

McJANNET RICH

BARRISTERS
SOLICITORS

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Please reply to: JOHN PRYSTANSKI*
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Direct Line: (204) 272-6242

11 March 2019

Standing Policy Committee on Property and Development,
Heritage, and Downtown Development City of Winnipeg
Main Floor, Susan A. Thompson Building
510 Main Street
Winnipeg, Manitoba, R3B.1B9

Attention: City Clerks Department

Dear Madams/Sirs:

RE: 843 Main St.
Folder No: 18-188748 ORD
Legal Description: LOT 5 PLAN 31975 35 ST J

To help aid the Committee with its deliberations, I provide the attached documents to be included in the Committee's agenda.

1. Planning, Property and Development Department's (herein after referred to as the "Planning Department) Development and Inspection Division's March 2018 – News from the Division. This document states that to ensure a building meets the correct building code, the City of Winnipeg must use the National Building Code for the year the building was constructed. In this matter, the relevant time period is between 1945 and 1951.
2. The Planning Department does not have any stamped drawings of the construction that would aid in determining the existence of the north side man door that is the primary dispute of this appeal, they have sketches which not useable for construction. Interesting to note, the Planning Department has drawing for before and after the relevant time period, included is the 1932 drawing for the house that stood at that location prior to the commercial building. We did find at the City's Archives an Application For Permit dated 9 January 1951. As a result of the lack of records, we approached the son of a former owner of 843 Main St. The son is Mr. Allan Adelman, his father, Hymie Adelman constructed the addition to the original building and as the building now sits. His evidence is that the north side man door existed in 1945 when his father purchased the building. In 1951, the Winnipeg Free Press published a story celebrating the opening of the building as renovated.

...2

We say that the City knew the man door existed in 1951 and approved it as part of the building's fire safety because at that time, a building the length of 843 Main St., 150 feet, required 3 exits for fire and life safety.

3. On 1 June the City of Winnipeg's Fire Prevention Branch issued an Order to the owners of 847 Main St to stop blocking an exit/entrance to 843 Main St. This Order identifies Mr. Ed Traa, the City's Senior Fire Prevention Officer as the person to whom enquires should be directed to. On 11 January 2019, I asked Mr. Traa several questions regarding the fire safety of 843 and 847 Main St., his responses to my questions are underneath my questions. The overall message from the City's designated Officer is there is **NO FIRE HAZARD FOR 843 MAIN ST. OR 847 MAIN ST.**
4. This matter is really a dispute between owners of 843 Main St. and 847 Main St. that resulted in an incomplete legal dispute. However, over a 7 month period the City's Development and Inspections Division communicated both through email and verbal conversations to 847 Main St.'s legal counsel. The focus of the communication was to provide specific information regarding 843 Main St. dealings with the City's Development and Inspections Division. These communications involved but were not limited to reviewing information that the City could not swear in court. Further, it is our belief that the information being provided is inaccurate and does not reflect the National Building Code's or National Fire Code's rules. Further their position is contrary to the City public documents such as their Planning, Property and Development Department's Development and Inspection Division's March 2018 – News from the Division as identified above.

On behalf of my client, we will be making a full presentation which will include additional handouts at the Appeal hearing.

Yours truly,



JOHN PRYSTANSKI



City of Winnipeg
Development and Inspections Division
Planning, Property and Development Department (PP&D)

March 2018 – News from the Division
Information Relevant to Real Estate Transactions

The purpose of this communicate is to inform realtors and lawyers of some recent by-law amendments and clarifications, along with new property search tools that may be of value to those involved in real estate transactions.

* Property owners have an obligation to ensure that their buildings have been constructed to the building and electrical codes that were in effect at the time that construction took place, whether or not they owned the building at the time that construction took place. The following tools and information can help property owners to become better informed about the sites and buildings they own or may purchase. *

Additionally, while many individuals are generally aware of the requirements relating to construction permits, there may be less understanding in the general population about the requirement for an occupancy permit. This document provides an overview of occupancy permit requirements and explains how to determine if this kind of permit is required, and if a property or business/organization has obtained one.

Building and occupancy permits are an important way of ensuring that construction activities meet the minimum standards for construction set by the City and the Province of Manitoba. We want to make this process as easy to understand as possible.

We encourage you to explore the tools shared here and to contact our office at 204-986-5140 if you have any questions about these or other services that we offer.

Stan Dueck
Manager, Development and Inspections

Working Together for a Safer City

Helping property owners to understand the City's requirements for permitting and occupancy of buildings not only allows property owners to make more informed choices about investment and maintenance of property, but this information ultimately helps to create safer buildings and properties in our community.

Following are some helpful tools for both property owners and real estate professionals.

The City of Winnipeg Property Permit Search Tool

<http://Winnipeg.ca/openpermits>

The City of Winnipeg recently launched a free property permit search function available for the public to look up construction-related permits issued for all properties in the city since 2000. This tool can assist both sellers and potential purchasers of property, as well as those involved in this process such as realtors and lawyers, in obtaining the permit history to better determine if: a) appropriate permits were issued for renovations, additions, accessory structures, or other projects which would require permits, and b) if the permits were adequately closed (e.g. final inspections completed).

To search for permits issued prior to 2000, please contact the Planning, Property and Development Department (PP&D) Central Files office at 204-986-7395 or email PPD-CentralFiles@Winnipeg.ca. Central Files has an extensive collection of building plans and other historical property information dating back to the 1900's. Additionally, property owners or those with written permission from the property owner are able to request a copy of building plans. Turnaround times and fees for this type of historical search are dependent on the nature of the request (e.g. simple residential vs. commercial/other types, rush vs. regular turnaround) so we recommend contacting us directly to inquire about your particular needs.

Two clauses from the Winnipeg Building By-law 4555/87 have particular relevance to the issue of codes and permits for future owners:

5.8.2 Without restricting the generality of Sentence 5.8.1, the owner of a building must ensure that every part of the building is in compliance with the Codes that were in effect at the time that that part of the building was constructed, altered or renovated. This requirement applies whether or not the owner owned the building at the time that the building or part of the building was constructed, altered or renovated.

