Minutes - Executive Policy Committee - April 23, 2003

Report - Standing Policy Committee on Property and Development - April 10, 2003

Minute No. 236
Item No. 4 **Proposed Sale of a portion of Niakwa Road East (to be closed) to Springs of Living Water Centre Inc.**
File DAC 12/2002

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

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 Council declare the property shown as the "subject property" on Misc. Plan No.10516/5 as surplus to the City's requirements, subject to the enactment of road closing by-law under File DAC12/2002.

2. That the sale to the Springs of Living Water Centre Inc. of that portion of Niakwa Road East identified as the "subject property" on Misc. Plan No. 10516/5 for the price of $1.00, be approved subject to the proposed terms and conditions of sale as negotiated (and recommended in the administrative report dated March 27, 2003).

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing, including the execution of any documents related thereto.

Report - Standing Policy Committee on Property and Development - April 10, 2003

DECISION MAKING HISTORY:

Moved by Councillor Vandal,
That the recommendation of Standing Policy Committee on Property and Development be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On April 10, 2003, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submitted its recommendation to Executive Policy Committee and Council.

Re: **Proposed Sale of a Portion of Niakwa Road East (to be Closed) to Springs of Living Water Centre Inc.**
Riel Community Committee
St. Boniface Ward

For submission to: **Standing Policy Committee on Property and Development**

Original report signed by: **Director of Planning, Property and Development**

Report date: March 27, 2003

Recommendation(s):

1. That Council declare the property shown as the "Subject Property" on Misc. Plan No.10516/5 as surplus to the City's requirements, subject to the enactment of road closing by-law DAC12/02;

2. That subject to the approval of Recommendation No. 1, that the sale to the Springs of Living Water Centre Inc., of that portion of Niakwa Road East identified as the "Subject Property" on Misc. Plan No. 10516/5 for the price of $1.00, be approved subject to the proposed terms and conditions of sale as recommended herein;

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

REPORT SUMMARY

Key Issues:

- In 2002 there was a similar approved closing and sale of right-of-way lands to the Springs of Living Water Centre Inc. for $1.00. The sale of those lands was subject to consolidation with the title to the Church's adjacent property.
- On February 10, 2003, the Riel Community Committee recommended to the Standing Policy Committee on Property and Development that the additional subject lands as shown on Misc. Plan No. 10516/5 be sold to the Church for $1.00.
- This report is recommending that the lands be sold to the Springs of the Living Water Centre Inc. at $1.00, subject to consolidation with the title to the Church's adjacent property, in addition to other standard terms and conditions and special conditions of sale as set out herein.

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 of Winnipeg
	Involves a multi-year contract

Comment(s):

-

Policy implications:

X	**No**
	Yes

Comment(s):

-

Environmental implications:

X	**No**
	Yes

Comment(s):

- The Planning, Property and Development Department has not conducted an Environmental Site Assessment relative to these lands, and does not intend to. The Purchaser will, in accordance with the proposed terms and conditions of sale, be afforded the opportunity to conduct this investigation at its own cost.

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):

-

REASON FOR THE REPORT:

In accordance with City Policy, the Standing Policy Committee on Property and Development shall finalize all sales, including terms and conditions, for which the Director of the Planning, Property and Development Department has no authority. The proposed purchase price is less than fair market value, therefore the Department is seeking Council approval of the sale at $1.00, with the recommended sale being subject to the enactment of the road closing By-law.

HISTORY:

On September 28, 2002 the Standing Policy Committee on Property and Development approved a previous sale of City property identified as outlined on the attached Misc. Plan No. 10516/3 to the Springs of Living Water Church for $1.00 subject to the lands being consolidated in title with the Church's adjacent property. At that time the Riel Community Committee was on record as being in favour of offering the property to the Springs of Living Water Church at a nominal charge.

The Springs of Living Water Church has now requested to acquire an additional portion of Niakwa Road East shown as the "Subject Property" on Misc. Plan No. 10516/5 and have applied for a closing of same under DAC 12/2002.

In dealing with closing application DAC 12/2002 on January 6, 2003, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee and recommended to Council:

"1. That the City Solicitor/Manager of Legal Services be instructed to prepare the necessary by-law for submission to Council to effect the closing in accordance with Schedule "A", Misc. Plan No. 10516/5.

