SUBMISSION OF KELSEY TRAIL HOLDINGS LTD. AND KELTEK SAFETY APPAREL

CLOSING – PART OF PUBLIC LANE
NORTH OF NOTRE DAME AVENUE,
EAST OF LYDIA STREET

FILE DAC15/2013

EXECUTIVE POLICY COMMITTEE
SEPTEMBER 17, 2014

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MARK NEWMAN

SUBMISSION OF KELSEY TRAIL HOLDINGS LTD. AND KELTEK SAFETY APPAREL

CLOSING – PART OF PUBLIC LANE
NORTH OF NOTRE DAME AVENUE,
EAST OF LYDIA STREET

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This written submission is provided on behalf of Kelsey Trail Holdings Ltd. ("Kelsey") and Keltek Safety Apparel ("Keltek"). Kelsey is one of the owners of the lands located at 563 – 567 Notre Dame Avenue (the "Premises") and Keltek is the operator of the garment and safety apparel manufacturing business located at the Premises.

Legislation

The City of Winnipeg Charter (the "Charter") provides in Sections 139 – 141 of the Charter as follows:

> **General authority**
>
> 139 Council may pass by-laws respecting streets and the parking of vehicles in the city, including, without limiting the generality of the foregoing, by-laws respecting
>
> (a) the surveying, settling and marking of boundary lines of streets;
>
> **(b) the opening and, subject to section 140, the closing of streets;**
>
> **(c) subject to section 141, determining what persons, if any, will be considered to be injuriously affected by the closing of a street;**
>
> (d) subject to section 143, the designation of a street or a portion of a street as a limited access street;
>
> (e) the process for determining and designating temporary street closings and detours;
>
> (f) private works in streets;
>
> (g) the installation and use of parking meters;
>
> (h) agreements for the installation of parking meters on private land and the enforcement of by-laws respecting parking under such agreements;
>
> (i) traffic on streets;
>
> (j) the maintenance of boulevards;
>
> (k) the distance from a street boundary within which a building shall not be constructed; and

(l) fixing an administration fee for the purposes of subclause 23.3(8)(b)(i) (expenses in respect of lien) of *The Summary Convictions Act*.

Closing streets

140(1) Council shall not, under the authority of clause 139(b), pass a by-law closing a street unless

(a) at least 14 days before passing the by-law, the city posts in 6 of the most prominent locations in the neighbourhood of the street a notice of the proposed closing indicating where and when

(i) any objections to the proposed closing must be filed, and

(ii) a designated committee of council will consider any objections;

(b) any person who filed an objection in accordance with the notice posted under clause (a) has been given an opportunity to appear before the designated committee of council, at a time and place set out in the notice, to present his or her objection, and the committee has forwarded its report and recommendations in respect of the objections, to council; and

(c) in respect of each parcel of land to which access is provided by the street, either

(i) the city provides another convenient means of access to the parcel, or

(ii) subject to section 141, the owner and occupant of the parcel elect in writing to be compensated for the loss of access instead of having the city provide another means of access.

Combined by-laws

140(2) If a by-law combines the closing of a street with the determination of persons considered to be injuriously affected by the closing, the notice required under clause (1)(a) in respect of the closing may be combined with the notice required under subsection 141(1).

Determining persons injuriously affected

141(1) Council must not, under the authority of clause 139(c), pass a by-law determining what persons are injuriously affected by the closing of a street unless

(a) at least 14 days before passing the by-law, the city posts in six of the most prominent locations in the neighbourhood of the street a notice of the proposed by-law indicating the persons or classes of persons who will be considered to be so affected; and

(b) when the by-law is passed, no persons or classes of persons other than those mentioned in the notice are entitled to compensation

in respect of the closing, unless the determination is amended on appeal as provided in this section.

Appeal of by-law

141(2) A person who is dissatisfied with a determination made in a by-law referred to in subsection (1) may, within 14 days after passage of the by-law, appeal the by-law by applying to the Court of Queen's Bench and providing the court with

(a) a certified copy of the by-law;

(b) an affidavit showing the person's interest in the by-law; and

(c) proof of service of the application on the city.

Decision on appeal

141(3) On hearing an application under subsection (2) from a by-law, the court may change, add to or reduce the number of persons or classes of persons determined by the by-law to be injuriously affected or may dismiss the application, and the decision of the judge is final and conclusive.

The Application

Frank Scheffer Enterprises Ltd. (the "Applicant"), has applied to close and purchase a portion of the public lane which runs between Kate Street and Lydia Street immediately to the East of Notre Dame Avenue.

The administrative report filed in respect of this matter contains overhead photos as well as a plan of the area of the lane which the Applicant seeks to have closed.

To assist the Committee in understanding the nature of the lane area, additional photos are attached of the lane area (Tab 1) which reveal in part the following:

- Photo 1 reveals the presence in the portion of the lane to be purchased of the overhead loading door, and the fire exit, from the Kelsey/Keltek Premises, both of which open onto the portion of the lane proposed to be purchased by the Applicant.

- Photo 2 which reveals the lane looking West from Kate Street;

- Photo 3 which reveals a Southern looking view of the lane which runs from McDermot Avenue showing the location of the fire exit and the overhead door in relation to the Western boundary of the lane running from McDermot;

- Photo 4 which reveals an Eastern view of the lane showing a vehicle turning into the Applicant's Premises which also shows the narrow nature of the lane.

- Photo 5 which reveals the Northwest corner of the Frank Motors building, including the overhead door which opens onto the lane and as well an overhead door which opens onto Lydia Street.

- Photo 6 which reveals the lane between the two buildings owned by the Applicant, the building on the right fronting onto Notre Dame, and the building on the left immediately North of the lane located on Lydia, both showing the overhead doors which are used for access.

- Photo 7 which reveals signage on the boulevard on the East side of Lydia, just North of Notre Dame, with instructions to customers of Frank Motors.

- Photos 8 and 9 reveal the type of packaging handled through the lane.

Nature of the Business of Keltek

Keltek is active in the garment and safety manufacturing business.

It has been active at the Premises since 1974.

The 563 Notre Dame Avenue address is a manufacturing facility with finished garments then being directed into Keltek's distribution centre located at 567 Notre Dame Avenue. The distribution centre is the 2 storey building.

Raw materials and finished goods are received through the rear loading door depicted in photo 1 attached hereto. The raw materials are used in the manufacture of garments at 563 Notre Dame Avenue.

The finished product received from satellite manufacturing facilities of Keltek located in Morden, Manitoba, and in Mexico, are received through the overhead loading door in the lane and moved into the distribution centre at 567 Notre Dame Avenue.

These goods are packaged for shipment to customers and are removed through the loading door at the lane.

Pick Up and Delivery Movements

From a review of all delivery slips associated with pick-ups and/or deliveries, it has been determined that there were 518 movements of pick-up and delivery vehicles in the month of March, 2014. This is a typical month and movements in the lane will accordingly be in the range of 6,000 movements per year.

There is no loading facility available on Notre Dame and loading is only possible through the overhead door at the rear of the Premises and opening onto the laneway.

The companies which either pick up or deliver to the Premises include Purolator Freight, Fed Ex Freight, Vitran, Ken's Transport, Loomis, Instabox, Canadian Freightways, Locher Evers, Clarke Transport, Rosedale Transport, BFI Waste, Loomis Express, Greyhound, Fed Ex Air, UPS and Fed Ex Ground.

The vehicles being utilized by these pick-up and delivery services include 45 ft. pup trailers with tractors, 5 ton trucks being approximately 45 ft. in length, cube vans being 25 ft. in length, and 20 ft. vans.

The loads being picked up and/or delivered are often pallet sized and require a forklift as shown in photos 8 and 9.

Impact on Kelsey/Keltek

The report prepared by Administration with respect to the application to close a portion of the laneway does not appear to have in any way considered the business activities of Keltek.

No discussion occurred as between City of Winnipeg representatives and Keltek.

The purpose of the intended use by the Applicant of the lane to be purchased is to build an additional building which will connect the Applicant's facilities located on the South side of the laneway with the facilities located on the North side of the laneway. This application is not about safety related considerations, notwithstanding the suggestions. This will be addressed more directly below.

This application is solely about the convenience of the Applicant to expand its facilities by connecting the 2 existing buildings.

The City of Winnipeg cannot entertain this possibility at the expense of the adjacent owner.

Letters from various of the trucking firms and suppliers which deliver and/or pick up from the Premises are attached hereto at Tab 2. These letters indicate the difficulties associated with a portion of the lane being closed.

Any pick up or delivery vehicles now entering the lane from Kate Street will now be in the position of exiting Northbound through the lane onto McDermot.

McDermot is not a truck route under the City of Winnipeg traffic by-law and as such the truck traffic cannot utilize this street.

Presently truck traffic will enter the lane from its East end, proceed West along the lane, and exit the lane at its West end at Lydia. It will then turn left and immediately travel back onto Notre Dame, which is a truck route. Section 140(1)(c) of the Charter indicates the 3 conditions which must be met before a by-law can be passed closing a street. These conditions include in subparagraph (c) the following:

> **Closing streets**
>
> 140(1) Council shall not, under the authority of clause 139(b), pass a by-law closing a street unless
>
> (c) in respect of each parcel of land to which access is provided by the street, either
>
> (i) the city provides another convenient means of access to the parcel, or
>
> (ii) subject to section 141, the owner and occupant of the parcel elect in writing to be compensated for the loss of access instead of having the city provide another means of access.