And,

5.4.2 If an owner has failed to obtain a required permit, acceptance or approval prior to commencing work in compliance with sentence 5.4.1, the owner at the time the work was commenced or carried out – and every subsequent owner – is nonetheless required to obtain all permits, acceptances and approvals and to pay all applicable fees despite the fact that the work has already commenced or has been completed. For greater clarity, if work for which a permit, acceptance or approval is required has been commenced or carried out without the required permit, acceptance or approval, the current owner is responsible for obtaining the required permit, acceptance or approval and must pay any fees or penalties associated with the permit, acceptance or approval, including fees for its issuance after the work has been commenced or carried out.

The property permit search function has relevance even in the event of sales relating to newly constructed houses. In some cases, owners of newly constructed homes have been required to take responsibility to remediate defects and close permits associated with the original construction.

Our recommendation is that all professionals involved in real estate transactions take the time to perform the due diligence associated with researching the permit history on this free portal as a service to your clients.

Occupancy Permits

Occupancy permits issued subsequent to December, 1998 can be searched on-line by property address: winnipeg.ca/occupancypermitsearch. For information prior to December, 1998, please call 204-986-5136 or email: occupancy@winnipeg.ca.

Occupancy permits are required for most commercial buildings. Since 1994, this requirement has extended to any new tenant or occupant. Details about occupancy permit requirements can be found in Section 15 of the Winnipeg Building By-law 4555/87 and at <http://www.winnipeg.ca/ppd/permits/Commercial/OccupancyPermits.stm>.

Even in cases where a new tenant or occupant is not intending to renovate or carry out renovations that require a permit, a new occupancy permit is still required and usually involves multiple inspections representing different disciplines. In some cases, potential building purchasers have requested and obtained occupancy permits (with the permission of the current owner) in advance of closing on a lease or sale agreement, as a method of due diligence. Inspections often reveal elements of non-compliance or previous work done without permits that may result in costs to remediate and obtain compliance (see by-law sections noted above).

Occupancy permits are *not* required under the following circumstances:

- The ownership of a business changed, but the occupant remained the same.
- Condominium unit holders change. However, most apartment and condominium buildings require a building occupancy permit at the time of completion, or a subsequent occupancy permit if one or more units are added.

Once an occupancy permit is issued for a particular occupant, it does not need an annual or subsequent renewal or permit unless:

- The nature of a particular renovation triggers the requirement for a new occupancy permit, such as expanding the size of the occupant space. The determination of if a new occupancy permit is required would typically be identified during the building permit process associated with those renovations.
- The activity of the occupant or use of the building is changing.
 - For example, the nature of a manufacturing enterprise changes from low hazard to medium hazard, or an office use becomes a training centre and thus is now considered an assembly occupancy under the building code.
- The occupancy load was increased.
- Extensions of the business activity are expanded to defined exterior space, such as patios for restaurants or bars.

The City is increasingly taking enforcement action for occupancy without an occupancy permit in the form of fees for non-compliance or tickets under the new Municipal By-law Enforcement Act. These fees / tickets can be charged repeatedly until compliance has been achieved. Enforcement action can be taken jointly against both the occupant and the building owner. In the event that directors and/or officers of the companies involved have personal knowledge of the offence, enforcement action may include charges against them as individuals.

Generally, the installation of equipment and affixed furniture such as cupboards and shelving is considered a part of the construction process. However, moving of loose furniture, stock or goods, inventory, accessory equipment, or personal belongings into the premises is considered occupancy. That is, occupancy can occur prior to a business being 'open for business' or a new tenant 'living' in an apartment or condominium unit.

Other Products and Tools

In addition to being able to access records regarding building and occupancy permits, the City offers a number of services to help property owners confirm if their property and the activities taking place on the property meet the City's zoning by-laws (Winnipeg has two primary zoning by-laws: one for the downtown and one for the remaining areas of the city).

Zoning Letters

For property owners needing written confirmation of what zoning district a particular property is situated in, PP&D, the Zoning Branch can provide a Zoning Letter.

Alternatively, the zoning of properties (including a tutorial on the City's zoning map tool) can also be accessed online: http://winnipeg.ca/ppd/zoning_online.stm.

Zoning Memorandums

For property owners that have a recent Building Location Certificate (sealed by a Manitoba Registered Land Surveyor), the Zoning Branch can provide a Zoning Memorandum to indicate zoning compliance or non-compliance.

Verification of Use Letters

For property owners needing written confirmation that a current or a proposed use complies with zoning regulations, the Zoning Branch can provide a Verification of Use Letter. It should be noted that Verification of Use Letters relate only to zoning compliance. Some realtors or potential owners / tenants have assumed that this document also addresses other elements of compliance such as the building code, or even the building classification under the Manitoba Building Code, **but this is not the case.** It is important to know that while a proposed use may be permitted in a particular zoning district, the building may only have been constructed for a particular classification of use under the Building Code and, therefore, the proposed use might require additional Building/Occupancy permits and approvals for the proposed use (or in some cases, current use) to be compliant. Property owners considering re-purposing of buildings should ensure that they understand both Zoning and Building/Fire Code implications of their proposal.



Planning, Property and Development Department (PP&D) Development and Inspections Division

To arrange for a Zoning Letter, Zoning Memorandum or a Verification of Use letter, please call the Zoning Branch at 204-986-5140.

Central Property File Search (CPFS)

The City has long offered a multi-departmental Central Property File Search (CPFS) service. This service coordinates the gathering of property related information available from PP&D's zoning and inspection areas, the City's Fire Prevention Branch and Community By-law Enforcement Services.

The focus of this service is to provide as much information as is readily and publicly available regarding outstanding department Orders to Comply, zoning agreement caveats (or plan approval requirements that may not be attached as caveats on title), open permits, and other particulars which may be of importance in property sales, land transfers, etc.

While this service is more time-intensive, it has proven to be a valuable tool for those engaging in due diligence associated with properties.

Central Property File Search services can be requested via email:

CentralizedPropertyFileSearch@winnipeg.ca.

