Agenda - Executive Policy Committee – September 18, 2013

Report - Standing Policy Committee on Property and Development – September 10, 2013

Item No. 13 Encroachment Agreement to allow for the use of the Victoria Crescent Right-of-Way for the Purposes of Developing and Maintaining a Private Sewer

STANDING COMMITTEE RECOMMENDATION:

On September 10, 2013, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the following to Council:

1. That the Encroachment Agreement in favour of Donna Thordarson for the purpose of a private sewer identified as “Encroachment Area” on Misc. Plan 14503 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.

Agenda - Executive Policy Committee – September 18, 2013

Report - Standing Policy Committee on Property and Development – September 10, 2013

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On September 10, 2013, 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.

ADMINISTRATIVE REPORT

Title: **Proposed Encroachment Agreement to allow for the use of the Victoria Crescent Right-of-Way for the Purposes of Developing and Maintaining a Private Sewer**

Issue: **A Private Sewer is to be Installed at 44 Victoria Crescent and will Connect to a City-Owned Sewer Main on Delmar Street**

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

AUTHORIZATION

Author	Department Head	CFO	CAO
I. Day	B. Thorgrimson	M. Ruta	P. Sheegl

RECOMMENDATIONS

1. That a proposed Encroachment Agreement in favour of Donna Thordarson for the purpose of a private sewer identified as “Encroachment Area” on Misc. Plan 14503 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

Encroachment By-law 692/74, General Regulations, 4. (1) d, states:

“Where the encroachment is of an unusual or commercial nature that it be referred to the Director of Land and Development Services of the City for the purpose of negotiating a reasonable rental and making recommendation to the Chief Administrative Officer for subsequent referral to Council.”

In this regard, the Planning, Property & Development Department has negotiated Terms and Conditions of an Encroachment Agreement, in favour of Donna Thordarson.

IMPLICATIONS OF THE RECOMMENDATIONS

The Department has determined that there is no general, policy, regulatory, environmental or human resource implications to entering into an Encroachment Agreement shown on the attached Miscellaneous Plan No. 14503.

HISTORY

Donna Thordarson, owner of 44 Victoria Crescent, is in the midst of constructing a new house at this site.

Donna Thordarson submitted an application to the City's Zoning and Permits Branch to allow for a private sewer emanating from 44 Victoria to connect with a city-owned sewer main on Delmar Street.

The application was circulated to applicable City departments and public utilities for consideration and comments. All comments and concerns have been incorporated into the signed terms and conditions.

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

The Planning, Property and Development Department has negotiated proposed terms and conditions of an Encroachment Agreement in favour of Donna Thordarson.

This report seeks approval of the Encroachment Agreement as negotiated.

FINANCIAL IMPACT

Proposed Encroachment Agreement to allow for the use of the Victoria Crescent Right-of-Way for the Purposes of Developing and Maintaining a Private Sewer

	2013	2014	2015	2016	2017
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	469	219	219	219	219
Net Cost/(Benefit)	$ (469)	$ (219)	$ (219)	$ (219)	$ (219)
Less: Existing Budget Amounts	(469)	(219)	(219)	(219)	(219)
Net Budget Adjustment Required	$ 0	$ 0	$ 0	$ 0	$ 0

Additional Comments: Revenues in 2013 consist of the annual enroachment fee of $219 + a one-time admin charge of $250. From 2014 onward, revenue consists of just the annual enroachment fee.

"original signed by"
David Wilson, CGA
Acting Manager of Finance

CONSULTATION

In preparing this report there was consultation with:

Legal Services Department as to legal issues
Risk Management, Corporate Finance

SUBMITTED BY

Department	Planning, Property and Development
Division	Municipal Accommodations
Prepared by:	Nolan Winters
Date:	August 19, 2013
File No.	MA2013-126

