Agenda - Council - January 28, 2004

Report - Standing Policy Committee on Property and Development - January 16, 2004

Item No. 15 Sale of Closed Brock Street North of Wilkes Avenue
File DAC 11/2003

STANDING COMMITTEE RECOMMENDATION:

On January 21, 2004, 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 the subject property be declared surplus to the City's requirements.

2. That, subject to Council's enactment of a street closing by-law, the sale of the subject property as shown on Misc. Plan No.11929/1 to 4612591 Manitoba Ltd. for the price of $20,000.00, in accordance with the terms and conditions of the Offer to Purchase, be approved.

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 - January 16, 2004

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 21, 2004, 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 January 16, 2004, the Standing Policy Committee on Property and Development concurred in the administrative recommendation with the following amendment, namely:

- That the following clause be added as Recommendation 1:

    1. That the subject property be declared surplus to the City's requirements.

and the balance of the recommendations be renumbered accordingly,

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

Re: Proposed Sale of Closed Brock Street - North of Wilkes Avenue
City Centre Community
River Heights – Fort Garry Ward

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

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

Report date: January 7, 2004

Recommendation(s):

That the proposed sale of the subject property as shown on Misc. Plan No.11929/1 to 4612591 Manitoba Ltd. for the price of $20,000.00 and in accordance with the terms and conditions of the attached Offer to Purchase, be approved, subject to:

Council's adoption and enactment of the proposed street closing By-Law.

REPORT SUMMARY

KEY ISSUES:

On June 3, 2003, 4612591 Manitoba Ltd. submitted an application to the Planning, Property and Development Department for the closing of the street shown outlined as "Subject City Property" on Misc. Plan No. 11929/1. The Purchaser intends to consolidate the City's property with the property to the immediate east, for the purpose of providing additional parking for the adjacent office building.

On July 8, 2003 the City Centre Community Committee considered and approved an application (DAC 11/2003) to legally close that portion of Brock Street - North of Wilkes Avenue, shown as "Subject City Property" on Misc. Plan No. 11929/1.

The Real Estate Division has determined there is no City requirement for the Subject City Property but that a sale would be subject to the retention of easements by the City for a wastewater sewer and land drainage sewer line.

On October 7, 2003, the City Centre Community Committee concurred with the administrative recommendation; namely, that it has no objections to the proposed sale of closed Brock Street at Wilkes Avenue.

The Department is recommending that the sale of the subject surplus City-owned property in favour of 4612591 Manitoba Ltd. for the purchase price of $20,000.00 be approved in accordance with the terms and conditions of the attached form of Offer to Purchase dated December 4, 2003.

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** (There are no policy implications if the report is asking for a one-time decision.)
	Yes (There are policy implications if the recommendation(s) is/are asking for a decision that will be used to guide decisions over time.)

Comment(s):

Environmental implications:

X	**No**
	Yes

Comment(s):

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:

The Planning, Property and Development Department is in receipt of an Offer to Purchase the Subject City Property shown as shaded on Misc. Plan No. 11929/1. By this report, the Department is recommending approval of the proposed terms and conditions of sale as set out in the attached Offer to Purchase.

HISTORY:

The subject City property shown as shaded on Misc. Plan 11929/1 attached is a portion of Brock Street which has never been paved or used for traffic and serves no public purpose.

In June 2003, 4612591 Manitoba Ltd. submitted an application to the Planning, Property and Development Department to close and acquire the street identified as "Subject City Property" on the attached Misc. Plan No. 11929/1. The Purchaser intends to consolidate the City's property with the property to the immediate east, to provide additional parking for the adjacent two storey office building.

On July 8, 2003, the City Centre Community Committee considered and approved an application (DAC 11/2003) to legally close that portion of Brock Street North of Wilkes Avenue, shown as "Subject City Property" on the attached Misc. Plan No. 11929/1.

The Real Estate Division has determined that there is no City requirement for the Subject City Property but that a sale would be subject to the retention of easements by the City for a wastewater sewer and land drainage sewer lines.

On October 7, 2003 the City Centre Community Committee indicated that it concurred with the administrative recommendation, namely, that it had no objection to the proposed sale of the lands identified as "Subject City Property" on Misc. Plan No. 11929/1.

DISCUSSION:

The Purchaser, 4612591 Manitoba Ltd., owns the adjacent property to the East and has recently completed construction of a two-storey office building thereon.

The Purchaser's intention is to consolidate the Subject City Property with their lands to the east, for the purpose of providing additional parking for the adjacent office building. Inclusion of the City Property would benefit the development by providing additional parking for customers of the development.

