Report - Standing Policy Committee on Property and Development – July 9, 2004

Item No. 11 Sale - 3951 Waverley Street
File FI-2.4(35)

STANDING COMMITTEE RECOMMENDATION:

On July 9, 2004, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and recommends to Council:

1. That the sale of the Subject Property at 3951 Waverley Street to Vincent Zettler, as shown on Misc. Plan No. Riel 8626/2, be approved for the price of $200,500.00, in accordance with the terms and conditions of the Offer to Purchase dated June 1, 2004.

2. That the net proceeds be credited to the General Revenue Fund.

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

Agenda - Council – July 21, 2004

Report - Standing Policy Committee on Property and Development – July 9, 2004

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 14, 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 July 9, 2004, the Standing Policy Committee on Property and Development:

- Concurred in administrative Recommendation No. 1

- Did not concur in administrative Recommendation No. 2 and recommended that the Council Decision of June 23, 1999, be amended in order that the net proceeds be credited to the General Revenue Fund,

and forwarded to the Executive Policy Committee and Council.

COUNCIL:

On June 23, 1999, Council declared the 'former McMullan property" as outlined on Misc. Plan No. 8626/4 surplus to the City's requirements and listed for sale with the net proceeds to be credited to the Solid Waste Disposal-South Area Account.

Re: Proposed Sale of 3951 Waverley Street
Riel Community
St. Norbert Ward

For submission to: Standing Policy Committee on Property and Development

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

Report date: June 28, 2004

Recommendation(s):

1. That the sale of the Subject Property at 3951 Waverley Street as shown on Misc. Plan No. Riel 8626/2 to Vincent Zettler be approved for the price of $200,500.00, in accordance with the terms and conditions of the attached Offer to Purchase, dated June 1, 2004.

2. That the net proceeds be credited to the Solid Waste Disposal-South Area Account in accordance with Council's instructions.

REPORT SUMMARY

Key Issues:

On January 26, 1994, Council concurred in the recommendation of the Committee on Finance and Administration (dated January 6, 1994), to purchase the 215.67 acres (87.28 ha) including the single family dwelling, outbuildings and other improvements located at 3951 Waverley Street for the price of $204,250.00. The property shown as "Subject Property" on Misc. Plan No. 8626/2 was acquired by the City for a potential further expansion of the Brady Landfill.

The Solid Waste Division of the Water and Waste Department indicated that it had no objection to the sale of the Subject Property and that the Subject Property had been purchased with capital funds, to which the Water and Waste Department still contributes annual debt payments. The Department requested that any sale be subject to the net proceeds being credited to its Solid Waste-South Area Account.

The Water and Waste Department requested that any purchaser of the Subject Property be required, as a condition of sale, to acknowledge that they are aware that the land immediately to the north is intended for use as a sanitary landfill site; and to undertake to advise any subsequent purchaser of this fact. As well, the Water and Waste Department recommended that a caveat to this effect be placed on title prior to sale. The Legal Services Division is of the opinion that the City would not be in a position to file the caveat as recommended by the Water and Waste Department against the land since the City would have no interest in the land.

On June 23, 1999, Council adopted the June 3, 1999, recommendation of the Standing Policy Committee on Property and Development as follows:

That the "Subject Property", as outlined on Misc. Plan No. 8626/2, be declared surplus to the City's requirements, and listed for sale with the net proceeds to be credited to the Solid Waste Disposal-South Area Account.

That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing, including the execution of any documents related thereto.

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**
- [ ] **Yes**

Comment(s):

Environmental implications:

- [X] **No**
- [ ] **Yes**

Comment(s):

The Real Estate Division has not carried out an Environmental Site Assessment of the subject property. Should the Standing Policy Committee on Property and Development approve the sale of the Subject Property, the Purchaser will have the ability to conduct this investigation pursuant to the proposed terms of sale. The City's standard terms and conditions of sale include provisions to protect the City's interests in the event that environmental contamination is discovered.

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 received an Offer to Purchase the Subject Property, which requires the approval of the Standing Policy Committee on Property and Development.

