

RE: NORTHEAST BURNABY RECREATION/LIBRARY COMPLEX  
PROPERTY BELONGING TO MRS. LILLIAN F. MANN  
9637 CAMERON STREET  
(ITEM 23, REPORT NO. 32, 1979 APRIL 24)  
(ITEM 6, REPORT NO. 41, 1979 JUNE 11)  
(ITEM 3, REPORT NO. 50, 1979 JULY 16)  
(ITEM 3, REPORT NO. 60, 1979 SEPTEMBER 04)  
(ITEM 2, IN-CAMERA REPORT NO. 65, 1979 SEPTEMBER 24)

RECOMMENDATION:

1. THAT this report be received for information purposes.

REPORT

A. Introduction

On 1979 October 15, Council requested a report on the chronological order in which negotiations have taken place with Mrs. Lillian F. Mann for the purchase of her property at 9637 Cameron Street. This and other related information follows. Sketches showing the location of the property in relation to the Northeast Burnaby Recreation/Library Complex are attached.

It is realized that reports involving negotiations are referred to Council In-Camera. However, in this case, it is felt that it is appropriate for this report to be placed on the open agenda because the subject has been the result of extensive coverage in the media, and some of this coverage is inaccurate and may even be said to be misleading. A further consideration is that the offers which have been made by the Municipality have appeared in newspapers and so they are a matter of public record.

With the exception of Mrs. Mann's property, all of the other properties that are required for Phase I of the complex have been acquired. The purchase prices were all well below what Mrs. Mann is requesting. In fact, the property adjoining Mrs. Mann's property at 9611 Cameron Street which had the same dimensions as Mrs. Mann's property was sold to the Municipality for \$85,000 or \$4.12 per square foot on 1978 January 10 (the same day on which Mrs. Mann was first approached by the Municipality with an offer to purchase her property).

B. Background Information

The Northeast Burnaby area is the most rapidly growing area of Burnaby with a projected 1986 population of approximately 26,610 and a current population in the range of 14,000. It is also an area which, physically, has been relatively isolated from the balance of the Municipality. It possesses few major public facilities and due to this fact and the vocal assertion of residents of the area, the Municipality made the establishment of a public library and a comprehensive recreation centre/sports facility in this area a high priority.

A community plan was originally adopted for this area in mid-summer, 1970, and subsequently modified over the years. Comprehensive reports were provided relative to the selection of this library/recreation centre site and it was approved not only by Council, but by the Parks and Recreation Commission and the Burnaby Library Board as well. This followed two public meetings that were held in the area.

Mrs. Mann's property is located at the eastern end of the 4.09 acre 1st Phase site that has been designated for the development of the Northeast Burnaby Recreation/Library Complex. It is specifically required to provide service access to the building complex in the first phase, necessary parking for the complex, particularly the library function, and to provide fire lane access to the east side of the complex.

The anticipated date for completion of construction regarding phase one is mid-March, 1980. 157

The site on which Mrs. Mann's property is located is a single legal lot with dimensions of 85 foot frontage and 258 foot depth. The home, which is of frame construction, is approximately sixty years old. The main floor has a gross living area of about 825 square feet, the upper floor about 560 square feet and the basement about 675 square feet. At the rear of the property is a frame carport on a concrete slab. The 1979 assessed value of land and buildings is \$54,650.

C. Chronology

1978 January 10

It was on the evening of this date that Mrs. Mann was first contacted. The visit took place at about 20:15h in her home. Upon being informed that her property was required by the Municipality, she requested the same price as was paid by developers for property on the south side of Cameron Street, but she did not name a figure. She was told that these values were not comparable due to a difference in zoning. She replied that she would not accept less and would engage the services of a good lawyer to fight the Municipality. The power of expropriation was explained in reply to her question on what would happen if she refused to sell; she was further advised in this regard that the Municipality wished to avoid such a course of action and it was hoped that a reasonable settlement would be reached. She has complained on how she was approached by staff. Attached in this regard is her letter dated 1978 March 05 to the Director, Veterans' Land Act Administration, and staff's report which Council received on 1978 March 28.

1978 January 20

A search in the Land Registry Office disclosed that the subject property is registered in the name of the Director, The Veterans' Land Act.

