Agenda - Council – December 14, 2011

Report - Standing Policy Committee on Property and Development – November 29, 2011

Item No. 11 Encroachment Agreement - Regent Avenue West right-of-way adjacent to 131-135 Regent Avenue West - Transcona BIZ

STANDING COMMITTEE RECOMMENDATION:

On December 7, 2011, 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 Encroachment Agreement in favour of Transcona Biz to develop and maintain a planter and clock tower encroaching onto to the Regent Avenue West right-of-way adjacent to 131-135 Regent Avenue West, as shown on Misc. Plan No. 14095, be approved in accordance with the terms and conditions as set out in Schedule 'A'.

2. That the annual encroachment fee payable to the City be waived in perpetuity.

3. 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 – November 29, 2011

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 7, 2011, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On November 29, 2011, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service with the following amendment,

- Add the following new Recommendation 2 and renumber the remaining Recommendation accordingly:

  "2. That the annual encroachment fee payable to the City be waived in perpetuity."

and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title **Proposed Encroachment Agreement with Transcona BIZ for the Development and Maintenance of a Planter and Clock Tower encroaching onto the Regent Avenue West right-of-way adjacent to 131-135 Regent Avenue West**

Critical Path: **Standing Policy Committee on Property and Development, EPC, Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
J. Zabudney	B. Thorgrimson	N/A	D. Joshi, COO

RECOMMENDATIONS

1. That a proposed Encroachment Agreement in favour of Transcona Biz to develop and maintain a planter and clock tower encroaching onto to the Regent Avenue West right-of-way adjacent to 131-135 Regent Avenue West, as shown on attached Misc. Plan No. 14095, be approved in accordance with the proposed terms and conditions as set out in the attached Schedule 'A'.

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

REASON FOR THE REPORT

In accordance with the Council Order of July 18, 1979, the Standing Policy Committee on Property and Development shall authorize the leasing or rental of City property for which the Director of Planning, Property and Development has no authority. In this regard, the Planning, Property and Development Department has negotiated the proposed terms and conditions of an Encroachment Agreement in favour of Transcona Biz.

This report seeks the Committee's approval of the terms and conditions of the Encroachment Agreement.

IMPLICATIONS OF THE RECOMMENDATIONS

The Department has determined that there is no policy, regulatory, environmental, human resource or financial implications to the lease of the subject property as described on the attached Misc. Plan No. 14095.

HISTORY

McGowan Russell, on behalf of Transcona Biz, submitted an encroachment application to the Planning, Property and Development Department (Zoning and Permits Branch) to erect and maintain a planter and clock tower at Transcona Centennial Square, encroaching onto the City's right-of-way at Regent Avenue West.

The application was circulated to applicable City departments and public utilities for consideration and comments. No objections were received.

The Corporate Finance Department, Risk Management, reviewed the insurance requirements for this proposed encroachment and their comments have been incorporated into the proposed terms and conditions.

This report seeks approval of the Encroachment Agreement as negotiated.

FINANCIAL IMPACT

Financial Impact Statement **Date:** November 8, 2011

Project Name: **First Year of Program** **2011**

Proposed Encroachment Agreement for the Development and Maintenance of a Planter and Clock Tower encroaching onto the Regent Avenue West right-of-way

	2011	2012	2013	2014	2015
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	255	62	62	62	62
Net Cost/(Benefit)	$ (255)	$ (62)	$ (62)	$ (62)	$ (62)
Less: Existing Budget Amounts	(255)	(62)	(62)	(62)	(62)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Revenues in 2011 consist of the $62/annum encroachment fee prorated for a Dec. 1/11 commencement date + a one-time $250 admin fee. Revenues from 2012 onward consist of the encroachment fee only.