HISTORY:

On January 26, 1994, Council concurred in the recommendation of the Committee on Finance and Administration dated January 6, 1994, to purchase the 215.67 acres (87.28 ha) including the single family dwelling, outbuildings and other improvements located at 3951 Waverley Street for the price of $204,250.00. The City acquired the Subject Property for a potential further expansion of the Brady Landfill site.

Kevin McMullan, the son of the former owner, currently leases the Subject Property from the City. He initially submitted an offer to acquire the entire Subject Property at a price of $155,000.00. A formal appraisal was performed on the Subject Property and a current market value of $215,000.00 was estimated. Mr. McMullan then indicated that $215,000.00 was more than he was prepared to pay. He subsequently provided a letter to the City indicating that he would like to acquire only five acres of the Subject Property, which included two metal sheds, six grain bins and the house, for a total price of $25,000.00.

The Planning, Property and Development Department advised Mr. McMullan that selling a portion of the frontage would significantly reduce the marketability and value of the total holding and that the entire Subject Property (215.67 acres) should be sold as a single holding.

On June 23, 1999, Council adopted the June 3, 1999, recommendation of the Standing Policy Committee on Property and Development as follows:

That the "Subject Property", as outlined on Misc. Plan No. 8626/2, be declared surplus to the City's requirements, and listed for sale with the net proceeds to be credited to the Solid Waste Disposal-South Area Account.

That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing, including the execution of any documents related thereto.

The Planning, Property and Development Department is in receipt of a current offer from Mr. Vincent Zettler to purchase the Subject Property. Details are as follows:

Location: 3951 Waverley Street, west side of Waverley Street, south of the Brady Road Landfill
Site Size: 215.67 acres
as per Misc. Plan No. Riel 8626/2
Roll Number: 3011430100
Certificate of Title: 1383216
Assessed Value: $303,700
Zoning: "A" Agricultural District
Value Range: $195,000 to $215,000
Asking Price: $215,000
Price Offered: $200,500
Proposed Purchaser: Vincent Zettler

Deposit: $10,000.00
Improvements: One single family dwelling approximately 1,100 square feet (poor condition)
One (1) 40 ft. x 60 ft. Quonset metal building
One (1) 40 ft. x 60 ft. wood frame/aluminum utility storage building
Six (6) Westeel-Rosco granaries

The Offer to Purchase is in accord with the City's standard terms and conditions with a closing, possession and adjustment date on or before 150 days from the date of approval of the sale. The Subject Property is currently in an annual crop lease for the 2004 farm year to Kevin McMullin. The Purchaser has agreed to assume this lease.

The proposed Purchaser is aware that the land to the north of the subject property is intended for use as a sanitary landfill site [see Clause 11 (6) of the attached Offer to Purchase]. The Legal Services Division are of the opinion that the City would not be in a position to file the caveat as recommended by the Water and Waste Department against the land since the City would have no interest in the land.

DISCUSSION:

Vincent Zettler, the proposed purchaser, has declared that he is a City employee with the Public Works Department. Mr. Zettler intends to purchase the Subject Property for his father, a farmer in Portage la Prairie, who is in the process of relocating to Winnipeg.

It is recommended that the Offer to Purchase be approved for the following reasons:
The Subject Property has been on the market for an extended period of time.
The price offered is within the range of value established for the Subject Property by an internal appraisal.

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

No consultation was required in the preparation of this report.
This report submitted by:

Planning, Property and Development Department
Division: Real Estate
Prepared by: Gerry Anderson
PPD File #: 4559/1(h)

Document name: o:\reports directive\real estate\sales\(ga)3951 waverley.doc

Financial Impact Statement

Date: June 16, 2004

Project Name:

Proposed sale of 3951 Waverley Street

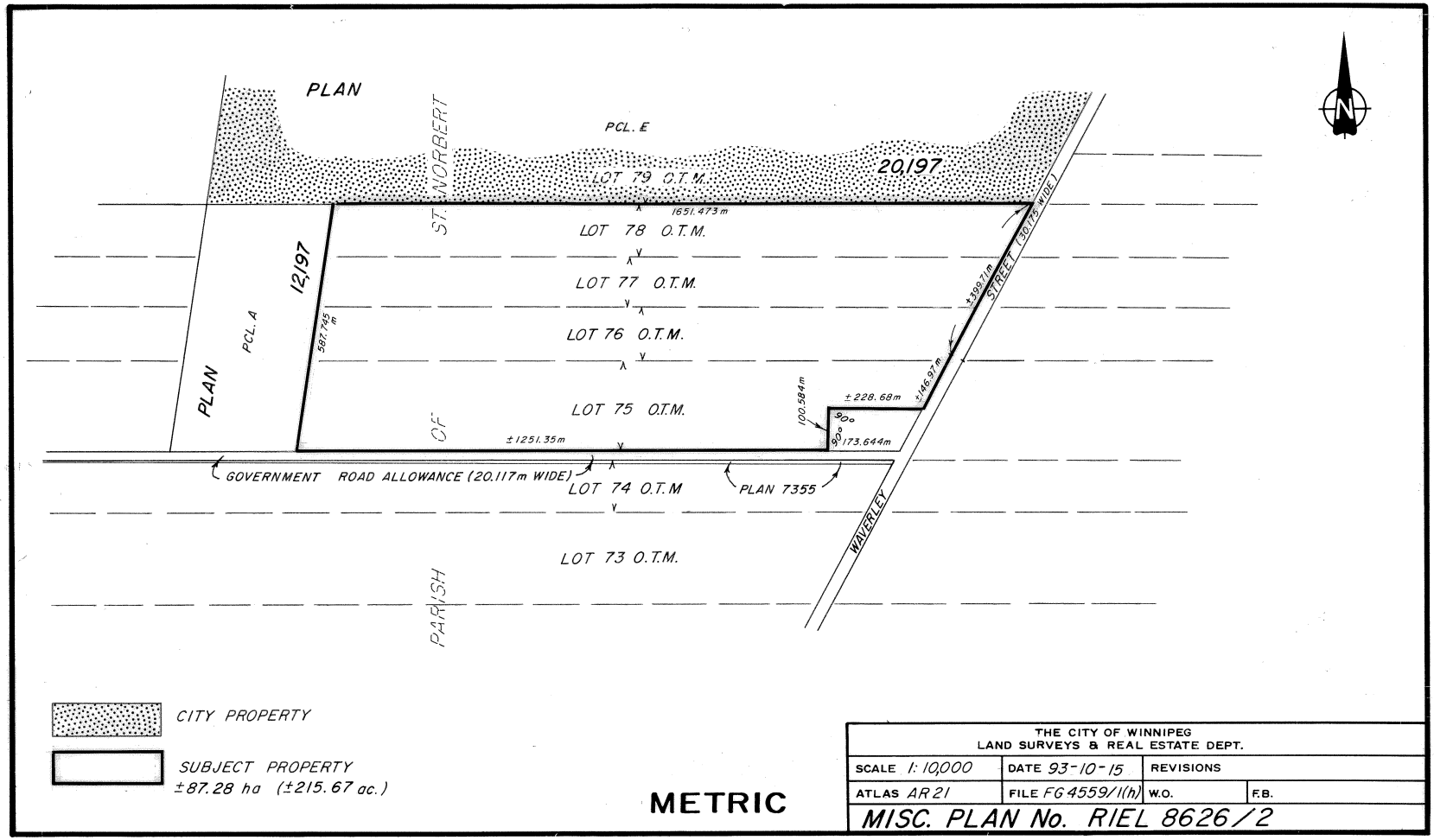
First Year of Program 2004

	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	200,887	1,548	1,548	1,548	1,548
Net Cost/(Benefit)	$ (200,887)	$ (1,548)	$ (1,548)	$ (1,548)	$ (1,548)
Less: Existing Budget Amounts	(200,500)	-	-	-	-
Net Budget Adjustment Required	$ (387)	$ (1,548)	$ (1,548)	$ (1,548)	$ (1,548)

Additional Comments:

The incremental recovery in 2004 represents the purchase price of the property plus a prorated portion of municipal property taxes. The purchase proceeds of $200,500 will be credited to the Solid Waste-South Area account so there is no impact on the budget. The $387 in 2004 and $1,548 thereafter represents the municipal portion of property taxes resulting from the subject property being added to the real property roll. In determining property tax revenue, it was assumed that the subject property will be added to the assessment roll effective October 1, 2004, that the assessed value will be $200,500, and that the portioning rate and municipal mill rate will remain constant at 26% and 0.029686 respectively. This revenue will be incremental to that budgeted by the Corporate Finance Department.