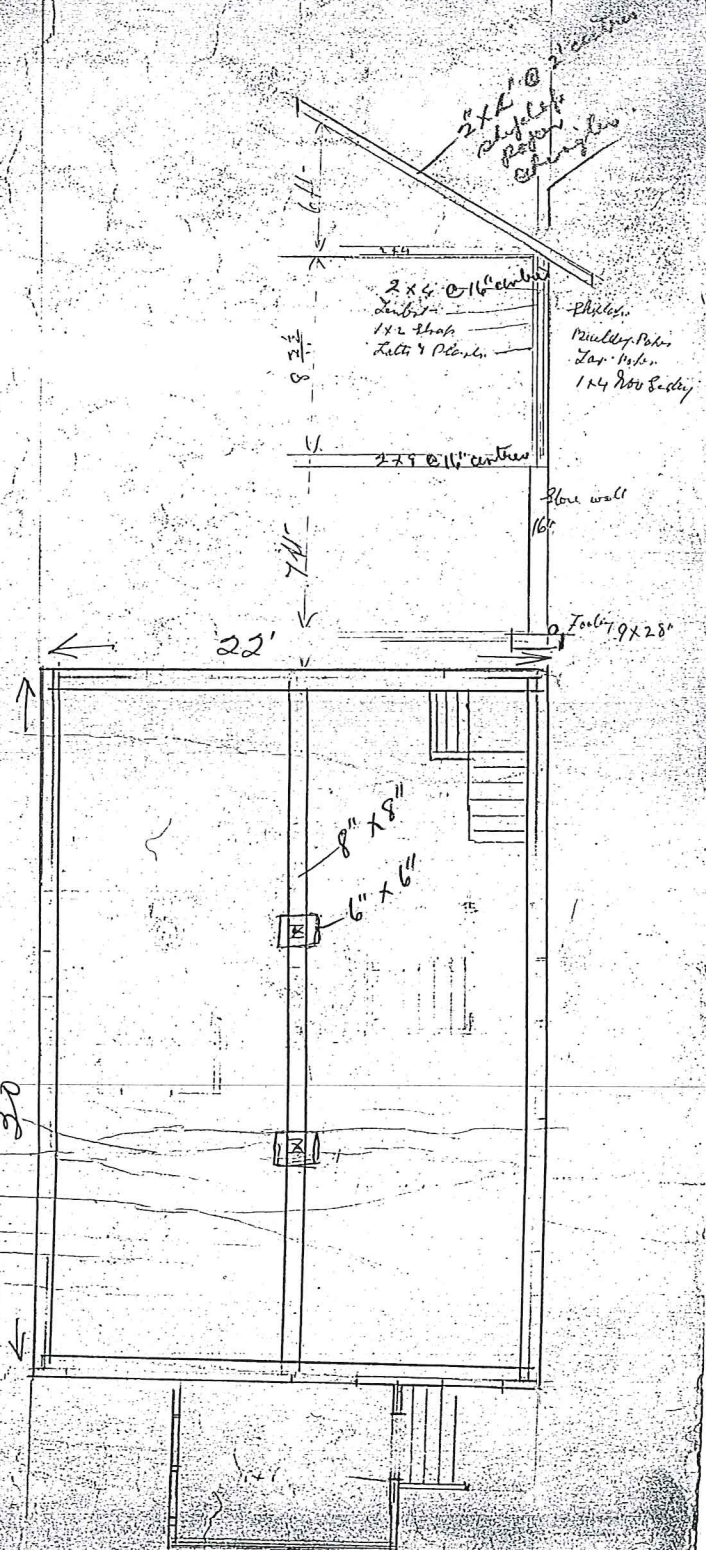
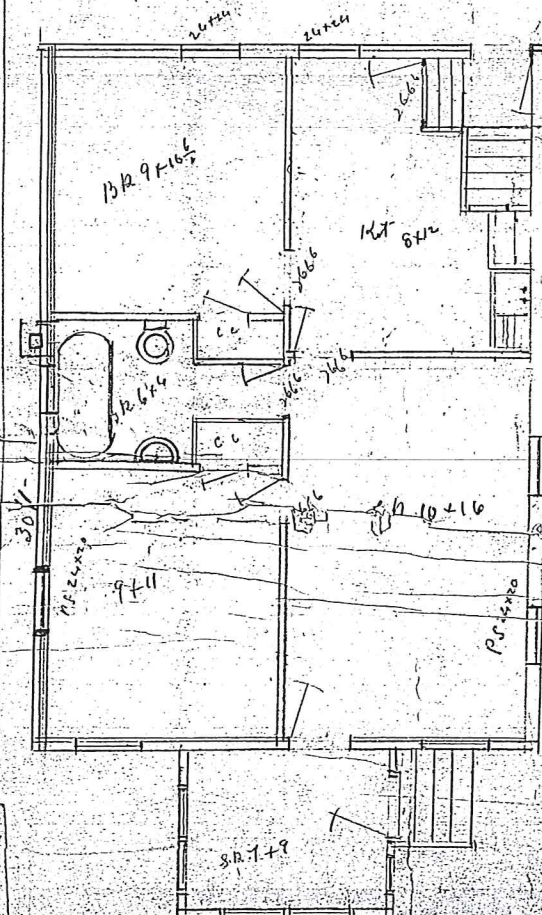
The fees for CPFS searches were modified in 2016 to include a lower fee for multi-residential commercial buildings such as hotels, apartment buildings, nursing homes, etc.

It is important to note that as of January, 2018 there remain almost 100 multi-unit residential properties constructed prior to 1983 that still do not comply with the Residential Fire Safety Upgrade By-law 4304/86, and compliance may represent costly upgrades for a new owner. A CPFS will identify if one of these properties is in that category.

Implications of Non-Compliance

As many professionals in real estate are aware, constructing without required permits or approvals can be costly. The City actively researches new real estate sales listings on a variety of publicly accessible websites. If the listing indicates obvious upgrades or renovations that would require a construction-related permit, but no permit has been obtained, the City takes enforcement action, which includes an Order to Comply that is attached as a caveat on title.