The value of the property by an in-house appraisal has been estimated at $20,000.00, which appraisal takes into account a discount of 50% because: (1) the city-owned land is not developable on its own or saleable to anyone other than the adjoining owners; (2) there is a need to retain easements; and (3) there are requirements to consolidate Certificates of Titles at the Purchaser's expense.

CONCLUSION

The Department has successfully negotiated a purchase price of $20,000.00 and recommends that the subject property be declared surplus and that the proposed sale be approved for the following reasons:

The property is not developable on its own;

Due to its size and shape, this property is not marketable to anyone other than the adjoining owners;

The property would be on the tax roll at the closing of the sale;

The purchaser will be responsible for all costs related to closing and easement plans;

The proposed sale price is supported by an internal appraisal report;

The proposed terms and conditions of sale as recommended by the Department are attached as Appendix “1”. These terms and conditions are in accordance with the City’s standard terms and conditions. Also included are special terms required by the Department (i.e. title to the subject property to be consolidated with the Purchaser’s adjacent property to the east, Purchaser agreeing to provide the City with an easement for a wastewater sewer and land drainage sewer on both the Subject City Property and the Purchaser’s adjacent property to the East, and e Purchaser’s acknowledgement that the purchase price does not include prepayment of two local improvement charges for wastewater sewer and land drainage sewer that will be added to the Purchaser’s tax bill until each is paid in full).

The sale will eliminate the liability for the City associated with holding and maintaining this parcel of vacant land.

Financial Impact Statement

7-Jan-04

Project Name: **First Year of Program** 2004

Proposed Sale of: Closed Brock Street north of Wilkes Avenue; to 4612591 Manitoba Ltd.

	2004	2005	2006	2007	2008
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	20,290	386	386	386	386
Net Cost/(Benefit)	$ (20,290)	$ (386)	$ (386)	$ (386)	$ (386)
Less: Existing Budget Amounts	(20,290)	(386)	(386)	(386)	(386)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

It is assumed that the closing of the sales transaction will not occur until the Spring of 2004. The assessed value of the subject street is not known at this time and for the purposes of the FIS it is assumed that the purchase price and the assessed value will be consistant with each other. As such, proceeds of the sale in the 2004 program year includes municipal taxes based upon the 2003 Municipal Mill Rate. Recoveries of $386 in years 2005 thru 2007 represents municipal realty taxes the City will receive and assumes no increase in the assessed value of the property nor any change to the Municipal Mill Rate. Futthermore, the municipal realty tax estimates are based on land value only, and any future development of the property will certainly increase these recoveries.

