembina Highway, Work Order No. 1220060108.

   C. 33' x 8" Concrete Street Pavement (including "concrete paved" boulevard construction) - 33 feet wide (8 inches thick) on Plaza Drive from the west line of Pembina Highway to a point approximately 630 feet west of the west line of Pembina Highway, Work Order No. 1220200108,

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

Agenda – Executive Policy Committee – March 19, 2009

Report – Standing Policy Committee on Infrastructure Renewal and Public Works – March 10, 2009

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On March 10, 2009 the Standing Policy Committee on Infrastructure Renewal and Public Works concurred in the recommendation of the City Centre Community Committee, as amended, namely:

1. That the following Local Improvement projects be proceeded with, namely:

    A. 5' x 4" Concrete Sidewalk - 5 feet wide (4 inches thick) on the north side of Plaza Drive from the west line of Pembina Highway to a point approximately 378 feet west of the west line of Pembina Highway, Work Order No. 1220220108. [Note: The property on the north side of the street will be assessed for the construction of this improvement.]

    B. Ornamental Street Lighting on Plaza Drive from the west line of Pembina Highway to a point approximately 630 feet west of the west line of Pembina Highway, Work Order No. 1220270108.

2. That the following Local Improvement projects not be proceeded with, namely:

    A. Wastewater Sewer in Plaza Drive from the west line of Pembina Highway to a point approximately 630 feet west of the west line of Pembina Highway, Work Order No. 1220010108.

    B. Watermain in Plaza Drive from the west line of Pembina Highway to a point approximately 630 feet west of the west line of Pembina Highway, Work Order No. 1220060108.

    C. 33' x 8" Concrete Street Pavement (including "concrete paved" boulevard construction) - 33 feet wide (8 inches thick) on Plaza Drive from the west line of Pembina Highway to a point approximately 630 feet west of the west line of Pembina Highway, Work Order No. 1220200108,

and submitted the matter to Executive Policy Committee and Council.

Report – Standing Policy Committee on Infrastructure Renewal and Public Works – March 10, 2009

DECISION MAKING HISTORY (continued):

STANDING COMMITTEE RECOMMENDATION (continued):

On January 13, 2009, the Standing Policy Committee on Infrastructure Renewal and Public Works further laid the matter over to its meeting on March 10, 2009.

On December 12, 2008, Joseph J. Wilder, Wilder Wilder & Langtry, acting on behalf of Samba Holdings Ltd., submitted a communication requesting that the matter be further laid over.

On December 2, 2008, the Standing Policy Committee on Infrastructure Renewal and Public Works laid the matter over to its meeting on January 13, 2009.

Further on December 2, 2008, Joel Shuster, President, Samba Holdings Ltd., submitted a communication dated December 1, 2008 requesting that the matter be laid over.

Agenda – Executive Policy Committee – March 19, 2009

Report – Standing Policy Committee on Infrastructure Renewal and Public Works – March 10, 2009

DECISION MAKING HISTORY:

COMMUNITY COMMITTEE RECOMMENDATION:

On November 25, 2008, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service, and recommended to the Standing Policy Committee on Infrastructure Renewal and Public Works that the following Local Improvement projects be proceeded with, namely:

1. Wastewater Sewer in Plaza Drive from the west line of Pembina Highway to a point approximately 630 feet west of the west line of Pembina Highway, Work Order No. 1220010108.

2. Watermain in Plaza Drive from the west line of Pembina Highway to a point approximately 630 feet west of the west line of Pembina Highway, Work Order No. 1220060108.

3. 33' x 8" Concrete Street Pavement (including "concrete paved" boulevard construction) - 33 feet wide (8 inches thick) on Plaza Drive from the west line of Pembina Highway to a point approximately 630 feet west of the west line of Pembina Highway, Work Order No. 1220200108.

4. 5' x 4" Concrete Sidewalk - 5 feet wide (4 inches thick) on the north side of Plaza Drive from the west line of Pembina Highway to a point approximately 378 feet west of the west line of Pembina Highway, Work Order No. 1220220108.

   [Note: The property on the north side of the street will be assessed for the construction of this improvement.]

5. Ornamental Street Lighting on Plaza Drive from the west line of Pembina Highway to a point approximately 630 feet west of the west line of Pembina Highway, Work Order No. 1220270108.

WILDER WILDER & LANGTRY

BARRISTERS & SOLICITORS

JOSEPH J. WILDER,* B.A., LL.B., Q.C.
DOUGLAS J. JOHNSTON, B.A. (Hons.), B.J. (Hons.), LL.B.
TIMOTHY J. LACH,* B.A., B.Sc., LL.B.

SAMUEL I. WILDER,* B.A., LL.B., Q.C.
DAVID M. BRADLEY,* LL.B.
MATTHEW P. MARUCA, B.A., LL.B.

CHRISTOPHER FULTZ, B.A., LL.B
WAYNE P. FORBES, B.A. (Hons.), LL.B.
PAUL R. HESSE, B.A. (Hons.), B.C.L., LL.B

*Professional Law Corporation

ESTABLISHED 1967

RECEIVED
CITY CLERKS
WINNIPEG
8 DEC 15 A11:22

In Reply, Please Refer to
Our File Number: 250023/JJW

Direct Email: jwilder@wilderwilder.com
Assistant: Kathy Herman
Direct Line: 204-957-4034
Direct Email: kherman@wilderwilder.com

December 12, 2008

VIA FACSIMILE & MAIL
(947-3452)

The City of Winnipeg
Standing Policy Committee
on Infrastructure Renewal & Public Works
Council Building, City Clerks Office
510 Main Street
Winnipeg, MB R3B 1B9

ATTENTION: Ms Josie Marques, Clerk

Dear Madam:

RE: Meeting: January 13, 2009 at 9:00 a.m.
Proposed 2008 Local Improvements in Plaza Drive
Samba Holdings Ltd. and The City of Winnipeg

Further to our telephone conversation of December 11, 2008, this is to request an adjournment of the above proposal at the meeting of the Standing Policy Committee on Infrastructure Renewal & Public Works from January 13, 2009 to the February meeting.

I act for Samba Holdings Ltd. who is an interested party and was to have been notified when the Community Committee first heard this matter and was also to have been notified for the December 2, 2008 meeting of the Standing Policy Committee.

