Agenda – Council – June 24, 2021

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – June 8, 2021

Item No. 6 Landlord's Consent and Amending Agreement – 180 King Street (Point Douglas Ward)

STANDING COMMITTEE RECOMMENDATION:

On June 16, 2021, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That the Landlord's Consent and Amending Agreement and Mortgage Amending Agreement for the City's leasehold estate located at 180 King Street (identified as Province of Manitoba Property on Misc. Plan 10134/1, attached as Schedule A), be approved.

2. That the City enter into, execute and deliver a Landlord's Consent and Amending Agreement and Mortgage Amending Agreement with the Province of Manitoba, Dynasty Building Ltd. and Steinbach Credit Union and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the Landlord's Consent and Amending Agreement, Mortgage Amending Agreement and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

4. That authority be delegated to the Director of Planning, Property and Development to review, approve, consent or reject any future requests regarding amendments to any Mortgage-related matters and to have authority to enter into any documents related thereto all as relates to 180 King Street.

5. 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, Heritage and Downtown Development – June 8, 2021

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 16, 2021, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On June 8, 2021, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: Landlord's Consent and Amending Agreement – 180 King Street

Critical Path: Standing Policy Committee on Property and Development, Heritage and Downtown Development – Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Pittet	J. Kiernan	C. Kloepfer	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

The City of Winnipeg created an airspace parcel at 180 King Street in order to facilitate the construction of a six-storey office building by a third party. The airspace parcel is currently leased to Dynasty Building Ltd, who in turn, leases conventional office/retail space to a variety of tenants.

Dynasty Building Ltd. and Steinbach Credit Union Limited have requested the City's and Province's consent (as landlords) to increase the amount of their mortgage principal for the airspace parcel from $1,800,000 to $1,880,000.

The Public Service recommends the City's consent to the amendment to the Mortgage as it relates to the principal amount increase from $1,800,000 to $1,880,000, all of which will be accomplished through a Landlord's Consent and Amending Agreement and Mortgage Amending Agreement. Once the new amended Mortgage is registered, the Standard Charge Mortgage Terms will also be updated. Such change to the Mortgage will not result in any additional liability to the City other than the increased amount to the mortgage as long as the tenant remains in good standing.

RECOMMENDATIONS

1. That the Landlord's Consent and Amending Agreement and Mortgage Amending Agreement for the City's leasehold estate located at 180 King Street (identified as Province of Manitoba Property on Misc. Plan 10134/1, attached as Schedule A), be approved.

2. That the City enter into, execute and deliver a Landlord's Consent and Amending Agreement and Mortgage Amending Agreement with the Province of Manitoba, Dynasty Building Ltd. and Steinbach Credit Union and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the Landlord's Consent and Amending Agreement, Mortgage Amending Agreement and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

4. That authority be delegated to the Director of Planning, Property and Development to review, approve, consent or reject any future requests regarding amendments to any Mortgage-related matters and to have authority to enter into any documents related thereto all as relates to 180 King Street.

5. 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

The authority to consent to mortgage or mortgage amending agreements has not been delegated by Council. Council approval is required to enter into a Landlord's Consent and Amending Agreement and amend the Mortgage on the Property.

IMPLICATIONS OF THE RECOMMENDATIONS

The Landlord's Consent and Amending Agreement and Mortgage Amending Agreement will increase the mortgage amount held by Dynasty Building Ltd. from Steinbach Credit Union Limited from $1,800,000 to $1,880,000 and update the Standard Charge Mortgage Terms.

The amendment requested will not result in any further liability to the City other than the increased amount to the mortgage as long as the tenant remains in good standing.

HISTORY/DISCUSSION

The Province of Manitoba owns the freehold estate located at 180 King Street (the "Provincial Property"), the City of Winnipeg owns the freehold estate located at 201 Princess Street. The Provincial and City properties are identified on Misc. Plan 10134/1 (attached as Schedule A).

In 1984, the City entered into a 99-year lease with the Province of Manitoba for the Provincial Property in order to create a coordinated development on both properties. Upon leasing the Provincial Property, the City became the registered owner of a leasehold estate.

The City subsequently entered into an air space sublease with the Chinese Cultural and Community Centre Corporation to develop a six-storey office building on the Provincial Property. The air space sublease was eventually assigned to Dynasty Building Ltd.

In 2009, the City, Province, Dynasty Building Ltd. and Steinbach Credit Union Limited entered into a Landlord's Consent and Acknowledgement Agreement (the "LCAA"). The LCAA enabled Dynasty Building Ltd. to secure a mortgage in the amount of $1,800,000 from Steinbach Credit Union Limited. Under the terms of the LCAA, the City consented to the granting and registration of the Mortgage.

In 2020, Dynasty Building Ltd. and Steinbach Credit Union Limited requested that the City consent to increasing the principal amount of the Mortgage on the Provincial Property from $1,800,000 to $1,880,000. Dynasty Building Ltd. and Steinbach Credit Union Limited also sought to amend the definition of the mortgage, such that no further consents would be required from the City should the mortgage be amended, restated or supplemented.

The Public Service recommends the City approve the increased principal amount, but not consent to the amended mortgage definition. Dynasty Building Ltd. remains a tenant in good standing and their air space sublease does not expire until 2083. An appraisal of the property was not completed but the current assessed value of Dynasty Building Ltd. air space parcel is $2,389,000.

While there is no immediate concern with the mortgage term or size of the mortgage, the tenant's obligation to obtain the City's consent for inter-alia mortgage amendments should remain intact. Outstanding mortgage balances closer to the end of term for the air space sublease could result in a liability borne by the City.