The City's preference is to help prevent non-compliance issues. The tools and services outlined in this newsletter are an important way of helping property owners and others involved in real estate transactions to stay informed. If you have suggestions for other ways that we can work together on this important aspect of property development, please share your thoughts with us.



CITY OF WINNIPEG

Form 12-1914-11-50

APPLICATION FOR PERMIT No 115

MATERIAL AND SERVICE

NOTE—If this application involves or affects the location of any building or structure on a lot, it must be accompanied by a plot plan satisfactory to the Commissioner of Buildings.

To the City Engineer:

I hereby apply for permits as follows:

(Tick off what are required)

Date Jan 9 1901

<input checked="" type="checkbox"/> Building Permit under Building By-law		40	-0
<input type="checkbox"/> Building Grades			
<input type="checkbox"/> Sewer Connection Permit under Sewer By-law			
<input type="checkbox"/> House Moving Permit			
<input type="checkbox"/> Sewer Permit			
<input type="checkbox"/> Use of Street Permit under Building By-law			
<input type="checkbox"/> Excavating Permit			
<input type="checkbox"/> General Permit			
<input type="checkbox"/> Boulevard Replacement Permit	Sq. Yards at		
<input type="checkbox"/> Workmen's Closet Permit under Health By-law			
<input type="checkbox"/> Asphalt Cuts Permit			
<input type="checkbox"/> Concrete Cuts Permit			
<input type="checkbox"/> Conc. Walk Cuts Permit			
<input type="checkbox"/> Mud Cuts Permit			
<input type="checkbox"/> Quarries Personals			
<input type="checkbox"/> Personals			
<input type="checkbox"/> Water Connection Permit under Water Works By-law			
<input type="checkbox"/> Water Building Services (see below) under Water Works By-law			
<input type="checkbox"/> Cords of Stone @ 6c per cord			
<input type="checkbox"/> Bricks @ 6c per thousand			
<input type="checkbox"/> Superficial square yards of plaster @ 25c per C.			
<input type="checkbox"/> Cubic yards of concrete @ 6c			
TOTAL \$		40	00

No. of Rooms	Water Closets	Urinals	Sinks
Wash Basins	Bath Tubs	Taps	Other Fixtures
1. No. 843 Location:	Side: Main	Street, between:	
and	Sta. Lot:	Block:	Plan:
2. Name of Owner: North End Insurance			
3. Name of Architect:			
4. Name of Builder: R. J. Dufour			
5. Sewer Contractor:			
6. Purpose of Building: Retail Store			
7. Size of Building: Storeys: No. of Families:			
8. Street Alignment: feet from property line—not from sidewalk.			
9. Est. Cost (excl. of lot): Plumbing \$ Electrical \$			
Heating and Ventilating \$ Building and other cost \$ 12,000 00			

REMARKS: Addition of 2nd floor at front - general alterations as per plan

I undertake to observe and perform the provisions of all Ordinances or Provincial statutes or regulations, all by-laws of the City of Winnipeg and all special orders or instructions issued by the City Engineer in respect of the work incidental to the subject matter of this application and if this permit involves or affects the placing of or the position of any building or structure on or in respect of land, to do all such work as that the building or structure will be wholly within the boundaries of the lot or portion of land indicated in this application and to conform to the provisions of the City's zoning by-law and to indemnify the City against all loss, costs, charges or damages caused by or arising out of anything done pursuant to any permit issued under this application.

Does not include canopy at front

Signature: R. J. Dufour

PERMIT AND RECEIPT

Winnipeg, Jan 9 1901

THIS certifies that

I have granted permits to do the work and use the premises described in and for the purposes shown in the above application and that payment has been made for the said permits of the amount shown.

Each permit is granted subject to the terms of the agreement contained in the said application and subject to the provisions of the City's by-laws, ordinances, regulations, and nothing permitted hereunder shall be deemed to override the provisions of any applicable by-law of the City or any statute or regulation of the Dominion of Canada or the Province of Manitoba.

These permits shall expire if active work is not commenced and reasonably continued within three months from the date hereof.

FOR BUILDING RESTRICTIONS CONTAINED IN CAVEATS.
THE APPLICANT MUST CONSULT THE LAND TITLES OFFICE.W. D. Dufour
City Engineer and Commissioner of Buildings.

This permit DOES NOT CONFER upon the permittee or owner the right to establish an approach from the public street to serve the premises. Such approach requires special permission of the City Council, which does not ordinarily grant permission for an approach where there is a lane to serve at the rear of the premises. Applications for an approach must be made to the City Engineer.

Please note that the By-law requires that the house number be conspicuously placed on the building site during construction. Number must be obtained from this office.

EXCERPT FROM BY-LAW No. 16225: "No person shall throw, pile, deposit or leave . . . material of any kind . . . upon any street or lane."

McJANNET RICH

BARRISTERS
SOLICITORS

1308 ROYAL BANK BUILDING | 220 PORTAGE AVENUE | WINNIPEG, MANITOBA, CANADA | R3C 0A5
TELEPHONE (204) 957-0951 | FAX (204) 989-0688

Please reply to: JOHN PRYSTANSKI*
E-mail: jprystanski@mcjannetrich.com
Direct Line: (204) 272-6242

January 31, 2019

"With Prejudice"

Geoff Mikolayenko, C.E.T.
Commercial Inspection Administrator
Development & Inspection Division
Planning, Property and Development Dept
City Winnipeg
4th Floor, 65 Garry Street
Winnipeg, MB R3C.4K4

Tim van der Hoek
Enforcement Coordinator
Development & Inspections Division
Planning, Property and Development Dept
City Winnipeg
4th Floor, 65 Garry Street
Winnipeg, MB R3C.4K4

Dear Sirs:

**Re: 843 Main Street Occupancy Permit
Order to Vacate Premises 18-188748 ORD**

We can confirm from an independent third party with first-hand knowledge that 843 Main Street's north side main door was established as early as 1945. Attached is Mr. Allan Adelman's pictures and letter stating that 843 Main Street's man door existed and functioned as an entrance and exit in 1945 and continued to do same until the building was sold in 1963.