The City has acknowledged that no notice was given for the first meeting and that notice for the Standing Policy Committee meeting on December 2nd was only given a couple of days before the meeting.

Evidently, that meeting was adjourned because of short notice and, having only recently been retained to appear, I am requesting an adjournment to the February meeting to give my client and I both an opportunity to deal with this matter.

Coincidentally, both he and I will be away from the City and I will not be returning until the beginning of January.

1500 Richardson Building, 1 Lombard Place, Winnipeg, Manitoba R3B 0X3
Telephone: (204) 947-1456 Fax: (204) 957-1368 E-mail: admin@wilderwilder.com
www.wilderwilder.com

Please permit this letter to stand as our request for representation as a delegation when this matter comes up for hearing.

Yours truly,

WILDER WILDER & LANGTRY

Per:

JOSEPH J. WILDER, Q.C.

JJW:kh

cc: Samba Holdings Ltd.
Attention: Joel Shuster

INTEROFFICE MEMORANDUM

TO: Ms. Josie Marques, City Centre Community Committee Clerk

FROM: Mr. Brad Cull, Manager of Taxation and Finance

SUBJECT: RESULTS OF THE MAY 26, 2008 ADVERTISEMENT FOR PROPOSED 2008 LOCAL IMPROVEMENTS

DATE: November 17, 2008

The results of the May 26, 2008 Local Improvement Advertisement in the *Winnipeg Free Press* newspaper for the proposed 2008 Local Improvement projects within your Community and Ward boundary are depicted below. Therefore, the City Centre Community Committee is requested to specifically review and recommend to the Standing Policy Committee on Infrastructure Renewal and Public Works on these local improvement projects that follow:

1. Wastewater Sewer …Page 2

2. Watermain…Page 5

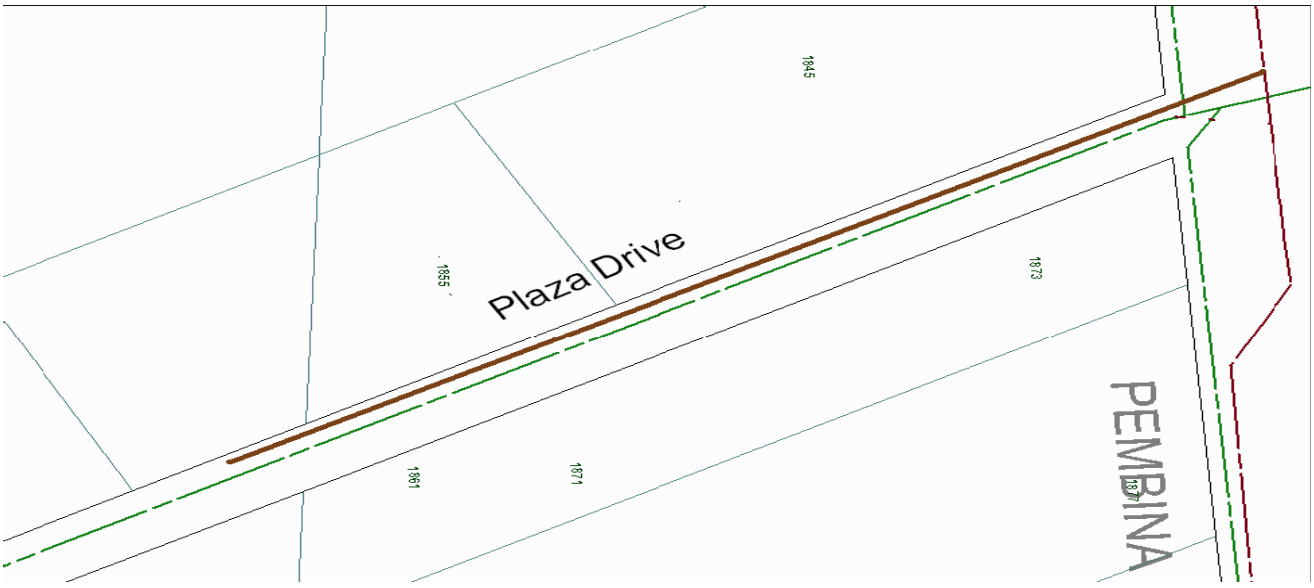
3. 33'x8" Concrete Street Pavement (Including "Concrete Paved" Boulevard Construction)…Page 9

4. 5'x4" Concrete Sidewalk…Page 13

5. Ornamental Street Lighting…Page 15

INTEROFFICE MEMORANDUM

Project Number	*Local Improvement*	*Location*
1220010108	Wastewater Sewer	In Plaza Drive from the west line of Pembina Highway to a point approximately 630 feet west of the west line of Pembina Highway.



Subsequent to the advertisement, a registered property owner on Plaza Drive had requested an official *"Objection"* form and it was returned to the City Clerk on June 24, 2008.

Section 411 of The City of Winnipeg Charter provides that the proposed local improvement must not be proceeded with where registered owners of at least 3/5 (60%) of the total real property that is to be benefited by a proposed local improvement object to the local improvement.

In accordance with Section 125 of *The City of Winnipeg Charter*, it was ascertained and certified by the Manager of Taxation and Finance that the signatures obtained from the benefiting registered property owners on the official *"Objection"* form represents ***49.57%*** of the total real property that is to be benefited as indicated below:

Total Assessable Frontage (includes "flankage")	1,536.1 feet
Objectors Represent	761.4 feet
Percentage Signed Objections	***49.57%***

Winnipeg

INTEROFFICE MEMORANDUM

Please note that the total assessable frontage includes a flankage allowance of 233.4 feet and if the "flankage" amount is excluded from the total assessable frontage, the signatures obtained from the benefiting property owners would then still only represent ***58.45%*** of the total assessable frontage as indicated below:

Total Assessable Frontage (includes "flankage")	1,536.1 feet
Less: Flankage	(233.4) feet
Total Assessable Frontage (excluding "flankage")	1,302.7 feet
Objectors Represent	761.4 feet
Percentage Signed Objections	***58.45%***

Furthermore, in accordance with Section 125 of *The City of Winnipeg Charter*, it states in part:

"Determination of sufficiency of objections
125(2) *When objections in respect of any matter are filed with the city clerk, a designated employee must*

(a) determine which of the objections are valid by determining whether they comply in all respects with subsection (1);

(b) count the number of persons who have signed valid objections in respect of the matter and determine how many of those persons are qualified to sign objections in respect of the matter; and

(c) report to council or a committee of council, as the case requires, whether the number of persons who have signed, and are qualified to sign, objections in respect of the matter is sufficient or insufficient in respect of that matter.

