

**CITY OF HAMILTON**

**COMMUNITY SERVICES DEPARTMENT**  
**Corporate Buildings and Real Estate Division**

<b>Report to:</b> Mayor and Members Committee of the Whole	<b>Submitted by:</b> William E. Fenwick, A/General Manager
<b>Date:</b> December 19, 2002	<b>Prepared by:</b> William Farkas 905-628-4300

**SUBJECT: Sale of City Owned Property-286 Sanford Ave. N., to Frederick Blake Kenwell, in trust for a company to be incorporated (CS03002)(Ward 3)**

---

**RECOMMENDATION:**

- (a) That an Offer to Purchase executed by Frederick Blake Kenwell, scheduled to close on or before February 3, 2003 for the property municipally known as 286 Sanford Avenue North, composed of Part of Lots 13, 15 & 30; All of Lots 14, 28 & 29; Part of the Alley lying between Lots 15 & 28, Closed by By-law 535 and Part of the Alley lying between Lots 13, 14, 29 & 30 Closed by Order Instrument 298258 HAM, Registered Plan 167, being described as Part 1 on Deposited Plan 62R-9241, saving and excepting Part 1 on Deposited Plan 62R-16213, in the City of Hamilton, be approved and completed and that the funds derived from this sale of \$186,000, subject to adjustments be credited to account 47702-3560150100 (Land Sales);
- (b) That the General Manager of Finance & Corporate Services hold the deposit cheque in the amount of \$18,600 until the closing of this transaction;
- (c) Upon successful completion of the sale, a real estate commission of \$11,160 plus GST (6% of the \$186,000 sale price) be paid to Star Real Estate Limited (Sale Representative David G. Field) who acted in this matter;
- (d) That the completion of this transaction be subject to the following conditions:
  - (i) The Vendor entering into an encroachment agreement with the Roads & Traffic Division, Transportation, Operations and Environmental Department of the City of Hamilton, for that portion of the road allowance lying under the existing building as depicted on Plan 62R-9241. The Offer and Agreement are to be finalised and registered contemporaneously with each other.
  - (ii) The Vendor entering into a Heritage Easement Agreement with the Heritage & Urban Design Section, Planning and Development Department of the City of Hamilton, to conserve the present historical, architectural, aesthetic and scenic character of the building on the real property. The Offer and Agreement are to be finalised and registered contemporaneously with each other;

**SUBJECT: Sale of City Owned Property-286 Sanford Ave. N., to Frederick Blake Kenwell, in trust for a company to be incorporated (CS03002) (Ward 3) - Page 2 of 7**

- (e) That the Mayor and Municipal Clerk be authorised and directed to execute and issue a Certificate of Compliance in the form prescribed pursuant to Section 193 of the Municipal Act incorporating the following:
- (i) The property was declared surplus by resolution of the City Council on February 13, 2002 by adopting Item #3, of Report 02-005 of the Committee of the Whole.
  - (ii) That in accordance with the approved method of the Notice to the Public in Real Property Sales Procedural By-law No. 95-049, the property was listed with a licensed real estate broker, Star Real Estate Limited and offered for sale to the public.
  - (iii) An appraisal of the fair market value of the real property to be sold was obtained on January 25, 2002.

---

William E. Fenwick, A/General Manager  
Community Services

**EXECUTIVE SUMMARY:**

This report is to provide direction to staff to complete the sales transaction with Frederick Blake Kenwell, subject to the City's conditions as stipulated in the Offer to Purchase.

**BACKGROUND:**

The information/recommendations contained within this report primarily affect Ward 3.

Effective January 1, 1995 the Municipal Act was amended by Bill 163, requiring municipalities to enact a by-law to establish procedures for the sale of real property owned by a municipality.

In accordance with Item 21 of Report 01-029 of the Committee of the Whole approved by City Council on September 18, 2001 approving the Consolidation of Routine Real Estate Matters that authority to approve the disposition of land or any interest in land (except for a leasehold interest) be delegated to the City Manager, General Manager of the relevant department or their designates within the limits set out and subject to the following:

- “(3) The disposition price shall be at or above fair market value;
- (4) Fair market value shall be determined by appraisal (in-house, outside, verbal or written);

**SUBJECT: Sale of City Owned Property-286 Sanford Ave. N., to Frederick Blake Kenwell, in trust for a company to be incorporated (CS03002) (Ward 3) - Page 3 of 7**

- (5) Disposition value shall not exceed:
- (i) \$60,000 for the General Manager or designate;
  - (ii) \$150,000 for the City Manager or designate.”

As the Offer to Purchase price exceeds the limit as set out above, Council's approval is therefore sought to complete this transaction.

The City as a result of tax arrears in the amount of \$359,275.45 acquired the subject property. Notice of Vesting to the City was registered on August 1, 2001 as Instrument Number VE 48827.