2. That the Proper Officer of the City be authorized to do all things necessary to effect the intent of the foregoing."

On February 10, 2003, the Riel Community Committee recommended to the Standing Policy Committee on Property and Development that the City-owned right-of-way lands identified in Schedule "A" (the land shown as subject property on Misc. Plan No. 10516/5) be sold to the Springs of Living Water Church for the sum of $1.00.

On March 6, 2003, the Standing Policy Committee on Property and Development considered the Riel Community Committee's recommendation and referred the matter to the Department.

DISCUSSION:

The particulars of the subject property are as follows:

Location:	North of Lagimodiere Boulevard, east of Mazenod Road

Legal Description:	A portion of Niakwa Road East closed Right of Way (ROW) shown as "Subject Property" on the attached Misc. Plan 10516/5
Registered Owner:	The City of Winnipeg (after the closing by-law is enacted)
Realty Roll No. and Assessment:	Not applicable, legally open public ROW
Zoning:	Open ROW, once legally closed the subject lands will take on the zoning of the adjacent site, which today is "M-1" - Industrial District on the north side and "PR-2" and "M-l" for portions along the south side.
Site Size/Area:	68,310 sq. ft. (1.568 acres)
Property Description:	The subject City lands were set aside as an open right-of-way to service the future development of the private lands for industrial use. The closing of the subject Right of Way has been recommended by the Riel Community Committee and directed to Council under DAC 12/2002.

Recommended Terms and Conditions of Sale

As a result of the Departmental circularization of the proposed closing and sale of these lands, the Planning, Property and Development Department is recommending that the sale be approved subject to:

the standard terms and conditions of sale as stated on the attached Appendix "1", and;

the following additional requirements and conditions to be included in Appendix "1":

- The Purchaser will be required to enter a Servicing Agreement in accordance with the requirements under DAC 12/02, for access and egress agreements with the business at 717 Lagimodiere Boulevard to ensure its continued use of the closed street in perpetuity.
- No new approaches will be allowed from Lagimodiere Boulevard. A caveat making this statement is to be registered against the titles to the affected properties to advise the current or future owners of the properties of this fact.
- The Purchaser will be required to apply to the Public Works Department for approval for the use of the existing approach from Lagimodiere Boulevard as a private approach.
- The Purchaser shall provide continued access for emergency purposes to the City of Winnipeg across the Springs of Living Water Centre Inc. property to Niakwa Road East (east of Mazenod Road) and access for Manitoba Hydro to their transformer substation, by way of an access and egress easement agreement requiring the Springs of Living Water Centre Inc. to construct and maintain a paved right-of-way in favour of the City and Manitoba Hydro. The Access and Egress agreement is to be prepared to the satisfaction of the Director of Public Works Department. (This condition is consistent with the terms of the sale of the portion of Niakwa Road East addressed under DAOC

3/98, as approved by the Standing Policy Committee on Property and Development and Council.)

- Title to the closed street is to be consolidated with the Purchaser's Title(s) to its existing holdings.
- The Water and Waste Department, Manitoba Hydro, Centra Gas and MTS Communications Inc. have all advised that they will require easements for the maintenance of their plants in the street to be closed. No structures other than paving or fencing will be allowed in the easement areas.

The aforesaid proposed terms and conditions have been submitted to the Church for its consideration. At this date, the Department has not received the Church's response. The Department anticipates that the Church will accept these proposed terms prior to the Standing Policy Committee on Property and Development meeting date of April 10, 2003.

Department Opinion

The Planning, Property and Development Department is recommending to the Standing Policy Committee on Property and Development that subject to the enactment of the road closing by-law that the City convey the subject City lands to the Springs of Living Water Centre Inc. at a price of $1.00 for the following reasons:

- Notwithstanding the sale, the City will have continuing access for emergency purposes across the Church property to Niakwa Road East (east of Mazenod Road) and access to the Manitoba Hydro transformer station.
- The Church is to prepare at its cost the required closing, opening, and easement plans.
- The Church is not prepared to entertain a price greater than $1.00 given the Riel Community Committee motion of February 10, 2003, which recommended that the land be offered to the Church at a nominal charge.
- The proposed price and terms and conditions are consistent with the previous approved and implemented transaction.

Financial Impact Statement

Date: Mar. 27/03

Project Name:

Proposed Sale of a Portion of Niakwa Road East (to be Closed) to Springs of Living Water Centre Inc.