1978 January 23

Since it was clear that the acquisition could not be negotiated, Expropriation By-Law No. 7173 was given first three readings. The by-law made it clear that the consent of the Governor in Council is required. This requirement was not brought to the attention of the Municipal Solicitor by Mrs. Mann's solicitors. It was already known to the Municipal Solicitor.

1978 January 24

The Land Agent advised Mrs. Mann in writing that he was prepared to recommend to Council that the property be purchased for \$87,000, and in addition, a rent and tax free tenancy until 1978 May 31. This was the first time that we gave a deadline by which we asked her to vacate the property.

1978 January 25

The Land Agent advised Mrs. Mann that Council gave three readings to an expropriation by-law but that this by-law does not preclude further negotiation and settlement. Included in this letter was a request to allow workers onto the property to perform a topographical survey and soil tests.

1978 January 30

Expropriation By-Law No. 7173 was given final adoption.

1978 February 10

Mr. Robert C. Gardner, Mrs. Mann's solicitor, wrote to advise Mayor Constable that the actions of Council to date have been illegal, and if such actions should be later adjudicated by a court to be legal, that Mrs. Mann rejects the offer that she has received as being unsatisfactory. The Municipal Solicitor's acknowledgment advised that the Municipality is prepared to continue negotiations.

1978 February 13

A file memo advises that the Land Agent has not been able to get Mrs. Mann to execute the consent form allowing workers to enter onto the property for testing purposes.

1978 February 15

The Land Agent wrote to the Regional Director of the Veterans' Land Administration in Vancouver enclosing an expropriation application form.

1978 March 05

Mrs. Mann wrote to the Director, Veterans' Land Act, and requested that he recommend to his head office that permission not be given to the Municipality to expropriate her property.

1978 March 10

Mr. Gardner wrote to the Municipal Solicitor stating that By-Law No. 7173 was invalid because it had been adopted before the consent of the Governor in Council was obtained.

1978 March 10

Mr. Gardner wrote a further letter in which he stated that "it may be appropriate entirely without prejudice for us to have a discussion as to the value that you would be prepared to put upon this property as I suppose there is always a price that is appropriate to compensate someone such as my client for such an upheaval".

1978 March 14

The Municipal Solicitor wrote to Mr. Gardner rejecting his opinion that the consent of the Governor in Council had to be obtained before the final adoption of the by-law. The Municipal Solicitor also advised Mr. Gardner that Council intended to proceed with the expropriation but invited him to appear before Council on behalf of his client to persuade Council to change its mind. Mr. Gardner was also invited to discuss without prejudice the matter of compensation with the Land Agent.

1978 March 28

Mr. Svend Robinson appeared before Council on behalf of Mrs. Mann to argue that the Municipality improperly passed its expropriation by-law because it did not first obtain consent from the Governor in Council. He requested that the by-law be rescinded.

1978 April 21

The Land Agent requested Mr. Robinson in writing to contact him should any information be required. The Land Agent also advised that he was prepared to discuss value with either Mr. Robinson or Mrs. Mann at any time.

1978 April 24

A report to Council advised that it was originally intended to have expropriation By-Law No. 7173 receive three readings and only be adopted after the consent of the Governor in Council was obtained. This procedure was not followed by staff (the by-law was adopted but the consent not obtained). Through an administrative oversight the by-law was simply placed on the agenda for final adoption, as is any normal by-law. Council as a precautionary measure then adopted a recommendation that a new by-law be introduced.

Expropriation By-Law No. 7209 was given three readings on this date.

1978 May 18

The Municipal Manager asked the Director General, Veterans' Land Act Administration for a status on the Municipality's request for consent regarding the expropriation of Mrs. Mann's property. An exchange of information on an on-going basis followed this initial contact (please see the entry dated 1979 May 04 for the next meaningful development regarding this particular matter).