Located in the Gibson Neighbourhood at the southeast corner of Sanford Avenue North and Myler Street, the lot has dimensions of approximately 36.08 meters by 64.47 meters (118.37 ft. x 211.5 ft.) and a site area of approximately 0.279 hectares (0.69 acres). The building is an abandoned seven- (7) storey, 6224 square meter (67,000-sq. ft.) steel frame and brick office building, circa 1917, formerly occupied by Westinghouse Canada. Current zoning is K-Heavy Industrial, Official Plan Designation Industrial (Special Policy Area II) allows light industrial as well as heavy industrial uses under the zoning by-law. The structure is listed as a heritage building and is regarded as being in poor condition. The southern portion of the subject property is currently leased by the City to Siemens Westinghouse for parking purposes. The lease provides a monthly payment to the City and will continue on a month to month basis until such time as the subject lands are required for municipal purposes or sold. Upon acceptance of this transaction, notice will be provided to Siemens Westinghouse pursuant to the terms and conditions of the agreement to cancel and/or have the lease assigned to the prospective purchaser.

The former Corporation of the City of Hamilton had enacted By-law No. 88-202 designating the lands at 286 Sanford Avenue North as a property of Historical and Architectural Value and Interest. A copy of this by-law was registered against the subject property on September 16, 1988 as Instrument Number 475280 C.D.

Vanguard Pacifics Technologies Ltd. carried out a Facility Condition Assessment for this property. Based on their review and that of other experts in the various fields, their estimated cost to bring this facility back to today standards is approximately \$5,981,000.

On January 25, 2002 staff engaged the services of Mr. Alan Tucker of Jake Ellens & Associates Inc. to conduct an appraisal to determine the estimated market value of the subject property. Based on the result of Mr. Tucker's analysis, it was his opinion that the Market Value of the subject property as at January 8, 2002 is \$55,000.

The subject property was listed for sale with Star Realty on September 6, 2002, one of several realtors that have been approved to act on behalf of the City through a bidding process to provide municipal real estate services. The asking price was \$99,900 for the subject lands.

**SUBJECT: Sale of City Owned Property-286 Sanford Ave. N., to Frederick Blake Kenwell, in trust for a company to be incorporated (CS03002) (Ward 3) - Page 4 of 7**

As of November 13, 2002 Staff had received three offers on the subject property thereby, creating a multiple offer situation. Each party had signed a letter of "Acknowledgement" that they had been advised that there are multiple offers on the subject property and that they were making their best offer on that basis. Three Offers were received in the amount of \$186,000, \$110,000 and \$100,000 respectively. As a result of the offers submitted two of the three offers were conditional upon:

- (a) The purchasers conducting a Phase 1 & 2 environmental assessments of the said property; and
- (b) The purchase price of the property in one offer as submitted be allocated towards the subject assets and to apply a portion of the sale price equivalent to three taxes as a pre-payment.

Other conditions within the above offers were minor in nature.

The remaining offer submitted by Frederick Blake Kenwell was unconditional with a purchase price of \$186,000 for the subject property. Based on the submitted offers, Staff recommends that the lands be sold to the highest offer, being Frederick Blake Kenwell. It is further noted that the sale price is well above the range of value, as determined by the appraisal of the subject's fair market value. It is further recommended that the cost incurred by Corporate Buildings and Real Estate Division for the preparation of the Facility Condition Assessment report and Asbestos consulting services be re-covered through the sale of the subject property.

It is also our understanding that the prospective purchaser's intention is to utilize the property as their headquarters for storage and distribution of goods. As a quiet partner to numerous manufacturers they handle the marketing and distribution of their products globally, which products range from environmental treatment systems, to customer products such as wood flooring. Other portions of the building will be leased to other companies to meet storage and office needs. The building will be upgraded to meet the needs and provide a proper business environment and presentation center.

**ANALYSIS OF ALTERNATIVES:**

As the building has sat vacant for a number of years, and if Council does not recommend the approval of the sale of this historical building, funding must then be allocated through the City's capital budget to maintain this vacant building on an interim basis, until such time as the property is sold. Further, as no alternative municipal use had been identified for the subject property which is due in part to the high cost of renovations and lack of parking, the economic spin off through the sale of the subject property will reduce operational costs to the City of Hamilton from a maintenance standpoint. The sale of the subject land will eliminate the financial burden on the City for the costs and liability associated with owning this property and would generate tax revenue. The sale of the subject will allow the re-adaptive use and preservation of the historical structure, as well as providing increased employment to the City of Hamilton.

**SUBJECT: Sale of City Owned Property-286 Sanford Ave. N., to Frederick Blake Kenwell, in trust for a company to be incorporated (CS03002) (Ward 3) - Page 5 of 7**

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial

If this recommendation is approved, staff will take the necessary steps to have this transaction finalized.