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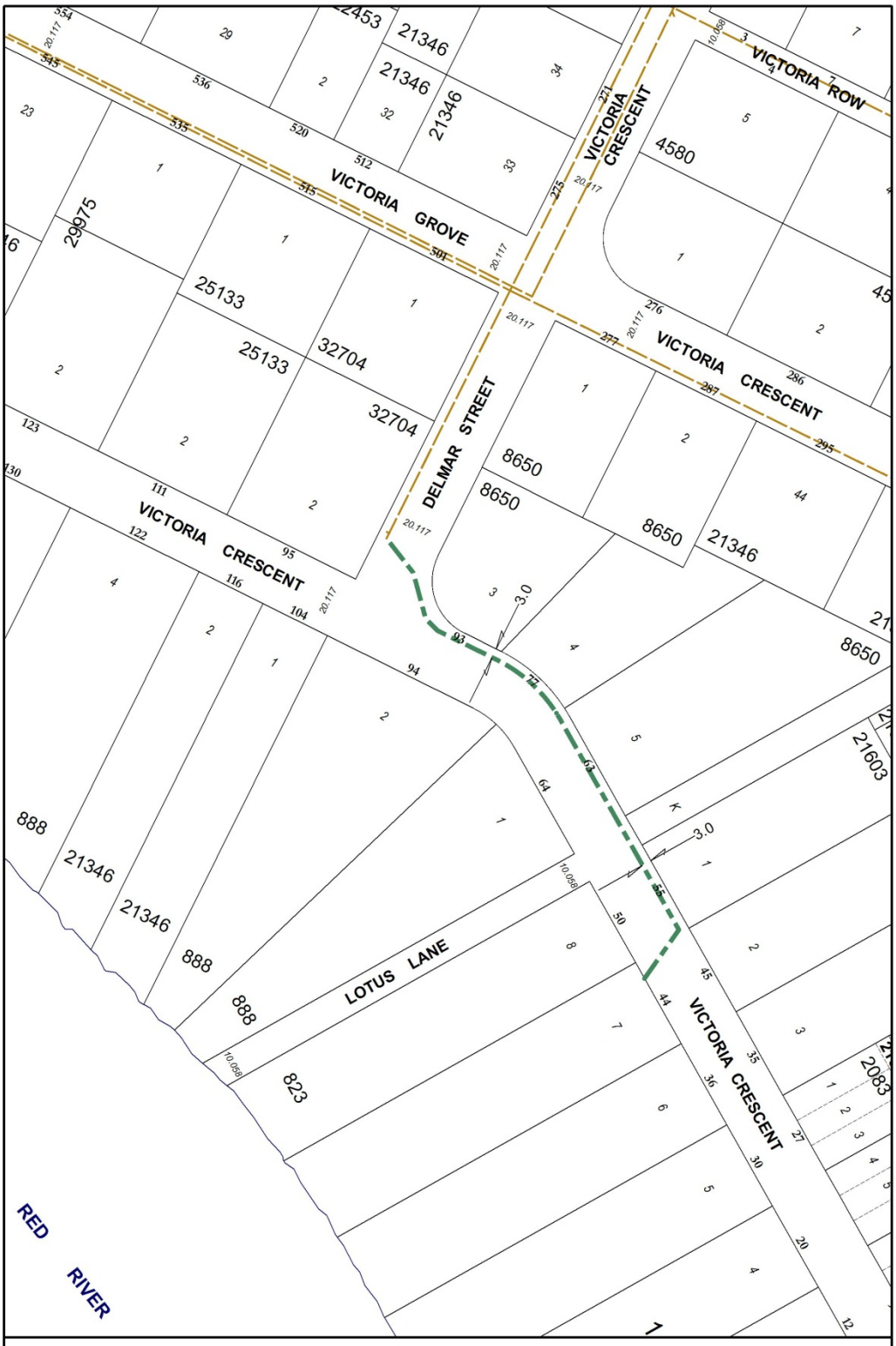


METRIC

Date: 2013-JUNE-11
District: RIEL
File: 9031
Scale: 1:1500
Requested by: NW
Drawn by: MS
Reference Dwg No.: W & W Dept.
UGS Review 2013W0084

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.

