

May 27, 2026

SUBMITTED BY EMAIL AND COURIER

H. Borys , Director,
Planning, Property and Development Department
City of Winnipeg
65 Garry Street
3rd Floor
Winnipeg, MB R3C 4K4

Dear Director Borys,

Re: Request for Reconsideration and Termination of Variance Order
DAV 26-111961/B - 22 Granite Way Granite Curling Club Inc.
MLT Aikins File No: 0154481-00005

We are counsel for the Granite Curling Club Inc. (the "Club" or "Granite"). We write to formally request that you exercise your authority under section 252 of *The City of Winnipeg Charter*, S.M. 2002, c. 39 (the "Charter") and section 38 of the Development Procedures By-law No. 104/2020 (the "Development Procedures By-law") to terminate Variance Order DAV 26-111961/B, approved on May 11, 2026 (the "Variance Order"). Alternatively, we request that you reconsider and set aside the Variance Order pursuant to your common law jurisdiction to correct a decision vitiated by a denial of procedural fairness and by non-compliance with the Development Procedures By-law.

This request is urgent. The Club's application for judicial review of By-law No. 36/2025 — the rezoning upon which this variance is premised — is scheduled to be heard on June 9, 2026. We respectfully ask that you review and respond to this request, including a careful review of the enclosed appeal letter and appendices, before that date.

A. Background

The Variance Order approved a height increase to 126 feet (from a 100-foot maximum), together with parking-stall-width and landscaping variances, for a proposed twelve-storey, 110-unit mixed-use building at 22 Granite Way. The variance was classified as a DAV B and approved internally by a designated employee without a public hearing, and without any consultation with the Club — the immediate adjoining user, a heritage and community asset whose operations depend on the west parking lot that will be materially impacted by the proposed development.

As set out below, the Development Procedures By-law required the variance to be classified as a DAV-D, which would have triggered a mandatory public hearing.

The timeline of the variance approval is itself notable. According to the City's public notice, the application was received on January 29, 2026. The development plans were submitted to the Zoning and Permit Branch on February 2, 2026. The administrative report, authored by D. Iskierski, RPP, MCIP, is dated February 9, 2026 — just eleven calendar days after the application was filed.

The authorization table in the report shows no sign-off by a Department Head, CFO, or CAO. The report contains the approval decision itself.

The formal Variance Order was not issued until May 11, 2026 - over three months after the administrative report was prepared. In other words, a variance for a twelve-storey, 110-unit mixed-use building — involving a 26% exceedance of the maximum permitted height in the Character Sector, on a site that had just undergone a contested six-day Municipal Board hearing and was the subject of extensive community concern and a judicial review application to the Court of King's Bench — was substantively reviewed and decided within eleven days of the application being filed, by a single designated employee, without any external consultation.

The formal order was then delayed for over three months, raising questions about why the decision was not disclosed sooner.

The administrative report discloses no circulation to any other City department — not to Heritage, not to Traffic, not to Water and Waste (despite the parking area abutting a City sewage lift station), and not to the Public Works department that Council's own Recommendation 4 had directed to develop an adequate parking plan for the Club.

The "Collaborative Planning and Consultation" section of the report discloses only that "the applicant and design team engaged the Public Service for discussions regarding the proposed variances and their application in general." No other consultation is recorded.

On May 25, 2026, the Club submitted a comprehensive appeal of the Variance Order to the City of Winnipeg Appeal Division. Copies of that material are enclosed.

That same day, the City Clerk's office advised that the Club does not have standing to appeal under section 251(1) of the Charter. The City's position is that the Club, as a lessee, is not an "owner" of adjacent real property within the meaning of section 251(1)(b), and that because no public hearing was conducted on the variance application alone, section 251(1)(c) does not apply.

The effect of the City's position brings into question whether any person has standing to appeal this variance — other than the City itself, which is simultaneously the landowner, and the decision-maker (through its designated employee). Every avenue of review, discussion, consultation, and statutory review has been taken away.

Aside from the Variance Administrative Report that was provided to us upon request (and which was not made available on the City's web site), no background material in respect of the variance application was provided.

The process here and the outcome are, respectfully, untenable and the situation demands that the Director act.

B. The Director's Statutory Power to Terminate the Variance

The Director has clear statutory authority to terminate this variance. Section 252 of the Charter provides:

Despite any other provision of this Act, an employee designated by by-law may terminate an approval of a variance with the written consent of every person who is the owner of real property in respect of which the variance was approved.

