Minutes - Standing Policy Committee on Property and Development - April 8, 2003

REPORTS

Minute No. 228 **Appeal - Winnipeg Building By-law - Tecon Ltd. - 191 Lombard Avenue**
File EB-1.1 (Vol. 14)

STANDING COMMITTEE RECOMMENDATION:

The Standing Policy Committee on Property and Development adjourned the appeal hearing to its May 6, 2003 meeting, conditional upon a City Engineer examining the areaways in the next few weeks to ensure that the temporary measures that have been taken to confirm its immediate structural stability are still effective.

DECISION MAKING HISTORY:

Moved by Councillor Eadie,

That Rule 9.3 of the Procedure By-law be suspended in order that the following item, which was received too late to be placed on the regular agenda, be considered by Committee.

Carried

Harold J. Dick, Solicitor, Legal Services Division, Corporate Services Department submitted a communication dated April 7, 2003, advising that both Planning, Property and Development Department and the Legal Services Division are willing to accommodate the request from Joe Wilder, Q.C., Wilder Wilder and Lantry, Barristers and Solicitors, to adjourn the appeal hearing to May 6, 2003.

Moved by Councillor Eadie,

That the appeal hearing be adjourned to the Standing Policy Committee on Property and Development meeting to be held on May 6, 2003, conditional upon a City Engineer examining the areaways in the next few weeks to ensure that the temporary measures that have been taken to confirm its immediate structural stability are still effective.

Carried

STANDING COMMITTEE RECOMMENDATION:

On March 4, 2003 the Standing Policy Committee on Property and Development adjourned the appeal hearing to its April 8, 2003 meeting.

On March 4, 2003, the Standing Policy Committee on Property and Development considered the following:

- Joseph J. Wilder, Q.C., Wilder Wilder and Lantry, Barristers and Solicitors, on behalf of Tecon Ltd., appealed the Order issued by the Acting Housing and Existing Buildings Administrator, Planning, Property and Development Department, dated January 21, 2003, regarding provisions of the Winnipeg Building By-law for the premises located at 191 Lombard Avenue.

DECISION MAKING HISTORY (continued):

The Order stated:

1. Take such immediate steps as may be necessary to ensure the immediate structural stability of the areaway on or before, but not later than February 1, 2003**;**

2. Obtain the services of a structural engineer, licensed to practice in the Province of Manitoba to inspect the building areaway and forward a report to this office that details all the defects, methods of repairs and time frame in which the defects must be completed, on or before, but not later than February 14, 2003;

3. Remove the existing defective slab and reconstruct the slab in accordance with the current requirements of the Manitoba Building Code**,** starting on or before, but no later than March 1, 2003 and proceeding steadily thereafter to completion on or before, but not later than June 1, 2003.

- Joseph J. Wilder, Wilder Wilder and Langtry, Barristers and Solicitors, submitted communication dated February 5, 2003, to the Legal Services Division requesting a meeting with the Legal Services Division prior to March 4, 2003 or to have the appeal date postponed.

- The Acting Housing and Existing Buildings Administrator, Planning, Property and Development Department submitted a communication dated February 27, 2003, advising that Tecon Ltd. has complied with Item No. 1 of the Department's Order, and that Items No. 2 and 3 remain outstanding.

- The City Solicitor/Manager of Legal Services submitted communication dated February 28, 2003, addressed to Wilder Wilder and Langtry, Barristers and Solicitors, from the Legal Services Division, relative to the request from Tecon Ltd. for adjournment of one month of the hearing.

In reply please refer to / Référence à rappeler :

Mr. G.R. Solkoski
(204) 986-5552
Fax: (204) 942-2008

January 21, 2003

TECON LTD. **"PERSONAL SERVICE"**
1500 - One Lombard Place
Winnipeg, Manitoba R3B OX3

Attention: Joseph J Wilder, Director & Vice-President

Dear Sirs:

RE: 191 LOMBARD AVENUE ORDER TO REPAIR
OUR FILE NO.: 03 290838 AR

Having reviewed an engineering study prepared by Crosier Kilgour & Partners Ltd. for A.S.H. Management Group Inc., dated March 2002 and by inspection of the subject premises, I have concluded that the underground areaway which contain utilities for the building at 191 Lombard Avenue and is located under the north sidewalk of Lombard Avenue extending from the eastern limit of Main Street to approximately the east end of the building, contravenes section 12.1 of the Winnipeg Building By-law No. 4555/87 in that it is an unsafe condition. In particular, I have concluded that all or part of this areaway is likely to fall, and that the structural aspects of this areaway are insecure and pose a danger to people who enter the areaway. More particularly, the engineering study indicates that the basement slab soffit has deteriorated substantively due to delamination of the top reinforcing steel and freeze-thaw deterioration on the top of the surface of the slab, resulting in the flexural capacity of the structure reaching its design limit and includes a professional opinion that repairs should not have been deferred beyond the summer of 2002.

Urgent intervention is required to address both the immediate concerns of structural failure and falling concrete and/or clay brick, and in order to restore the integrity of the structural system.

Therefore, in accordance with the provisions of the aforementioned by-law and to prevent the possibility of an accident occurring, you are hereby ordered to:

1. Take such immediate steps as may be necessary to ensure the immediate structural stability of the areaway **on or before, but not later than, February 1st, 2003**;
2. Obtain the services of a structural engineer, licensed to practice in the Province of Manitoba to inspect the building areaway and forward a report to this office that details all the defects, methods of repairs and time frame in which the defects must be completed, **on or before, but not later than February 14th, 2003**;

3. Remove the existing defective slab and reconstruct the slab in accordance with the current requirements of the Manitoba Building Code, **starting on or before, but no later than March 1st, 2003 and proceeding steadily thereafter to completion on or before, but not later than, June 1st, 2003.**

Please note that if you fail to comply with this Order, you may be prosecuted pursuant to The City of Winnipeg Building By-law No. 4555/87 and The City of Winnipeg Charter. In addition, I will have no alternative but to proceed under the provisions of the said by-law to have the unsafe condition remedied.

The cost of such work will be added to the property taxes and legal action may be initiated against you.

Also please note that in accordance with Section 10 of the Winnipeg Building By-law No. 4555/87, if you disagree with this Order, or any provisions thereof, you may appeal therefrom to the Standing Policy Committee on Property & Development by the time given for compliance with this order or within 14 days of receipt of this order, whichever is sooner, by writing to the Standing Policy Committee on Property & Development, Attn: Jo-Ann Park, Clerk, Council Building, City Clerks Department, 510 Main Street, Winnipeg, Manitoba R3B 1B9.

Should you have any questions with regard to this matter, please contact the undersigned at 986-5552, Monday to Friday, between the hours of 8:30 a.m. and 4:30 p.m.

Yours truly,

G.R. Solkoski,
A/Housing & Existing Buildings Administrator
Designated Employee

/GRS

Inspection Report

Planning, Property and Development Department

Development and Inspections Division, Inspections Branch
4th floor, 65 Garry Street

Winnipeg

Date: January 20, 2003

To: File

From: G. Solkoski
RE: **191 LOMBARD AVENUE / 387 MAIN STREET AREAWAY**
FOLDER NO.: 03 290838 AR

Background:

Copy of an engineering report dated March 2002 prepared by Crossier Kilgour & Partners along with several pieces of related correspondance received on Tuesday, January 14th/2003. The report and correspondence was sent to us by Fred Corey, Streets Project Engineer at the Public Works Department at the request of Harold Dick at Legal Services.

As a result of review of the engineering report a determination was made that the conditions warranted further investigation as a violation under the Building By-law.

Notice of Entry:

As required by the provisions of the new Winnipeg Charter Act, I contacted the building property manager Grant Stevenson at A.S.H Management Group Inc. by telephone on Monday, January 20th/2002 at aprox. 8:45 a.m. and requested access to inspect. Mr. Stevenson advised he was under instructions by the owner to obtain his permission prior to allowing any entry and accordingly, would contact the owner and get back to me.

Mr. Stevenson subsequently called back at aprox. 10:37 a.m. and advised he would personally meet me at the premises at 1:30 p.m. today and give access to the building and areaway.