APPROXIMATE LOCATION OF ENCROACHMENT AREA
178.6 m x 0.150 m = 26.8 m²
(586 ft x 5.90 inches = 288 ft²)

EXISTING SEWERMAIN

N
W E
S

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

MISC. PLAN NO. 14503

ADJACENT TO THE VICTORIA CRESCENT RIGHT OF WAY AND CONNECTS TO THE DELMAR STREET SEWER MAIN ADJACENT TO 95 VICTORIA CRESCENT

Use:	Private Sewer service for 44 Victoria Crescent
Licensee:	Donna Thordarson
Area:	Shown and identified as 'Encroachment Area' on Misc. Plan No. 14503, attached;
Term:	Annually continuing, commencing the first day of the month following approval from the City's Standing Committees and Council;
Rental:	$218.75 annum, plus GST, 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:	The Licensee shall purchase and keep in force during the full term of the agreement the following insurance coverage: Homeowner's general liability insurance in the amount of at least two million dollars ($2,000,000) per occurrence, such liability policy to include the City of Winnipeg as an additional insured All policies to be taken out with insurers licensed to and carrying on business in the Province of Manitoba; Deductibles shall be borne by the Licensee; The Licensee shall not cancel, materially change or cause any such policies to lapse without a minimum of thirty (30) days prior written notice to the City of Winnipeg; The Licensee shall file with the City a certificate of insurance in a form satisfactory for the City Solicitor; The City shall have the right to alter the limits and/or coverage's as reasonably required from time to time during the continuance of this lease agreement and any subsequent renewals thereof, provided that the City shall give the Licensee reasonable notice and shall request reasonable change;

Cancellation:	Ninety (90) days written notice by either party;
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;
	Licensee to comply with all laws, by-laws and regulations of any federal, provincial or municipal authority, and shall obtain all necessary permits pertaining to the use and occupancy of the Encroachment Area.
	That if at any time during the term the City's use or requirements for the public lane reasonably necessitate the relocation and/or modification and/or removal of the private sewer, the Licensee shall be responsible to do all things necessary to relocate and/or modify and/or remove the private sewer as required by the City and to pay all costs and expenses associated therewith..
	The Licensee shall release, indemnify and save the City harmless from and against any and all claims for damages or injuries, including death that may arise from the use of the Encroachment Area by the Licensee.
	The Licensee shall be responsible for all costs, utilities, and operating expenses in connection with the use and occupation of the Encroachment Area including, but not limited to; license fees, business tax, garbage removal, etc. The Licensee shall also be responsible for cleanup of litter in the immediate area as a result of use and occupation of the Encroachment Area.
	The Licensee shall not assign this agreement without the prior consent of the City.
	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;
	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;

Manitoba Hydro/Central Gas advise of the following conditions:

(i) Manitoba Hydro and Centra Gas have facilities in the affected area but no easement shall be required;

(ii) A natural 4" gas line exists 0.9 m from the curb on Victoria Crescent (see schedule "B"). The sewer line is proposed at 3.0 m from the curb (2.1m in clearance). The gas line will have to be located for safety purposes.

(iii) There are several service lines that intersect the proposed sewer line that will have to be exposed with soft dig methods;

(iv) Any removal or relocation of Manitoba Hydro and/or Centra Gas Manitoba Inc. existing facilities as a result of the proposed subdivision will be at the expense of the Developer and/or Applicant;

(v) Future electrical and/or gas service can be obtained from the local Manitoba Hydro District Office

(vi) If the application is revised at any time it will be necessary for Manitoba Hydro/Centra Gas to review the file to determine if our easement requirements remain the same.

Any costs associated with the repair and maintenance, relocation and/or removal of the Private Sewer is the responsibility of the Licensee.

For all necessary sewer work and maintenance, the Licensee shall employ only contractors that are licensed and approved annually by The City of Winnipeg pursuant to the provisions of Sewer By-Law No. 92/2010. The Licensee shall ensure that each such licensed contractor files evidence of insurance with The City in accordance with the City's licensing requirements pursuant to Sewer By-Law No. 92/2010 and maintains such insurance for the full term of the agreement;

The Licensee shall ensure that no other sewer connections are hooked up and connected to the Licensee's Private Sewer.

That all applicable permits be obtained prior to any development;

The Licensee shall enter into a formal agreement with the City embodying the foregoing terms and conditions and any other terms and conditions as are deemed necessary by the Director of Planning, Property & Development, the Director of Water & Waste, the Director of Public Works or by the City Solicitor/Director of Legal Services and in a form satisfactory to the City Solicitor/Director of Legal Services as to form.