Mr. McDonald, my client previously stated that it was his and 843 Main St.'s previous owner's son Mr. Hill's belief that the man door was part of the original construction because it was considered common knowledge that the door was built when the building was built. Your department denied that claim and believed that the earliest the door was opened was around 1967 and was therefore subject to that year's relevant building code. You advised me that your belief was based on Mr. Hill's 13 July 2018 letter. At least since 1945, the building and location was use continuously to sell furniture. North End Furniture to Kern-Hill Furniture to Surplus Direct. We also know from the City of Winnipeg records that in or around and before 29 March 1951 an addition was added to the building and received City of Winnipeg approval. Further, we know the building as it currently stands was publicly celebrated at an opening on 29 March 1951 as evidenced by the attached Winnipeg Free Press article.

Your department's letter dated 22 June 2017 required an unrestricted exit through 847 Main Street's property. The 1 June 2018 City of Winnipeg Fire Department Order requires the owners of 847 Main Street to remove any blockage to 843 Main Street's main door and to accommodate an unrestricted access. The owners of 847 Main Street have not blocked the emergency door and are abiding by the City of Winnipeg Fire Department's Order.

McJANNET RICH AN ASSOCIATION OF INDEPENDENT LAWYERS

*PRACTICING UNDER PRYSTANSKI LAW CORPORATION

Your email of 27 December 2018 stating that 843 Main Street needs a prescriptive easement and rear of building stairs is inaccurate. The Fire Department Order provides for the required north side access. The rear of building stair landing is not required because the building "as is" was continuously used since it was opened in 1951 as a furniture sales business. This continuous same use allows the building to be code compliant for the original year in which it was compliant.

Given Mr. Adelman's information regarding the door, the proper year to apply the National Building Code is 1941 and not the 1960s as you previously stated. Therefore, that man door and the building as it currently stands meets the National Building Code of the day and is Code compliant in 2019.

On behalf of my client, he requests that his occupancy permit be issued forthwith and the Order to Vacate Premises dated 19 December 2018 be withdrawn.

Thank you.

A handwritten signature in blue ink, appearing to read "John Prystanski".

JOHN PRYSTANSKI*

JP/cjg

Encls.

16 January 2019

McJannet Rich
1308-220 Portage Avenue
Winnipeg, MB, R3C 0A5

Attention: Mr. John M. Prystanski

Dear Sir:

Re: Entrance & Exit Door Located on the North Side Wall of 843 Main St.

Further to your inquiry regarding my knowledge of the entrance and exit door located on the north wall of 843 Main Street, Winnipeg, Manitoba.

My father bought the land and building that is known as 843 Main Street, Winnipeg, Manitoba in April 1945. Around 1950 or 1951, my father expanded the original building by building an addition. I confirm that the building as it currently stands is both the original and addition that my father owned.

He owned and operated the North End Furniture Company in 1945 at 843 Main Street, Winnipeg, Manitoba until he sold the land in 1967: 1963 AA

Attached is an inside picture of the current building, the picture is identified with my initials. This picture accurately identifies the location of the original building's north side door in 1945.

This door is located on the north wall and is towards the back of the original building. That door was used as both an entrance and exit. I specifically remember the door because I went in and out of that door many times.

I was about 12 years old when my father bought the land and building and that is when I first remember the door being in the building. I specifically remember the year that my father bought the land and building because it was the year that I turned 13 years old. I was born 3 September 1932. When I turned 13, I remember that I received my confirmation at a synagogue that was located on Dufferin Avenue in Winnipeg. Buying the land and building occurred in the same year that I received my confirmation.

Through out the entire time my father owned the building, the north wall door was used as both an entrance and exit.

Sincerely,



Allan Adelman

Republics Move For Fast Defence

WASHINGTON, March 22 (AP)—The American republics will likely be asked to build up their armed forces and have them ready for quick use in an emergency. The United States and five other countries sponsored this proposal Wednesday in a resolution presented to the Inter-American design ministry conference. The other co-sponsors were Brazil, Cuba, Colombia, Paraguay and Uruguay. Under the resolution, troops not only could be called out for defence of the hemisphere, but also could be used to support action to 25 miles a day.

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Pure Orange
4 lb. 1.19
MAGARINE—Palmolive 40¢
Chance to redeem Red
Pack at 40¢
Coffee—Gibbs, 77¢
or Reg.
TEA—Mullin's Red 77¢
Light, 1 lb.
INSTANT COFFEE, Chase & 77¢
Sullivan, 1 lb. 1.19, Extra
2 for 2.19

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The reopening of this remodelled store, at 307 Portage Avenue, was announced Wednesday by H. Adelman, president of the North End Furniture company. The store area now embraces 25,000 square feet and handles leading brands of furniture and electrical and other appliances. In 1945 the company, located on this site, occupied only 2,400 square feet. A second North End Furniture company store, located at 307 Portage Avenue, also had its official opening Wednesday.

North End Furniture Holds Double Opening

A double opening — of a new store on Portage Avenue and a remodelled store on Main street — was announced Wednesday by H. Adelman, president of North End Furniture. The stores were opened to the public Thursday. With new second floor quarters, the Main street store has grown from 2,400 square feet in 1945 to 15,000 square feet today. I. D. Oling, general manager, said. North End Furniture was established in 1931 with a staff of two. Today the company employs 50 to handle business in both stores. Mr. Oling said. The company has a fleet of fast trucks and two cars for delivery, sales and service. Opening of the new Portage Avenue branch marked the company as Winnipeg's fastest growing furniture center, Mr. Oling said.

For softer smoother skin—CUTICURA!

It makes semi-annual trips to leading furniture centres in eastern and western Canada and the United States, where he arranges to carry "style exclusive" to us in this area. We also carry appliances by all the leading manufacturers." he said. At Adelman is sales manager of the Portage Avenue store.