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

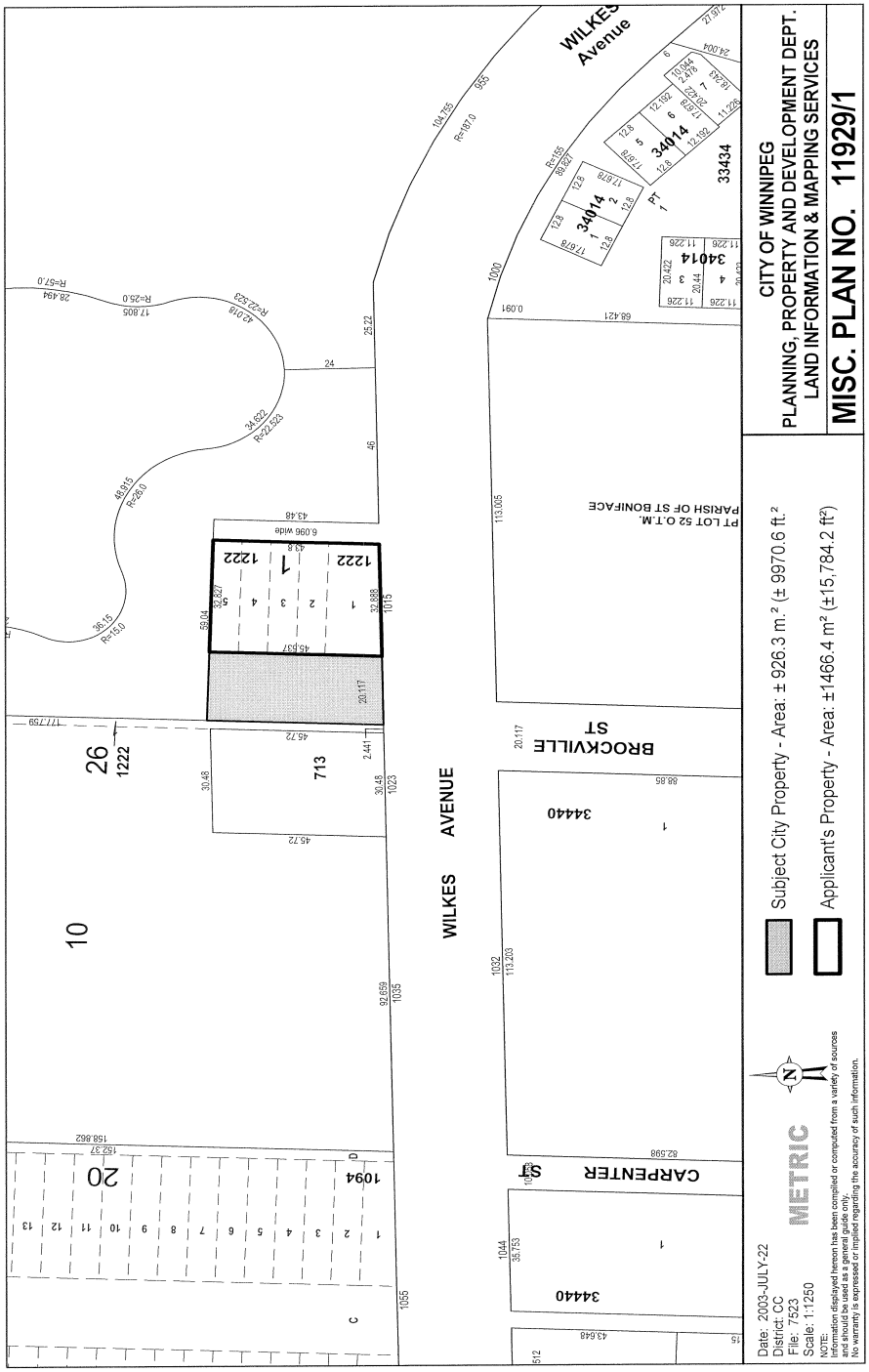
5158

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

No consultation was required in preparing this report.
This report submitted by:

Planning, Property and Development Department
Division: Real Estate
Prepared by: Barry Lucyk
PPD File #: 7523

Document name: o:\reports directive\real estate\sales\(bl)brockwilkes.doc


CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 11929/1
Subject City Property - Area: ± 926.3 m.² (± 9970.6 ft.²
Applicant's Property - Area: ±1466.4 m² (±15,784.2 ft²)
Date: 2003-JULY-22
District: CC
File: 7523
Scale: 1:1250
METRIC
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.
WILKES Avenue
WILKES AVENUE
BROCKVILLE ST
CARPENTER ST
PARISH OF ST BONIFACE
PT LOT 52 O.T.M.
33434
34014
34440
1222
713
1094
10
20
26

APPENDIX “1”

File No: **7523**
INDUSTRIAL/COMMERCIAL

OFFER TO PURCHASE

The Undersigned (hereinafter called "the Purchaser") hereby offers to purchase from The City of Winnipeg (the "City"), subject to Council enactment of the necessary By-law to effect the legal closing of the following lands: -

Shown shaded as "Subject City Property" on Misc. Plan No. 11929/1 attached hereto:
(hereinafter called the "Lands")

for the sum of $20,000.00 cash, and upon the following terms and conditions:

(1) Attached to this Offer is the Purchaser's certified cheque payable to "The City of Winnipeg" in the amount of $3,000.00, and represents an amount equal to fifteen (15%) of the purchase price which the Purchaser tenders by way of deposit, and which sum shall be applied to the purchase price if the sale is approved by the City's Standing Policy Committee on Property and Development and/or City Council (in the event that Council approval is required), herein after called the "Date of Approval". The Purchaser agrees to pay the balance of the purchase price, interest and adjustments on or before the date of closing.

(2) If the Purchaser fails to pay the balance of the purchase monies, interest and adjustments on or before the date of closing as in sub-clause (1) above provided, the City may, at its option, cancel the sale and retain the deposit as liquidated damages.

(1) The date of closing, possession and adjustments shall be one hundred and twenty (120) days following the Date of Approval or earlier as mutually agreed to.

(2) 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.

(3) 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.

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 or the date the balance of monies is paid to the City, whichever is the earlier.

(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.

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

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

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. Furthermore, the Purchaser acknowledges and understands that its proposed use and development of the Lands may require applications for re-zoning, variances or conditional uses, and amendments to Plan Winnipeg, which applications and resulting land dedication charges (if any) are to be at the sole cost and responsibility of the Purchaser.

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.

Upon approval of the sale by the City, 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.

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 no later than ninety (90) days from the Date of Approval.

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, but in any event, prior to closing, 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 ninety (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.