No alternate legal means of access is being provided by the City of Winnipeg.

<u>Safety Issues</u>

Keltek have met with the West End BIZ, who advise that:

- Closure of the lane will not eliminate issues relating to the sex trade, but will simply move the issue out of that portion of the lane;
- Speed issues can be addressed by speed bumps as a deterrent – closure will not eliminate the issue;

- Graffiti will not be eliminated;
- Lights and cameras are an alternative for safety issues;
- Signage indicating that this is a known location for criminal activity and it is being monitored by the Winnipeg Police Department can be affixed to buildings in the area as a deterrent.

The report of West End BIZ is attached at Tab 3. This report notes increased lighting and speed bumps, indicating that BIZ can supply lighting fixtures free of charge through a grant program.

The Applicant suggests that people use the lane as a shortcut. There are no traffic lights on this portion of Notre Dame, with the nearest light to the East being at the intersection of Notre Dame and Isabel, and the nearest light to the West being at the intersection of Sherbrook and Notre Dame.

The street to the West of Lydia is Furby and the lane does not pass through to Furby.

Put simply:

- Notre Dame is 4 lanes between Isabel and Sherbrook. Traffic moves well and there is no reason to travel in the lane to avoid stop lights as there are no stop lights between Isabel and Sherbrook.
- The lane running parallel to Notre Dame does not carry through to Furby and accordingly there is no reason to use the lane as a shortcut.
- Ecole Sacre-Coeur School is located on McDermot and Hugh John MacDonald School is located 1 block North on Bannatyne.
- Routing traffic through the lane running North to McDermot will only bring additional truck traffic onto McDermot, near to the schools.

Additionally, there is an apartment building at the Southeast corner of McDermot and Lydia which has a garden/playground area (fenced) adjacent to the back lane. Routing 6,000 trucks down this lane and past the residences on Kate, and the garden/playground area, is not conducive to safety in the area.

City of Winnipeg Traffic By-Law 1573/77

Section 39 of the City of Winnipeg Traffic By-Law provides as follows:

> **ROUTE OF TRUCK TRAVEL**
>
> 39. All trucks, truck tractors or combinations of either one of them with a trailer or trailers within The City of Winnipeg shall be operated only over and along the streets or sections of streets set forth as Truck Routes in Schedules 1 and 2 hereto, but any truck or truck tractor or combination of either one of them with a trailer or trailers may operate upon any street where necessary to the conduct of business at a destination point, provided that Truck Routes are used until reaching the intersection nearest the destination point. Upon leaving the destination point, a truck or truck tractor or combination of either one of them with a trailer or trailers shall return by the shortest routing to a Truck Route.
> *amended 3622/83*
>
> 39.1 Notwithstanding Section 39, to minimize truck travel on non-truck routes when a truck or truck tractor or combination of either one of them with a trailer or trailers has multiple deliveries in an area bounded by Truck Routes, it may proceed to conduct such business without returning to the nearest Truck Route and only after the completion of all business return by the shortest routing to a Truck Route.
> *added 6466/94*

Notre Dame Avenue is a designated truck route under Schedule 1 of the by-law. McDermot is not a designated truck route under either Schedule 1 or Schedule 2 of the by-law.

This means that vehicles presently delivering in the laneway legally must utilize Notre Dame by utilizing the "shortest routing" to a truck route.

Practically this means trucks remain on Notre Dame until Kate, utilize Kate only to access the laneway, exit the laneway at Lydia, turning left and returning immediately to Notre Dame.

This committee would create an illegal use of roads by routing all traffic onto McDermot which is not a truck route.

Damage to Business – Injurious Affection

The Charter provides in part as follows:

General authority

139 Council may pass by-laws respecting streets and the parking of vehicles in the city, including, without limiting the generality of the foregoing, by-laws respecting

* * *

(c) subject to section 141, determining what persons, if any, will be considered to be injuriously affected by the closing of a street;

* * *

Closing streets

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* * *

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(a) at least 14 days before passing the by-law, the city posts in six of the most prominent locations in the neighbourhood of the street a notice of the proposed by-law indicating the persons or classes of persons who will be considered to be so affected; and

* * *

Kelsey and Keltek will suffer damage if this Committee approves the closure and purchase of the lane by the Applicant.

Notice has been given to the City of Winnipeg that a claim for damages will be forthcoming and that any closure of the lane must take into account the designation of Kelsey and Keltek as parties who will be injuriously affected by the closure (Tab 4).

No notice appears to have been given of which persons will be injuriously affected and suffer damages as a consequence of the closure, as required, by Section 141(1)(a) of the Charter.

More practically, considering the information received from various of the trucking firms which pick up and deliver, how is Keltek to continue in business without access to its delivery door and fire exit?

It is to be noted that the closure of the lane is to the Western extremity of the Northbound lane, and as a consequence as shown in photo 3 where the Western paved boundary of the laneway can be found, **if closure is granted, the City will put control of the laneway, and ultimately Keltek's delivery door and fire exit, into the hands of a third party**.

There is no reason to do this.

Steps Taken to Address Safety Measures

Keltek has taken a number of steps to address safety related concerns. These steps are as follows:

- An application was made to West End BIZ to secure a grant for lighting, which was approved on July 22, 2014. The grant application and approval are attached at Tab 5.
- The adjacent neighbours, Bestway Insurance, and Frank Motors (the applicant), were approached by way of letter dated July 21, 2014, inviting their participation in steps to address safety concerns. No response whatsoever was received from either neighbour, but more importantly, from Frank Motors. A copy is attached at Tab 6.
- Discussions were held with the City of Winnipeg Traffic Engineering Department with respect to the installation of speed bumps in the lane and mirrors. The matter was discussed with Colleen Flather, Community Traffic Engineer, on July 15, 2014, who advised as follows:
    - The City of Winnipeg does not install mirrors in lanes anywhere in the city.
    - With respect to speed bumps, the view was that the lane is too short, but also she indicated that from her perspective there was not an issue with traffic and speed in this lane.
    - Keltek is prepared to pay for the cost of mirrors, but the mirrors will have to be put on buildings owned by Frank Motors, who thus far have not seemed interested.

- Attempts have been made to involve the City of Winnipeg Police Department, Downtown Community Support, with respect to signage and/or cameras in the lane. Notwithstanding repeated attempts, no response has been received from the City of Winnipeg Police Department.

Conclusion

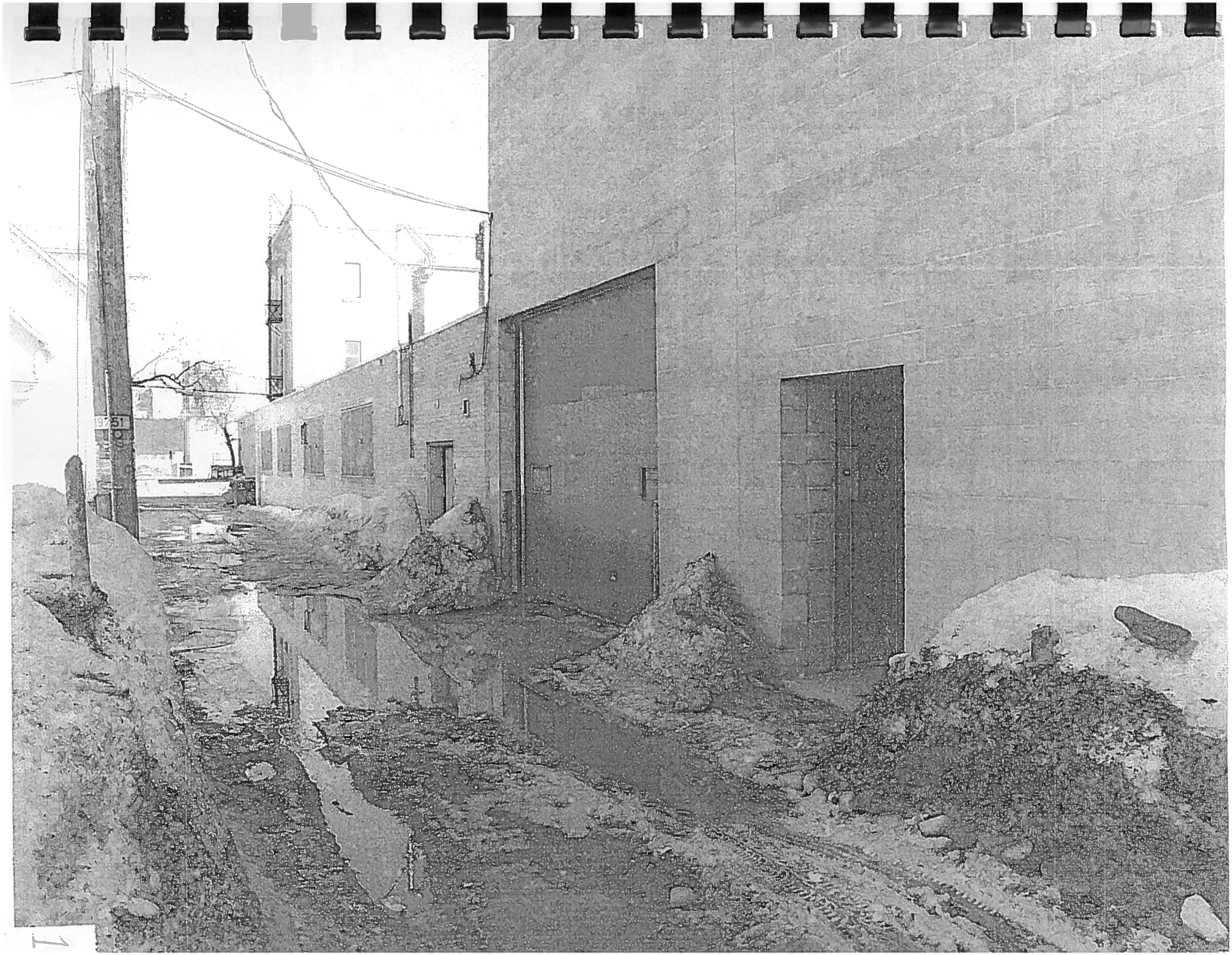
The business of Keltek cannot operate without the ability to receive raw materials and goods, and to ship those finished goods to its customers.

