Report - Standing Policy Committee on Property and Development - April 7, 2009

Item No. 6 Lease Amendment - Willow Park Housing Co-op Ltd.
(Point Douglas Ward)
eFile FI-2.2(34)

STANDING COMMITTEE RECOMMENDATION:

On April 22, 2009, 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 an amendment to the original Land Lease (dated August 1, 1964) between the City of Winnipeg and Willow Park Housing Co-op Ltd., by adding an additional ten (10) years to the lease term, be approved.
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 - April 7, 2009

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 22, 2009, 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 7, 2009, 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: Willow Park Housing Co-op Ltd. Proposed Amendment of Lease Agreement

FOR SUBMISSION TO: Standing Policy Committee on Property and Development

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

REPORT DATE: March 20, 2009

RECOMMENDATION:

1. That Council approves an amendment to the original Land Lease (dated August 1, 1964) between the City of Winnipeg and Willow Park Housing Co-op Ltd., by adding an additional ten (10) years to the lease term.
2. That the Proper Officers be authorized to do all things necessary to implement the intent of the foregoing.

Report Summary

Key Issues:

- The City had previously entered into a lease, dated August 1, 1964, with Willow Park Housing Co-op Ltd. for the Land identified on the attached Misc. Plan 13513.

- In the fall of 2008, Willow Park Housing Co-op Ltd. expressed an interest in purchasing the Land, but verbally advised that it cannot afford to purchase the land at market value.

- Willow Park Housing Co-op Ltd. has advised the Public Service that it requires a ten year extension to the existing lease (currently expiring July 31, 2024) in order to secure financing for rehabilitation of the housing units. This extension would take the lease term to July 31, 2034.

- The Public Service has reviewed the request and has determined that the extension period is acceptable and is, by this report, seeking Council's approval to the amended term of the lease 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):

Regulatory Implications

(X) None
( ) Eliminates or reduces regulatory impact
( ) Proposes regulatory impact

Comment(s):

Environmental Implications

(X) No
( ) Yes
Comment(s):

Human Resources Implications

(X) No
( ) Yes
Comment(s):

Financial Implications

(X) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s):

Report

REASON FOR THE REPORT:

In accordance with the Council Order of July 18th, 1979, the Standing Policy Committee on Property and Development shall authorize the leasing or rental of City properties for which the Director of the Planning, Property and Development Department has no authority.

As Council provided the initial approval of this long-term lease, the Planning, Property and Development Department is requesting Council's approval of the request from Willow Park Housing Co-op Ltd. to amend their Lease for the subject property shown on Misc. Plan 13513, attached, to include a renewal period of ten (10) years which would extend the existing lease to July 31, 2034.

This report seeks Council's approval of the lease amendment.

HISTORY:

In November of 1961, the Co-operative Housing Association of Manitoba Limited expressed a desire to purchase lands, then described as Lot 1, Part Lot 2, Block 2, Plan 7890 (now known as Parcels A, B, C, D, E and F, Plan 8528), at the corner of Burrows and Dorset, for the development of six housing complexes, comprising a total of 200 dwelling units.

On April 2, 1962, Council passed a motion, subject to additional information being provided on the development project, giving favourable consideration to the sale of 10 to 15 acres of land in the Burrows-Keewatin area to the Co-operative Housing Association of Manitoba at a price similar to land in the same area that had been sold to the Housing Authority for public housing under Section 36 of the National Housing Act. Subsequently, the matter was referred to the then Committee on Finance, who, in turn, appointed a Special Sub-Committee comprised of City Officials for a report.

On May 28, 1962, Council allocated to the Co-operative Housing Association of Manitoba (for the Willow Park Housing Development project) approximately 11.62 acres of land bounded by Burrows and Tyndall Avenues and Dorset Street.

On September 19, 1963, an interim report prepared by the Special Sub-Committee on the Willow Park Housing Development, was presented to the then Committee on Finance who concurred with the recommendation that the proposal to sell this land to the Co-operative Housing Association of Manitoba be amended in favour of a Ground Lease, and that the Special Sub-Committee be authorized to negotiate the terms of the Lease and report back. Salient details are as follows:

- The Sub-Committee reviewed Council's April 2, 1962 decision that the price of the lands should be the same as was to be paid for the City's land used in connection with the Low Rental Housing Development in this same area, which amounted to using the assessed value rather than the

market value. The Sub-Committee wanted to safeguard against re-sale of undeveloped land, or the possible sale of the entire development to a private interest free of obligation to adhere to any fixed rental scale – thus permitting the Co-operative Housing Association of Manitoba to realize the full market value at the expense of the City once their mortgage was discharged.