(1) The Purchaser acknowledges that the City is not providing any warranty as to the environmental condition of the Lands.

(2) The Purchaser agrees that it will rely solely upon its own investigations in determining the degree of contamination, if any, existing on and within the Lands and the extent of contamination, if any.

(3) The Purchaser shall indemnify and save harmless the City from and against all claims, costs and damages arising from or in any way connected with the existence of contaminants of any kind in or on the Lands.

(4) It is understood and agreed that the terms, conditions and covenants contained in this Clause 10 shall not merge but shall survive closing.

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;

(3) The Purchaser agrees that it is purchasing the Lands on an "as is", "where is" basis, and is purchasing the lands based entirely on its own examinations without any representation by or on behalf of the City or any agent of the City. The Purchaser acknowledges that it has relied entirely upon its own inspection and investigation with respect to quantity, quality and value of the Lands;

(4) Any information supplied to the Purchaser by the City or its agents or representatives is and was supplied without any representation or warranty, and that the responsibility for verification of any such information shall be the responsibility of the Purchaser; and

(5) The Lands are deemed to be taken by the Purchaser at the Purchaser's own risk with all faults and imperfections whatsoever. The Purchaser agrees with the City that the application of "Buyer Beware" shall apply to the offer in the strictest meaning.

(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. Specifically, the Purchaser acknowledges that the City of Winnipeg requires an easement as follows: the entire width of the Lands by 7.62 metres in depth from the front lot line, for the purpose of maintenance of an existing wastewater sewer and land drainage sewer. Subject to being in compliance with the applicable zoning and City by-laws, the Purchaser shall have the right to asphalt the surface over the easement area for parking and the City agrees that the easement agreement shall provide the same undertaking as outlined in paragraph 2 in the Easement Agreement attached hereto.

The Purchaser to enter into agreements satisfactory to the said utilities or The City of Winnipeg. The Purchaser acknowledges that the City may grant the easements before the Transfer of Land issues.

In consideration of the sale of the Lands by the City to the Purchaser, the Purchaser covenants and agrees as follows:

The Purchaser shall at the Purchaser's sole cost, effort and expense, do all things as are necessary, including but not limited to causing to be prepared a Plan of Survey to effect the legal closing of the Lands and Plans of Easement, suitable for registration at Winnipeg Land Titles Office, such documentation as may be required to ensure that the Lands to be conveyed by the City and the Purchaser's adjoining property legally described as: Lots 1 to 5, Block 1, Plan 1222 WLTO (contained in certificate of title No. 1908663) are consolidated so as to constitute a single and indivisible parcel. The Purchaser does hereby acknowledge that in complying with this obligation it may be required to arrange for the discharge and re-registration of existing encumbrances against the Purchaser's adjoining property.

This agreement shall run with the Lands and the Purchaser's adjoining property and shall bind the Purchaser, its successors and assigns and its successors in title.

To pay the applicable Land Titles Office registration fees and Land Transfer Tax in respect thereto.

No commission is payable by the City on the sale of the Lands.

Time shall be of the essence of this Offer.

The Purchaser will not file any caveat or other encumbrance against the Lands before the transfer of the Lands to the Purchaser.

The word "Purchaser" shall have a plural meaning in the event that more than one party is making this offer, and the masculine shall mean the feminine or neuter as the case may be. The Purchaser acknowledges and agrees that sale of the Lands by the City is subject to the approval of City Council or its delegated authority.

The Purchaser is hereby advised that soil conditions in Winnipeg are of the glacial till variety which are composed of Lacustrine Clays with Silt Intrusions. The Purchaser shall be responsible for any increased costs of development due to this random stratification.

The Purchaser is aware that the Lands are currently zoned as follows: the west one-half is "C2" Commercial designation and the east one-half is "M2" Industrial designation. The Purchaser is aware that it will responsible for any rezoning of the Lands and all related costs.

The Purchaser shall have until December 19, 2003 to determine whether the zoning of the Lands is suitable for the intended use of the Purchaser. If the Purchaser does not notify the City of Winnipeg, in writing, on or before December 19, 2003 that the zoning of the Lands are not suitable for its intended purpose, than this condition shall be deemed to be satisfied and be of no further effect.

The sale of the Lands to the Purchaser is subject to the Purchaser agreeing to provide the City of Winnipeg with a 7.62 metre easement on the Purchaser's adjacent land to the east, (which land is

contained in Certificate of Title # 1908663) for the purpose of maintaining a wastewater sewer and land drainage sewer line. Such easement is shown cross hatched on the attached Misc. Plan No. 12,074 and said easement agreement form is attached hereto as 'Easement Agreement'.