Counting of signatories
125(3) *In counting under subsection (2) the number of persons who have signed objections in respect of any matter, the designated employee must exclude any person if*

(a) the person's signature appears on a page that does not set out the matter to which the objection relates and an objection to that matter as required by clause (1)(b);

(b) anything required by clause (1)(c) to be included in respect of the person is not included; or

(c) person is, for any other reason, not qualified to file an objection in respect of the matter."

Winnipeg

INTEROFFICE MEMORANDUM

Upon scrutinizing the signatures on the *"Objection"* form, it appeared that the same individual, Mr. Michael Brousseau, had signed on June 23, 2008 on behalf of both Banquet Barons Inc. for property located at 1855 Pembina Highway and The Manitoba Hydro-Electric Board ("Manitoba Hydro") for property owned by Manitoba Hydro as indicated below which is leased to Banquet Barons Inc.

Roll Number: 03091101900
Property Address: N/A
Legal Description: Lots A-C, Plan 33511, Parish 16 ST V
Registered Property Owner: Manitoba Hydro

On August 25, 2008, the Manager of Taxation and Finance wrote to Manitoba Hydro requesting written confirmation as to whether or not Mr. Brousseau was authorized to sign this official *"Objection"* form for this proposed local improvement on behalf of Manitoba Hydro.

On September 17, 2008, the Manager of Taxation and Finance had received a letter, dated September 16, 2008 from the Land Management Coordinator in the Manitoba Hydro's Property Department. In the letter, it states, in part:

> *"Mr. Brousseau currently has a lease agreement with Manitoba Hydro for Parcels A and B, Plan 33511 WLTO.*
>
> *There have been no discussions with Mr. Brousseau in regards to his signing of the official "Objection" forms for local improvements in the area and Mr. Brousseau does not have the authority to sign on behalf of Manitoba Hydro."*

Therefore, his signature has been excluded from the official *"Objection"* form pertinent to the aforementioned Manitoba Hydro owned property per Section 125(3)(c) of *The City of Winnipeg Charter.*

Accordingly, Mr. Brousseau was not qualified to sign the Objection on behalf of Manitoba Hydro and this has been duly reflected in the frontage feet that is represented by the objections. Thus, the aforementioned percentages depicted, with respect to frontage feet represented by the objectors, is based on the exclusion of Mr. Brousseau's signature on the Manitoba Hydro owned property in the official *"Objection"* form.

The total cost of the project is estimated to be $195,000 of which 66.81% is to be recovered from the registered property owners.

We have been advised by the Water and Waste Department that, from a technical perspective, it is in their opinion that the underground services (wastewater sewer and watermain) proposed to be installed by local improvement in Plaza Drive are not necessary to service the fronting properties. All properties fronting Plaza Drive are either serviced or serviceable off of Pembina Highway.

Winnipeg

INTEROFFICE MEMORANDUM

There may be a sewer main and/or watermain in Plaza Drive. It must be noted that these mains are privately owned and therefore, the City's record information is limited and the information available may not be reliable.

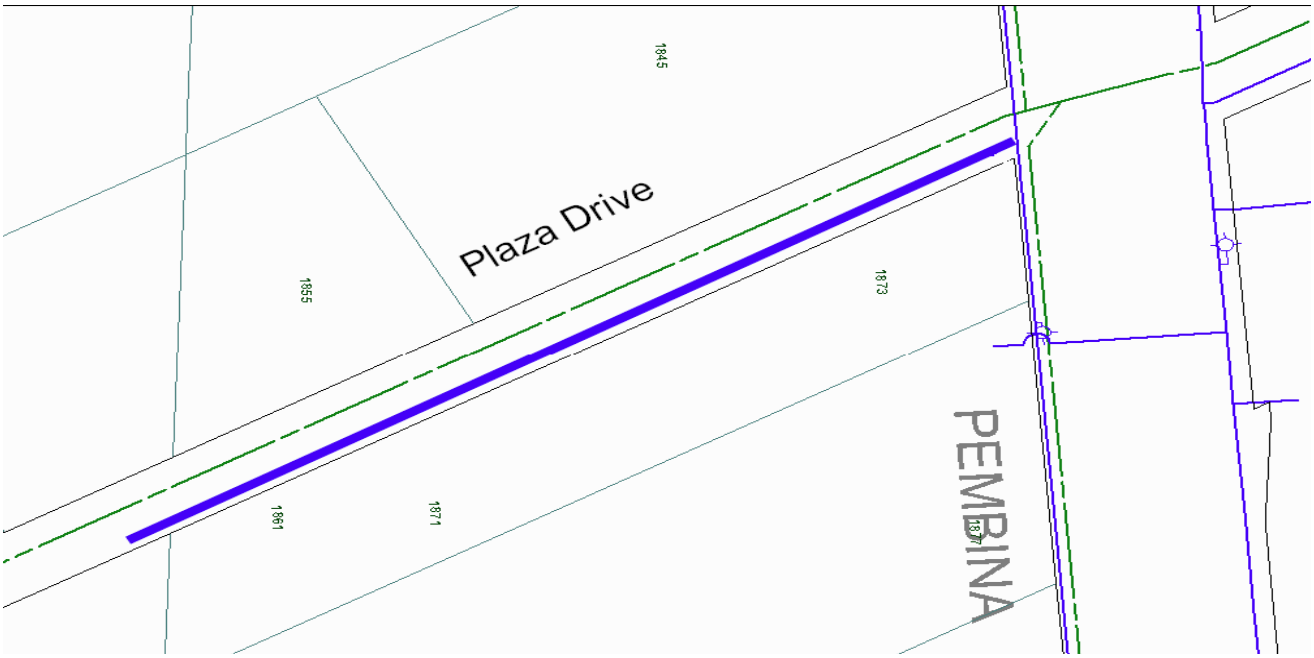
The Public Works Department has advised that although the existing buildings are currently serviced privately, it is in the City's best interest to have watermains and sewer pipes meeting current standards installed on standard alignments prior to constructing the pavement works. It is well documented that service trenches dug into pavements have negative consequences on the life expectancy of pavements. Due to the limited right-of-way width and nature of the area, the entire boulevard area on both sides is proposed to be hard-surfaced with full width sidewalks.