Staffing

No municipal need has been expressed to retain the subject property.

Legal Implications

Registering a Heritage Easement and Encroachment Agreement against the property will be completed and registered contemporaneously of each other.

Identifying and disposing of surplus properties at market value is consistent with the effective management of the realty assets of the City of Hamilton.

**POLICIES AFFECTING PROPOSAL:**

City Council on January 9, 2001, approved Item 1.2 of the Committee of the Whole establishing Policy for the sale of Municipally Owned Real Estate. Schedule "A" – Policy for the Sale of Municipally Owned Real Estate states in part:

- " (3) Surplus lands shall be sold by one of three methods as appropriate in the discretion of the Real Estate section: 1) Tender Call. 2) Open Market-marketed and negotiated directly by staff or 3) Brokered – marketed by approved independent real estate brokers.
- (4) With the exception of properties that are sold by tender, when property is initially put on the market for sale, a minimum period of time shall be specified during which the municipality will be open to accept all Offers to Purchase, such time to be no less than ten (10) days....."

As a condition of the Sales Listing Agreement with Star Real Estate Limited, the following notation was made; "that the listing of the subject property must be on the open market a minimum of fourteen (14) days before any offer will be considered by the City of Hamilton".

In accordance with Item 21 of Report 01-029 of the Committee of the Whole approved by City Council on September 18, 2001 approving the Consolidation of Routine Real Estate Matters that authority to approve the disposition of land or any interest in land (except for a leasehold interest) be delegated to the City Manager, General Manager of the relevant department or their designates within the limits set out and subject to the following:

**SUBJECT: Sale of City Owned Property-286 Sanford Ave. N., to Frederick Blake Kenwell, in trust for a company to be incorporated (CS03002) (Ward 3) - Page 6 of 7**

- “(3) The disposition price shall be at or above fair market value;
- (4) Fair market value shall be determined by appraisal (in-house, outside, verbal or written);
- (5) Disposition value shall not exceed:
  - (i) \$60,000 for the General Manager or designate;
  - (ii) \$150,000 for the City Manager or designate.”

As the purchase price exceeds the limits as set out above, Council’s approval is therefore required.

**CONSULTATION WITH RELEVANT DEPARTMENTS/AGENCIES:**

Various City Departments, School Boards, Hospital Boards, McMaster University, Mohawk College and the Province of Ontario have been notified of the surplus status of the subject and none have shown interest or objected to the sale subject to:

Planning and Development:

The subject lands are designated “Industrial” by the City of Hamilton Official Plan-Schedule A. The Gibson Neighbourhood Plan further indicated a land use designation of “Medium Density Apartments”. The City of Hamilton Zoning By-law identifies the property a “K” (Heavy Industrial).

The property was subject to an OMB hearing for a proposed high-density residential development in the early 1990’s but due to higher than desired density and noise concerns it was denied board.

Transportation Operations & Environment:

The City retaining sufficient lands to construct a standard radius curve at the intersection of Myler and Sanford Avenue. (minimum 2m x 3m)

According to the plans submitted there appears to be a number of building encroachments within the adjacent road allowances and agreements should be retained with the City for any encroachments within the road allowance with the purchaser(s).

Heritage & Urban Design:

In order to appropriately conserve and manage a city owned heritage asset that is now proposed for sale, heritage staff recommend that in this specific case that a Heritage Easement be negotiated as a condition of sale.

**SUBJECT: Sale of City Owned Property-286 Sanford Ave. N., to Frederick Blake Kenwell, in trust for a company to be incorporated (CS03002) (Ward 3) - Page 7 of 7**