The Purchaser acknowledges and accepts that the purchase price does not include prepayment of two local improvement charge items: land drainage sewer and wastewater sewer; which local improvements will be added to the Purchaser's tax bill until each is paid in full, unless both are prepaid in full by the Purchaser.

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

4612591 Manitoba Ltd. 204 – 3657 Roblin Boulevard , Wpg. Man. R3R 0E2
ame (Please Print) Address
Purchaser's Registration No. (G.S.T.) _____
IN WITNESS WHEREOF the Purchaser has signed this document in
_____, _____, this _____ day of _____20__

_____ _____
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., 200_

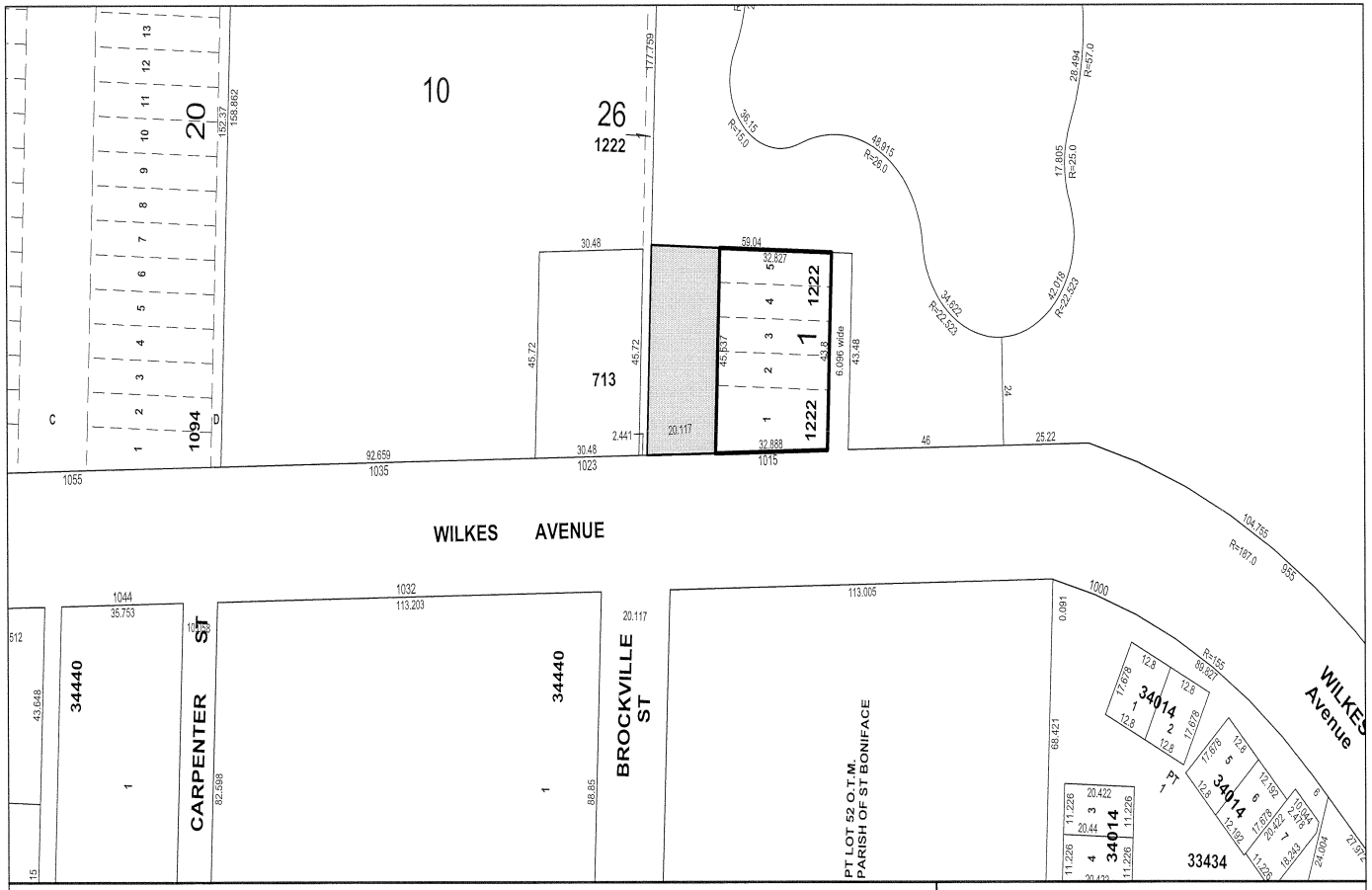
THE CITY OF WINNIPEG
Per: _____
DIRECTOR of Planning, Property and Development

Approved as to details: Approved as to form:

_____ _____
Planning, Property and Development for City Solicitor/Manager of
Legal Services

Approved as to details:

_____
Public Works Department



Date: 2003-JULY-22
District: CC
File: 7523
Scale: 1:1250

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.