"Original signed by"
Mike McGinn, CA
Manager of Finance


PLAN
PCL. E
20,197
LOT 79 O.T.M.
ST. NORBERT
1651.473m
LOT 78 O.T.M.
LOT 77 O.T.M.
LOT 76 O.T.M.
LOT 75 O.T.M.
12,197
PCL. A
PLAN
OF
587.745m
±1251.35m
100.584m
±228.68m
±146.91m
±399.71m
STREET (30.175 WIDE)
90°
90°
173.644m
GOVERNMENT ROAD ALLOWANCE (20.117m WIDE)
LOT 74 O.T.M
PLAN 7355
LOT 73 O.T.M.
PARISH
WAVERLEY
N
CITY PROPERTY
SUBJECT PROPERTY
±87.28 ha (±215.67 ac.)
METRIC
THE CITY OF WINNIPEG
LAND SURVEYS & REAL ESTATE DEPT.
SCALE 1: 10,000
DATE 93-10-15
REVISIONS
ATLAS AR21
FILE FG4559/1(h)
W.O.
F.B.
MISC. PLAN No. RIEL 8626/2

File No: 4559/1 (H)

INDUSTRIAL/COMMERCIAL

OFFER TO PURCHASE

The Undersigned (hereinafter called "the Purchaser") hereby offers to purchase from The City of Winnipeg (the "City") the following lands: -

3951 Waverley Street shown as Subject Property on Misc. Plan No. 8626/2 as follows:

Approximately 215.67 Acres of Land

One single Family dwelling approximately 1,100 square feet (poor condition)

One (1) 40 ft. X 60 ft. Quonset metal building.

One (1) 40 ft.X 60 ft. wood frame / aluminum utility storage building.

Six (6) Westeel-Rosco Granaries.

(hereinafter called the "lands")

for the sum of $200,500.00 cash, and upon the following terms and conditions:

1. (1) Attached to this Offer is the Purchaser's certified cheque payable to "The City of Winnipeg" in the amount of $10,000.00, 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). 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.

2. (1) The date of Closing, Possession and adjustments shall be on or before 150 days from the date of approval of the sale.

(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.

3. 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.

(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.

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

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

6. 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 it's proposed use and development of the lands may require applications for rezoning, variances or conditional uses and/or 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.

7. 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.

8. Upon closing of the sale, 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.

9. The Purchaser agrees that in the event the Purchaser, at its sole cost, conducts or causes to be conducted an Environmental Site Assessment, it shall

(1) ensure that all work done in connection with such Environmental Site Assessment 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

(5) provide copies of any such Environmental Site Assessment 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, 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, 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 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.

10 (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.

(2) The Purchaser to enter into agreements satisfactory to the said utilities or the City of Winnipeg.

(3) The Purchaser acknowledges that the City may grant the easements before the Transfer of Land issues.

11. 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.

(6) the Purchaser is aware that the lands immediately to the north of the subject property are intended for use as a sanitary landfill site and the Purchaser undertakes to advise any subsequent Purchaser of the subject property of this .

12. The Purchaser acknowledges that the land and buildings except the house are on an Annual Crop Lease from May 1st, to October 31st each year. The annual rent is for the lease of the land plus there is a monthly rent for the use of the outbuildings excluding the house. The Purchaser agrees to assume the said Lease Agreement after the date of closing.

13. Time shall be of the essence of this Offer.

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

15. 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.

16. 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.

17. 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.