Therefore, any future underground servicing work will be more costly and disruptive to the paved surfaces. Leaving the existing private servicing in place will increase the likelihood of numerous future service repair trenches being made in the paved areas. This risk is compounded as the existing condition and locations of these private services is generally unknown. For example, additional excavations may be required to determine the location of the service requiring repairs. It is also possible that as a result of malfunction of the existing private services, that local improvements for underground services may be considered at a later time. Constructing these services after the pavement works have been completed will increase the cost to the City and will significantly shorten the expected life span of the pavement.

Winnipeg Public Service Recommendation: The proposed undertaking of this Local Improvement project proceed as part of the 2008 Local Improvement Program which is funded through the Local Improvement float, since less than 60% of the registered owners of the total real property that is to be benefited by this proposed local improvement objected.

Project Number	*Local Improvement*	*Location*
1220060108	Watermain	In Plaza Drive from the west line of Pembina Highway to a point approximately 630 feet west of the west line of Pembina Highway.

INTEROFFICE MEMORANDUM



Subsequent to the advertisement, a registered property owner on Plaza Drive had requested an official *"Objection"* form and it was returned to the City Clerk on June 24, 2008.

Section 411 of The City of Winnipeg Charter provides that the proposed local improvement must not be proceeded with where registered owners of at least 3/5 (60%) of the total real property that is to be benefited by a proposed local improvement object to the local improvement.

In accordance with Section 125 of *The City of Winnipeg Charter*, it was ascertained and certified by the Manager of Taxation and Finance that the signatures obtained from the benefiting registered property owners on the official *"Objection"* form represents ***49.57%*** of the total real property that is to be benefited as indicated below:

Total Assessable Frontage (includes "flankage")	1,536.1 feet
Objectors Represent	761.4 feet
Percentage Signed Objections	***49.57%***

Please note that the total assessable frontage includes a flankage allowance of 233.4 feet and if the "flankage" amount is excluded from the total assessable frontage, the signatures obtained from the benefiting property owners would then still only represent ***58.45%*** of the total assessable frontage as indicated below:

Winnipeg

INTEROFFICE MEMORANDUM

Total Assessable Frontage (includes "flankage")	1,536.1 feet
Less: Flankage	(233.4) feet
Total Assessable Frontage (excluding "flankage")	1,302.7 feet
Objectors Represent	761.4 feet
Percentage Signed Objections	***58.45%***

Furthermore, in accordance with Section 125 of *The City of Winnipeg Charter*, it states in part:

"Determination of sufficiency of objections
125(2) *When objections in respect of any matter are filed with the city clerk, a designated employee must*

> *(a) determine which of the objections are valid by determining whether they comply in all respects with subsection (1);*
>
> *(b) count the number of persons who have signed valid objections in respect of the matter and determine how many of those persons are qualified to sign objections in respect of the matter; and*
>
> *(c) report to council or a committee of council, as the case requires, whether the number of persons who have signed, and are qualified to sign, objections in respect of the matter is sufficient or insufficient in respect of that matter.*

Counting of signatories
125(3) *In counting under subsection (2) the number of persons who have signed objections in respect of any matter, the designated employee must exclude any person if*

> *(a) the person's signature appears on a page that does not set out the matter to which the objection relates and an objection to that matter as required by clause (1)(b);*
>
> *(b) anything required by clause (1)(c) to be included in respect of the person is not included; or*
>
> *(c) person is, for any other reason, not qualified to file an objection in respect of the matter."*

Upon scrutinizing the signatures on the *"Objection"* form, it appeared that the same individual, Mr. Michael Brousseau, had signed on June 23, 2008 on behalf of both Banquet Barons Inc. for property located at 1855 Pembina Highway and The Manitoba Hydro-Electric Board ("Manitoba Hydro") for property owned by Manitoba Hydro as indicated below which is leased to Banquet Barons Inc.

INTEROFFICE MEMORANDUM

Roll Number: 03091101900
Property Address: N/A
Legal Description: Lots A-C, Plan 33511, Parish 16 ST V
Registered Property Owner: Manitoba Hydro

On August 25, 2008, the Manager of Taxation and Finance wrote to Manitoba Hydro requesting written confirmation as to whether or not Mr. Brousseau was authorized to sign this official *"Objection"* form for this proposed local improvement on behalf of Manitoba Hydro

On September 17, 2008, the Manager of Taxation and Finance had received a letter, dated September 16, 2008 from the Land Management Coordinator in the Manitoba Hydro's Property Department. In the letter, it states, in part:

> *"Mr. Brousseau currently has a lease agreement with Manitoba Hydro for Parcels A and B, Plan 33511 WLTO.*
>
> *There have been no discussions with Mr. Brousseau in regards to his signing of the official "Objection" forms for local improvements in the area and Mr. Brousseau does not have the authority to sign on behalf of Manitoba Hydro."*

Therefore, his signature has been excluded from the official *"Objection"* form pertinent to the aforementioned Manitoba Hydro owned property per Section 125(3)(c) of *The City of Winnipeg Charter*.

Accordingly, Mr. Brousseau was not qualified to sign the Objection on behalf of Manitoba Hydro and this has been duly reflected in the frontage feet that is represented by the objections. Thus, the aforementioned percentages depicted, with respect to frontage feet represented by the objectors, is based on the exclusion of Mr. Brousseau's signature on the Manitoba Hydro owned property in the official *"Objection"* form.

The total cost of the project is estimated to be $125,000 of which 83.37% is to be recovered from the registered property owners.

We have been advised by the Water and Waste Department that, from a technical perspective, it is in their opinion that the underground services (wastewater sewer and watermain) proposed to be installed by local improvement in Plaza Drive are not necessary to service the fronting properties. All properties fronting Plaza Drive are either serviced or serviceable off of Pembina Highway. There may be a sewer main and/or watermain in Plaza Drive. It must be noted that these mains are privately owned and therefore, the City's record information is limited and the information available may not be reliable.