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

MISC. PLAN NO. 11929/1

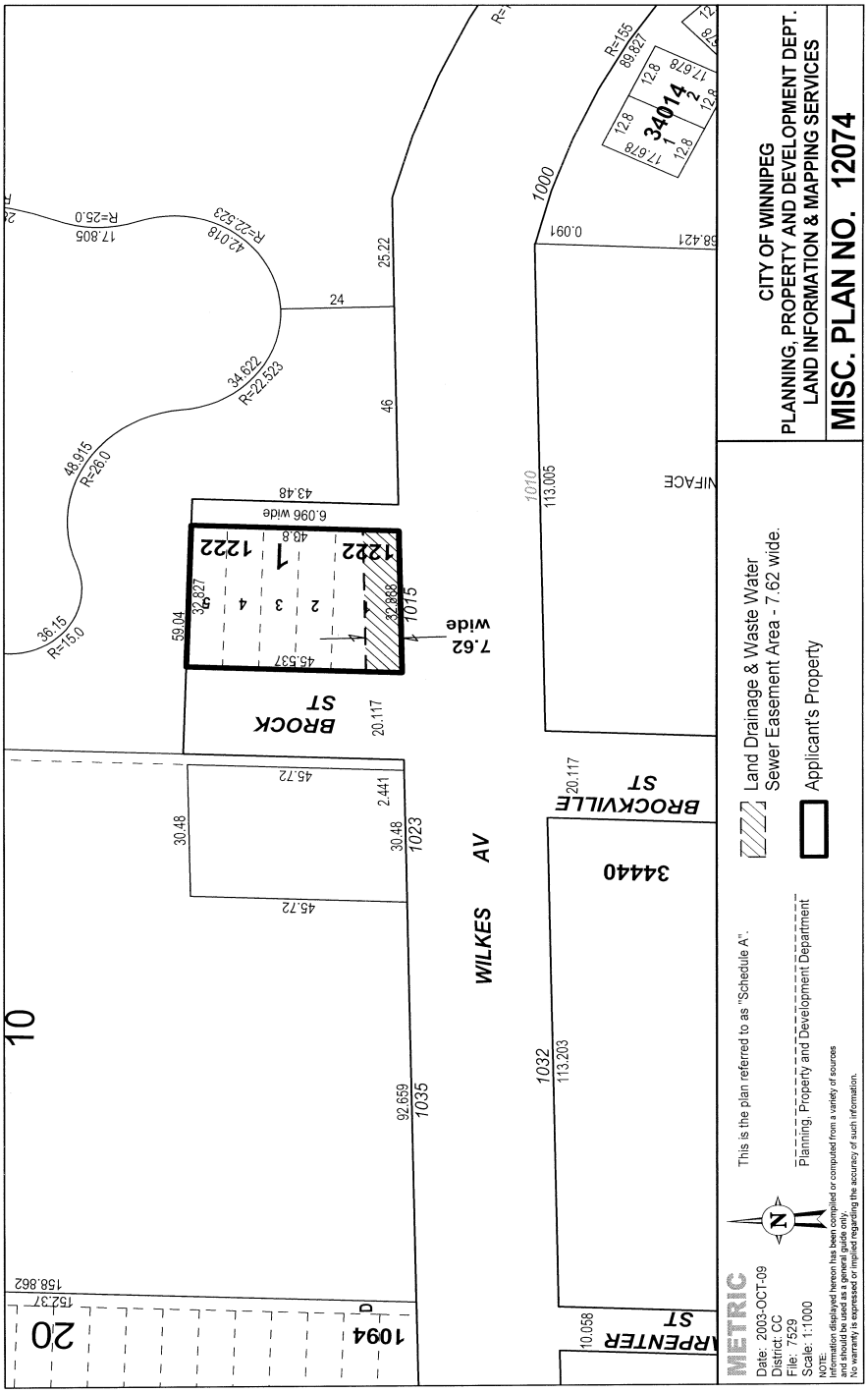

CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 12074
Land Drainage & Waste Water
Sewer Easement Area - 7.62 wide.
Applicant's Property
This is the plan referred to as "Schedule A".
Planning, Property and Development Department
METRIC
Date: 2003-OCT-09
District: CC
File: 7529
Scale: 1:1000
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.
WILKES AV
BROCK ST
BROCKVILLE ST
ARPENTER ST
7.62 wide
1222
34014
34440
1094
10
20