Inspection Results:

Areaway portion of building inspected Monday, January 20, 2003 at aprox 1:30 p.m. in company with Fred Corey, Streets Project Engineer, Public Works Department and Grant Stevenson, building manager, A.S.H. Management Group.

Visual observation confirms conditions as noted in the Crosier Kilgour & Partners report, specifically:

- Delamination of the slab soffits with corrosion of the exposed reinforcing steel and spalling of the slab
- Slab soffit cracking with efflorescence
- Clay brick and mortar encapsulating the beam directly above the transition between the low and high area is loose and appears unstable
- One beam shows significant cracking

Photographs taken with digital camera.

It was also brought to our attention by the building manager that another small room immediately adjacent to the areaway contains Manitoba Hydro equipment. The room is accessible only by a locked door and that only Manitoba Hydro has keys. Although a separate room, it is apparent that this area is also part of the areaway and that the defective slab also extends over the room.

Accordingly, it will be necessary to notify Manitoba Hydro when the repairs are undertaken so that they might take whatever steps they determine necessary to safeguard their equipment.

Conclusion:

The recommendations provided in the Crosier Kilgour & Partners engineering report along with my observations clearly indicate immediate intervention is required to address both the immediate concerns of falling concrete and/or clay brick as well as a long term need to restore the integrity of the structural system.

Accordingly, Order under File No. 03 290838 AR issued for immediate service upon the building owners.

Existing Buildings Inspector Gerry Anderson to serve the Order and execute an Affidavit of Service upon doing so.

_____

G.R. Solkoski,
A/ Housing & Existing Buildings Administrator

WILDER WILDER & LANGTRY

BARRISTERS & SOLICITORS

JOSEPH J. WILDER** B.A. LL.B., Q.C.
CHRISTOPHER FULTZ, B.A., LL.B.
JOHN A. MacIVER, B.A., LL.B.

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

A. DOUGLAS HOFFER, B.Sc., LL.B.
DAVID M. BRADLEY, LL.B.
BRUCE SYCHUK* B.A., LL.B.

*also a member of the Alberta Bar
**Professional Law Corporation

ESTABLISHED 1967

In Reply, Please Refer to
Our File Number: 210387/JJW

VIA FACSIMILE
(947-3452)

January 31, 2003

The City of Winnipeg
Standing Policy Committee on Property & Development
Council Building, City Clerks Department
510 Main Street
Winnipeg, Manitoba
R3B 1B9

ATTENTION: Jo-Ann Park, Clerk

Dear Sirs:

RE: **Tecon Ltd.**
191 Lombard Avenue
Appeal – Order to Repair

This is an appeal made on behalf of our client, Tecon Ltd., pursuant to Section 10 of The Winnipeg Building By-Law No. 4555/87 and The City of Winnipeg Charter, from the Order to Repair made by the Designated Employee, G. R. Solkoski, which Order is attached, regarding the above property.

Yours truly,
WILDER WILDER & LANGTRY
Per:

JOSEPH J. WILDER, Q.C.
JJW:kh
Encl.

cc: The City of Winnipeg Planning, Property & Development Department
Development and Inspections Division
Attention: G. R. Solkoski, Designated Employee

cc: The City of Winnipeg Corporate Services Department
Legal Services Division
Attention: Harold J. Dick, Solicitor

cc: A.S.H. Management Group Inc.
Attention: L. M. Hurtig, C.A. / Grant Stevenson, CPM

Agenda
March 6/
2003
GUP

WILDER WILDER & LANGTRY

BARRISTERS & SOLICITORS

CITY CLERKS
WINNIPEG
'03 FEB -5 P4:06

JOSEPH J. WILDER,** B.A., LL.B., Q.C.
CHRISTOPHER FULTZ, B.A., LL.B.
JOHN A. MacIVER, B.A., LL.B.

SAMUEL I. WILDER,** B.A., LL.B., Q.C.
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BRUCE SYCHUK,* B.A., LL.B.