Section 38 of the Development Procedures By-law No. 104/2020 confirms that "[t]he Director is authorized to terminate an approval of a variance in accordance with the Charter."

The City of Winnipeg is the sole registered freehold owner of the real property at 22 Granite Way. There is no other owner whose consent is required. The Director is the designated employee. The power to terminate is therefore entirely within the City's control — it requires nothing more than the City's own consent, which the City is capable of providing.

The Club requests that you exercise this power. The reasons for termination are set out in full in the enclosed appeal letter and appendices, and summarized in section E below. They include the failure of the Variance Order to satisfy the mandatory statutory criteria in section 247(3), the absence of any enforceable parking plan, the inconsistency with CentrePlan 2050, the substantial adverse effects on the Club, and the fact that the underlying rezoning is before the Court of King's Bench for judicial review on June 9, 2026.

C. The Club Is Entitled to Procedural Fairness

The duty of procedural fairness applies whenever an administrative decision affects individual rights, privileges, or interests. Site-specific variance decisions attract procedural fairness obligations at the highest end of the spectrum.

The Club's interests in this variance are profound.

The Club has been a tenant of the City for approximately 50 years. It is the immediate adjoining user of the variance site, approximately 55 feet from the proposed building and is explicitly referenced as a deeply valued property in the City's own secondary plan by-law (CentrePlan 2050). Its operations — and its very survival — depend on the west parking lot that will be displaced by the proposed development. The Municipal Board itself found that the loss of parking in the west lot would negatively affect the Club's operations and sustainability. Thirteen curling clubs in Winnipeg have failed, mostly for financial reasons. Only ten remain.

The nature and importance of this decision, the severity of its consequences for the Club, and the complete absence of any alternative avenue of review all demand that the Club be afforded a full

and fair opportunity to be heard before the variance proceeds. The Club was given no such opportunity. It was not consulted and not heard.

D. Common Law Jurisdiction to Reconsider

In the alternative to termination under section 252, the Director has both the power and the duty to reconsider a variance decision that is vitiated by a denial of procedural fairness or a jurisdictional error.

The procedural fairness deficiencies in this case are profound, and they render the Variance Order a nullity. In addition, as set out in section E below, the variance was processed in contravention of the Development Procedures By-law itself, which constitutes a jurisdictional error independently vitiating the decision.

E. Grounds for Termination and Reconsideration

1. The Variance Was Approved Without Any Opportunity for the Club to Be Heard

The Variance Order was approved internally without a public hearing. Timely notice was not given to the Club in advance of the decision, and no opportunity was provided for the Club (or any other community stakeholder) to make submissions.

The Club is the immediate adjoining user of the property — a non-profit curling club operating a Winnipeg Landmark Heritage Structure approximately 55 feet from the proposed building — and it is the party most directly and substantially affected by the variance. The failure to afford the Club any opportunity to be heard before a decision of this significance was a denial of natural justice.

2. The Variance Was Required to Be Classified as a DAV-D Under the Development Procedures By-law

The Variance Order was processed as a DAV-B presumably on the basis that the site is subject to the Downtown Winnipeg Zoning By-law and therefore falls within section 29(3)(a) of the Development Procedures By-law. However, section 30 of the Development Procedures By-law provides:

Where Council has enacted a by-law in respect of a subdivision or rezoning of a particular site, any DAV submitted in respect of that site within 2 years following the date of enactment of the by-law must be submitted as a DAV-D.

On December 18, 2025, Council gave third reading to By-law No. 36/2025, enacting the subdivision and rezoning of this very site under DASZ 46/2024. The administrative report for the Variance Order is dated February 9, 2026 — less than two months after enactment and well within the two-year window prescribed by section 30. The operative language of section 30 is unambiguous: "any DAV" submitted in respect of that site within two years must be submitted as

a DAV-D. There is no exception for variances that would otherwise qualify as a DAV-B under section 29(3)(a).

The consequence of DAV-D classification is significant. Section 34(2) of the Development Procedures By-law exempts DAV-A, DAV-B, and DAV-C applications from the requirement for a public hearing — but it does not exempt DAV-D applications. A DAV-D requires a public hearing.

Had the variance been properly classified as a DAV-D, the Club and other affected parties would have had the opportunity to make representations at a public hearing — the very opportunity that was denied here. The misclassification of the variance as a DAV-B is therefore not merely a procedural technicality; it is a jurisdictional error that deprived the Club and the public of a statutory right to be heard.