Winnipeg

INTEROFFICE MEMORANDUM

The Public Works Department has advised that although the existing buildings are currently serviced privately, it is in the City's best interest to have watermains and sewer pipes meeting current standards installed on standard alignments prior to constructing the pavement works. It is well documented that service trenches dug into pavements have negative consequences on the life expectancy of pavements. Due to the limited right-of-way width and nature of the area, the entire boulevard area on both sides is proposed to be hard-surfaced with full width sidewalks.

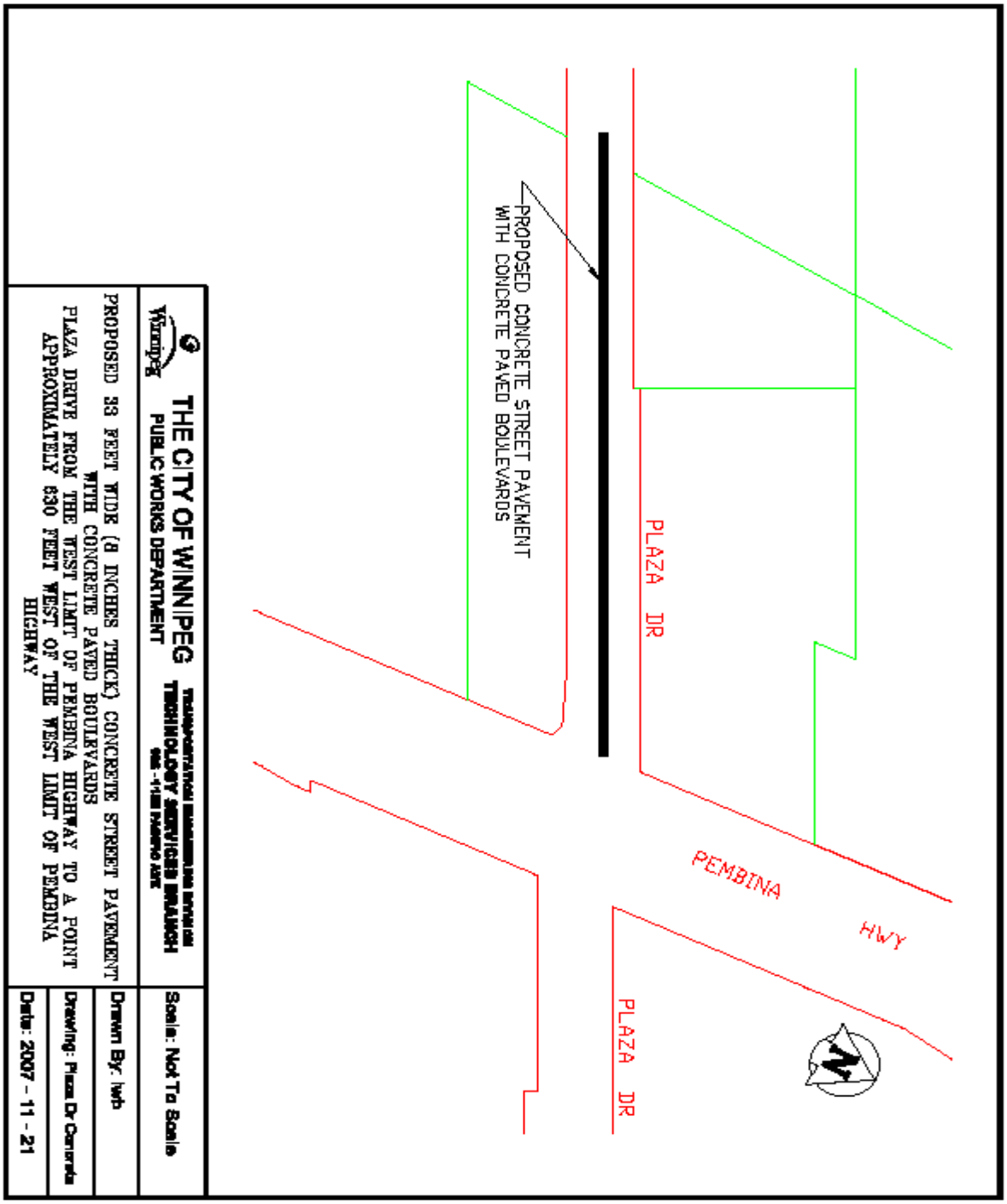
Therefore, any future underground servicing work will be more costly and disruptive to the paved surfaces. Leaving the existing private servicing in place will increase the likelihood of numerous future service repair trenches being made in the paved areas. This risk is compounded as the existing condition and locations of these private services is generally unknown. For example, additional excavations may be required to determine the location of the service requiring repairs. It is also possible that as a result of malfunction of the existing private services, that local improvements for underground services may be considered at a later time. Constructing these services after the pavement works have been completed will increase the cost to the City and will significantly shorten the expected life span of the pavement.

Winnipeg Public Service Recommendation: The proposed undertaking of this Local Improvement project proceed as part of the 2008 Local Improvement Program which is funded through the Local Improvement float, since less than 60% of the registered owners of the total real property that is to be benefited by this proposed local improvement objected.

Project Number	*Local Improvement*	*Location*
1220200108	33' x 8'' Concrete Street Pavement (Including ''concrete paved'' boulevard construction)	33 feet wide (8 inches thick) on Plaza Drive from the west line of Pembina Highway to a point approximately 630 feet west of the west line of Pembina Highway.

Winnipeg

INTEROFFICE MEMORANDUM



Subsequent to the advertisement, a registered property owner on Plaza Drive had requested an official *"Objection"* form and it was returned to the City Clerk on June 24, 2008.

INTEROFFICE MEMORANDUM

Section 411 of The City of Winnipeg Charter provides that the proposed local improvement must not be proceeded with where registered owners of at least 3/5 (60%) of the total real property that is to be benefited by a proposed local improvement object to the local improvement.