Hints Egypt May Take Over Suez

CAIRO, Egypt, March 22 (Reuters) — An Egyptian member of parliament said Wednesday a draft bill to take over the Suez canal is the nearest to parliament in the near future. However Yassin Sirag El Din, younger brother of the Egyptian finance minister and minister of public works, said. Dr. El Din, who is a member of parliament, said that a bill to nationalize the Suez canal had already been submitted to both houses, as reported earlier in the newspaper El Massara. The Suez canal company is French-controlled, with the British government holding 44 per cent of the shares. The Egyptian government became a "privileged partner" in the company by a new agreement signed two years ago. (In London, a foreign office spokesman said Egypt had made no approaches about nationalizing the canal. Suez canal shares remained steady on the London stock exchange.)

B.C. Coalition Gets Barrage Of Fire From Own Ranks

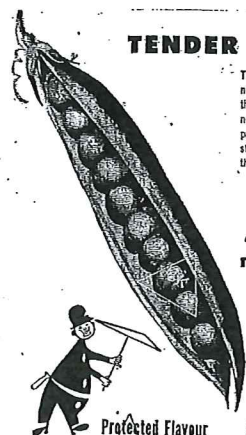
VICTORIA, B.C., March 22 (CP) — The coalition, which is currently being bombarded throughout British Columbia, came under a barrage of fire in the legislature Wednesday from one of its own members and was attacked from the C.C.F. side. Maurice Elznerly (Cen.—Simpson) said if the government were not prepared to give true coalition government, the Liberal-Progressive Conservative coalition should be scrapped. In the best interests of the people. "Unless we are prepared to subjugate the interests of our party and to return wholly and completely to the original concept of coalition," he said, "we must be prepared to lose a great deal of our support among the people of British Columbia." In face of the barrage of criticism against the coalition, Premier Hynes Johnson, who is provincial Liberal leader, remained silent. Other government leaders had no comment.

Portage Women Skaters Elect New Officers

PORTAGE LA PRAIRIE, Man., March 22 (Special) — Mrs. M. McDuffich was elected president of the Portage La Prairie Ladies Skating club for the 1951-52 season at the annual wind-up banquet Monday. Other officers named were: Mrs. F. Davies, vice-president; Mrs. B. Frough, secretary; Mrs. A. Devlin, treasurer; Helen Bala-Justi and Mrs. Louis Forzyth were named to the executive committee and Mrs. Marian McDuffich as chairman of the sports committee.

Textile Officer Resigns, Charges Intimidation

TORONTO, March 22 (CP) — Gabriel Cormier, of Montreal, has resigned as international representative of the Textile Workers union (C.I.O.-C.C.L.). It was learned Wednesday. His resignation is the latest development in the internal dispute which was brought to a head last month by the dismissal of Sam Baron, the union's Canadian director. Mr. Cormier, in a letter to Emil Riera, president, in New York, said he was quitting his post effective April 13 because of intimidation by Grand Rapids, selling director of the union's Montreal joint board.



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Fire Department • Service d'incendie

Fire Prevention Branch • Direction de la prévention des incendies

ORDER

FIRE PREVENTION BY-LAW NO. 35/2017

June 1, 2018

HAND DELIVERED

17(1)+17(2)(b)

MUNICIPAL ADDRESS: 847 MAIN STREET, WINNIPEG, MANITOBA

**LEGAL DESCRIPTION: LOT 4 PLAN 31975 IN RL 35
PARISH OF ST JOHN**

The above premises were inspected by this department on Thursday, May 31, 2018 and found to be in a condition which constitutes a threat to life and property and contravenes the **Manitoba Fire Code**, as adopted by the **Winnipeg Fire Prevention By-Law No. 35/2017**.

Sentence 2.7.1.6(1) of the Manitoba Fire Code states:

Means of egress shall be maintained in good repair and free of obstructions.

Current Violation:

The required exit door on the North side of the building located at **843 Main Street** is obstructed by a heavy implement. The implement located on the rear lot of **847 Main Street** has completely blocked the means of egress.

Corrective Action:


In accordance with the provisions of By-Law 35/2017, **YOU ARE HEREBY ORDERED TO** remove the implement blocking the means of egress on the North side of 843 Main Street.

Embrace the Spirit • Vivez l'esprit

VERIFICATION OF COMPLIANCE

In order to comply with this Order, you must ensure the implement is removed and the exit door and means of egress are unobstructed no later than **Monday, June 4, 2018**. A re-inspection of the property will occur on **Tuesday, June 5 at 10:00 a.m.** to verify compliance with this Order.

Enquiries regarding this Order should be directed to Senior Fire Prevention Officer Ed Traa at 204-986-7038 or etraa@winnipeg.ca

Issued by: 
Janet Bier
Director of Fire Prevention

cc Ed Traa, Senior Fire Prevention Officer
Jim Weir, Fire Prevention Officer
Building History File
Ying Tian, Planning, Property and Development

Reference No. 3110211-0/312/1

APPEAL

If you object to this Order, you are entitled to appeal it to the Standing Policy Committee on Protection, Community Services and Parks of The City of Winnipeg. You can do so by indicating, in writing, your intention to appeal the Order within: (a) the date specified for compliance, or (b) 14 days of being served with the Order, whichever is earlier. You can do so by filing a written notice of appeal along with a \$250.00 administration fee to:

The Standing Policy Committee on Protection, Community Services and Parks
Office of the City Clerk
Administration Building, 510 Main Street
Winnipeg, Manitoba, R3B 1B9
Fax: (204) 947-3542
E-mail: CLK-Appeals@winnipeg.ca

The notice of appeal **must** be received by the City Clerk within the above-noted time for appeal.

If you fail to comply with this Order or, on appeal, fail to comply with the decision of the "Standing Policy Committee on Protection, Community Services and Parks," you may be prosecuted.

In addition, the department may then cause the work to be carried out and either charge the cost to you, the property owner, or add the cost to your property tax bill.

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John Prystanski

From: Traa, Ed
Sent: Wednesday, January 16, 2019 10:01 AM
To: jprystanski@mcjannetrich.com
Subject: FW: 843 Main St.

Good Morning John,

I have provided responses to your email in red. If you have any questions or concerns, please call or email.