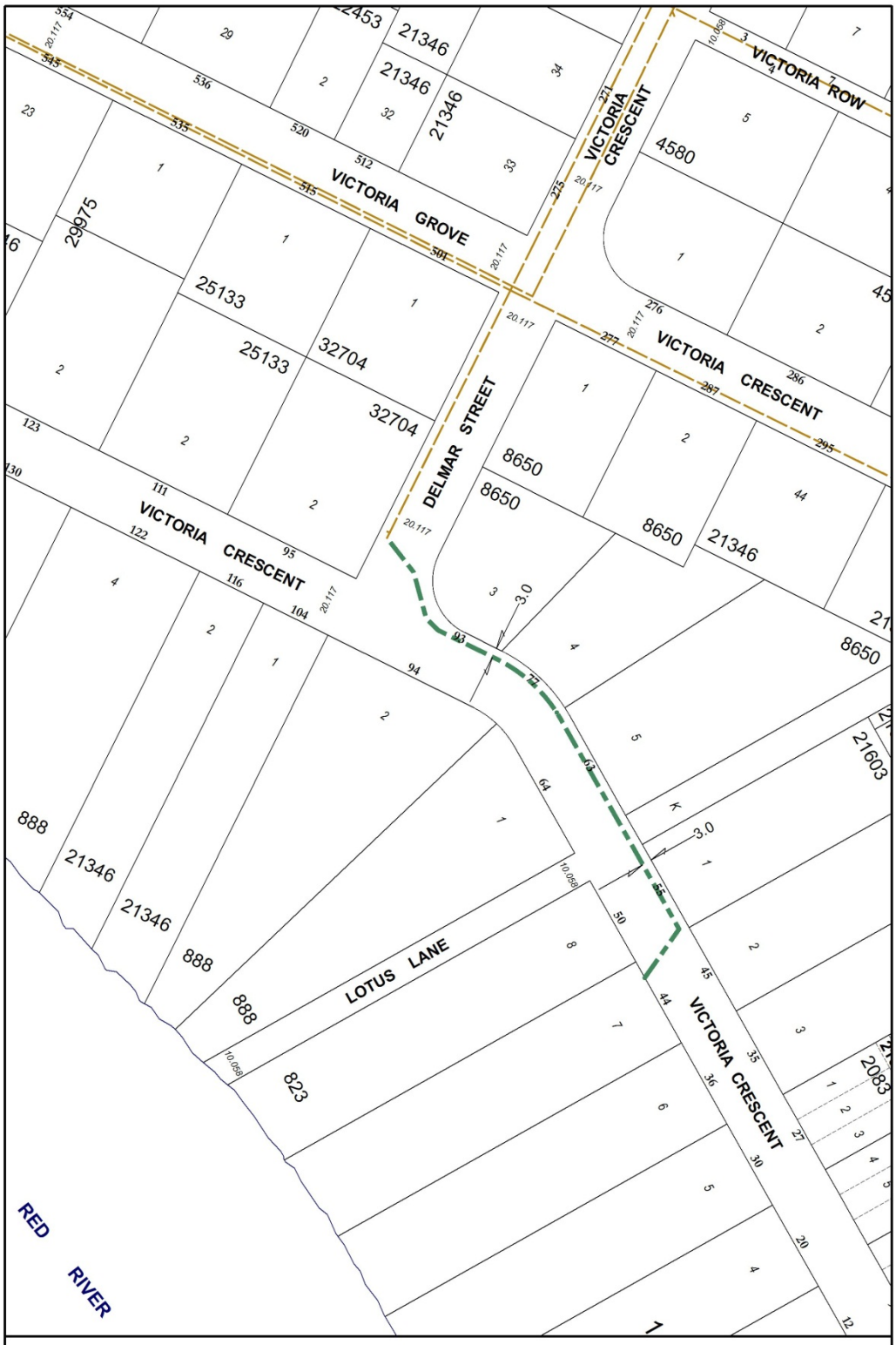
The proposed terms and conditions of the proposed Encroachment Agreement are subject to the final approval of the City's Standing Committees and Council and to the City Solicitor as to form and content.

DONNA THORDARSON HEREBY ACKNOWLEDGES AND AGREES WITH THE ABOVE TERMS AND CONDITIONS.

DONNA THORDARSON

OWNER
TITLE

AUG 12/13
DATE



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N W E S

CITY OF WINNIPEG
PLANNING, PROPERTY AND
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MISC. PLAN NO. 14503

SCHEDULE B