In accordance with Section 125 of *The City of Winnipeg Charter*, it was ascertained and certified by the Manager of Taxation and Finance that the signatures obtained from the benefiting registered property owners on the official *"Objection"* form represents ***48.61%*** of the total real property that is to be benefited as indicated below:

Total Assessable Frontage (includes "flankage")	1,254.0 feet
Objectors Represent	609.6 feet
Percentage Signed Objections	***48.61%***

Please note that the total assessable frontage includes a flankage allowance of 10.2 feet and if the "flankage" amount is excluded from the total assessable frontage, the signatures obtained from the benefiting property owners would then still only represent ***49.01%*** of the total assessable frontage as indicated below:

Total Assessable Frontage (includes "flankage")	1,254.0 feet
Less: Flankage	(10.2) feet
Total Assessable Frontage (excluding "flankage")	1,243.8 feet
Objectors Represent	609.6 feet
Percentage Signed Objections	***49.01%***

Furthermore, in accordance with Section 125 of *The City of Winnipeg Charter*, it states in part:

"Determination of sufficiency of objections
125(2) *When objections in respect of any matter are filed with the city clerk, a designated employee must*

(a) determine which of the objections are valid by determining whether they comply in all respects with subsection (1);

(b) count the number of persons who have signed valid objections in respect of the matter and determine how many of those persons are qualified to sign objections in respect of the matter; and

(c) report to council or a committee of council, as the case requires, whether the number of persons who have signed, and are qualified to sign, objections in respect of the matter is sufficient or insufficient in respect of that matter.

Winnipeg

INTEROFFICE MEMORANDUM

Counting of signatories
125(3) *In counting under subsection (2) the number of persons who have signed objections in respect of any matter, the designated employee must exclude any person if*

> *(a) the person's signature appears on a page that does not set out the matter to which the objection relates and an objection to that matter as required by clause (1)(b);*
>
> *(b) anything required by clause (1)(c) to be included in respect of the person is not included; or*
>
> *(c) person is, for any other reason, not qualified to file an objection in respect of the matter."*

Upon scrutinizing the signatures on the *"Objection"* form, it appeared that the same individual, Mr. Michael Brousseau, had signed on June 23, 2008 on behalf of both Banquet Barons Inc. for property located at 1855 Pembina Highway and The Manitoba Hydro-Electric Board ("Manitoba Hydro") for property owned by Manitoba Hydro as indicated below which is leased to Banquet Barons Inc.

> *Roll Number: 03091101900*
> *Property Address: N/A*
> *Legal Description: Lots A-C, Plan 33511, Parish 16 ST V*
> *Registered Property Owner: Manitoba Hydro*

On August 25, 2008, the Manager of Taxation and Finance wrote to Manitoba Hydro requesting written confirmation as to whether or not Mr. Brousseau was authorized to sign this official *"Objection"* form for this proposed local improvement on behalf of Manitoba Hydro.

On September 17, 2008, the Manager of Taxation and Finance had received a letter, dated September 16, 2008 from the Land Management Coordinator in Manitoba Hydro's Property Department. In the letter, it states, in part:

> *"Mr. Brousseau currently has a lease agreement with Manitoba Hydro for Parcels A and B, Plan 33511 WLTO.*
>
> *There have been no discussions with Mr. Brousseau in regards to his signing of the official "Objection" forms for local improvements in the area and Mr. Brousseau does not have the authority to sign on behalf of Manitoba Hydro."*

Therefore, his signature has been excluded from the official *"Objection"* form pertinent to the aforementioned Manitoba Hydro owned property per Section 125(3)(c) of *The City of Winnipeg Charter*.

Winnipeg

INTEROFFICE MEMORANDUM

Accordingly, Mr. Brousseau was not qualified to sign the Objection on behalf of Manitoba Hydro and this has been duly reflected in the frontage feet that is represented by the objections. Thus, the aforementioned percentages depicted, with respect to frontage feet represented by the objectors, is based on the exclusion of Mr. Brousseau's signature on the Manitoba Hydro owned property in the official *"Objection"* form.

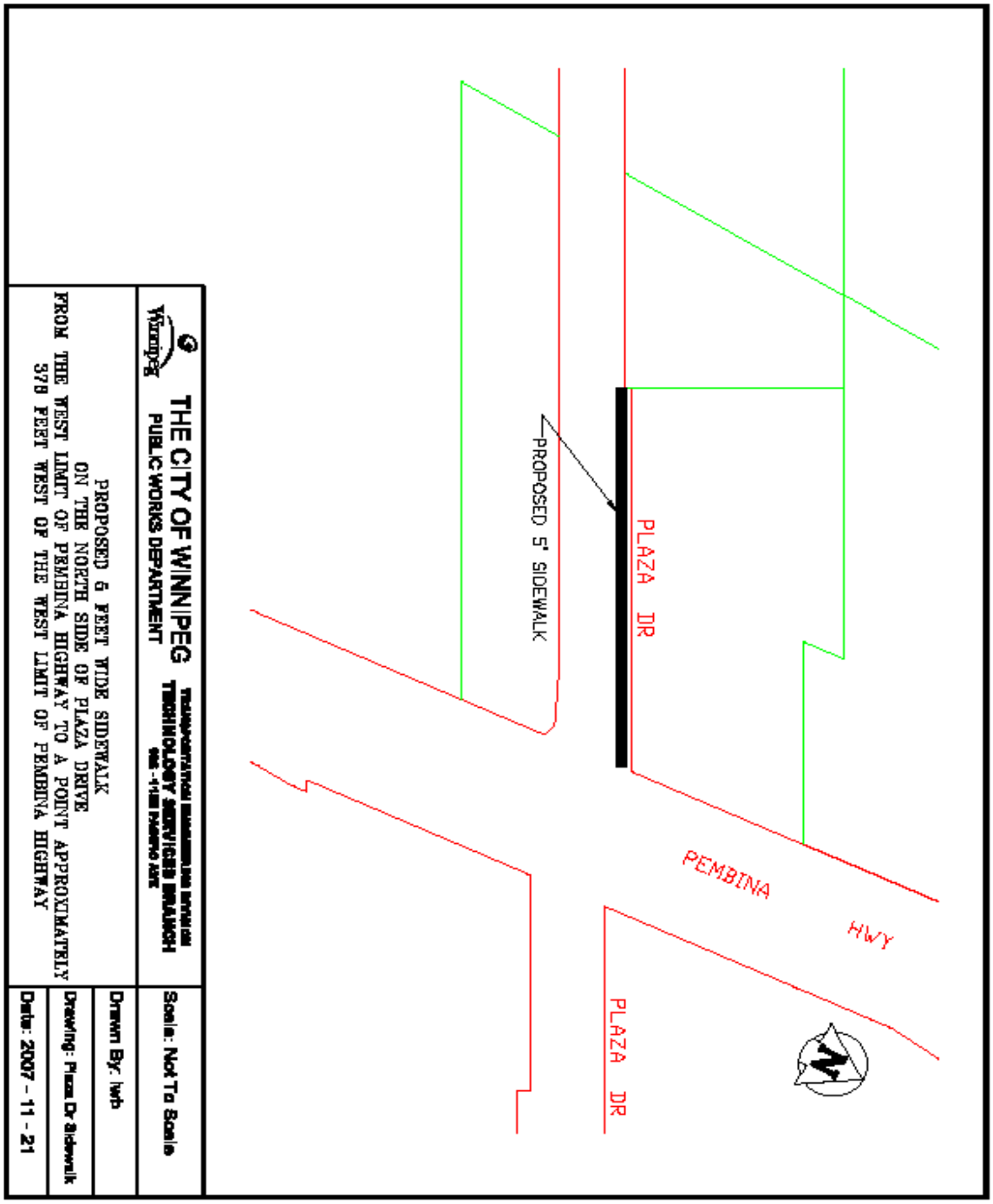
The total cost of the project is estimated to be $1,177,000 of which 86.65% is to be recovered from the registered property owners.