"Original signed by"
Mike McGinn, CA
Manager of Finance

CONSULTATION

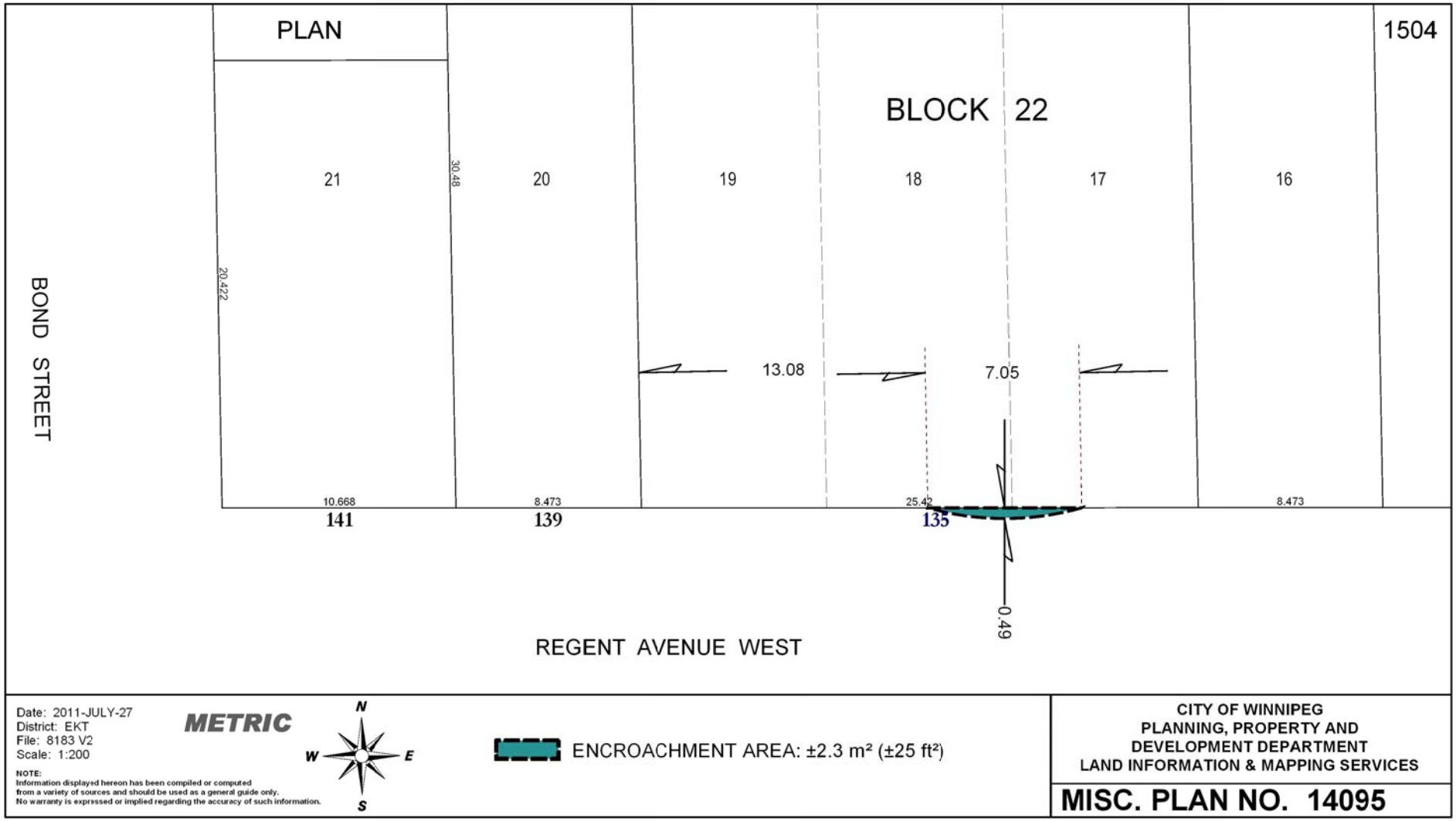
In preparing this report there was consultation with:

Corporate Finance
Legal Services Department as to legal issues
Public Works Department

SUBMITTED BY

Department	Planning, Property and Development
Division	Real Estate
Prepared by:	Maxine Clayton
Date:	November 8, 2011
File No.	8183 V2

o:\reports directive\real estate\leasing\(mpc) encroachment agmt-131-135 regent avenue.doc



Date: 2011-JULY-27
District: EKT
File: 8183 V2
Scale: 1:200

METRIC

N
W E
S

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.