*also a member of the Alberta Bar
**Professional Law Corporation

ESTABLISHED 1967

In Reply, Please Refer to
Our File Number: 210387/JJW

February 5, 2003

VIA FACSIMILE
(947-9155)

The City of Winnipeg, Corporate Services Department
Legal Services Division
3rd Floor, 185 King Street
Winnipeg, Manitoba
R3B 1J1
ATTENTION: **Harold J. Dick, Solicitor**

Dear Sir:

RE: Tecon Ltd.: 191 Lombard Avenue (387 Main Street Areaway)

Thank you for your letter of February 4, 2003. I welcome the comments you make in the second paragraph of your letter and look forward to arriving at something satisfactory to both sides.

The Order of Mr. Solkoski, however, is diametrically opposed to this concept of cooperation. The purport of the Order is to require my client to make these repairs. I would urge you to either meet with me prior to March 4, 2003 or have the date postponed indefinitely to give us the opportunity to do what you have in mind.

Yours truly,
WILDER WILDER & LANGTRY
Per:

JOSEPH J. WILDER, Q.C.
JJW:kh

cc: The City of Winnipeg Planning, Property & Development Department
Development and Inspections Division
Attention: G. R. Solkoski, Designated Employee

cc: The City of Winnipeg Standing Policy Committee on Property & Development
Attention: Jo-Ann Park, Clerk (via facsimile – 947-3452)

cc: A.S.H. Management Group Inc.
Attention: Grant Stevenson, CPM (via facsimile – 956-5262)

Enclosure: February 4, 2003 letter from Harold J. Dick

1500 Richardson Building, 1 Lombard Place, Winnipeg, Manitoba R3B 0X3
Telephone: (204) 947-1456 Fax: (204) 957-1368 e-mail: wilder@mb.sympatico.ca Internet: www.wilderwilder.com

Winnipeg

Corporate Services Department • Services généraux

Legal Services Division • Division des services juridiques

Please reply to: Harold J. Dick
Telephone: (204) 986-2290
E-mail: hdick@winnipeg.ca

February 4, 2003

VIA FAX & MAIL: 957-1368

Joseph J. Wilder, Q.C.
Wilder, Wilder & Langtry
Barristers and Solicitors
1500 Richardson Building
1 Lombard Place
Winnipeg, Manitoba
R3B 0X3

Dear Sir:

Re. Tecon Ltd.
191 Lombard Avenue Areaway

Dear Sir:

This is in response to your several letters, most recently that of January 29, 2003, and our telephone conversation of February 3, 2003.

In your recent communications you took the position that the previous dealings between your client and the City with respect to this areaway had prejudiced your client. I am prepared to familiarize myself with the history of those dealings and to discuss them with you at some point. I think that this may also be an opportune moment for the City and your client to work out a long-term arrangement with respect to this areaway. I will be in touch with you over the next few weeks on both of these issues.

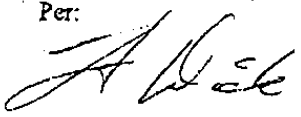
My understanding from the Office of the City Clerk is that the Standing Policy Committee on Property and Development will hear on March 4, 2003 your appeal of the order issued by Mr. Solkoski. Until and unless the Committee decides otherwise or unless an alternate arrangement that will ensure the long-term structural integrity of the areaway is reached, the City's remains that your client is the occupant of the areaway attached to 191 Lombard and is therefore responsible for complying with the By-law, and particularly section 12 thereof.

Should you have any questions, feel free to contact me.

Yours truly,

Yours truly,

URSULA B. GOERES
City Solicitor/Manager of Legal Services
Per:



HAROLD J. DICK
Solicitor
HJD:gd

INTER-OFFICE MEMORANDUM

Planning, Property and Development Department

Development and Inspections Division, Inspections Branch
4th floor, 65 Garry Street

RECEIVED
CITY CLERK'S
WINNIPEG
Winnipeg
'03 FEB 27 P3:00

Date: February 27, 2003

To: Harold Dick, Solicitor — Jo-Ann Park, Clerk

Legal Services By FAX To: 947-9155 — SPC on PP&D By FAX To: 947-3452

From: Garry Solkoski

RE: **191 LOMBARD AVENUE**

TECON LTD.; REGISTERED OWNERS

APPEAL TO WINNIPEG BUILDING BY-LAW ORDER
PP&D FILE NO. 03 290838 AR

For your information and files, attached please find copies of Fax transmittal documents as well as a temporary shoring report prepared by Crosier Kilgour & Partners Ltd., Consulting Structural Engineers.

