



# **The Municipal Corporation of the Town of Fort Erie**

**BY-LAW NO. 158-2002**

## **BEING A BY-LAW TO AUTHORIZE THE SALE OF TOWN-OWNED UNDERSIZED LANDS ON THE SOUTH SIDE OF HURONTARIO STREET (CHEVALIER AND WOODCOCK) (120902)**

**WHEREAS** Subsection 191(1) of the *Municipal Act*, R.S.O. 1990, Chapter M.45 as amended provides that the Council of every corporation may pass by-laws for acquiring or expropriating any land for purposes of the corporation, and for erecting and repairing buildings thereon, and for making additions to or alterations of such buildings, and may sell or otherwise dispose of same when no longer so required, and

**WHEREAS** By-law No. 44-95 as amended establishes a policy for the disposition of real property owned by The Corporation of the Town of Fort Erie, and

**WHEREAS** lands described as Lot 45 Plan 993 for the Town of Fort Erie, on the south side of Hurontario Street (hereinafter referred to as "the lands") were declared surplus under Recommendation No. 4 approved at the Special Council-in-Committee meeting of November 27, 2000, and

**WHEREAS** abutting owners, Nancy Ann Chevalier and Donald Woodcock, have offered to purchase Lot 45 Plan 993 for the Town of Fort Erie, on the south side of Hurontario Street for the established Opinion of Value of \$2,415.00 plus g.s.t., conditional upon the subject land merging in title with the purchaser's abutting property, and

**WHEREAS** it is deemed desirable to accept the Agreement of Purchase and Sale from the abutting property owner annexed hereto and forming part of this by-law;

**NOW THEREFORE** the Municipal Council of The Corporation of the Town of Fort Erie hereby enacts as follows:

- 1. THAT** the acceptance of an Agreement of Purchase and Sale from Nancy Ann Chevalier and Donald Woodcock for the sale of lands on the south side of Hurontario Street, described as Lot 45, Plan 993 for the Town of Fort Erie, in the amount of \$2,415.00 plus g.s.t. in the form of Schedule "A" annexed hereto to this by-law be and it is hereby approved and authorized.

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2. **THAT** the sale of this property is conditional upon the subject lands merging in title with the purchaser's abutting property.
3. **THAT** the Mayor and Clerk be and they are hereby authorized and directed to execute any documentation necessary to complete this transaction.
4. **THAT** the Certificate as required under Subsection 193(9) of the *Municipal Act*, R.S.O. 1990, Chapter M.45 and Section 6.3 of By-law No. 44-95 in the form of Schedule "B" annexed hereto shall be included with the Transfer/Deed of Land which shall be deemed to be sufficient proof that this section has been complied with.
5. **THAT** the proceeds from this sale shall be credited to the General Revenues of the Corporation of the Town of Fort Erie.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 9<sup>th</sup> DAY OF SEPTEMBER, 2002.**

  
\_\_\_\_\_  
MAYOR

  
\_\_\_\_\_  
CLERK

I, the Clerk, Carolyn J. Kett, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 158-2002 of the said Town. Given under my hand and the seal of the said Corporation this day of \_\_\_\_\_, 2002.

\_\_\_\_\_

**SCHEDULE "B"**  
**TO**  
**BY-LAW NO. 158-2002**

**IN THE MATTER OF** the sale of Town-owned surplus lands described as Lot 45 Plan 993, for the Town of Fort Erie, on the south side of Hurontario Street (hereinafter called "the lands).


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**C E R T I F I C A T E**

I, Carolyn J. Kett, Clerk of the Town of Fort Erie, in the Regional Municipality of Niagara, in the Province of Ontario, hereby verify that to the best of my knowledge and belief:

1. By-law No. 44-95 as amended which provides for the disposition of certain surplus lands owned by The Corporation of the Town of Fort Erie was in force at the time the lands were declared surplus.
2. That notice of the sale of the surplus lands was published in the local paper, being The Times on December 2 and 9, 2000.
3. An appraisal was obtained for the lands.

DATED at Fort Erie, Ontario this 9th day of September, 2002.