This Committee should not be prepared to pass such a by-law which will cause detrimental impact to Keltek purely for the convenience of the neighbouring property owner, who seeks to expand its facilities.

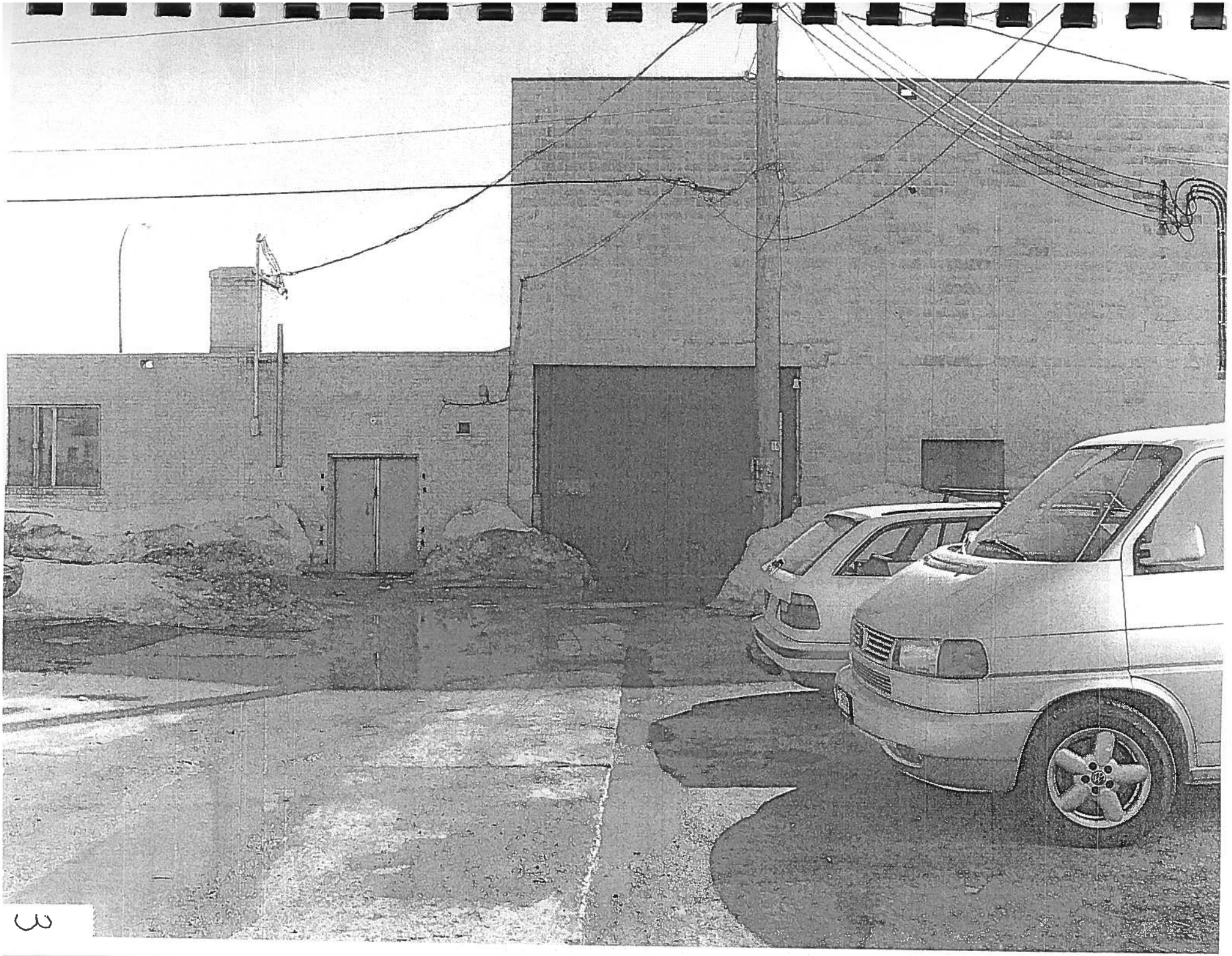
The City of Winnipeg is not in the business of expropriating the interests of property owners for the benefit of an adjacent property owner.

Pursuant to the Charter, Keltek is entitled to compensation for any damages and injurious affection which it may suffer by virtue of the closure of the lane.

This Committee should refuse to close the lane in any way as requested by the Applicant.







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WATCH FOR CARS

Google

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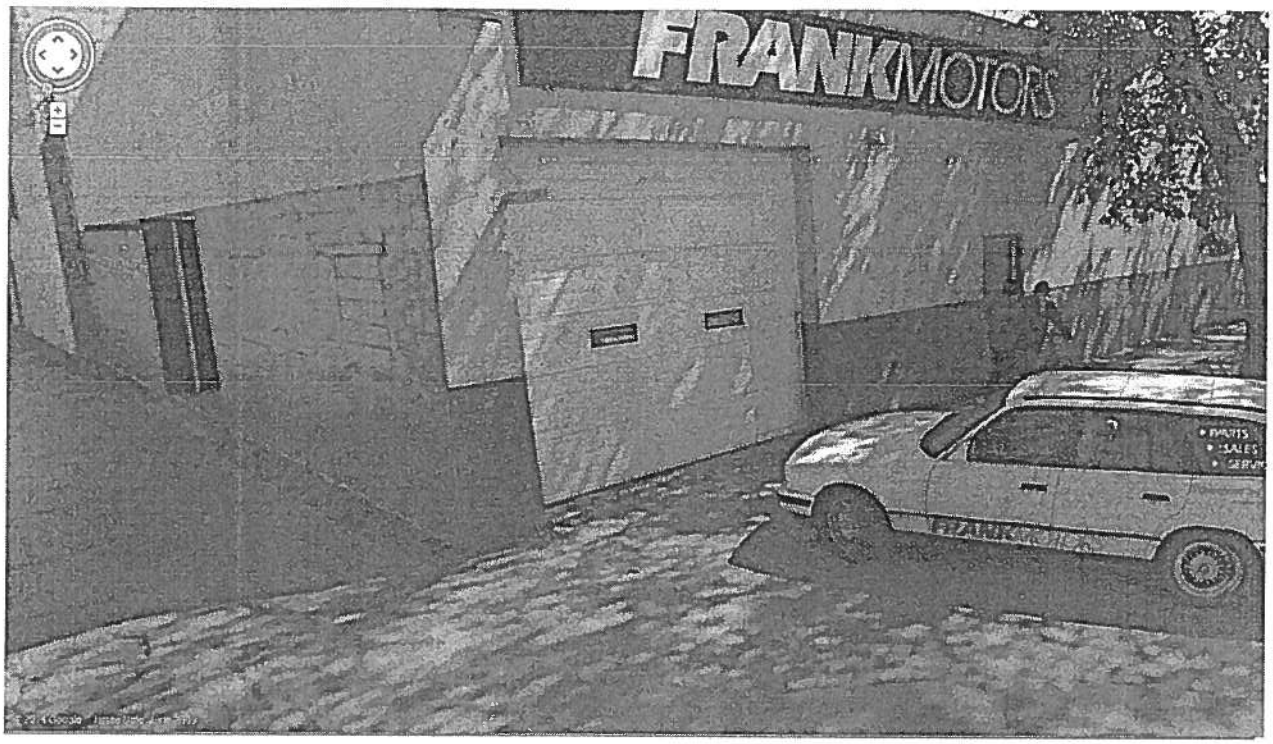

