Minute No. 35
Report - Standing Policy Committee on Property and Development - October 28, 2003

Item No. 3 Amendment to Servicing Agreement between The City of Winnipeg and 4293631 Manitoba Ltd. - File DASZ 4/2001

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That Servicing Agreement AG 4/01 be amended to reimburse the Developer for the cost of services abutting all the benefiting properties on Templeton Avenue and to assess all the benefiting properties to recover the funds paid to the Developer.

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

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DECISION MAKING HISTORY:

Moved by Councillor Vandal,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 19, 2003, 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 October 28, 2003, the Standing Policy Committee on Property and Development concurred in the recommendation of Lord Selkirk-West Kildonan Community Committee and submitted the matter to Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On October 14, 2003, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation, and submitted its recommendation to the Standing Policy Committee on Property and Development.

Re: Proposed amendment to Servicing Agreement AG 4/01 between the City and 4293631 Manitoba Ltd.

FOR SUBMISSION TO THE CHAIRPERSON AND MEMBERS OF THE LORD SELKIRK-WEST KILDONAN COMMUNITY COMMITTEE

"Original signed by E.L. Carrière"

E.L. Carrière, P.Eng.
Land Development Engineer

September 29, 2003

Re: Proposed amendment to Servicing Agreement AG 4/01 between the City and 4293631 Manitoba Ltd.

Under a Servicing Agreement, AG 4/01, dated June 20, 2001, between the City and 4293631 Manitoba Ltd. (the Developer) and the City, the Developer was required to construct a concrete pavement, boulevards, a concrete sidewalk and ornamental street lighting in Templeton Avenue from Pipeline Road west to the Manitoba Hydro Transmission Line. On the north side of Templeton Avenue, the land is owned by The City of Winnipeg (±839') and the Seven Oaks School Division (±645.7'); on the south side the most easterly ±495' are owned by McPhillips Ford Lincoln Sales Ltd. and the balance, ±986', are the subject of Servicing Agreement AG 4/01.

Paragraph 7 of Servicing Agreement AG 4/01 provides that the Developer would install the services in Templeton Avenue and that the City would reimburse the Developer for the portion of the cost of installing those services which benefit privately-owned and City-owned land subject to the enactment of Local Improvement by-laws. This would allow the City to assess special levies against the benefiting properties to recover the monies paid to the Developer. This provision is in accordance with the City's Council approved Development Agreement Parameters.

The Developer requested the City to advertise the necessary Local Improvements and proceeded with the installation of the services in 2002.

On May 6, 2002, a member of the Planning, Property and Development Department met with the Developer to discuss the implementation of the reimbursement for the cost of services installed in Templeton Avenue. The issue at hand was the timing of the payment but it became evident that the Developer had misunderstood the terms of the servicing agreement as they related to the extent of reimbursement i.e. the Developer was under the impression that the City would reimburse the Developer for the full cost of the services and recoup the funds by assessing all the benefiting properties. The Developer has now been advised that in order to do so would require an amendment to the Servicing Agreement.

The administration has concerns about amending Servicing Agreement AG 4/01 as other developers may then request that they also be fully reimbursed for services installed in boundary roads which may then reduce the City's ability to install services as Local Improvements due to funding shortages. In that regard, the Planning, Property and Development Department can advise that in the past 25 years or so, developers have never requested that the City reimburse them for services installed by them in existing or newly created boundary streets benefiting the developers' land. Generally, boundary road situations arise with residential land development and it is the general practice that residential developers sell land to homebuilders and individuals with the cost of services included in the price of the lots. In the case of Servicing Agreement AG 4/01, the City is dealing with a commercial land developer and prospective purchasers would not be adverse to having a portion of the purchase price amortized for taxation reasons.

As information, amending Servicing Agreement AG 4/01 as described herein would require an additional payment to the Developer of approximately $185,000.00 which would be recovered by the City through the collection of annual Local Improvement levies.

If your Committee is satisfied that in the case of Servicing Agreement AG 4/01, that deviating from the City's Development Agreement Parameters in this instance would not set a precedent, it should recommend to Standing Policy Committee on Property and Development that:

1. Servicing Agreement AG 4/01 be amended to reimburse the Developer for the cost of services abutting all the benefiting properties on Templeton Avenue and to assess all the benefiting properties to recover the funds paid to the Developer.

2. The proper officers of the City do all things necessary to implement the above.

THIS REPORT SUBMITTED BY:

E.L. Carrière, P.Eng.
Land Development Engineer
File No. AG 4/01
September 29, 2003

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