Minute No. 389
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – April 5, 2022

Item No. 4 Application to Cancel Building Restriction Caveat in Favour of 68888 Manitoba Ltd. – 51 Dumbarton Boulevard (Charleswood-Tuxedo-Westwood Ward)

COUNCIL DECISION:

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

1. That Building Restriction Caveat No. 1528531/1 registered against the property located at 51 Dumbarton Boulevard as shown bordered and hatched and identified as "Subject Property – 51 Dumbarton Blvd" on Misc. Plan 15796 (Appendix B attached), be cancelled.

2. 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 – April 5, 2022

DECISION MAKING HISTORY:

Moved by Councillor Gilroy,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 20, 2022, 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 April 5, 2022, 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: Application to Cancel Building Restriction Caveat in Favour of 68888 Manitoba Ltd. – 51 Dumbarton Boulevard

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

AUTHORIZATION

Author	Department Head	CFO	CAO
G. Chappell	J. Kiernan	N/A	M. Jack

EXECUTIVE SUMMARY

The owner of the property located at 51 Dumbarton Boulevard, as a condition of the sale of their home, require a resolution by Council recommending the cancellation of Building Restriction Caveat No. 1528531/1 registered against their property. Council approval is required to allow for an application to proceed before the Municipal Board of Manitoba to cancel the caveat in part (Appendix A attached).

RECOMMENDATIONS

1. That Building Restriction Caveat No. 1528531/1 registered against the property located at 51 Dumbarton Boulevard as shown bordered and hatched and identified as “Subject Property – 51 Dumbarton Blvd” on Misc. Plan 15796 (Appendix B attached), be cancelled.

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

REASON FOR THE REPORT

Subsection 104(3) of The Municipal Board Act provides that where the lands affected by a Building Restriction Caveat are located in Winnipeg, no order of the Municipal Board shall be made to vary, cancel or substitute in whole or in part the Building Restriction Caveat unless Council has, by resolution, recommended the variation, cancellation or substitution. A certified copy of Council’s resolution is filed with the Board.

IMPLICATIONS OF THE RECOMMENDATIONS

If the Recommendations are approved, the property owner will be able to complete the sale of their home, subject to a successful application before the Municipal Board of Manitoba.

HISTORY/DISCUSSION

Clients of Mr. Olfert, of Thompson Dorfman Sweatman LLP, sold their home and the realtor representing the vendor accepted a sale condition which requires the vendor to remove said Building Restriction Caveat 1528531/1 (the "BRC").

The BRC registered against the vendor's property by 68888 Manitoba Ltd., which has since been dissolved, provides requirements as to the minimum square footage of a dwelling, landscaping and other improvement standards and most notably, required exterior siding materials. The BRC states that no stucco or plaster finish will be permitted without written permission. The front elevation of the home is constructed with stucco and masonry brick. The applicant has stated that the stucco finish is original to the home and there have been no alterations to the exterior since the home was built. The City of Winnipeg was not involved in the BRC filed in respect thereof. The purchasers are still bound by the dimensional standards and landscaping requirements of Zoning By-law 200/2006 under the "R1-L" designation.

Mr. Olfert, on behalf of his clients, is seeking a Municipal Board Order to have the BRC discharged over his clients' land (Lot 2 Block 3 Plan 24261 WLTO).

Mr. Olfert will be making application to the Municipal Board in accordance with The Municipal Board Act to cancel the BRC in part. In accordance with The Municipal Board Act, a resolution of Council recommending the cancellation in part of the BRC must be filed with the Municipal Board in support of the application.

The Municipal Board will schedule a hearing upon receipt of a certified copy of a resolution from Council recommending the cancellation requested.

FINANCIAL IMPACT

Financial Impact Statement

Date: February 25, 2022

Project Name:

APPLICATION TO CANCEL BUILDING RESTRICTION CAVEAT IN FAVOUR OF 68888 MANITOBA LTD. – 51 DUMBARTON BOULEVARD

COMMENTS:

There are no financial implications associated with the recommendations in this report.

Mike McGinn Feb. 25, 2022
Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:

Legal Services Department (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

N/A

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

N/A

SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: Jeff Smith, M.L.S., Acting Senior Geomatics Officer
Date: March 2, 2022
File No:

Attachments:

APPENDIX A - The application/request cover letter from the applicant.

APPENDIX B - Misc. Plan 15796

Appendix A

Application/request cover letter from the applicant

THOMPSON DORFMAN SWEATMAN

Writer's Name Joel Olfert
Writer's Direct Telephone (204) 934-2372
Internet E-mail Address jdo@tdslaw.com
Writer's Direct Fax (204) 934-0554

October 13, 2021

EMAIL (jsmith2@winnipeg.ca)

City of Winnipeg
Planning, Property & Development Department
Geomatics & Land Information Services Branch
2nd Floor, 65 Garry St
Winnipeg, MB R3C 4K4

Attention: Jeff Smith
Geomatics Officer

Dear Sir:

Re: Application with Municipal Board to Discharge Building Restriction Caveat
Our Matter No. 0184767

Our client is in the process of completing an application with the Municipal Board to discharge building restriction caveat 152831-1. The Municipal Board requires applicants to obtain a certified copy of a resolution of the Council of the City of Winnipeg recommending the Cancellation request. Therefore, we are seeking a certified copy of a resolution of the Council of the City of Winnipeg recommending the Cancellation of Caveat 152831-1.

The caveat is registered against the civic address 51 Dumbarton Blvd Winnipeg, Manitoba R3B 1B5. The legal description of the property is LOT 2 BLOCK 3 PLAN 24261 WLTO IN RL 12 TO 17 PARISH OF ST CHARLES.

The discharge of the caveat is being pursued as the building on the property does not comply with the requirements of the caveat. Note that the Caveator is a dissolved corporation.

Please let us know if you have any questions or require additional information.

Yours truly,

THOMPSON DORFMAN SWEATMAN LLP

Per:
Joel Olfert

JDO

cc: Robert Robinson and Jennifer Hanson

Appendix B

Misc. Plan 15796