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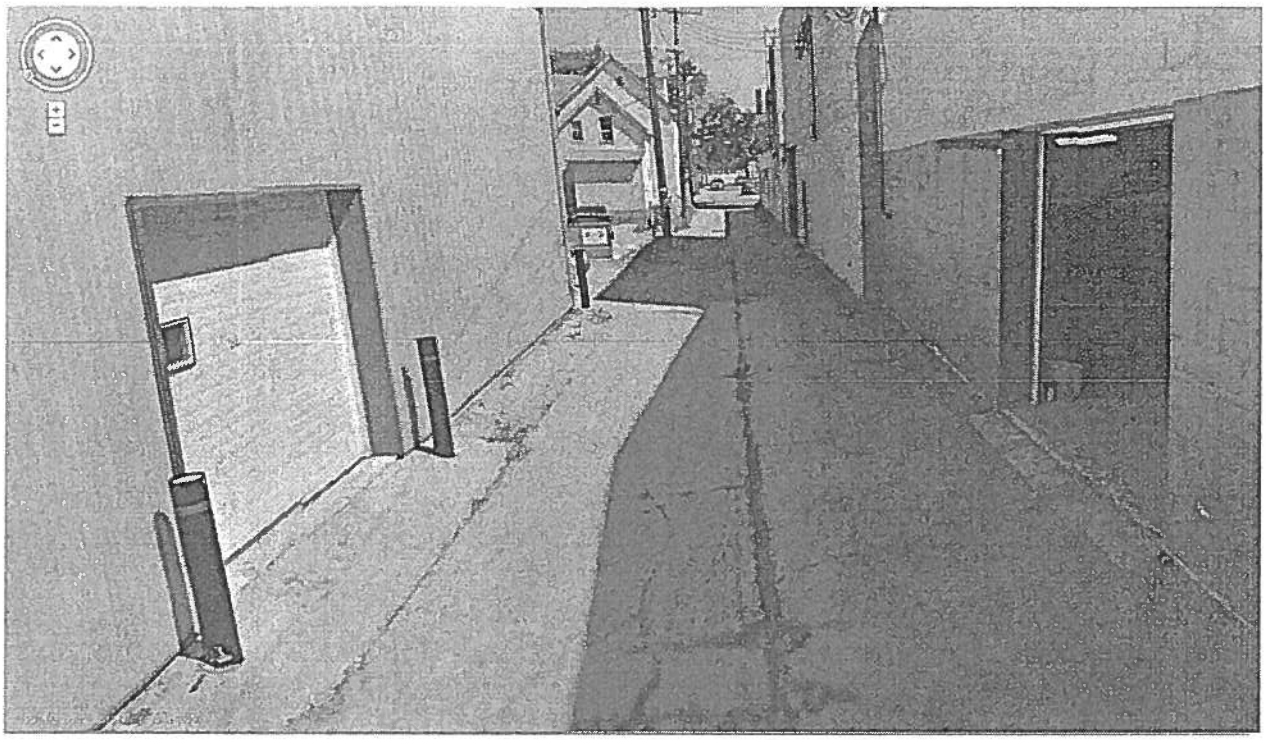
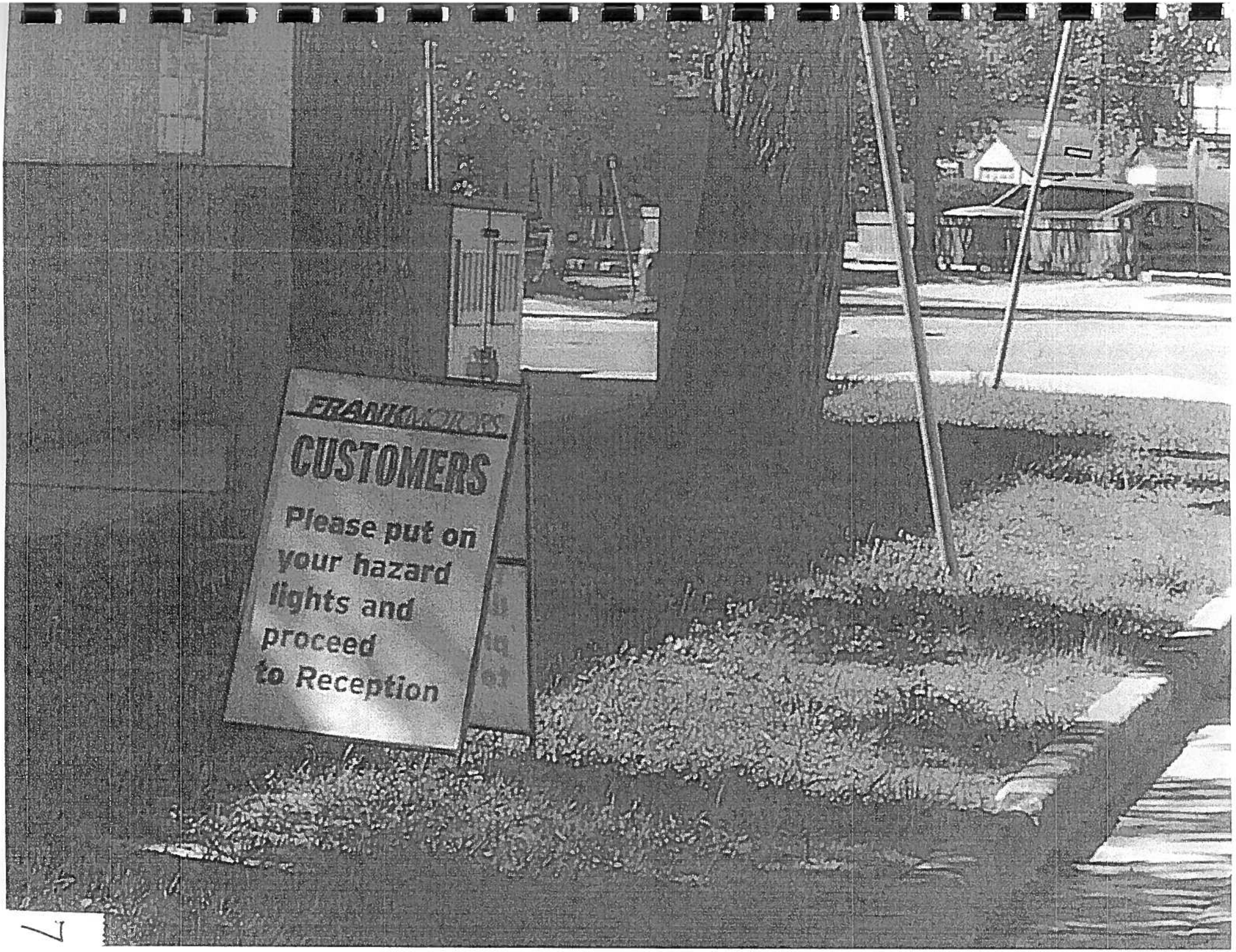
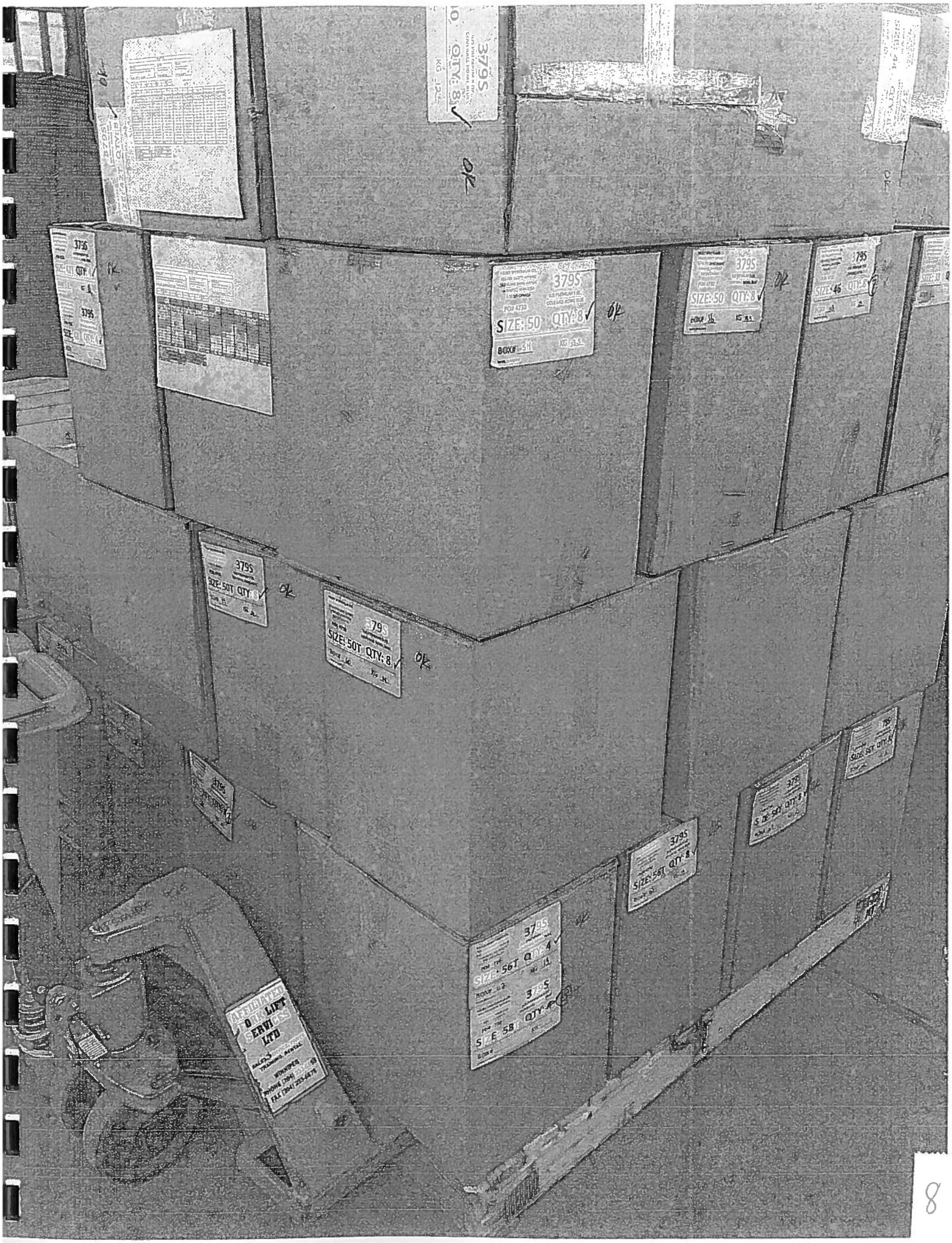