- It was suggested that the City should impose conditions to the effect that if the maximum rental scale were to be exceeded, an amount equivalent to the difference between the price paid for the land and its full market value should immediately become payable by the Cooperative and that in the event of the re-sale of the property, any profit realized would likewise become payable to the City.
- It became evident to the Sub-Committee that, in order to maintain adequate control of the development, and having regard to the fact that once the buildings had deteriorated beyond economic repair, the City might be faced with the expense of having to expropriate the land for urban renewal purposes.
- The Sub-Committee acknowledged that, while strict enforcement of minimum standards of legislation should be sufficient safeguard to arrest the process of deterioration, it would not prevent the ultimate situation where buildings would go beyond economic repair. Under a lease agreement the City would recapture possession of the lands at no cost.
- The Sub-Committee recommended that the land should not be sold, but offered on a long-term ground lease for a term calculated to represent the useful age of the buildings, approximately 50 to 60 years, at the end of which time possession of the land and buildings would revert back to the City.

On August 31, 1964, Council approved a sixty (60) year land lease in favor of the Co-operative Housing Association of Manitoba's Willow Park Housing Development (hereinafter referred to as "Willow Park") for the land identified as "Subject City Property" on attached Misc. Plan No. 13513. The lease was granted for a consideration of $50,547.00 (the 1964 assessed land value), a yearly rent of $1.00, equivalent taxes and local improvement levies. The tenant took possession of the lands on or about August 1, 1964.

On October 12, 1964, Council ordered a redraft of the already executed lease due to Central Mortgage and Housing Corporation's objection to a clause in the Lease Agreement that provided that in the case of the breach or non-performance of any of the covenants or agreements on the part of Willow Park, it would be lawful for the City to repossess the property and terminate the Lease. Central Mortgage and Housing Corporation insisted on the deletion of that clause before it would accept a mortgage of the leasehold interest of the Housing Co-operative on behalf of Willow Park. The original lease document was replaced by Agreement No. 7194 on January 27th, 1966.

A summary of the lease is as follows:

Rent:	$1.00 per annum
Term:	Sixty years (August 1, 1964 to July 31, 2024)
Taxes:	Equivalent to taxes

There was no defined renewal term in the lease.

Details of the Subject City Property are as follows:

Location:	Burrows Avenue and Dorset Street
Legal Description:	Plan 8528, Parcels A, B, C, D, E and F
Certificate of Title:	1901742
Assessment (2008):	$4,711,000.00
Roll Number:	14021560200
Municipal Taxes (2008):	$77,891.41
Size:	11.6 acres
Zoning:	Rmfs - Res - Multi-Family

Willow Park has provided affordable housing in the Point Douglas area for forty-five (45) years, with many of the tenants having resided there for twenty (20) years or more.

DISCUSSION:

As a result of a discussion with the Tenant in December 2008, the Department was advised that Willow Park could not purchase City-owned property at a market price.

An engineering report, commissioned by Willow Park, concluded that the housing units have deteriorated to the point where repairs are not sufficient for the long term sustainability of the buildings. Restoration of the buildings, by replacing the building exteriors, would be required. In order to secure the requisite financing for the project, and to allow for a longer amortization period, Willow Park advised, by letter dated December 17, 2008, that they require a ten (10) year extension to their Lease Agreement as it is urgent this work begin in the spring of 2009. If approved, the Lease would expire July 31, 2034.

The existing Lease Agreement does not contain a renewal provision. However, the Tenant remains committed to this project and is prepared to invest approximately $4.5 million dollars to improve the current dwellings. Consequently, the Planning, Property and Development Department are supportive of the lease extension.

Financial Impact Statement Date: March 5, 2009

Project Name:

Willow Park Housing Co-op Ltd. Proposed Amendment of Lease Agreement

COMMENTS:

The recommendation contained in this report is that Council approves an amendment to the original Land Lease (dated August 1, 1964) between the City of Winnipeg and Willow Park Housing Co-op Ltd., by adding an additional ten (10) years to the lease term.

There are no immediate financial implications associated with this recommendation.