The mortgage principal increase will be facilitated through a Landlord's Consent and Amending Agreement and Mortgage Amending Agreement between the Province, the City, Dynasty Building Ltd. and Steinbach Credit Union Limited.

The Province has provided their consent to the Landlord's Consent and Amending Agreement and corresponding mortgage documents.

FINANCIAL IMPACT

Financial Impact Statement

Date: May 6, 2021

Project Name:

Landlord's Consent and Amending Agreement – 180 King Street

COMMENTS:

There are no direct financial implications associated with the recommendations contained in this report. The City's financial exposure will increase by $80,000, which would materialize in the event that the tenant becomes in default of the provisions of its mortgage with its financial institution.

Mike McGinn May 6, 2021

Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:

- Legal Services, as to legal issues

OURWINNIPEG POLICY ALIGNMENT

N/A

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

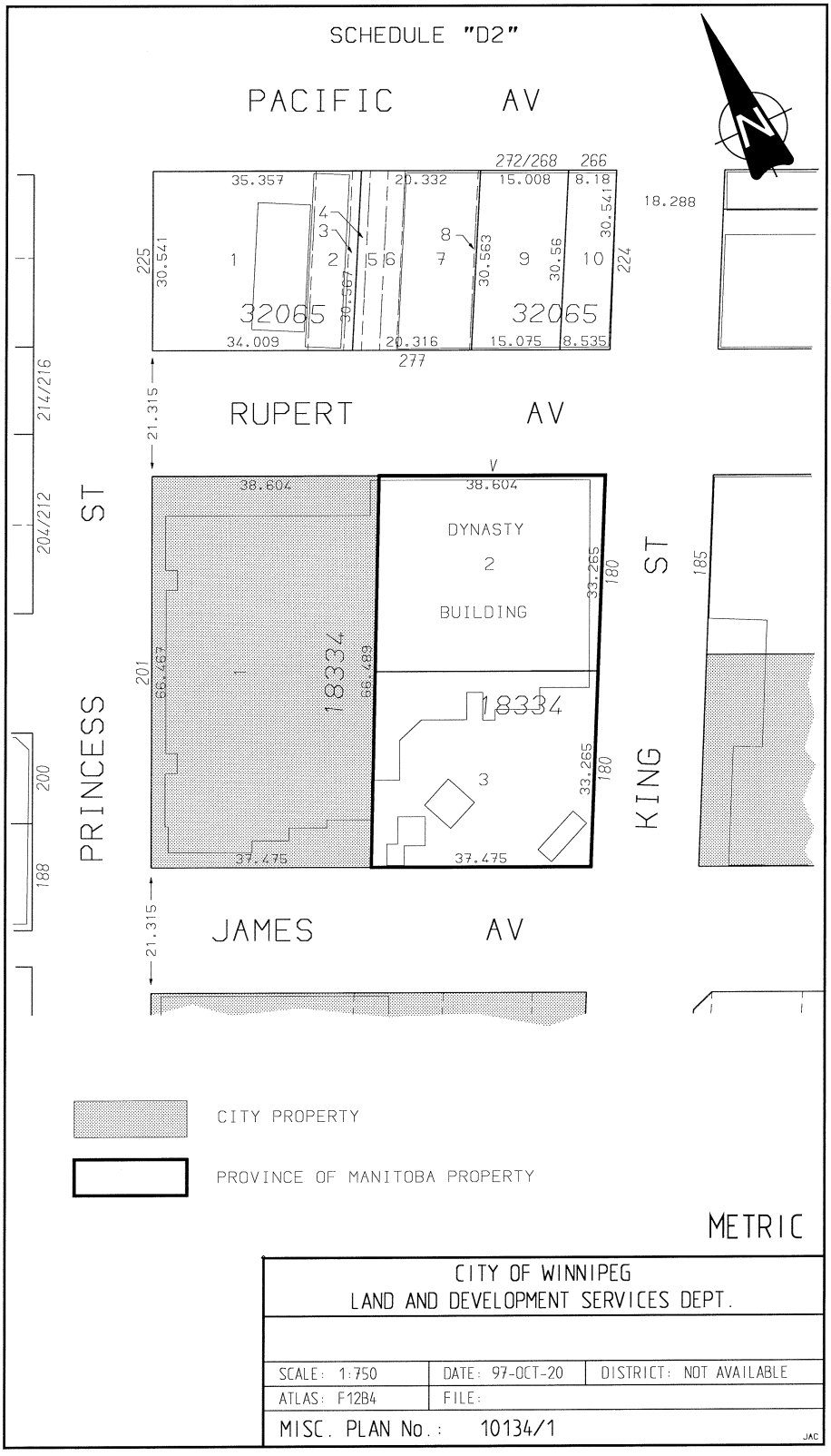
SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: Gord Chappell, Real Estate Administrator
Date: May 6, 2021
File No: 32/336/1-A

Attachments:

Schedule A – Misc. Plan 10134/1

Schedule A


SCHEDULE "D2"
PACIFIC AV
RUPERT AV
JAMES AV
PRINCESS ST
KING ST
DYNASTY
2
BUILDING
32065
32065
18334
18334
CITY PROPERTY
PROVINCE OF MANITOBA PROPERTY
METRIC
CITY OF WINNIPEG
LAND AND DEVELOPMENT SERVICES DEPT.
SCALE: 1:750
DATE: 97-OCT-20
DISTRICT: NOT AVAILABLE
ATLAS: F12B4
FILE:
MISC. PLAN No.: 10134/1
JAC