FRANK MOTORS
CUSTOMERS
Please put on your hazard lights and proceed to Reception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WINNIPEG

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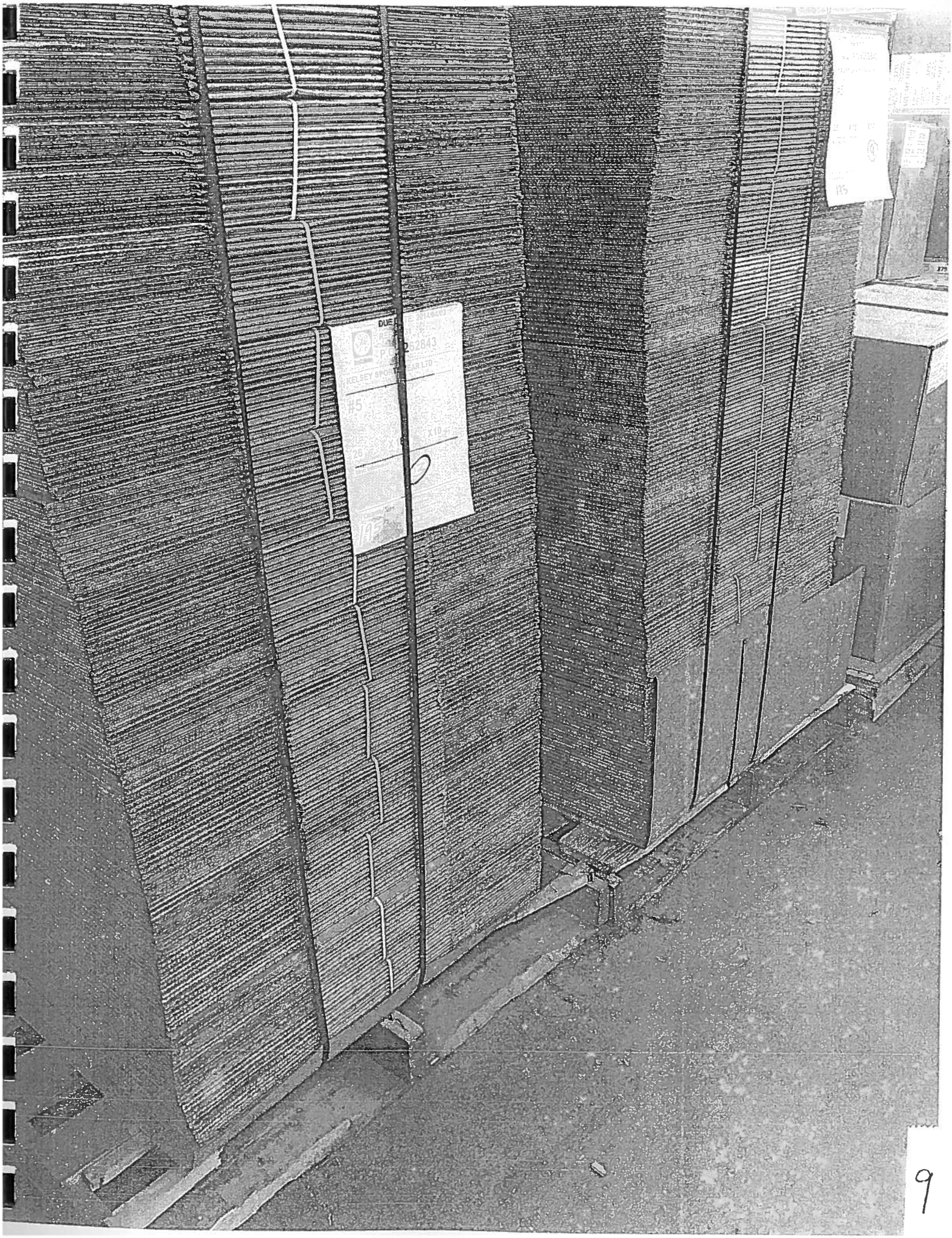


January 22, 2014

Michael Filz

It appears that there may be a blockage of the back lane to your business premises. Our city drivers that make deliveries to your business will no longer be able to drive down the lane to make their deliveries to your business establishment. This will force our units onto a residential street (Kate St.). As a Transportation company we are very concerned about this decision as it will force our drivers to back down this lane instead of driving down the lane. Once drivers back down back lanes this subjects them to all the dangerous hazards in the lane. I have listed some of the hazards that drivers will encounter.

1 Landscaping curbs and poles

2 Residents, Pets walking around a vehicle while the driver is backs up

3 Other vehicles parked on the street

4 Trees and overhanging items from buildings

5 Telephone and Hydro wires.

6 Total loss of vision to what is behind the unit.

These are only a few of the dangers drivers encounter when they are backing up units.

Sincerely,

Service Center Manager

Canadian Freightways.

As it stands now ,the lane needs to be open at both ends to allow trucks in there to pick up and deliver.

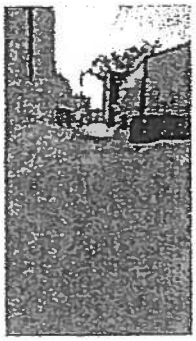
I am sure other carriers will echo the same words...

Thanks for your continued support of Fedex Services..

Gary

Gary Nazer
Freight Sales Executive
FedEx Express Canada

Gary.nazer@fedex.com
1.204.298.9063 CELL
1.204.632.8925 OFFICE
fedex.ca



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KELTEK SAFETY APPAREL

David Thomas <davet@keltek.ca>

FW: Kelsey Sportswear Back Lane issue

1 message

Gary Nazer <gary.nazer@fedex.com> Thu, Feb 6, 2014 at 11:59 AM
To: "davet@keltek.ca" <davet@keltek.ca>, "Jack Thiessen (jack@keltek.ca)" <jack@keltek.ca>
Cc: Gary Nazer <gary.nazer@fedex.com>

From: Gary Nazer
Sent: Thursday, February 06, 2014 11:58 AM
To: Jack Thiessen (jack@keltek.ca); davet@ketek.ca
Cc: Gary Nazer
Subject: FW: Kelsey Sportswear Back Lane issue

Dave/ Jack..

As per our meeting last week regarding the issue of trucks having easy access to your shipping and receiving doors at 563 Notre Dame .

I am an account executive for the Freight Division of Fedex Canada.

Our Freight division utilizes 3 types of trucks to deliver our customers freight in the City of Winnipeg.

We use 53 foot trailers, 28 foot pup trailers and 5 ton trucks.

We currently deliver your freight to your receiving facility at the rear of 563 Notre Dame.

Our main method of delivering your freight is with a pup trailer or 5 ton truck.

While it is a very tight fit for both trucks we manage being mindful of the surroundings a this is a residential back lane basically.

Your request to look at the back lane from a truckers stand point if the lane was closed at one end with no thru access . if the lane was closed at one end, our trucks will never be able to make it out of the lane. As it is it's a very tight fit.. but it works now...

With one end of lane closed we would never be able to even deliver your freight. Also trying to back a trailer in from one end would not work either.

My feeling on this is the lane needs to remain open so we can continue to move through the lane once we are completed our job of getting your freight to you.

Easy access is the only we can perform or duties...

Blocking off one end of the lane will create havoc for our drivers and put our drivers at risk. Plus your freight will also not be delivered to the back door.

I also believe that our operations people will want alternate delivery instructions so your freight can be delivered.

Delivering on Notre Dame with no visible receiving facility will not work either..

RECEIVED

January 24, 2014
Bill Munroe
2091 Brookside Blvd.
Winnipeg MB, R3C 2E6

City Council
510 Main Street
Winnipeg MB, R3B 1B9

Dear Councilors,

I am writing concerning a local establishment located at 563 Notre Dame Avenue, and it loading bay access. A Proposal has been put in for the closure of this back lane, which is used for delivery of goods. This will absolutely cause havoc for every delivery we have to make down this lane. Most Loading Bays are located down lanes like this, and as it stands are very tight for our equipment to maneuver. All businesses will suffer as a result if we let this one go through, and let alone the any other transport company.

So on behalf our customer Kelsey Sportswear- we would appreciate your prompt attention to this matter. Thank you for your service to our community.