With the submission of the engineering drawings subsequent to the on site shoring previously confirmed by inspection of the premises on February 03/2003, the owners have satisfactorily complied with item No.1 of our Order.

To date, items No. 2 & 3 remain outstanding and pending the outcome of the appeal or alternately, the outcome of a negotiated agreement by Legal Services.

G.R. Solkoski

Attachments: 4

FAX TRANSMITTAL

CROSIER KILGOUR & PARTNERS LTD.

Consulting
Structural Engineers

To: Mr. Ken Franklin, P. Eng.
Fax:
Company: City of Winnipeg
Date: February 14, 2003
From: John A. Wells
File No.: 2002-791
Re: 191 Lombard; Sidewalk Shoring
CC: A.S.H. Management, Mr. Grant Stevenson
Pages: 3 (Including cover sheet)

CONFIDENTIALITY WARNING: The documents accompanying this transmission contain confidential information intended for a specific individual and purpose. The information is private, and is legally protected by law. If you have received this communication in error, please notify us by collect telephone call, and dispose of the original. Thank you.

NOTES:

Hi Ken,

Please find attached the shoring design drawings installed at 191 Lombard Avenue. As discussed, we have advised the Owner that the installation is a temporary measure and that replacement must be complete this summer.

If you have any questions or require clarification, please call.

Thanks,

John A. Wells, P. Eng.

Partners
K.J. Hearson, P.Eng.
J.D. Miller, P.Eng.
G. Graham, C.E.T.
R.J. O'Toole, P.Eng.
J.A. Wells, M.Sc., P.Eng.
T.K. Malkiewicz, C.I.M., P.Eng.

300-207 Donald Street
Winnipeg, Manitoba
R3C 1M5

Tel: (204) 943-7501
Fax: (204) 943-7507
e-mail: ckp@ckpeng.com

FAX TRANSMITTAL

CROSIER KILGOUR & PARTNERS LTD.

Consulting
Structural Engineers

To: Mr. Garry Solkoski
Company: City of Winnipeg
From: John A. Wells
Re: 191 Lombard; Sidewalk Shoring
CC: A.S.H. Management, Mr. Grant Stevenson

Fax: 942-2008
Date: February 28, 2003
File No.: 2002-791

Pages: 4 (Including cover sheet)

CONFIDENTIALITY WARNING: The documents accompanying this transmission contain confidential information intended for a specific individual and purpose. The information is private, and is legally protected by law. If you have received this communication in error, please notify us by collect telephone call, and dispose of the original. Thank you.

NOTES:

At the request of A.S.H. Management, please find attached a copy of the sealed drawings for the sidewalk shoring. A copy of the drawings was previously forwarded to Mr. Ken Franklin, P. Eng. on February 14th, 2003.

If you have any questions or require clarification, please call.

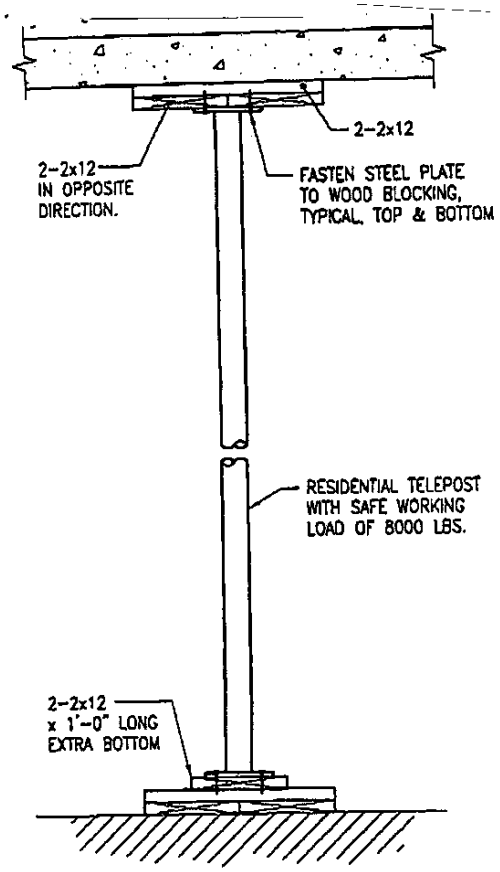
Thanks,

John A. Wells, P. Eng.