Winnipeg Public Service Recommendation: The proposed undertaking of this Local Improvement project proceed as part of the 2008 Local Improvement Program which is funded through the Local Improvement float, since less than 60% of the registered owners of the total real property that is to be benefited by this proposed local improvement objected.

Project Number	*Local Improvement*	*Location*
1220220108	5' x 4'' Concrete Sidewalk	5 feet wide (4 inches thick) on the north side of Plaza Drive from the west line of Pembina Highway to a point approximately 378 feet west of the west line of Pembina Highway. [Note: The property on the north side of the street will be assessed for the construction of this improvement.]

Winnipeg

INTEROFFICE MEMORANDUM



Subsequent to the advertisement, a registered property owner on Plaza Drive had requested an official *"Objection"* form and it was returned to the City Clerk on June 24, 2008.

INTEROFFICE MEMORANDUM

Section 411 of The City of Winnipeg Charter provides that the proposed local improvement must not be proceeded with where registered owners of at least 3/5 (60%) of the total real property that is to be benefited by a proposed local improvement object to the local improvement.

In accordance with Section 125 of *The City of Winnipeg Charter*, it was ascertained and certified by the Manager of Taxation and Finance that the signatures obtained from the benefiting registered property owners on the official *"Objection"* form represents ***0.00%*** of the total real property that is to be benefited as indicated below:

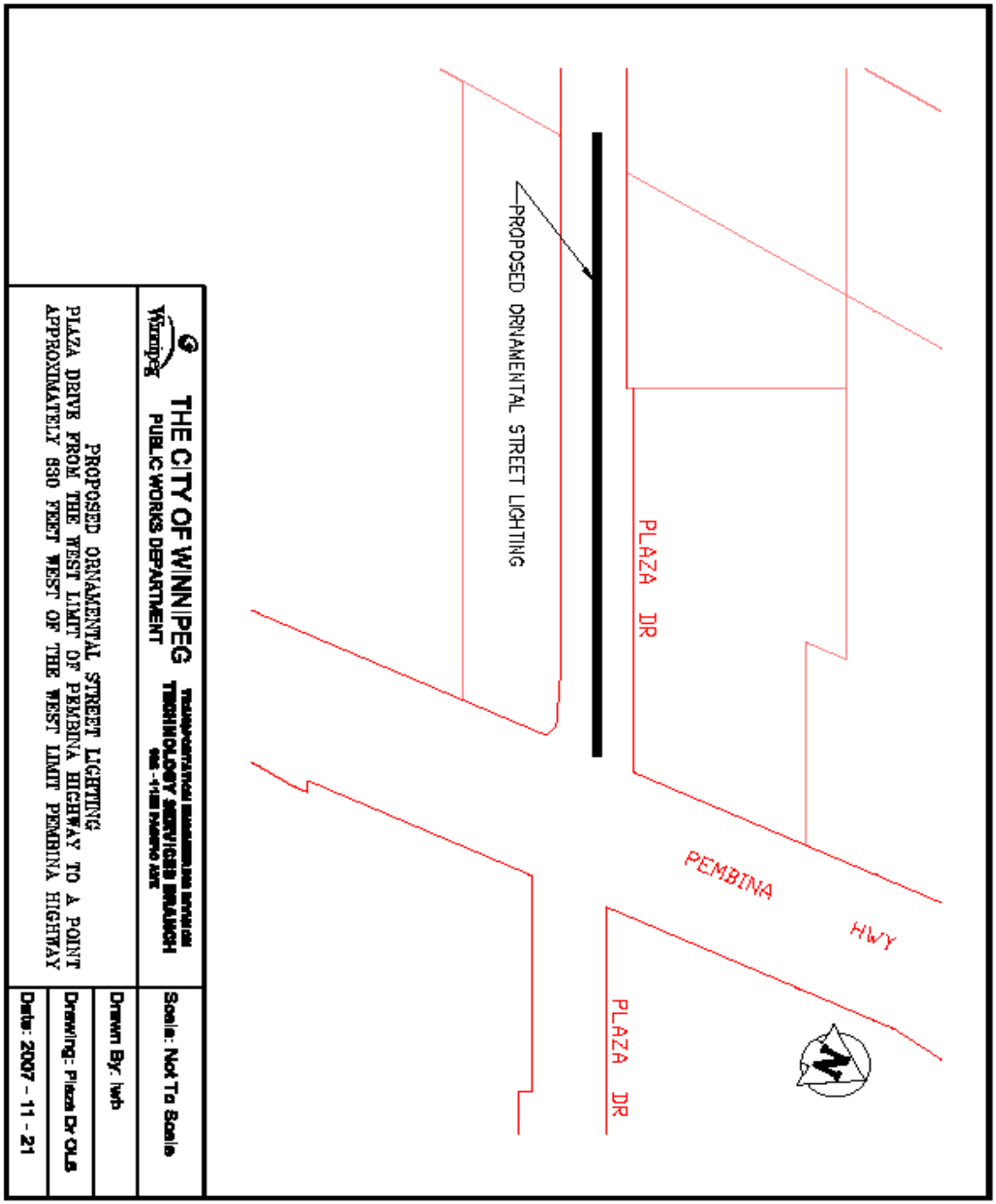
Total Assessable Frontage (includes "flankage")	748.50 feet
Objectors Represent	0.00 feet
Percentage Signed Objections	***00.0%***

The total cost of the project is estimated to be $18,000 which will be fully recovered from the registered property owners on the north side only.