Sincerely,

Bill Munroe
Interim Terminal Manager

KELTEK SAFETY APPAREL

David Thomas <davet@keltek.ca>

563 Notre Dame

1 message

Paul Knight <paul@ptex.ca> Wed, Jan 22, 2014 at 10:30 AM
To: "dthomas@kelseysportswear.com" <dthomas@kelseysportswear.com>

My dear David

Upon reading and listening to the news in regards to the lane behind your building.
Please be advised that we will not be able to deliver or pick up fabric from your location, should access be denied to the lane way.
Closing the lane to your building will not accommodate our trucks entering and exiting your premises.

Please advise your thoughts

Best regards

Paul

Paul Knight, C.E.O.
MID-WEST QUILTING CO. LTD. | PROTECTIVE TEXTILES INT'L INC.
1451 ERIN STREET WINNIPEG, MANITOBA R3E 2S9 CANADA
M: 204.955.9998 | O: 204.783.6009 | F: 204.783.8887 | E:paul@ptex.ca

Sent from my BlackBerry 10 smartphone on the Rogers network.

LOCHER EVERS INTERNATIONAL
International Freight Forwarders
Customs Brokerage / Warehousing / Distribution / Cartage
115 Paramount Road, Winnipeg, Manitoba, Canada R2X 2W6
Tel: (204) 632-4028 Fax: (204) 694-1136 Web Site: www.lei.ca
THE CANADIAN CHOICE

"We Care"

January 22, 2014

To Whom it may concern ;

Please be advised that closure of the entrance to the lane on the west running parallel to Notre Dame Ave. between Lydia and Kate streets will not allow access of our 24' van body delivery truck to Kelsey Sportswear Ltd. 561Notre Dame Ave shipping / receiving doors. The alternative is to utilize a hired messenger instead of our present delivery vehicle which will incur additional expense for our operations that would necessarily be passed along to Kelsey Sportswear as a matter of course , thus causing Locher Evers Int'l to be less competitive in the price for our international freight forwarding services .

Yours Truly,

Mike Sproule
Warehouse Manager
Locher Evers Int'l
Winnipeg Mb.

All shipments are only accepted subject to the Standard Trading Conditions adopted by the Canadian International Freight Forwarders Association Inc. Copy available upon request.

The Boxing Champions

Instabox

January 20, 2014

RE: Back Lane Closure

To Whom it may concern:

It has come to our attention that there is a possibility of closing off the back lane which we use as a delivery entrance for our customer Kelsey Sportswear. If this lane should close we would no longer have means of delivering our product to the customer. We would not have any access to use our pup or 5 ton trucks to deliver boxes.

This would affect not only Instabox as a supplier but all other supplier trying to deliver to Kelsey Sportswear.

If you have any questions feel free to contact myself at 204 488 3064

Jennifer Silvari
Plant Manager
Instabox Wpg. Ltd.

Kelsey Sportswear ltd.
563 Notre Dame Ave
Owner/Manager: David Thomas

Kelsey Sportswear is a well-established long term committed business in the community, in business since 1968.

The West End Business Improvement Zone (BIZ) meet on April 16, 2014 with representatives from Kelsey Sportswear (563 Notre Dame Ave) in regards to the potential closure of a portion of the back lane. During our meeting the representatives of Kelsey Sportswear indicated that they receive a large number of shipments for the operation of their business. For example, 518 shipments were received in March 2014 based on statistics shared by Kelsey Sportswear. These shipments are received through the loading area at the back of their building.

Kelsey Sportswear stated they are very concerned that the closure of the back lane access from Lydia Street as proposed by their neighbour business Frank Motors (575 Notre Dame Ave) would affect their operation and business deliveries.

We understand the partial lane closure was proposed as an option by Frank Motors that would to help address safety concerns. From a safety perspective, the West End BIZ patrol team had previously noted the laneway experiences prostitution activity and have heard complaints that vehicles often use it as a shortcut.

We have suggested increased lighting in the area affixed to the businesses and speed bumps to help reduce some of the noted concerns. The BIZ can supply lighting fixtures free of charge via their grant program.

If the back lane was closed, two other entry points into the back lane are available for emergency vehicles and garbage removal access. However, we cannot speak to if that would still be sufficient for their delivery needs should a partial back lane closure occur.

The West End BIZ supports the two businesses working together for an amicable solution to the laneway issue in terms of increasing safety and ensuring the access appropriate for their needs.

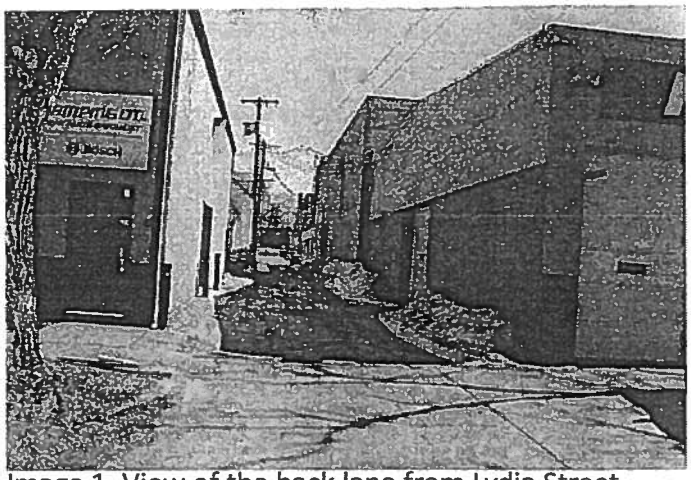

Image 1. View of the back lane from Lydia Street (looking east).

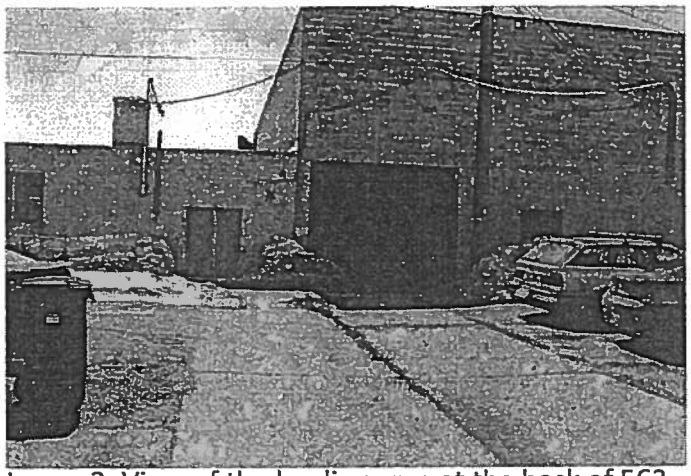

Image 2. View of the loading area at the back of 563 Notre Dame (looking south).

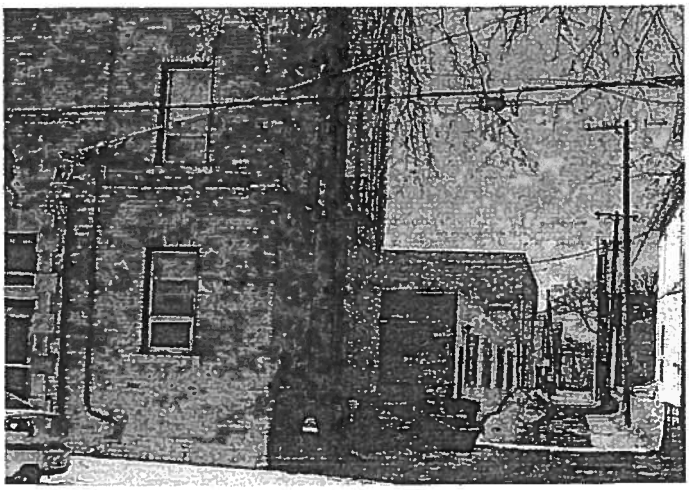

Image 3. View of the back lane from Kate St (looking west).

FillmoreRiley

MARK NEWMAN
Direct Tel (204) 957-8325
Direct Fax (204) 954-0325
marknewman@fillmoreriley.com

LEGAL ASSISTANT
Michelle Soulodre
Tel (204) 956-2970 ext. 225
msoulodre@fillmoreriley.com

Our File Number: 426084-1/MN
FRDOCS_4055164.1

VIA FACSIMILE

April 22, 2014

City of Winnipeg
510 Main Street
Winnipeg, MB R3B 1B9

Attention: Chief Administrative Officer

Dear Sirs:

Re: DAC15/2013

We represent Kelsey Trail Holdings Ltd., the owner of premises located at 563 – 567 Notre Dame Avenue, and Keltek Safety Apparel, the operator of the business from these locations.

The adjacent property owner, Frank Scheffer Enterprises Ltd., has made application to close a portion of the laneway behind our client's premises with a view to purchasing the closed lane and building, additional development upon the property which will connect the applicant's buildings which are located to the North and South of the laneway.

We note the provisions of Section 139 – 141 of the City of Winnipeg Charter ("Charter").

This matter is scheduled to come before Lord Selkirk – West Kildonan Community Committee on April 22, 2014.

The purpose of this letter is to formally place the City of Winnipeg on notice that our client will be asserting a claim for all damages it suffers.

Section 139(c) and 141(1)(a) of the Charter address the issue of injurious affection suffered as a result of the closing of a street.