Partners
K.J. Hearson, P.Eng.
J.D. Miller, P.Eng.
G. Graham, C.E.T.
R.J. O'Toole, P.Eng.
J.A. Wells, M.Sc., P.Eng.
T.K. Malkiewicz, C.I.M., P.Eng.

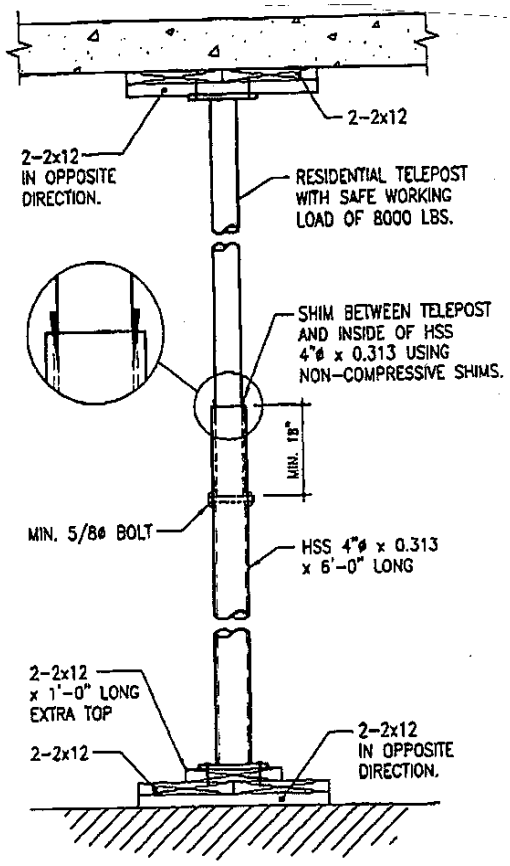
300-207 Donald Street
Winnipeg, Manitoba
R3C 1M5

Tel: (204) 943-7501
Fax: (204) 943-7507
e-mail: ckp@ckpeng.com



SHORING S-1

RAISED FLOOR



SHORING S-2

PROVINCE OF MANITOBA
J.A. WELLS
Feb 3/03
REGISTERED PROFESSIONAL ENGINEER

APEGM
Certificate of Authorization
No. 235
Expires APRIL 30, 2003
signature
Feb 3/03
date

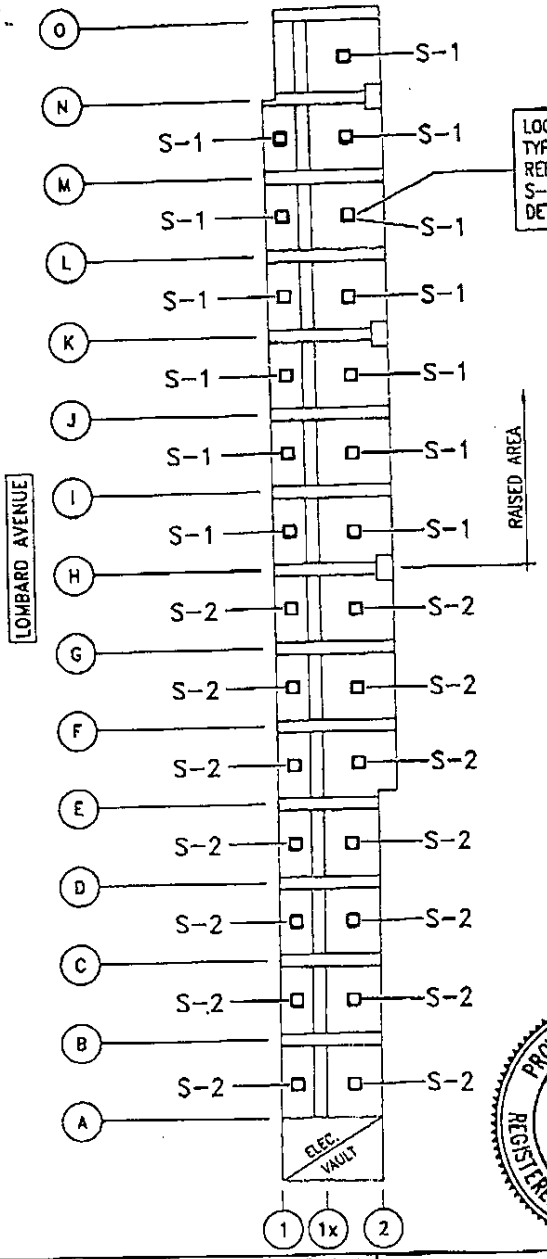
CROSIER KILGOUR & PARTNERS LTD.
Consulting Structural Engineers
300-207 Donald St., Winnipeg, MB R3C 1M5
Tel: (204) 943-7501 Fax: (204) 943-7507