Regards,



Ed Traa BSc.
Senior Fire Inspector
Winnipeg Fire Department
185 King Street, 2nd Floor
Winnipeg, MB. R3B 1J1
Ph : 204.986.7038
Fax: 204.986.6198
Cel: 204.794.4631
Email : etraa@winnipeg.ca

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From: John Prystanski [mailto:jprystanski@mcjannetrich.com]
Sent: Friday, January 11, 2019 3:46 PM
To: Traa, Ed
Subject: 843 Main St.

Dear Mr Traa,

I represent Mr. McDonald the owner of Surplus Direct located at 843 Main St.

It's my understanding you were the member of the WFPS that issued the order for the man door (Emergency Exit) on the north exposure to remain open and utilized as an emergency exit.

I am hoping that I may ask you a few questions regarding the door and the north exposure of my client's building to better understand this matter.

1) Does my client's building pose any fire risk/hazard or violate any fire codes with respect to the north wall (windows, doors)? **No. The North wall is non combustibile construction (brick). The "Emergency Exit" and windows open into a parking/storage lot owned by 847 Main Street which do not pose a fire hazard.**

2) Did your department observe any other violations on the exterior of my client's building other than the Bulldozer blocking my client's emergency exit door? **No, there were no other violations on the exterior of 843 Main which pertain to your clients property.**

3) Does my client's building pose any fire hazard or life and safety issues to the neighboring property at 847 Main St.? **No, your client's building at 843 Main poses no fire/life safety hazard to the lot or building at 847 Main Street.**

4) Would your department agree my clients building meets acceptable fire standards especially in particular to the north exposure? **843 main complies with the Manitoba Fire Code. Our inspector completed an inspection of the building and all Fire Code violations were corrected. 843 Main meets Fire Code requirements with respect to the North exposure.**

Any other relevant information you can supply regarding this matter would be appreciated.

The North wall was built directly on the property line which was permitted at the time of construction (around 1950). The emergency exit door was **required** by Building Code at the time of construction and must remain open at this time. The window openings were also **permitted** at that time. **Note** - Many, if not most, older building in the downtown would not meet today's Building Code requirements. The Building Code and Fire Code both emphasize that once a building is constructed to its current edition of Building Code and then occupied, "*the building is not required to be upgraded with every new edition of the Code*". The building has maintained its original classification and is said to be "Grandfathered", which is the case with 843 Main.

Sincerely,

John Prystanski*
Barrister and Solicitor

McJannet Rich
1308 – 220 Portage Ave.
Winnipeg, Manitoba R3C.0A5
Phone: 204.272.6242
Fax: 204.989.0688
Email: jprystanski@mcjannetrich.com

Legal Assistant: Candace Graham
Email: candace@mcjannetrich.com

*A Manitoba Law Society member practicing under Prystanski Law Corporation.

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 Please don't print this email unless you really need to.

John Prystanski

Subject:

FW: 843 Main Street (Robert McDonald / Surplus Direct) and 847 Main Street (Piotr and Tom Bialowas / Top Pro Roofing Ltd.)

4

From: "Brian Bergen" <BrianBergen@winnipeg.ca>

To: "surplusdirect@shaw.ca" <surplusdirect@shaw.ca>

Cc: "Denise Pambrun" <DPambrun@winnipeg.ca>, "James Cameron" <JamesCameron@winnipeg.ca>, "Brent C. Ross" <BCR@Aikins.com>

Sent: Wednesday, April 6, 2016 9:02:08 AM

Subject: RE: 843 Main Street (Robert McDonald / Surplus Direct) and 847 Main Street (Piotr and Tom Bialowas / Top Pro Roofing Ltd.)

Hi Rob,

As requested, please find a copy of my communications with Brent C. Ross, legal counsel representing the owners of 847 Main Street below.

Regards,
Brian Bergen



Brian Bergen
Commercial Plan Examination & Inspection Administrator
Planning, Property and Development Department
City of Winnipeg

From: Bergen, Brian

Sent: Wednesday, January 06, 2016 4:24 PM

To: 'Brent C. Ross'

Cc: Pambrun, Denise; Cameron, James

Subject: RE: 843 Main Street (Robert McDonald / Surplus Direct) and 847 Main Street (Piotr and Tom Bialowas / Top Pro Roofing Ltd.)

Hi Brent,

Further to our conversation this afternoon, I can confirm as follows.

The Manitoba Building Code requires that the building at 843 Main Street be provided with and maintain 2 acceptable exits which are sufficiently remote from each other for the safety of occupants within the building. This, together with correcting any other outstanding Code matters, must be provided prior to the City granting an Occupancy Permit for the current tenant – Surplus Direct. Every door used as an exit door shall swing on its vertical axis. Furthermore, if the sill of the doorway is greater than 200mm above grade, the exit requires an acceptable landing and stairs to grade. I understand that the existing double doors on the east side of the building at 843 Main facing the lane do swing on a vertical axis and are sufficiently remote from the building's main exit (front door facing Main Street) and therefore would be acceptable if an acceptable landing and stairs were provided in this location, as the threshold of these doors is currently greater than 200mm above grade.

Regards,

Brian Bergen

*Brian Bergen, C.E.T.
Commercial Plan Examination and Inspections Administrator
Development and Inspections
Planning Property and Development
4 – 65 Garry Street
Winnipeg, MB
Phone: 204-986-5217
Email: brianbergen@winnipeg.ca*

From: Brent C. Ross [<mailto:BCR@Aikins.com>]

Sent: Wednesday, January 06, 2016 9:53 AM

To: Bergen, Brian

Subject: RE: 843 Main Street (Robert McDonald / Surplus Direct) and 847 Main Street (Piotr and Tom Bialowas / Top Pro Roofing Ltd.)

Hi Brian.

Thank you for speaking with me a few moments ago.

I confirm your advice, amongst other matters, that the current back lane facing door on Mr. McDonald's property – being vertical access swinging style doors - would satisfy the City's requirement for a 2nd point of exit from the building, provided suitable stairs were installed on the exterior to allow for descent down to the ground. That there is no need - from the City's perspective – to create a new doorway or opening in that back lane (East) wall.

Kindly confirm I have the above correct.