Although we will be appearing before the Lord Selkirk – West Kildonan Community Committee, we simply wish to place the City of Winnipeg on formal notice that our client's

interests must be protected throughout this process and that claims for damages will be forthcoming.

Yours truly,

FILLMORE RILEY LLP

Per:

MARK NEWMAN

MN/mhs

c: Director of Planning, Property & Development – Attn: B. Thorgrimsson (via email)
c: Kelsey Trail Holdings Ltd./Keltek Safety Apparel

West End BIZ
BUSINESS IMPROVEMENT ZONE

July 22, 2014

Kel-Tek Safety Apparel
Attn: Michael Filz
563 Notre Dame Ave.
Winnipeg, MB R3B 1S5

Dear Michael:

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Congratulations! We are pleased to inform you that your Safety Grant application has been approved.

According to your application, you are planning to install night lighting to discourage theft. The total cost of the project is listed in your application as $4,550 of which the Safety Grant will provide reimbursement for up to a $1,000. Please be aware that the funding allocated for the year 2014 has already been assigned to other applications on a first come first served basis. Therefore, we won't be able to reimburse you until January 2015. The West End BIZ will reimburse starting the year 2015 upon receiving your Claim for Reimbursement form and **PROOF OF PAYMENT** such as a copy of receipts, cheques, or credit card statements in which the payment for the project is shown.

Please note that all claims must be submitted to us by July 22, 2015.

It is important that all the work as outlined in your application is completed and paid for before submitting the enclosed claim for reimbursement form. Please make sure that you send ONLY copies of your proof of payment and keep the originals for your own records. Once you submit the proof of payment and the enclosed claim for reimbursement form the West End BIZ will perform a site visit to confirm the project has been satisfactorily completed.

Should you have any questions or concerns regarding this grant, please contact the West End BIZ office at 204-954-7900.

Thank you for your interest to participate in this program. Your project contributes to enhance our community. We look forward to seeing your completed project!

All the best,

Fernando Velarde Trejo
Planning and Project Coordinator
West End BIZ

Gera Oviedo Racheco
Finance & Administration Manager
West End BIZ

West End biz
BUSINESS IMPROVEMENT ZONE

CLAIM FOR REIMBURSEMENT
SAFETY GRANT

Applicant's business name: _____

Date of application: _____ Original approved amount: _____

FINALIZATION OF GRANT
(NOTE: DO NOT SEND US YOUR ORIGINAL INVOICES. PLEASE SEND PHOTOCOPIES ONLY!)

Actual total eligible project cost: _____
(Materials and labour only. Excluding taxes, permits, administration or legal fees, and financing costs)

Are copies of all **PROOFS OF PAYMENT** attached? (Please circle) YES NO

NOTE: We are not able to reimburse you until proof of payment is received (i.e. copy of the receipt issued by the contractor, copy of the cheque used to pay, copy of credit card statement where project's cost is shown).

If NO, what is still outstanding? Why? _____

_____

Has all work been paid for? (Please circle) YES NO

If NO, have arrangements been made? What are they? _____

_____

FAILURE TO PROVIDE ALL REQUIRED INFORMATION WILL DELAY PROCESSING.

Before the grant reimbursement is processed the West End BIZ will perform a site visit to confirm the project has been satisfactorily completed.

BOTTOM PORTION FOR OFFICE USE ONLY

Has the site visit been performed? (Please circle) YES NO

CALCULATION OF PAYMENT

EQUATION: Cost of eligible project expenses divided by 2 = Amount to be reimbursed. ($1,000 maximum)

Actual total **eligible** project costs (as stated above): _____ / 2 = _____

Paid to: _____

SAFETY

Program/Project: _____ Date: _____

JLREF: _____ Amount: _____

Cheque #: _____

Note: _____

Approved: _____ Approved: _____

West End BIZ: 581 Portage Avenue, Winnipeg MB R3B 2G2
ph. 954-7900 fax. 772-8604 web. www.westendbiz.ca

--------- Forwarded message ----------
From: **Fernando Velarde Trejo** <fernando@westendbiz.ca>
Date: Tue, Jul 22, 2014 at 12:21 PM
Subject: RE: Safety Grant - West End Biz
To: Michael Filz <mfilz@kelseysportswear.com>

Hello Michael,

Thanks for submitting your safety grant application. I have reviewed the application and it has been approved. However, please be aware that the funding allocated for the year 2014 has already been allocated to other applications submitted before yours was received on Wednesday (July 16). Therefore, we won't be able to reimburse you until January 2015. If you are okay with those conditions, see the attached approval letter for additional details. I have also included the claim for reimbursement form you will have to submit along with proof of payment once your project is completed and paid for to receive reimbursement starting the year 2015.

If you have any questions do not hesitate to contact me.

Regards,

Fernando Velarde Trejo, MCP, BES
Planning and Project Coordinator

1 Portage Avenue, Winnipeg, MB R3B 2G2
: (204) 954-7900 fax: (204) 772-8604
vw.westendbiz.ca

---------- IMPORTANT NOTICE ----------
not forward. This email and any accompanying attachments contain confidential information intended only for the use of the individual or entity ned above. Any dissemination, distribution, copying or action taken on the contents by other than the intended recipient is strictly prohibited. If eived in error please delete and notify the sender.

ɔm: keltek3@gmail.com [mailto:keltek3@gmail.com] **On Behalf Of** Michael Filz
nt: July-17-14 11:06 AM
: fernando@westendbiz.ca
bject: Fwd: Safety Grant - West End Biz

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rnando.

axed this compleated application to your office with your attention on it yesterday.

m following up by sending it electronicly as well.

ɔw long will the aplication take to process??

st regards.

ike Filz

------- Forwarded message ----------
ɔm: **Mina A** <mina@keltek.ca>
ıte: Wed, Jul 16, 2014 at 9:37 AM
bject: Safety Grant - West End Biz
: Michael Filz <mfilz@keltek.ca>

Mike,

rwarding to you copies of signed Safety Grant form for West End Biz that we sent thru via fax , attached o faxed confirmation receipt for your reference.

anks,

na

SAFETY GRANT

West End BIZ
BUSINESS IMPROVEMENT ZONE

Please describe the planned safety project in detail. Provide copies of any sketches or specifications related to the proposed improvements. Be as specific as possible. Use a separate sheet if necessary.

1. What is it that you would like to do?

Add lighting to Back lane, parking lot, and 2 man doors

2. Why do you think this initiative is necessary? Are you having a specific problem?

Criminal element has been seen in area. Prostitution, solicitation, drug sales/use/parifinillia.

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PROJECT ESTIMATES

Two estimates for all work to be done must be obtained and included with your application. Only include copies of your estimates; retain the originals. Please provide a breakdown of the anticipated project expenses from the contractor you would prefer to use below:

Cost of Materials: $2275 Cost of Labour: $2275

Total Cost of Project: $4550 + tax

Names of Contractor(s) to be used: Don Elko electric. Services

NOTE: Selecting a West End BIZ Member is not a requirement, but it's encouraged to support other local businesses like yours. If the contractor is not a West End BIZ member a brief explanation must be provided in the space below.

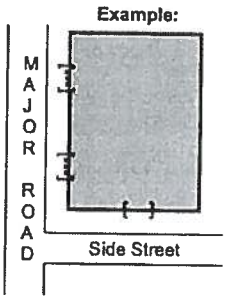
Is your preferred contractor a West End BIZ Member? (Circle one) YES (NO)

If not, why not? located outside of West. End.

EXTERIOR NIGHT LIGHTING

If you are installing exterior night lighting please sketch the location of your building in reference to all streets and back lanes, as per the example below. Indicate where you want to have your light(s) installed by marking the spot(s) with an "X". Please indicate windows with "[---]" and doorways as "[ ]" on your sketch.

Please see attached sheets.



Total Number of Night Lights: 6

LED lights.

SAFETY GRANT

West End BIZ
BUSINESS IMPROVEMENT ZONE

CERTIFICATION
(To be completed by the applicant):
I hereby certify that the information provided in this application is true and accurate to the best of my knowledge and that I have read and understood the terms and conditions of the grant application.

Applicant's Name & Title (Print): Michael Filz V.P.

Signature: Michael Filz Date: July 15/14

If the property owner is different from the applicant listed above please provide the information requested below:

Property Owner's Name (Print): Michael Filz

Owner's Address: 100 Burns Rd. Postal Code: R4A 7A5

Phone: 204-229-5513.

Have you received authorization from the property owner to undertake the proposed project? **YES** **NO**

Disclaimer
Remember that it is your sole responsibility to obtain permission from your landlord or property owner to undertake your proposed project(s). The West End BIZ is not responsible for projects undertaken by an applicant without the permission of their landlord or property owner. As an applicant, avoid any potential issues or conflicts with your landlord or property owner by obtaining permission to perform your desired project(s) ahead of time.

West End Biz

Our attached overhead shot of the back lane out lines our plans for extra lighting in the lane.
All the lights will be LED, more energy efficient, near maintenance free and long lasting. Lights will have a sensor that will automatically turn on when the sun goes down.

The more expensive lights on the main building {563 Notre Dame Ave.} and back building (55 Lydia St.} are due to there being no existing fixtures or power to those areas. The cost is inclusive of running wire, binding into fuse panel and mounting fixtures.