ENCROACHMENT AREA: ±2.3 m² (±25 ft²)

CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES

MISC. PLAN NO. 14095

SCHEDULE A

PROPOSED TERMS AND CONDITIONS FOR ENCROACHMENT AGREEMENT TO ERECT AND MAINTAIN A PLANTER AND A CLOCK TOWER AT TRANSCONA CENTENNIAL SQUARE LOCATED AT 131-135 REGENT AVENUE WEST – TRANSCONA BIZ

Use:	Erection and Maintenance of a planter and a clock tower
Licensee:	Transcona Biz (hereinafter called the Licensee');
Area:	Shown and identified as 'Encroachment Area: ±2.3 m² (± 25ft²)' on Misc. Plan No. 14095, attached;
Term:	Annual Continuing, commencing the first day of the month following approval from the City's Standing Committees and Council;
Rental:	$62.00 per annum, plus GST, payable yearly in advance, computed on the basis of the fees outlined in the City of Winnipeg Encroachment By-Law No. 692/74 and amendments thereto, in event that the By-law is amended changing the fees charged for encroachments the rental paid under this agreement shall be adjusted accordingly, plus an initial administrative fee of $250.00 plus GST;
Insurance:	Licensee to indemnify and save harmless the City from and against any and all claims for damages or injuries, including death, which may arise out of the use of the Premises by the Licensee; The Licensee shall ensure that any Contractor or Sub-contractor hired to perform the construction, maintenance work or repairs to the Clock Tower shall provide a certificate of insurance evidencing general Liability insurance in the amount of not less than $2,000,000 per occurrence with a $5,000,000 general aggregate covering bodily injury, property damage and personal injury. All liability policies must include the City of Winnipeg as an additional insured and include contractual liability, broad form completed operations, and a cross liability of severability of interest clause and a provision for 30 days written notice of cancellation/termination. Such certificate of insurance must be in a form satisfactory to the Supervisor of Insurance and must be provided at least two business days prior to the commencement of any work on the site.

Deductibles shall be borne by the Contractor and/or Sub-Contractor.

Cancellation: Ninety (90) days written notice; the Licensee acknowledges and agrees that By-law 692/74 supersedes this encroachment agreement;

Conditions: That the approval of this application by the Designated Officer – Encroachments is only valid for a period of six (6) months from the date of said approval unless the Licensee enters into an Encroachment Agreement with the City of Winnipeg within the stated time frame, or alternatively obtain an extension of time from the Designated Officer – Encroachments;

That all utilities be permitted to enter the area for maintenance, repair or installation of services at anytime without notice to the Licensee and that any removal or relocation of existing facilities as a result of the proposed applicant will be at the expense of the Licensee. Prior to any digging or excavation, Manitoba Hydro and/or Centra Gas Manitoba Inc. advise the Licensee contact the Call-Before-You Dig line at 480-1212;

The Urban Forestry will not prune adjacent trees specifically for clock tower visibility in the future and that the Transcona Biz will be solely responsible for the maintenance and repairs of this structure, clock mechanics and solar panels;

The Licensee shall be responsible for snow removal at the side of the clock tower;

That if any removal, relocation or adjustment of existing MTS facilities is required, it will be at the expense of Licensee; that extreme caution be used when excavating in the vicinity of MTS buried plant and that the Licensee contact the Buried Plan Location Service at 941-7267, 48 hours prior to excavation for further confirmation in the field;

The proposed terms and conditions of the proposed Encroachment Agreement are subject to the final approval of the City's Standing Committees and Council and to the City Solicitor/Director of Legal Services as to form and content.

TRANSCONA BIZ HEREBY ACKNOWLEDGES AND AGREES TO ENTER INTO AN ENCROACHMENT AGREEMENT WITH THE CITY OF WINNIPEG FOR THE USE OF THE AREA IDENTIFIED AS 'ENCROACHMENT AREA' ON MISC. PLAN NO. 14095 ATTACHED, IN ACCORDANCE WITH THE PROPOSED TERMS AND CONDITIONS AS OUTLINED ON THE SCHEDULATE 'A'.