Thanks again.
Brent

Brent C. Ross *

AIKINS
LAW

Aikins, MacAulay & Thorvaldson LLP

30th Floor - 360 Main Street | Winnipeg, MB R3C 4G1

Email bcr@aikins.com | Direct Line (204) 957.4681 | Fax (204) 957.4286

aikins.com

* services provided by B C Ross Law Corporation

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From: Brent C. Ross

Sent: December 18, 2015 4:16 PM

To: 'Bergen, Brian'

Cc: Geoff L. Mackwood (GLM@Aikins.com)

Subject: RE: 843 Main Street (Robert McDonald / Surplus Direct) and 847 Main Street (Piotr and Tom Bialowas / Top Pro Roofing Ltd.)

Hello Brian.

The litigation between Robert McDonald (843 Main) and our clients, the Bialowas' (847 Main), over access to the side loading door on the north side of Mr. McDonald's property continues.

I'm sorry to trouble you again, but I hope to get some further clarification.

Mr. McDonald has recently filed another affidavit. It is attached. He attributes some commentary to someone from the City (does not indicate who) which is a bit confusing to me.

He says in the affidavit that the City has told him he needs at least 2 exits, one of which is the front door. He then says in paras. 10 - 14 as follows:

"10. It used to be, of course, that there was a door on the North side of the building that could be used as a secondary exit but because the neighbours won't allow that, it is no longer an eligible exit,

11. Based upon my discussions with the City of Winnipeg, my understanding is that if my neighbours to the North, the Respondents, did allow me to use this access it could work and that would be acceptable (or modified to be acceptable) pursuant to the building code and an occupancy permit could issue.

12. The difficulty that I had is that the City of Winnipeg does not require me to have a loading dock, however, my business does require a loading dock. For an occupancy permit I am only required to have a vertical axis door, a "man door"

13. Therefore, with a unilateral closing of the North exit, I have neither a "man door" exit which is required for an occupancy permit nor a loading dock for operation of my business.

14. I am aware after speaking with the City of Winnipeg, that there has to be stairs with respect to this loading dock that I may have to construct along the eastern portion of the property and that, an exit that would qualify for an occupancy permit cannot have a "rolling door" (which is standard for a loading dock) as that would not qualify as a sufficient access that would meet code of the City of Winnipeg."

My questions are:

1. In order to use the door on the North side facing my client's property as the 2nd exit, doesn't he need to do more work to that door – including at least installing a fire rated shutter?

2. I understand him to be saying that to qualify as a 2nd exit, the type of door can't be a rolling/garage door style exit – is this correct? (I note that the current style of door on the North wall appears to be a rolling style door; and the one on the east/back lane side appears to be a swinging type door.)

3. Lastly, again for clarification purpose, I understand he can use the back lane loading doors so long as he install stairs; and if does this it would function as the 2nd exit?

Sorry again for the annoyance of this but any light you can shed would be appreciated.

I am around next week if it's easier to speak on the phone.

Thanks.
Brent

From: Bergen, Brian [<mailto:BrianBergen@winnipeg.ca>]
Sent: July 7, 2015 8:59 AM
To: Geoff L. Mackwood
Cc: Brent C. Ross; Cameron, James
Subject: RE: 843 Main Street (Robert McDonald / Surplus Direct) and 847 Main Street (Piotr and Tom Bialowas / Top Pro Roofing Ltd.)

Hi Geoff,

I have added one relevant Code consideration (in blue below).

Regards,
Brian Bergen

*Brian Bergen, C.E.T.
Commercial Plan Examination and Inspections Administrator
Development and Inspections
Planning Property and Development
4 – 65 Garry Street
Winnipeg, MB
Phone: 204-986-5217
Email: brianbergen@winnipeg.ca*

From: Geoff L. Mackwood [<mailto:GLM@Aikins.com>]
Sent: Monday, July 06, 2015 4:29 PM
To: Bergen, Brian
Cc: Brent C. Ross
Subject: 843 Main Street (Robert McDonald / Surplus Direct) and 847 Main Street (Piotr and Tom Bialowas / Top Pro Roofing Ltd.)

Hi Brian,

Thank you very much for taking the time to speak with me this morning.

As I mentioned, we are preparing an affidavit on behalf of our clients Piotr and Tom Bialowas and Top Pro Roofing Ltd. to be filed in response to Mr. McDonald's claim for an injunction granting him access to the side loading door at 843 via our clients' fenced storage area at the rear of their lot at 847.

The affidavit will likely be sworn by Piotr Bialowas. Information from the City regarding the status of Mr. McDonald's side loading door and rear door will be relevant, and Mr. Bialowas will need to swear to it based on his information and belief since the evidence won't be sworn by a staff member of the City directly. The following summarizes, we believe, the information we've received from the City thus far:

- (a) the side loading door at 843 was built without a building permit from the City of Winnipeg;
- (b) the City of Winnipeg has told Mr. McDonald that, as it currently stands, the building at 843 does not comply with the National Building Code of Canada;

- (c) as it stands, in order to use the side loading door at 843 the building requires work (including a fire rated shutter over the side loading door) so as to comply with the fire protection, occupant safety and accessibility provisions of the Building Code;
- (d) from the City's perspective, there is nothing preventing Mr. McDonlad (his business is Surplus Direct) from using the rear/back-lane doors at 843 as a required 2nd exit to comply to Code, and for loading and unloading purposes, provided certain work is performed in order to comply with the Building Code, which work includes mainly the installation of stairs;
- (e) the City has advised Mr. McDonald of the work required to allow him/Surplus Direct to use the rear/back-lane doors for loading or unloading; and
- (f) there is room for stairs to be installed at the rear of 843 without encroaching on property owned by the City.

I would appreciate if you could let me know if there are any inaccuracies with the above at your earliest opportunity.

Again, I thank you for your time regarding this matter – your assistance is much appreciated.

Regards,
Geoff

Geoff L. Mackwood

Aikins, MacAulay & Thorvaldson LLP

30th Floor - 360 Main Street | Winnipeg, MB R3C 4G1

Email glm@aikins.com | Direct Line (204) 957.4687 | Fax (204) 957.4432

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