Project: NATIONAL BANK BUILDING
191 LOMBARD AVENUE WINNIPEG, MANITOBA

Sheet Title: SHORING SECTIONS

Sheet No.: S-2

Design	Drawn By	Date	File
DJM	LL	JAN 31/03	2002-791



NOTE

- SHORING POSTS TO SUPPORT A SAFE WORKING LOAD OF 8 KIPS AT 8'-0" LONG.
- ALL PADS TO BE CONSTRUCTED USING DOUGLAS FIR.
- PADS TO BE NAILED TOGETHER WITH ARDOX NAILS AT MAX. 6" SPACING IN BOTH DIRECTIONS.
- ALL SHORE POSTS TO BE PLACED IN CENTRE OF SLABS.

N

MAIN FLOOR SHORING INSTALLATION

SCALE : N.T.S.

PROVINCE OF MANITOBA
J.A. WELLS
Jan 30/03
REGISTERED PROFESSIONAL ENGINEER

APEGM
Certificate of Authorization
No. 235
Expires APRIL 30, 2003
signature
Jan 30/03
date

Project

CROSIER KILGOUR & PARTNERS LTD.
Consulting Structural Engineers
300-287 Donald St., Winnipeg, MB R3C 1M5
Tel. (204) 943-7561 Fax: (204) 943-7507

NATIONAL BANK BUILDING
191 LOMBARD AVENUE WINNIPEG, MANITOBA

Sheet Title: MAIN FLOOR SHORING INSTALLATION

Sheet No. S-1

Design	Drawn By	Date	File
DJM	LL	JAN 30/03	2002-791

Winnipeg

Corporate Services Department • Services généraux

Legal Services Division • Division des services juridiques

Please reply to: Harold J. Dick
Telephone: (204) 986-2290
E-mail: hdick@winnipeg.ca

February 28, 2003

(VIA FAX: 957-1368)

Wilder, Wilder & Langtry
Barristers and Solicitors
1500 Richardson Building
1 Lombard Place
Winnipeg, Manitoba
R3B 0X3

Attention: Joseph J. Wilder, Q.C.

Dear Sir:

Re: Tecon Ltd.
191 Lombard Avenue Areaway

Further to our telephone conversation, this will confirm that I have contacted the Clerk of the Standing Policy Committee on Property and Development, Jo-Ann Park, to advise that your client is seeking an adjournment for one month of the hearing of the appeal of the Order issued by Mr. Solkoski of the Planning, Property and Development Department. I have confirmed with Mr. Solkoski that an adjournment for one month is acceptable in light of the fact that the areaway has now been buttressed to the point where immediate concerns about its structural integrity have been alleviated and I have so advised Ms. Park. I have also advised her that I am in concurrence with the request for an adjournment.

Ms. Park advises that she will pass on this request to the committee. Assuming the Committee agrees to the adjournment, she will contact your office to confirm the new date for the hearing of the appeal, which is expected to be April 8, 2003.

In the meantime, I will be in touch by telephone to arrange for a meeting to discuss the possibility of resolving this matter.

Yours truly,

URSULA B. GOERES
City Solicitor/Manager of Legal Services
Per:

HAROLD J. DICK
Solicitor
HJD:gd

Cc: Jo-Ann Park (Clerk of P&D Committee)
Doug Holmes (Manager of Development and Inspections, PP&D)
Garry Solkoski (PP&D)