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

Vincent Zettler Box 1124 Portage LaPrairie, Manitoba R1N 3C5
Name (Please Print) Address

Contact: Vincent Zettler office 986-5869 Res. 261-9830

Purchaser's Registration No. (G.S.T.)_____

IN WITNESS WHEREOF the Purchaser has signed this document in

Winnipeg, Manitoba, this 1st day of June 2004

Witness Authorized Signature

Vincent Zettler
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., 2004

THE CITY OF WINNIPEG

Per:_____

DIRECTOR

Planning,Property and Development Department

Approved:

_____

Planning Property and Development Department

Certified as to form:

_____

for City Solicitor/Manager of Legal Services

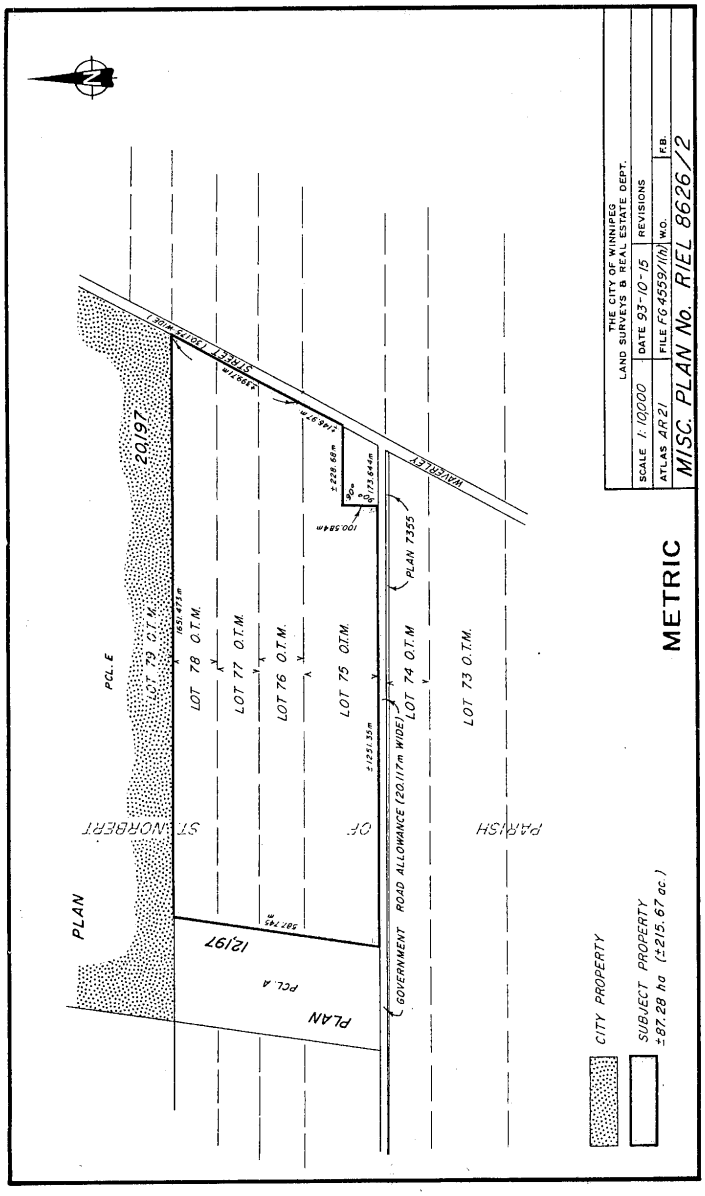

THE CITY OF WINNIPEG
LAND SURVEYS & REAL ESTATE DEPT.
SCALE 1:10000
DATE 93-10-15
REVISIONS
ATLAS AR21
FILE FG4559/1/1
W.O.
F.B.
MISC. PLAN No. RIEL 8626/2
METRIC
CITY PROPERTY
SUBJECT PROPERTY
±87.28 ha (±215.67 ac)
GOVERNMENT ROAD ALLOWANCE (20.117m WIDE)
PLAN 7355
LOT 79 O.T.M.
LOT 78 O.T.M.
LOT 77 O.T.M.
LOT 76 O.T.M.
LOT 75 O.T.M.
LOT 74 O.T.M
LOT 73 O.T.M.
PCL. E
PCL. A
PLAN 12197
PLAN 20197
ST. NORBERT
PARISH OF
WAVERLEY
STREET

EXHIBIT "A"

Real Owner Application

To the City Assessor

(Name of Municipality) Roll No. _____

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	Range	Interest in Property

DRAFT

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: _____ 200 __ _____
(Signature of Applicant)

Office of the City Assessor
The City of Winnipeg _____
(Signature of Registered Owner)