1978 December 04

The Land Agent reminded Mr. Gardner in writing that the Municipality has offered Mrs. Mann \$87,000. The Land Agent then referred to Mr. Gardner's letter dated 1978 March 10 in which the latter had said "it may be appropriate, entirely without prejudice, for us to have a discussion as to the value that you would be prepared to place on this property . . .". Further reference was made by the Land Agent in this letter to his earlier letter dated 1978 April 21 to Mr. Robinson indicating that the Lands Department would be prepared to discuss value at any time. Mr. Gardner acknowledged that he will inform the Land Agent following his discussion of the situation with Mrs. Mann.

1979 February 07

Mr. Robinson telephoned to advise that Mrs. Mann did not wish to meet with staff. She however did ask Mr. Robinson to meet with staff for the purpose of discussing the possibility of acquiring a similar size property in Burnaby. Mr. Robinson was advised that staff had no knowledge of an older type home on a large parcel of land currently for sale, and as it was difficult to replace her property, that Mrs. Mann might wish to use the proceeds of her sale to buy a townhouse in Burnaby or acreage in the country. Mr. Robinson felt that this was a good suggestion and was going to discuss it with Mrs. Mann.

1979 February 09

Mr. Robinson in a letter to staff advised that the offer of \$87,000 is unacceptable and that any property that Mrs. Mann would seriously consider had to satisfy four criteria: (1) 3 bedroom home on one-half acre; (2) be fully landscaped; (3) be suitable for a vegetable garden and (4) be located within 15 minutes walking distance of her church on Cameron Street.

1979 February 14

The Municipal Solicitor in writing advised Mr. Robinson that he would be prepared to recommend to Council a final settlement in the amount of \$102,587. The letter also contained information on available large lots in the area.

1979 February 26

Mr. Robinson advised in writing that \$102,587 is unacceptable. A copy of a letter written by Mrs. Mann on 1979 February 26 which Mr. Robinson had attached to his letter is attached to this report for the information of Council. (Mrs. Mann's letter has been retyped verbatim for clarity).

1979 March 01

The Municipal Solicitor acknowledged Mr. Robinson's letter dated 1979 February 26. Mr. Robinson was advised that the suggestion made by Mrs. Mann in her letter regarding a site of a possible alternate home for her at 9977 Cameron must be rejected but that we are prepared to continue negotiations.

Note:

The property at 9977 Cameron Street was listed for an asking price of \$170,000 or \$5.68 per square foot. (It was sold in July of 1979 for \$160,000). A major complication that prevented this exchange was the fact that 9977 Cameron Street at the corner of Cameron Street and North Road is a key property for future commercial development. For the Municipality to have consummated such an exchange would have been grossly unfair to Mrs. Mann because it would not have afforded her with permanent residency and she would eventually have had to relocate when development took place. In addition, the value of this property was considerably higher than Mrs. Mann's property, and it was 0.6 acres whereas her property is 0.5 acres.

1979 April 19

Mr. Gardner, who had taken over the file, repeatedly failed to return calls made to his office by staff. Staff subsequently contacted Mrs. Mann regarding another possible exchange involving a property in the area (9588 Sullivan Street). Mrs. Mann was adamant that this discussion was inappropriate and advised that she would be contacting her lawyer. The property in question is situated approximately 350 feet to the rear of her property and is comprised of a lot having an approximate 90 foot frontage on Sullivan Street with a depth of 120 feet. The improvements were custom built eleven years ago and comprise of a main floor area of 1,550 square feet with a similar finished area in the basement. Other improvements were a double garage, carport and full length sundeck. All appliances, drapes, etc., were included in the sale. The garden was fully landscaped with fruit trees. Our offer to Mrs. Mann was that the Municipality would acquire this property together with a larger rear portion, retain the rear portion for public use and convey the house and lot as described above to her plus an additional amount to cover moving expenses, etc. This property was subsequently sold on 1979 July 03 for \$95,900.

1979 April 24

The Municipal Solicitor advised Mrs. Mann in writing that both Mr. Robinson and Mr. Gardner have failed to return his calls, and that it is for this reason that he is contacting her directly. He then described the property at 9588 Sullivan Street in detail and informed Mrs. Mann to telephone his office if she was interested in acquiring this property. There is no record on file that she ever followed up with a telephone call, as was requested.

1979 May 04

The Director, Veterans' Land Act Administration, advised in writing that he has asked his Minister to recommend to the Governor in Council that consent be given to the Municipality to expropriate the property.