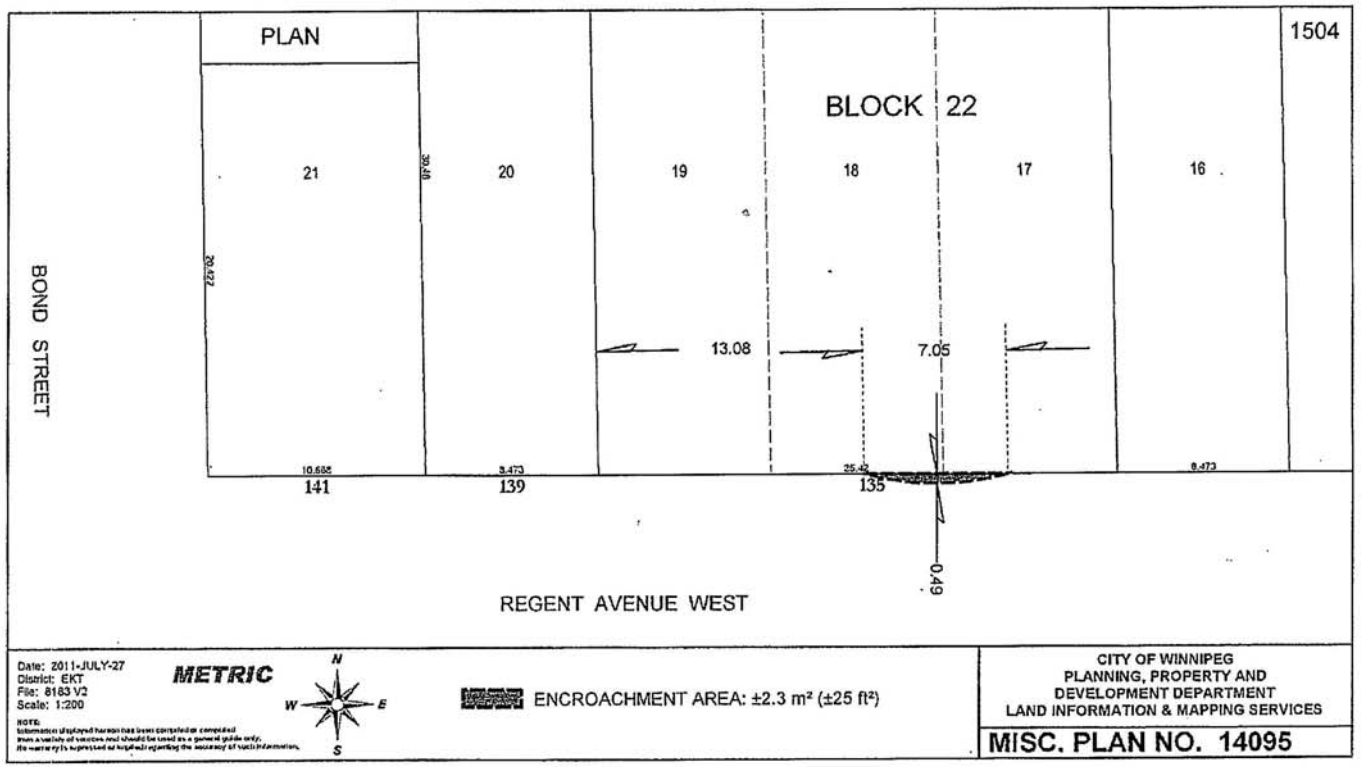
TRANSCONA BIZ

PER: _____ 27-OCT-11

TRANSCONA BIZ **DATE**

PRESIDENT

TITLE:


PLAN
1504
BLOCK 22
21
20
19
18
17
16
BOND STREET
20.427
30.48
13.08
7.05
10.668
3.473
25.42
8.473
141
139
135
0.49
REGENT AVENUE WEST
Date: 2011-JULY-27
District: EKT
File: 8183 V2
Scale: 1:200
METRIC
N
W
E
S
ENCROACHMENT AREA: ±2.3 m² (±25 ft²)
CITY OF WINNIPEG
PLANNING, PROPERTY AND
DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 14095