First Year of Program 2003

	2003	2004	2005	2006	2007
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
External	-	-	-	-	-
Grants (Identify)	-	-	-	-	-
Reserves, Equity, Surplus, Other	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	1	-	-	-	-
Net Cost/(Benefit)	$ (1)	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	(1)	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

Although not assessed unto itself, the application of the land assessment for the adjoining parcel will be applied directly to the subject property resulting in an increased annual tax recovery. The approximate amount is not quantifiable at this writing.

"Original signed by"
Gord Courage, Manager
Support Services Division

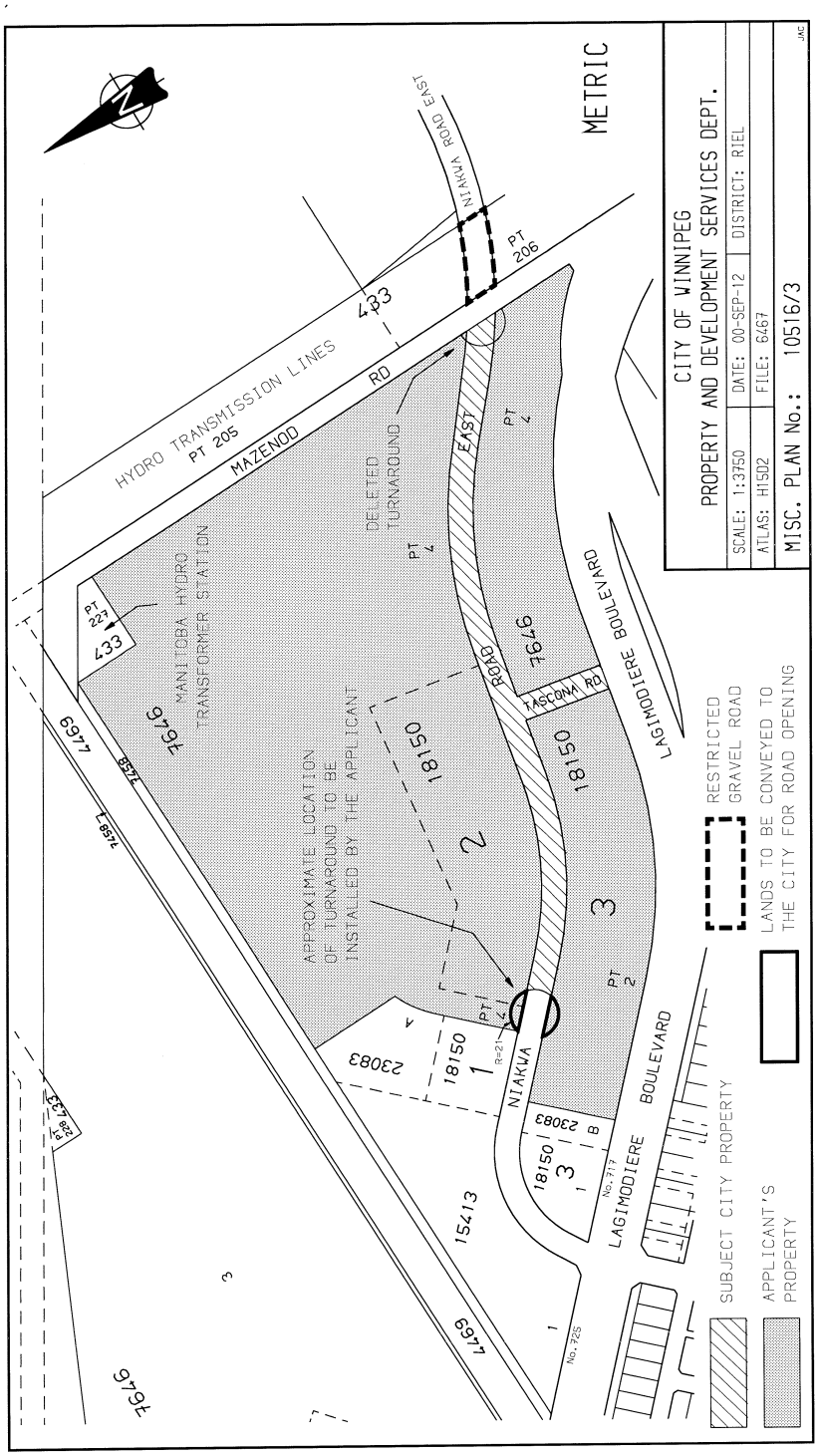
IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

The Development and Inspections Division of Planning, Property and Development Department pertaining to servicing requirements.