1979 May 24

Expropriation By-Law No. 7209 was approved by the Governor in Council.

1979 May 28

The Director, Veterans' Land Act Administration, advised in writing that Order-in-Council P.C. 1979-1572 dated 1979 May 24 provides consent of the Governor in Council to the Municipality to exercise powers of expropriation.

1979 May 30

An appraisal was requested from Mr. Williamson of Williamson, Burtinshaw & Symonds. We felt we needed an independent appraisal, as up to this point we were relying on an appraisal prepared by our staff.

1979 June 11

Expropriation By-Law No. 7209 was given final adoption.

Council appointed Mr. James R. Insley as the Municipality's nominee to the Arbitration Board.

1979 August 03

An appointment for appraisal of Mrs. Mann's property by our appraiser had been **set up** for August 02 and was subsequently changed to August 10. Before Mr. Williamson commenced the appraisal, Mr. Gardner wrote on August 03 and stated that "on reconsideration, it is our opinion that this appraisal should not take place and request that you advise Mr. Williamson of the cancellation of the appointment". Mr. Gardner then outlined his reasons for this action, which included an opinion that the new Minister for the Department of Veterans' Affairs would review the entire matter.

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1979 August 16

A Notice of Expropriation was served personally on Mrs. Mann. A Notice had been sent to Mrs. Mann, her solicitor and the Director, Veterans' Land Act Administration by return registered mail the day before (August 15).

1979 August 21

The Municipal Manager advised Mr. Gardner in writing that the Municipality will require Mrs. Mann's property by the end of 1979 October, that the Municipality is anxious to conclude the negotiations, and that he is offering the services of his office to resolve the acquisition. Please see copy attached. This was the second time that notice was given as to when the property would be required by the Municipality. This letter was not acknowledged nor was there any contact made by Mr. Gardner on this.

1979 September 04

Council adopted the following recommendation which was contained in Item 3, Supplementary In-Camera Report No. 60:

"1. THAT Council authorize that legal action be taken to obtain possession of the Mann property on or before 1979 October 31."

It was understood that such action would possibly result in an application in Supreme Court for an order permitting the Municipality to go on the property as of that date.

1979 September 04

Mr. Gardner advised in writing that a member of the Appraisal Institute has been retained on Mrs. Mann's behalf to obtain an appraisal.

1979 September 17

Mr. Williamson, our appraiser, entered onto the property and carried out an inspection on this date.

1979 September 17

Mr. Gardner's firm advised in writing that Mr. Peter Butler has been asked to serve as Mrs. Mann's arbitrator.

1979 September 28

An appraisal which supports our offer of \$102,587 was obtained from our appraiser.

1979 October 02

Mr. L. G. Finch, our solicitor, advised Mr. Gardner that the Municipality proposes to enter upon the property to commence work on or about 1979 October 15. Contained in this letter was a statement that "We advise you now of Burnaby's intention with respect to entry upon the property so that Mrs. Mann may take whatever steps are necessary for her relocation, removal of belongings, etc." He repeated our offer to pay compensation in the amount of \$102,587, and stated that Burnaby was prepared to advance this sum or a portion of it if necessary to assist Mrs. Mann to relocate. Such pre-payment would be without prejudice to her rights to claim compensation in excess of that sum. He also stated that if Mrs. Mann is not prepared to accept this offer, "...that the necessary steps for arbitration proceedings be set in motion promptly so that the matter of compensation payable can be determined without delay".

1979 October 04

Mrs. Mann's Letter to Mr. Finch restated her objections to the expropriation and intended use of her property.

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1979 October 04 (cont.)

Also on file as of this date is a Notice of Due Compensation Claimed form signed by Mr. Gardner for Mrs. Mann which rejects the offer of \$102,587 and claims for expropriation the amount of \$136,800 as per an appraisal which was attached. The appraisal was prepared by LeFevre & Company, Property Agents Ltd. Despite all invitations to Mr. Gardner and Mrs. Mann to discuss fair compensation, this was the first formal statement of the amount that she was claiming.

1979 October 11

Mr. Gardner advised staff that the appraised value attached to the Notice of Due Compensation Claimed form may be too low and that another notice will be filed when a new appraisal has been completed.