3. No Detailed Reasons Were Disclosed to the Affected Public

The public notice of the Variance Order identifies the approval, the height increase, the related variances, the order date, the appeal deadline, and the conditions imposed. It provides no link to the application materials, and no discussion of the evidence, planning rationale, application materials, internal circulations, or analysis considered before approval. Without disclosure of the reasons for approval, the Club could not know the case it had to meet and was unable to make fully informed submissions—even if given the opportunity, which it was not.

4. No Consultation with the Club, Heritage Winnipeg, or Any Community Stakeholder

The administrative report (File DAV 26-111961\B, dated February 9, 2026) discloses only that "the applicant and design team engaged the Public Service for discussions regarding the proposed variances." There is no record of any consultation with the Granite Curling Club — the immediate neighbour and directly affected tenant — nor with Heritage Winnipeg, nor with any community stakeholder. There is also no record of any internal circulation to other City departments, including Traffic, Heritage, or the Public Works department that Council's own Recommendation 4 had directed to develop an adequate parking plan for the Club. The substantive review of the application, from filing to administrative report, took just eleven calendar days. The formal order was not issued until more than three months later, on May 11, 2026.

5. The Mandatory Statutory Criteria in Section 247(3) Have Not Been Met

Section 247(3) of the Charter provides that a variance may be approved only if four conjunctive criteria are satisfied. On the record disclosed to the public, there is no basis to conclude that the decision-maker turned his or her mind to, or properly applied, any of those criteria. The cursory nature of the review — eleven calendar days from application filing to administrative report, with no external consultation and no inter-departmental circulation — raises a reasonable inference that the statutory criteria were not meaningfully assessed. In particular:

(a) *Inconsistency with CentrePlan 2050*: CentrePlan 2050 Action 1.1.20 directs the City to redevelop the site in a manner "that supports club operations and/or building maintenance." The Municipal Board found that any redevelopment must support the Granite Curling Club. There is no evidence that this variance — approved without any enforceable parking plan — is consistent with that directive.

(b) *Substantial adverse effects*: The variance creates substantial adverse effects on the Club, including the loss of essential parking in the west lot, unresolved safety and building-interface risks, potential increased snow loading on the heritage roof, and harm to the Club's heritage setting. The Municipal Board accepted evidence that the loss of parking would negatively affect the Club's operations and sustainability. The Variance Order contains no protection addressing these findings.

(c) *Not the minimum modification*: There is no evidence that a 126-foot building (a 26% exceedance over the 100-foot Character Sector maximum) is the minimum modification required to relieve any injurious effect of the zoning by-law on the property.

(d) *Incompatibility with the surrounding area*: The site is adjacent to a Winnipeg Landmark Heritage Structure, within the Legislative Core Building Height Control Area, and beside Riverbank Sector parkland. There is no evidence that a contextual compatibility assessment was conducted.

These grounds are set out in full in the Club's appeal letter dated May 25, 2026, together with supporting appendices. We enclose that letter and its appendices with this request.

6. The Underlying Rezoning Is Under Active Judicial Challenge

The Variance Order proceeds on By-law No. 36/2025, which is the subject of the Club's pending judicial review application in the Court of King's Bench, scheduled for hearing on June 9, 2026. The Club's application alleges that Council acted without jurisdiction by passing the by-law without conforming to the Municipal Board's recommendations, in contravention of section 236.1(9) of the Charter. Allowing a height variance to proceed on a by-law whose validity is under active judicial challenge is, at minimum, premature.

F. Relief Requested

The Club asks that you:

1. Exercise your authority under section 252 of the Charter and section 38 of the Development Procedures By-law No. 104/2020 to terminate Variance Order DAV 26-111961/B;
2. In the alternative, reconsider the Variance Order pursuant to your common law jurisdiction to correct a decision vitiated by procedural unfairness, and set aside the Variance Order and refuse the variance;

3. In the further alternative, hold the Variance Order in abeyance pending the outcome of the June 9, 2026 judicial review hearing; and
4. If you decline to grant any of the foregoing relief, provide written reasons for that decision.

Given the pendency of the June 9, 2026 hearing, this matter is time-sensitive. We respectfully request a response no later than **June 4, 2026**.

Yours truly,

MLT AIKINS LLP

Per: 

JAMES A. MERCURY

JAM:lja

Encs.

cc Kalyn Bomback, City of Winnipeg Legal Services
cc. Cindy Tugwell, Heritage Winnipeg
cc. John Read and Christian Pierce, Granite Curling Club
cc. Melanie Wire, MLT Aikins LLP