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate
Prepared by: Gerry Anderson
PPD File #: 6467

Document name: o:\reports directive\real estate\sales\(ga)slwchurch.doc


METRIC
CITY OF WINNIPEG
PROPERTY AND DEVELOPMENT SERVICES DEPT.
SCALE: 1:3750
DATE: 00-SEP-12
DISTRICT: RIEL
ATLAS: H15D2
FILE: 6467
MISC. PLAN No.: 10516/3
HYDRO TRANSMISSION LINES
PT 205
MAZENOD RD
NIAKWA ROAD EAST
PT 206
433
DELETED TURNAROUND
MANITOBA HYDRO TRANSFORMER STATION
PT 227
APPROXIMATE LOCATION OF TURNAROUND TO BE INSTALLED BY THE APPLICANT
EAST
ROAD
TASCONA RD
LAGIMODIERE BOULEVARD
NIAKWA
7646
18150
23083
15413
6977
7658
7657
7649
RESTRICTED GRAVEL ROAD
LANDS TO BE CONVEYED TO THE CITY FOR ROAD OPENING
SUBJECT CITY PROPERTY
APPLICANT'S PROPERTY

File No: 6467(II)

INDUSTRIAL/COMMERCIAL

OFFER TO PURCHASE

The Undersigned (hereinafter called "the Purchaser") hereby offers to purchase from The City of Winnipeg (the "City") the following lands: -

The portion of Niakwa Road East to be closed shown as subject property on Misc. Plan No. 10516/5

(hereinafter called the "lands")

for the sum of $1.00 cash, the sufficiency of which is received.and upon the following terms and conditions:

1. The date of Closing, Possession and adjustments shall be on or before 120 days from the date of approval of the sale.

2. (1) The Purchaser agrees to pay as an adjustment an amount equal to the total of such taxes, rates and charges which would have been levied or charged against the Lands as though the Lands had been entered on the assessment rolls of the City as privately owned and subject to taxation, which adjustment shall be calculated from the date of adjustments to and including the last day of the current taxation year.

(2) The Purchaser shall pay interest in lawful money of Canada on all monies remaining outstanding and payable to the City as of the date of adjustments, which interest shall be calculated at the rate per annum equivalent to the prime lending rate in force by the City's Banker at the date of adjustments plus one (1%) percent, computed from the date of adjustments to and including the date all such monies and interest as aforesaid have been fully paid to the City.

3. Goods and Services Tax

(1) The Purchaser agrees to pay to the City all Goods and Services Tax applicable on the sale of the Lands or, if the Purchaser is a registrant under the Goods and Services legislation, the Purchaser shall advise the City in writing of its registration number The Goods and Services Tax is to be paid or the registration number provided to the City on or before the date of closing.

(2) If the Purchaser fails to pay the Goods and Services Tax or fails to provide its registration number as prescribed in sub-clause (1) of this Clause, the Purchaser agrees that all of the Purchaser's rights and interests in respect of the Lands shall, at the City's sole discretion, be fully ended without notice or any formality and all monies paid to the City by the Purchaser shall be retained by the City free from every claim.

4. The Purchaser will obtain possession of the Lands at the Purchaser's own expense.

5. The Purchaser will accept Title to the Lands subject to all exceptions, reservations and encumbrances expressed or implied in the City's Title.

6. The sale of the Lands to the Purchaser shall be subject to the provisions of the By-laws of the City of Winnipeg and all amendments thereto.

7. The Purchaser agrees that the City may register and maintain a caveat against the Lands to ensure the performance of the covenants on the part of the Purchaser herein set forth, and the Purchaser agrees to grant and does hereby grant to the City an interest in the Lands according to the tenor of this Offer.

8. Upon closing of the sale, the Purchaser agrees to make application to the City Assessor (in form set out in Exhibit "A" attached) to have the Purchaser's name added to the Assessment Roll of the City as the Real Owner in respect of the Lands.