EXHIBIT "A"

Real Owner Application

To the City Assessor

Roll No. _____

(Name of Municipality)

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 Township	Plan or Range	Interest in Property

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: 20

(Signature of Applicant)

Office of the City Assessor

The City of Winnipeg

(Signature of Registered Owner)

(*Wastewater Sewer*
& Land Drainage Sewer) **File No. R.8/2003(48)**

EASEMENT AGREEMENT

THIS AGREEMENT made in duplicate this day of , A. D. 2003,
BETWEEN:
4612591 MANITOBA LTD.,
duly registered to carry on business in Manitoba,
(herein called the ***"Owner"***),

OF THE FIRST PART,

- and -

THE CITY OF WINNIPEG,
(herein called the ***"City"***),

OF THE SECOND PART.

IN CONSIDERATION of the sums of ONE DOLLAR ($1.00) paid by each party to the other (the receipt and sufficiency of which is hereby acknowledged) and the covenants and agreements hereinafter contained, the Owner and the City covenant and agree as follows:

1. The Owner hereby grants and conveys to the City in perpetuity the right and easement to enter upon and use that portion of the Owner's land (herein described as the ***"Easement Area"***) and the right to do all things necessary thereon to construct, maintain, inspect, repair, remove and/or replace wastewater sewer line(s) and land drainage sewer line(s) and appurtenances thereto in the Easement Area and for every such purpose grants and conveys to the City the right of access to the Easement Area over and across the Owner's land (herein described as the ***"Land"***) at all times by its servants and employees or other persons acting with its authorization.

2. The City agrees and undertakes to leave the Easement Area and the Land in good condition after any work done in connection with such construction, maintenance, inspection, removal and/or repair or replacement, and to indemnify the Owner against any suits, actions, claims or demands arising out of such work.

3. The City hereby covenants and agrees to be responsible for damage to the Easement Area and the Land and any buildings and/or structures thereon, including but not limited to the existing CST electrical box, and/or injury to the persons of the Owner and any other person being on the said Land and Easement with the consent, express or implied, of the Owner, arising out of the negligence of the City's servants or employees or other persons acting with the City's authorization including but not limited to independent contractors hired by the City in the construction, maintenance, inspection, repair, removal and/or replacement of the work.

4. (a) The Owner covenants and agrees that other than the existing CST electrical box, the Owner will not erect or permit the erection of any building or other structure, other than paving or fencing, in, over or upon the Easement Area or any part thereof without the prior written permission of the Director of the Water and Waste Department.

(b) Notwithstanding sub-paragraph 4(a) above, the Owner shall be permitted to:

(i) install a sign on two piles within the Easement Area provided that the Owner obtains the prior written approval of the City's Director of Water and Waste as to the pile locations and the sign location; and

(ii) maintain, operate, remove and/or replace the existing CST electrical box, provided that any replacement thereof and the location of any replacement thereof shall be subject to the prior written approval of the City's Director of Water and Waste.

(c) Under the City's Sewer By-law interference with any part of the City's sewer or land drainage system is prohibited and the Owner shall not do so in any manner, including the covering of any catch basin or manhole, alteration or attempted alteration of its level, removal of any catch basin top or any obstruction of water flow.

5. The Owner covenants and agrees with the City that the easement and rights hereby granted shall run with the land and shall enure to the benefit of the City, its successors and assigns and shall be binding upon the Owner and the Owner's successors in title of the land or any part thereof.

6. The Land affected by this agreement is described as:

LOT 1 IN BLOCK 1 WHICH LOT IS SHOWN ON A PLAN OF SUBDIVISION OF PART OF RIVER LOTS 51 AND 52 OF THE PARISH OF SAINT BONIFACE REGISTERED IN THE WINNIPEG LAND TITLES OFFICE AS PLAN NO. 1222

and includes the Easement Area illustrated on the drawing attached as Schedule "A" to this agreement described as:

ALL THAT PORTION OF SAID LOT 1 SHOWN HATCHED AND IDENTIFIED AS *"LAND DRAINAGE AND WASTE WATER SEWER EASEMENT AREA 7.62 WIDE"* ON A DRAWING ON FILE IN THE LAND INFORMATION SERVICES BRANCH OF THE PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT AS MISC. PLAN NO. 12074.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and year first above written.