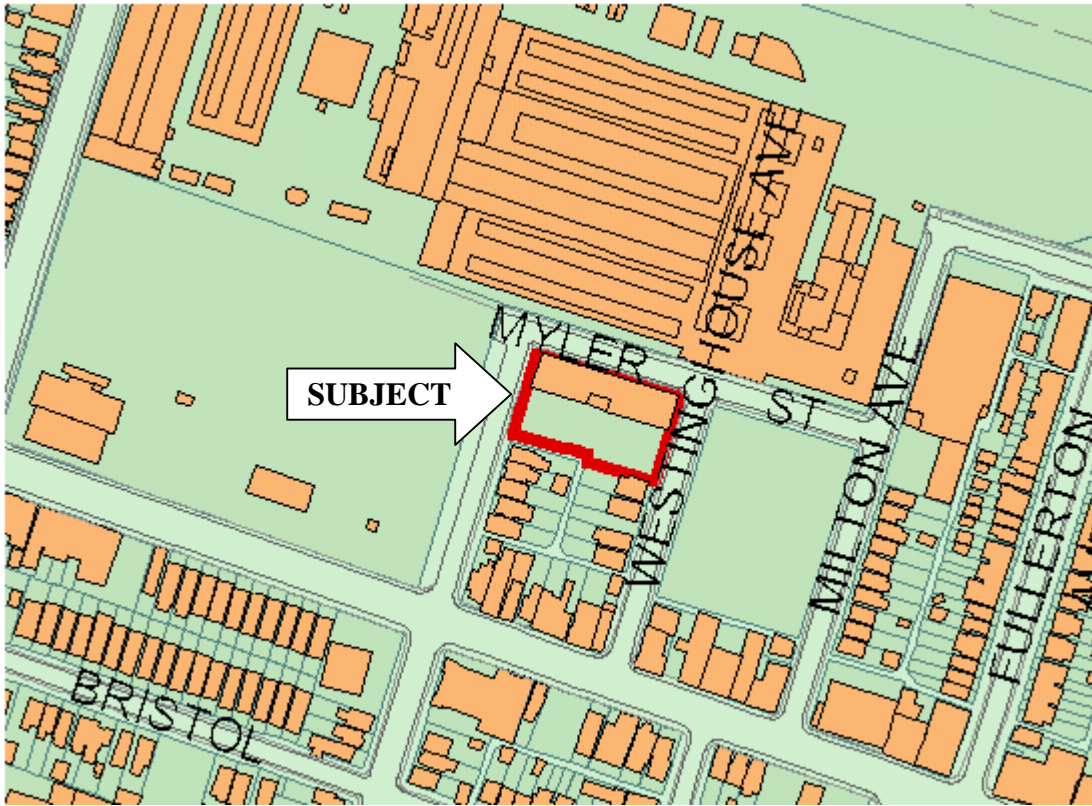
Social Planning & Housing:

Consideration had been given to this location for office space however, due to the high cost which would have exceeded the estimated value of \$5,981,000 as established by the consultant and the lack of parking, it was determined that the re-utilisation of this building was economically unfeasible.

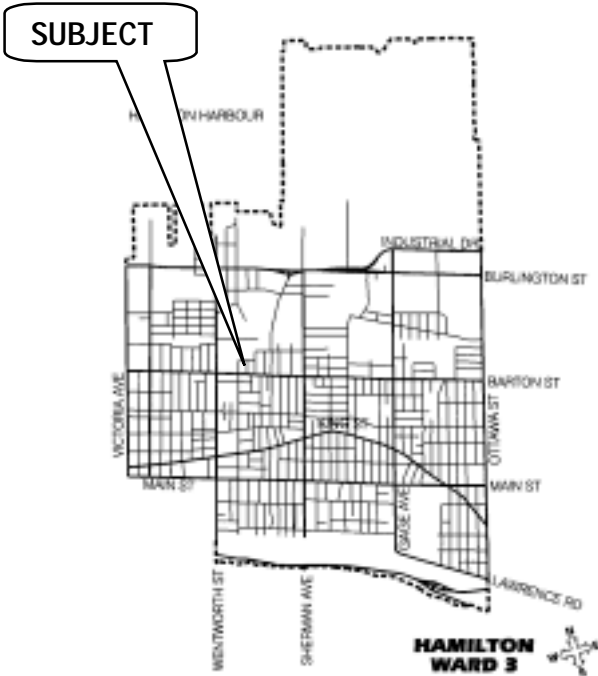
Staff had also looked at other alternatives and in particular, the conversion of the building into residential dwelling units. As the property was subject to a previous Ontario Municipal Board decision of April 29, 1991, denied the proposed residential use. Due to the board's decision, it was felt that any application to re-introduce a residential re-development on this site might be unsuccessful. Enquiries were made with the firm that had originally lodged the objection to the Board. They were non-committal to providing staff with a response as to their position relative to a new application being made to pursue the re-designation of the site for residential use. Therefore, it was felt that any form of residential use by any prospective purchaser would in all likelihood face an uphill battle with the original objector.

**CITY STRATEGIC COMMITMENT:**

The ultimate sale of the lands will assist in the re-adaptive use and preservation of the historical structure. The social and cultural impacts of the sale on the community will be protected through the registration of a Heritage Easement as a condition of the sale. Also, as noted previously in this report, the economic impacts through the sale of the subject property will reduce the City's liability and operational costs to maintain a vacant building, while increasing the City's tax base through the adaptive re-use of the building, as well as providing increased employment for the City of Hamilton.



## KEY MAP

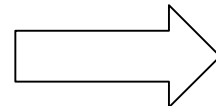


## LOCATION PLAN

**286 SANFORD AVENUE NORTH  
HAMILTON**

CITY OF HAMILTON

## LEGEND



**SUBJECT LAND**

SCALE  
**NOT TO SCALE**

DATE  
**2002-12-18**

REFERENCE FILE NO: **99C-26**