Winnipeg Public Service Recommendation: The proposed undertaking of this Local Improvement project proceed as part of the 2008 Local Improvement Program which is funded through the Local Improvement float, since less than 60% of the registered owners of the total real property that is to be benefited by this proposed local improvement objected.

Project Number	***Local Improvement***	***Location***
1220270108	Ornamental Street Lighting	On Plaza Drive from the west line of Pembina Highway to a point approximately 630 feet west of the west line of Pembina Highway.

INTEROFFICE MEMORANDUM



Subsequent to the advertisement, a registered property owner on Plaza Drive had requested an official *"Objection"* form and it was returned to the City Clerk on June 24, 2008.

INTEROFFICE MEMORANDUM

Section 411 of The City of Winnipeg Charter provides that the proposed local improvement must not be proceeded with where registered owners of at least 3/5 (60%) of the total real property that is to be benefited by a proposed local improvement object to the local improvement.

In accordance with Section 125 of *The City of Winnipeg Charter*, it was ascertained and certified by the Manager of Taxation and Finance that the signatures obtained from the benefiting registered property owners on the official *"Objection"* form represents ***48.61%*** of the total real property that is to be benefited as indicated below:

Total Assessable Frontage (includes "flankage")	1,254.0 feet
Objectors Represent	609.6 feet
Percentage Signed Objections	***48.61%***

Please note that the total assessable frontage includes a flankage allowance of 10.2 feet and if the "flankage" amount is excluded from the total assessable frontage, the signatures obtained from the benefiting property owners would then still only represent ***49.01%*** of the total assessable frontage as indicated below:

Total Assessable Frontage (includes "flankage")	1,254.0 feet
Less: Flankage	(10.2) feet
Total Assessable Frontage (excluding "flankage")	1,243.8 feet
Objectors Represent	609.6 feet
Percentage Signed Objections	***49.01%***

Furthermore, in accordance with Section 125 of *The City of Winnipeg Charter*, it states in part:

"Determination of sufficiency of objections
125(2) *When objections in respect of any matter are filed with the city clerk, a designated employee must*

(a) determine which of the objections are valid by determining whether they comply in all respects with subsection (1);

(b) count the number of persons who have signed valid objections in respect of the matter and determine how many of those persons are qualified to sign objections in respect of the matter; and

(c) report to council or a committee of council, as the case requires, whether the number of persons who have signed, and are qualified to sign, objections in respect of the matter is sufficient or insufficient in respect of that matter.

Counting of signatories

Winnipeg

INTEROFFICE MEMORANDUM

125(3) *In counting under subsection (2) the number of persons who have signed objections in respect of any matter, the designated employee must exclude any person if*

> *(a) the person's signature appears on a page that does not set out the matter to which the objection relates and an objection to that matter as required by clause (1)(b);*
>
> *(b) anything required by clause (1)(c) to be included in respect of the person is not included; or*
>
> *(c) person is, for any other reason, not qualified to file an objection in respect of the matter."*

Upon scrutinizing the signatures on the *"Objection"* form, it appeared that the same individual, Mr. Michael Brousseau, had signed on June 23, 2008 on behalf of both Banquet Barons Inc. for property located at 1855 Pembina Highway and The Manitoba Hydro-Electric Board ("Manitoba Hydro") for property owned by Manitoba Hydro as indicated below which is leased to Banquet Barons Inc.

> *Roll Number: 03091101900*
> *Property Address: N/A*
> *Legal Description: Lots A-C, Plan 33511, Parish 16 ST V*
> *Registered Property Owner: Manitoba Hydro*

On August 25, 2008, the Manager of Taxation and Finance wrote to Manitoba Hydro requesting written confirmation as to whether or not Mr. Brousseau was authorized to sign this official *"Objection"* form for this proposed local improvement on behalf of Manitoba Hydro.

On September 17, 2008, the Manager of Taxation and Finance had received a letter, dated September 16, 2008 from the Land Management Coordinator in Manitoba Hydro's Property Department. In the letter, it states, in part:

> *"Mr. Brousseau currently has a lease agreement with Manitoba Hydro for Parcels A and B, Plan 33511 WLTO.*
>
> *There have been no discussions with Mr. Brousseau in regards to his signing of the official "Objection" forms for local improvements in the area and Mr. Brousseau does not have the authority to sign on behalf of Manitoba Hydro."*

Therefore, his signature has been excluded from the official *"Objection"* form pertinent to the aforementioned Manitoba Hydro owned property per Section 125(3)(c) of *The City of Winnipeg Charter*.

Accordingly, Mr. Brousseau was not qualified to sign the Objection on behalf of Manitoba Hydro and this has been duly reflected in the frontage feet that is represented by the objections. Thus, the

aforementioned percentages depicted, with respect to frontage feet represented by the objectors, is based on the exclusion of Mr. Brousseau's signature on the Manitoba Hydro owned property in the official *"Objection"* form.

The total cost of the project is estimated to be $42,000 of which 27.84% is to be recovered from the registered property owners.

Winnipeg Public Service Recommendation: The proposed undertaking of this Local Improvement project proceed as part of the 2008 Local Improvement Program which is funded through the Local Improvement float, since less than 60% of the registered owners of the total real property that is to be benefited by this proposed local improvement objected.

[Original Signed By Brad Cull]

Manager of Taxation and Finance

V:\localimp\loc-imp\Community Committee Reports\2008\City Centre Community Committee Report (Plaza Drive) Petition For Advertisement.doc