  
\_\_\_\_\_  
Carolyn J. Kett, Town Clerk



DYE & DURHAM CO. INC  
FORM 101  
MARCH 2000

FORM No. 101  
GSA



12. **DOCUMENTS AND DISCHARGE:** Purchaser shall not call for the production of any title deed, abstract, survey or other evidence of title to the property except such as are in the possession or control of Vendor. If requested by Purchaser, Vendor will deliver any sketch or survey of the property within Vendor's control to Purchaser as soon as possible and prior to the Registration Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust and Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Purchaser on completion, is not available in registrable form on completion, Purchaser agrees to accept Vendor's lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same on title within a reasonable period of time after completion, provided that on or before completion Vendor shall provide to Purchaser a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, together with a direction executed by Vendor directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.
13. **INSPECTION:** Purchaser acknowledges having had the opportunity to inspect the property prior to submitting this Offer and understands that upon acceptance of this Offer there shall be a binding agreement of purchase and sale between Purchaser and Vendor.
14. **INSURANCE:** All buildings on the property and all other things being purchased shall be and remain until completion at the risk of Vendor. Pending completion, Vendor shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Purchaser may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Vendor is taking back a Charge/Mortgage, or Purchaser is assuming a Charge/Mortgage, Purchaser shall supply Vendor with reasonable evidence of adequate insurance to protect Vendor's or other mortgagee's interest on completion.
15. **PLANNING ACT:** This Agreement shall be effective to create an interest in the property only if Vendor complies with the subdivision control provisions of the Planning Act by completion and Vendor covenants to proceed diligently at his expense to obtain any necessary consent by completion.
16. **DOCUMENT PREPARATION:** The Transfer/Deed shall be prepared by the Land Transfer Tax Affidavit shall be prepared in registrable form at the expense of Vendor, and any Charge/Mortgage to be given back by the Purchaser to Vendor at the expense of the Purchaser. If requested by Purchaser, Vendor covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50 (22) of the Planning Act, R.S.O. 1990.
17. **RESIDENCY:** Purchaser shall be credited towards the Purchase Price with the amount, if any, necessary for Purchaser to pay to the Minister of National Revenue to satisfy Purchaser's liability in respect of tax payable by Vendor under the non-residency provisions of the Income Tax Act by reason of this sale. Purchaser shall not claim such credit if Vendor delivers on completion the prescribed certificate or a statutory declaration that Vendor is not then a non-resident of Canada.
18. **ADJUSTMENTS:** Any rents, mortgage interest, realty taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to Purchaser.
19. **TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Vendor and Purchaser or by their respective lawyers who may be specifically authorized in that regard.
20. **TENDER:** Any tender of documents or money hereunder may be made upon Vendor or Purchaser or their respective lawyers on the day set for completion. Money may be tendered by bank draft or cheque certified by a Chartered Bank, Trust Company, Province of Ontario Savings Office, Credit Union or Caisse Populaire.
21. **FAMILY LAW ACT:** Vendor warrants that spousal consent is not necessary to this transaction under the provisions of the Family Law Act, R.S.O. 1990 unless Vendor's spouse has executed the consent hereinafter provided.
22. **UFFI:** Vendor represents and warrants to Purchaser that during the time Vendor has owned the property, Vendor has not caused any building on the property to be insulated with insulation containing ureaformaldehyde, and that to the best of Vendor's knowledge no building on the property contains or has ever contained insulation that contains ureaformaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is the subject of this transaction.
23. **CONSUMER REPORTS:** The Purchaser is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.
24. **AGENCY:** It is understood that the brokers involved in the transaction represent the parties as set out in the Confirmation of Representation below.
25. **AGREEMENT IN WRITING:** If there is conflict between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict. This Agreement including any Schedule attached hereto, shall constitute the entire Agreement between Purchaser and Vendor. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein. This Agreement shall be read with all changes of gender or number required by the context.
26. **SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

DATED at Fort Erie, Ontario this 3rd day of Sept. 2002  
SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

(Witness) Nancy A. Chevalier (Purchaser) Nancy Chevalier (Seal) DATE Sept-03-02  
(Witness) Donal Woodcock (Purchaser) Donal Woodcock (Seal) DATE Sept 3/02

I, the Undersigned Vendor, agree to the above Offer. I hereby irrevocably instruct my lawyer to pay directly to the Listing Broker the unpaid balance of the commission together with applicable Goods and Services Tax (and any other taxes as may hereafter be applicable), from the proceeds of the sale prior to any payment to the undersigned on completion, as advised by the Listing Broker to my lawyer.

DATED at Fort Erie, Ontario this 10th day of Sept. 2002  
SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

(Witness) THE CORPORATION OF THE TOWN OF FORT ERIE (Vendor) Mayor (Seal) DATE Sept 10/02  
(Witness) Sheila (Vendor) crk (Seal) DATE Sept

**SPOUSAL CONSENT:** The Undersigned Spouse of the Vendor hereby consents to the disposition evidenced herein pursuant to the provisions of the Family Law Act, R.S.O. 1990, and hereby agrees with the Purchaser that he/she will execute all necessary or incidental documents to give full force and effect to the sale evidenced herein.