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

IN PREPARING THIS REPORT THERE WAS:

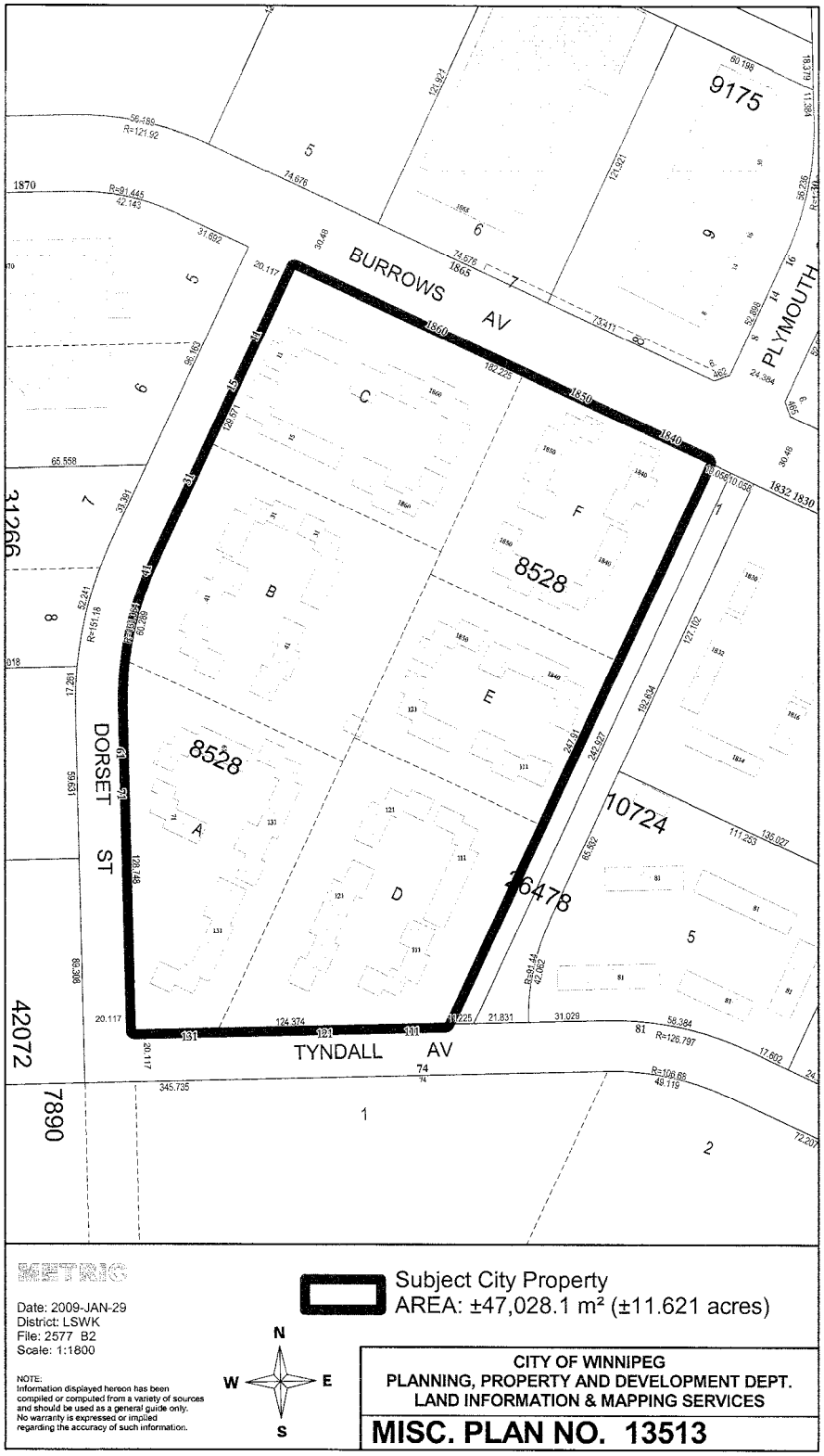
Internal Consultation With and Concurrence By:

Corporate Support Services - Legal Services Division (as to Legal Issues)

External Consultation With:

THIS REPORT SUBMITTED BY:

Department: Planning, Property and Development
Division: Real Estate
Prepared by: Kelly Udell
PPD File No. 2577-B2


BURROWS AV
PLYMOUTH
DORSET ST
TYNDALL AV
9175
8528
8528
16478
10724
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METRIC
Date: 2009-JAN-29
District: LSWK
File: 2577 B2
Scale: 1:1800
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.
Subject City Property
AREA: ±47,028.1 m² (±11.621 acres)
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CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 13513