9. The Purchaser agrees that in the event the Purchaser, at its sole cost, conducts or causes to be conducted an Environmental Site Assessment and/or soil testing of the Lands, it shall

(1) ensure that all work done in connection with such Environmental Site Assessment and/or soil testing is completed no later than ninety (90) days from the Date of Approval, and

(2) maintain the Lands in safe condition at all times during the conduct of any work done in pursuance of this Clause 9; and

(3) restore the Lands to the same condition as prior to its entering in or upon same in pursuance of this Clause 9; and

(4) indemnify and save harmless the City from and against all damages and claims arising out of or in any way attributable to the conduct of any such Environmental Site Assessment and/or soil testing; and

(5) provide copies of any such Environmental Site Assessment and/or Report concerning soil testing of the said Lands to the City for its own use, at no cost to the City.

AND in the event it is determined as a result of said Environmental Site Assessment and/or soil testing, that contamination levels exceed Provincial Environmental Standards for the intended use of the Lands and documentation to that effect is produced to the City within ninety (90) days following the Date of Approval, the City, at its sole option, shall be entitled to:

take remedial action to bring the contamination levels to within the Provincial Environmental Standards;

OR

cancel the sale and return all monies paid in respect of the proposed sale by the Purchaser to that date, PROVIDED that the Applicant shall have first satisfied all conditions of this Clause 9.

AND FURTHER if the City has not been advised of any non-compliance of the Lands to Provincial Environmental standards within 90 days from the Date of Approval, the Purchaser agrees to complete its purchase as herein contemplated and to indemnify the City against any and all claims arising from or in any way connected with the existence of contaminants of any kind at the Lands.

10 (1) The Purchaser agrees that the sale of the Lands shall be subject to any easement which may be required by a public utility, including, but not limited to the Manitoba Hydro, Manitoba Telephone System, Centra Gas, or The City of Winnipeg, for the maintenance of existing and future facilities together with the right to enter upon the Lands at any time, with or without equipment for said purposes and subject to the owner covenanting not to erect or cause to be erected upon the easement area any building or structure without the prior written consent of the public utility or The City of Winnipeg requiring such easement.

(2) The Purchaser to enter into agreements satisfactory to the said utilities or the City of Winnipeg.

(3) The Purchaser acknowledges that the City may grant the easements before the Transfer of Land issues.

11. The Purchaser acknowledges and agrees that notwithstanding any other terms, conditions or provisions in this agreement that:

(1) the City has given no representations or warranties with respect to the Lands or with respect to the value thereof or with respect to the Purchaser's intended uses or development or redevelopment thereof or with respect to the environmental condition of the Lands;

(2) the Purchaser has inspected or investigated the Lands, the title thereto, the Permitted Encumbrances, any tenancies and all other matters material to the Purchase and the proposed use of the Lands and that it is relying solely upon its own independent inquiries and investigations and the advice of its own consultants and there are no representations, warranties, guarantees, conditions, collateral agreements, covenants and agreements except those expressly set forth herein;

17. It is understood and agreed that the title to the Lands is to be consolidated with the title to the property shown as "Springs of Living Water Centre Inc " on Misc.Plan No.10516/5.

18. The Purchaser acknowledges and agrees that sale of the Lands by the City is subject to the enactment of the closing by-law (under DAC 12/2002) and the approval of City Council or its delegated authority.

19. The full, true and correct name of the Purchaser is as follows: -

_____

Name (Please Print) Address

Purchaser's Registration No. (G.S.T.)_____

IN WITNESS WHEREOF the Purchaser has signed this document in

_____, _____, this _____ day of _____2003

_____ _____

Witness Authorized Signature

_____

Name and Title of Authorized Signature (Please print)

_____ _____

Witness Authorized Signature

_____

Name and Title of Authorized Signature (Please print)

ACCEPTED this _____day of _____, A.D., 2003

THE CITY OF WINNIPEG

Per:_____

DIRECTOR

Planning,Property and Development Department

Approved:

_____

Planning Property and Development Department

Certified as to form:

_____

for City Solicitor/Manager of Legal Services

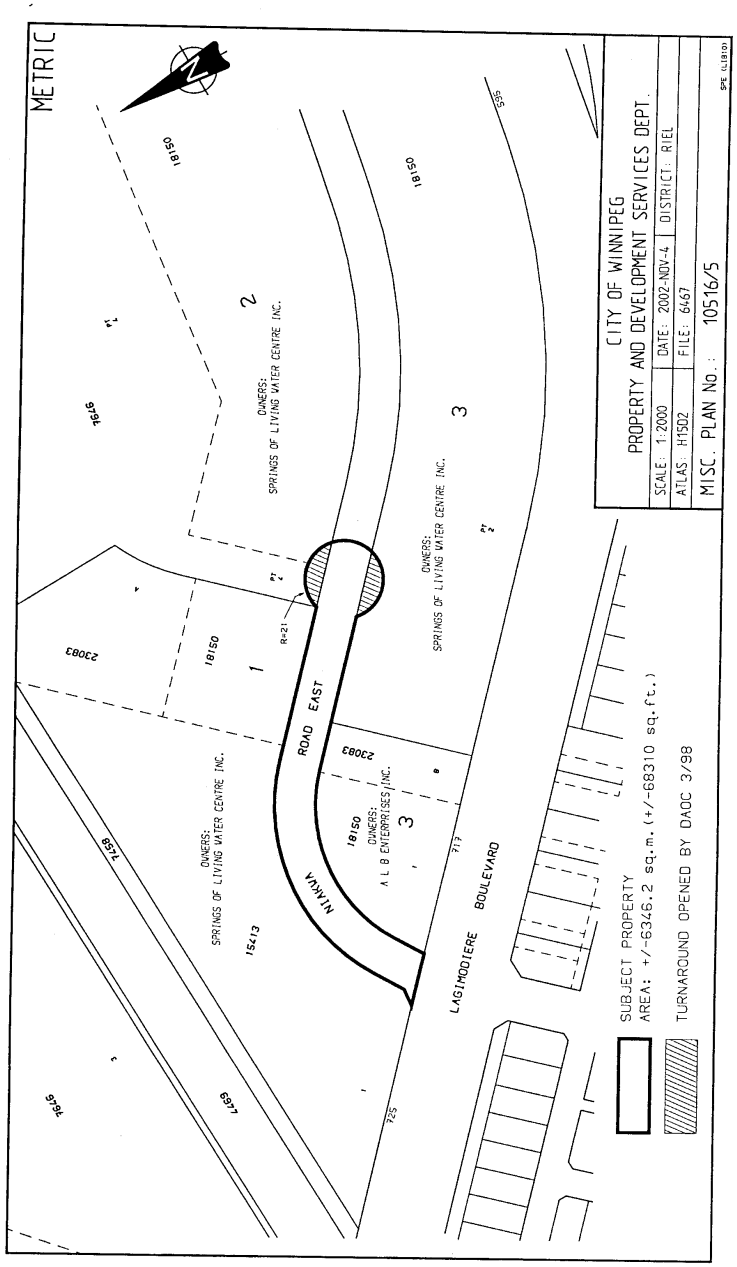

METRIC
CITY OF WINNIPEG
PROPERTY AND DEVELOPMENT SERVICES DEPT.
SCALE: 1:2000
DATE: 2002-NOV-4
DISTRICT: RIEL
ATLAS: H15D2
FILE: 6467
MISC. PLAN No.: 10516/5
SUBJECT PROPERTY
AREA: +/-6346.2 sq.m. (+/-68310 sq.ft.)
TURNAROUND OPENED BY DAOC 3/98
NIAKWA ROAD EAST
LAGIMODIERE BOULEVARD
OWNERS: SPRINGS OF LIVING WATER CENTRE INC.
OWNERS: A L B ENTERPRISES INC.
18150
23083
15413
7458
4469
7646
595
717
725
R=21

EXHIBIT "A"

Real Owner Application

To the City Assessor

(Name of Municipality) Roll No. _____

1. I/We _____
(Print Full Name)

request that my/our name(s) appear in the Assessment Roll of the City of Winnipeg in respect to the following property, pursuant to Section 12(1) of "The Municipal Assessment Act", Cap. M 226 S.M..

2. Description of Properties: (Give description of all property in respect of which you wish your name to appear).

Part of Lot or Section	Lot or Section	Block or Tow	lan or ange	Interest in Property

DRAFT

3. Mailing Address _____
4. Place of Residence _____
5. Name and Address of Registered Owner _____
(Print)
_____
(Print)
6. Description of building on property:
Dwellings _____
Other Buildings _____
7. Date of Purchase _____ 8. Purchase Price _____

Date: _____ 19 ___ _____
(Signature of Applicant)

Office of the City Assessor
The City of Winnipeg _____
(Signature of Registered Owner)