4612591 MANITOBA LTD.

Per: _____

Name: *(affix*
Title: *corporate seal)*

_____
Witness:
Name: _____ Per: _____
(please print) Name:
Address: _____ Title:
_____

THE CITY OF WINNIPEG

Per: _____
for Director of Planning, Property and Development

Approved:

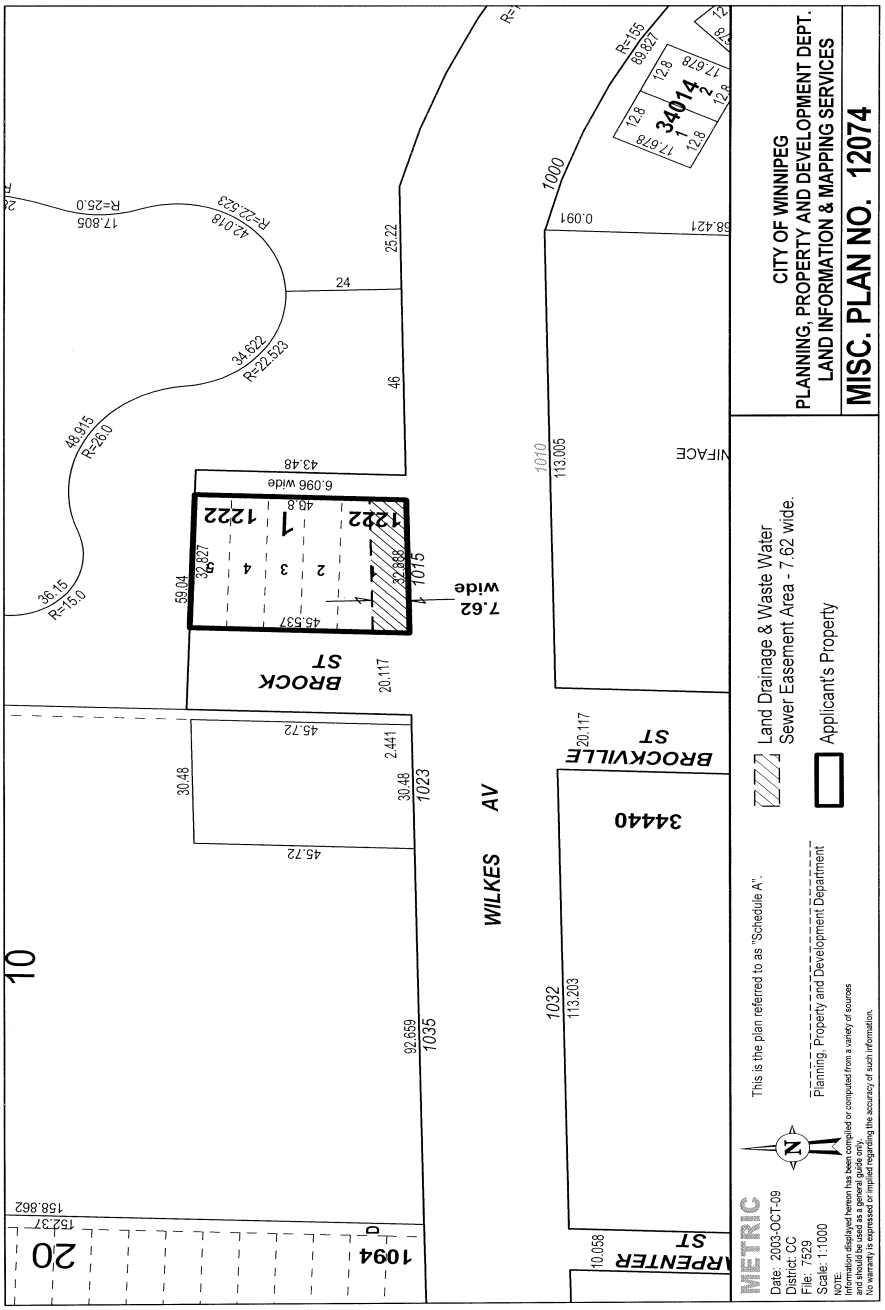
_____
for Director of Water and Waste

Certified as to Legal Description

_____
Planning, Property and Development Department

Certified as to Form:

_____
for City Solicitor/Manager of Legal Services


CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 12074
Land Drainage & Waste Water
Sewer Easement Area - 7.62 wide.
Applicant's Property
This is the plan referred to as "Schedule A".
Planning, Property and Development Department
METRIC
Date: 2003-OCT-09
District: CC
File: 7529
Scale: 1:1000
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.
WILKES AV
BROCK ST
BROCKVILLE ST
ARPENTER ST
7.62 wide
1222
1094
34440
34014
1000
1010
1015
1023
1035
1032
10
20