The Back door entrance light {563 Notre Dame} will illuminate a enclave, single door exit and uses a EXSISTING fixture and power supply long ago disabled {smashed} by hoodlums. The new light will be shielded.

The light above door on back building will also use a EXSISTING fixture but it will be raised higher to avoid vandalism.

These proposed lights will illuminate areas that are prone to attracting criminal elements and will go a long way to displacing them.

Our preferred electrician has been used by us for decades and I am confident that their price is fair and the labor and materials will be top notch.

Best regards.

Don Elko Electrical Services 2010 Ltd.
85 Leahcrest Cresent Winnipeg, Manitoba R2P 1P2
Phone (204) 338-8779 Fax (204) 339-9662

10-Jul-14

Kelseys Sports
Attn: Mike

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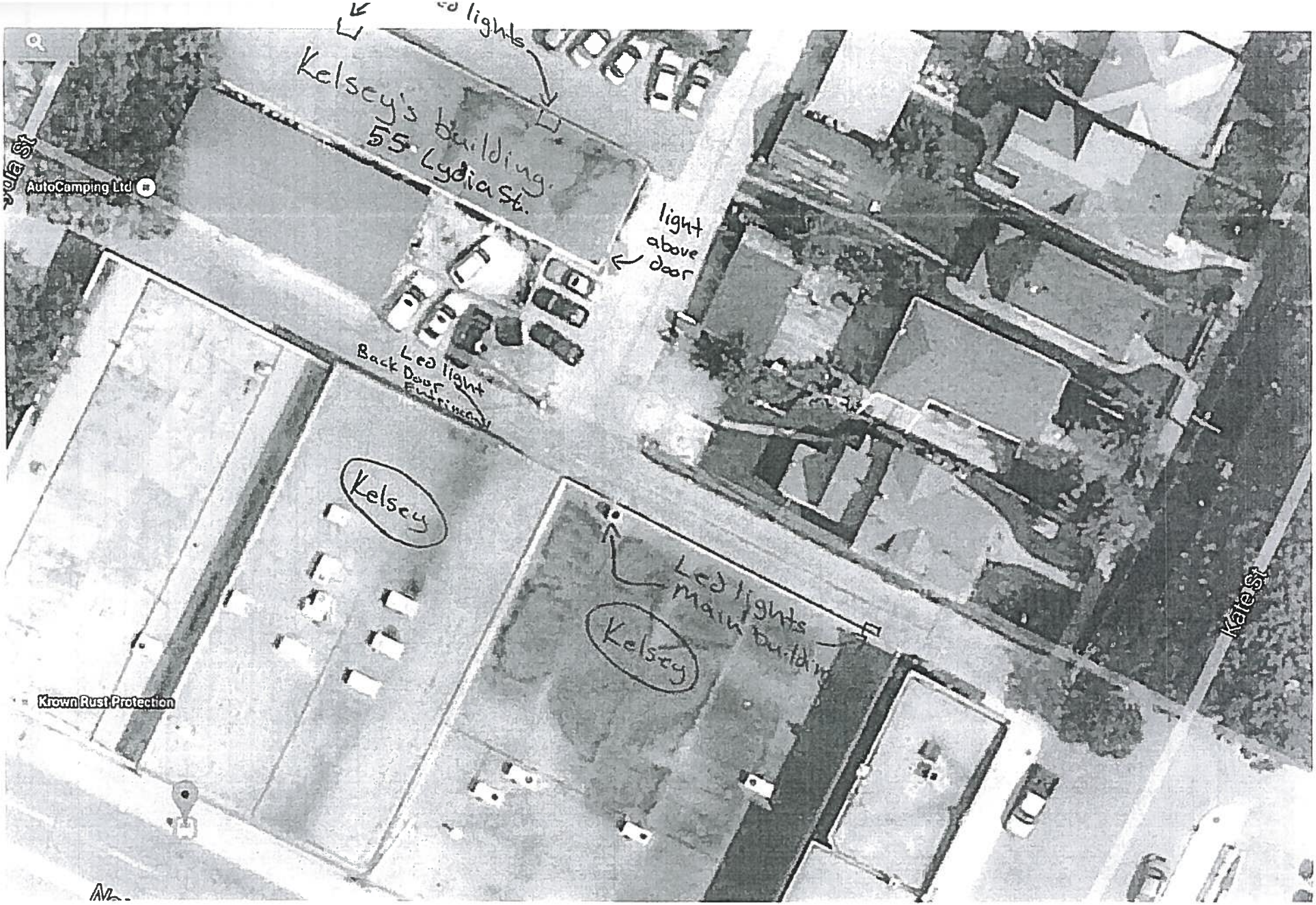
Re: Lights on Buildings

Supply labour and material to provide

Led lights on main building. 2 lights	$2,000.00
Led lights on back building. 2 lights	$ 2,000.00
Led light in back door entrance.	$200.00
Led light above door on back building.	$ 350.00
Total	$4,550.00

All taxes extra

Regards,


Kelsey's building
55 Lydia St.
light above door
Led light Back Door Entrance
Kelsey
Led lights Main building
Kelsey
AutoCamping Ltd
Krown Rust Protection
Kate St

TX Result Report

07/16/2014 08:28
Serial No. A02E010010795
TC: 170614

Destination	Start Time	Time	Prints	Result	Note
2047728604	07-16 08:17	00:10:36	006/006	OK	

Note TMR: Timer TX, POL: Polling, ORG: Original Size Setting, FME: Frame Erase TX, MIX: Mixed Original TX, CALL: Manual TX, CSAC: CSAC, FWD: Forward, PC: PC-Fax, BND: Double-Sided Binding Direction, SP: Special Original, FCODE: F-Code, RTX: Re-TX, RLY: Relay, MBX: Confidential, BUL: Bulletin, SIP: SIP Fax, IPADR: IP Address Fax, I-FAX: Internet Fax

Result OK: Communication OK, S-OK: Stop Communication, PW-OFF: Power Switch OFF, TEL: RX from TEL, NG: Other Error, Cont: Continue, No Ans: No Answer, Refuse: Receipt Refused, Busy: Busy, M-Full:Memory Full, LOVR:Receiving length Over, POVER:Receiving page Over, FIL:File Error, DC:Decode Error, MDN:MDN Response Error, DSN:DSN Response Error.

KEL-TEK SAFETY APPAREL
Kelsey Sportswear Ltd.
563 Notre Dame Avenue
Winnipeg Manitoba R3B 1S5 Canada
Phone # 204-786-1503 Fax # 204-783-3808
Email: kelinfo@kelseysportwear.com

FAX MESSAGE

TO: West End Biz. DATE: July 15, 2014
ATTENTION Mr. Fernando FAX # 204 - 772 - 8604
RE: Safety Grant # OF PAGES 6

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT/REPLY

MESSAGE:
Please see attached signed Safety Grant form.

SIGNED: Michael Filz

CT-2007-FAX2A

KEL-TEK SAFETY APPAREL

Kelsey Sportswear Ltd.

563 Notre Dame Avenue
Winnipeg Manitoba R3B 1S5 Canada
Phone # 204-786-1503 Fax # 204-783-3808
Email: kelinfo@kelseysportwear.com

FAX MESSAGE

6

: West End Biz DATE: July 15, 2014

TENTION Mr. Fernando FAX # 204-772-8604

: Safety Grant # OF PAGES 6

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT/REPLY

ESSAGE:

Please see attached signed Safety Grant form.

SIGNED: Michael Filz

2007-FAX2A

KELTEK Safety Apparel
563 Notre Dame Ave
Winnipeg, Manitoba
R3B 1S5
Phone: 1.800.665.3778
Fax: 1.877.633.9816
eMail: info@keltek.ca
Website: www.keltek.ca

Quality you can Depend on!

Dieter Scheffer/ Manual Rodriguez.

July 21, 2014

Kelsey Sportswear is looking at trying to alleviate some of the safety concerns in our shared back laneway, between Kate St. and Lydia St.
As a long standing business in this area, and owners whom are concerned about the community, we are attempting to address all possible safety concerns.
Kelsey Sportswear has met with West End Biz, The Winnipeg Police Service and The City of Winnipeg. We are all in agreement; that closing a portion of the back lane will not have an effect on some of the issues brought to light, and in fact would cause detrimental impact to Kelsey Sportswear's day to day operations.
Through these talks and investigations, we have decided to implement some safety systems that are already proven and we hope will help keep the community safe into the future,
Kelsey Sportswear is working with West End Biz on the installation of additional lighting on our buildings at 563 Notre Dame Ave and 55 Lydia.
Kelsey is also looking in to the addition of multiple convex safety mirrors, which will help all, in navigating the corners at each end of the lane for both pedestrians, as well as vehicle traffic. The Winnipeg Police Service is looking into helping us with signage, to help in deterring unwanted activity in the immediate area.

Kelsey Sportswear is encouraging our immediate neighbors join in our efforts to keep the community safe.
We have information on the above mentioned items, should you decide you would like to participate.
If interested, please call Michael Filz or David Thomas at Kelsey Sportswear; 204-783-1503.
You may also contact us by email at; mikef@keltek.ca or davet@keltek.ca

Best regards.

David Thomas

Michael Filz