(Witness) \_\_\_\_\_ (Spouse) \_\_\_\_\_ (Seal) DATE \_\_\_\_\_

**CONFIRMATION OF EXECUTION:** Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally executed by all parties at \_\_\_\_\_ a.m./p.m. this \_\_\_\_\_ day of \_\_\_\_\_ (year) \_\_\_\_\_ (Signature at Vendor or Purchaser)

#### CONFIRMATION OF REPRESENTATION

I hereby acknowledge and confirm the Listing Broker represents the interests of the \_\_\_\_\_ in this transaction.  
(Vendor/Vendor and the Purchaser)  
Signature of Listing Broker or authorized representative \_\_\_\_\_  
Name of Listing Broker \_\_\_\_\_  
Tel. No. \_\_\_\_\_ FAX No. \_\_\_\_\_

I hereby acknowledge and confirm the Co-operating Broker represents the interests of the \_\_\_\_\_ in this transaction.  
(Vendor/Purchaser)  
Signature of Co-operating Broker or authorized representative \_\_\_\_\_  
Name of Co-operating Broker \_\_\_\_\_  
Tel. No. \_\_\_\_\_ FAX No. \_\_\_\_\_

#### ACKNOWLEDGEMENT

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Agent to forward a copy to my lawyer.  
(Vendor) \_\_\_\_\_ DATE \_\_\_\_\_  
(Vendor) \_\_\_\_\_ DATE \_\_\_\_\_  
Address for Service: \_\_\_\_\_ Tel. No. ( ) \_\_\_\_\_  
Vendor's Lawyer \_\_\_\_\_  
Address \_\_\_\_\_  
Tel. No. \_\_\_\_\_ FAX No. \_\_\_\_\_

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Agent to forward a copy to my lawyer.  
(Purchaser) \_\_\_\_\_ DATE \_\_\_\_\_  
(Purchaser) \_\_\_\_\_ DATE \_\_\_\_\_  
Address for Service: \_\_\_\_\_ Tel. No. ( ) \_\_\_\_\_  
Purchaser's Lawyer \_\_\_\_\_  
Address \_\_\_\_\_  
Tel. No. \_\_\_\_\_ FAX No. \_\_\_\_\_

#### FOR OFFICE USE ONLY

#### COMMISSION TRUST AGREEMENT

To: Co-operating Broker shown on the foregoing Agreement of Purchase and Sale:  
In consideration for the Co-operating Broker procuring the foregoing Agreement of Purchase and Sale, I hereby declare that all moneys received or receivable by me in connection with the Transaction as contemplated in the MLS Rules and Regulations of my Real Estate Board shall be receivable and held in trust. This agreement shall constitute a Commission Trust Agreement as defined in the MLS Rules and shall be subject to and governed by the MLS Rules pertaining to Commission Trust.

DATED as of the date and time of the acceptance of the foregoing Agreement of Purchase and Sale, Acknowledged by:

Signature of Listing Broker or authorized representative

Signature of Co-operating Broker or authorized representative

**SCHEDULE "A" TO  
AGREEMENT OF PURCHASE AND SALE  
NANCY CHEVALIER AND DONALD WOODCOCK**

*N.C. Du* 

The Purchaser acknowledges that the Corporation of the Town of Fort Erie makes no warranties or representations of any kind or nature that the property is free of any environmental risks and/or hazards.

The Purchaser is advised to seek the advice of his/her own solicitor with respect to conducting searches of Governmental records or obtaining an environment audit of the subject lands prior to the closing date of the transaction.

The Purchaser is required to remit his/her objections concerning the environmental condition of the property, as a result of search of Government records or an environmental audit to the Corporation of the Town of Fort Erie by the date for submitting requisitions set out herein, failing which, the Purchaser is required to complete the transaction as herein contemplated.

If, as a result of any search of Governmental records or the result of an environmental audit, the Purchaser's future intended use of the property will not be allowed, the Purchaser at his/her option, may terminate the Agreement of Purchase and Sale and the Purchaser's deposit shall be returned in full without interest or deduction. In that event, the Purchaser acknowledges and agrees to provide the Corporation of the Town of Fort Erie with copies of any and all environmental audit reports and/or governmental responses.