1979 October 16

The Municipal Manager called Mrs. Mann to advise that an extension of time had been given and that he had written a letter to her in that respect (copy attached). The letter was read over the telephone before it was hand delivered.

1979 October 19

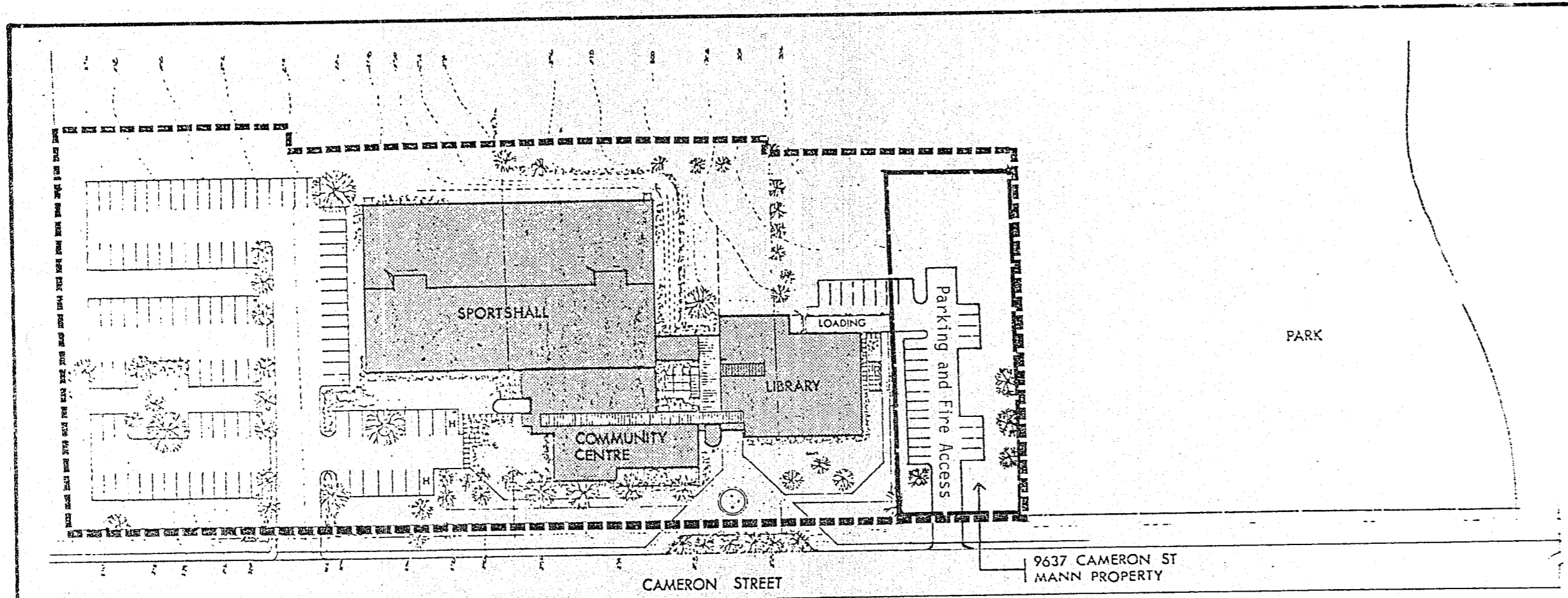
Mr. Finch telephoned the Municipal Solicitor to advise that Mr. Gardner has written a letter which states that Mrs. Mann is now claiming \$328,950 as compensation for her property.

D. Current Status - Arbitration

The two representatives on the Arbitration Board, Messrs. Insley and Butler, are now in the process of attempting to agree upon a third person who will act as the chairman. It is not possible at this time to advise Council as to when a chairman will be selected although every attempt will be made by staff and Mr. Insley to have this concluded as soon as possible.

E. Conclusion

This report has been prepared in a sincere attempt to summarize as well as possible the major events that have taken place with respect to the Municipality's requirements for Mrs. Mann's property. It is intended to give Council an overview and an appreciation for the manner in which negotiations were carried out.



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SITE PLAN



PHASE ONE



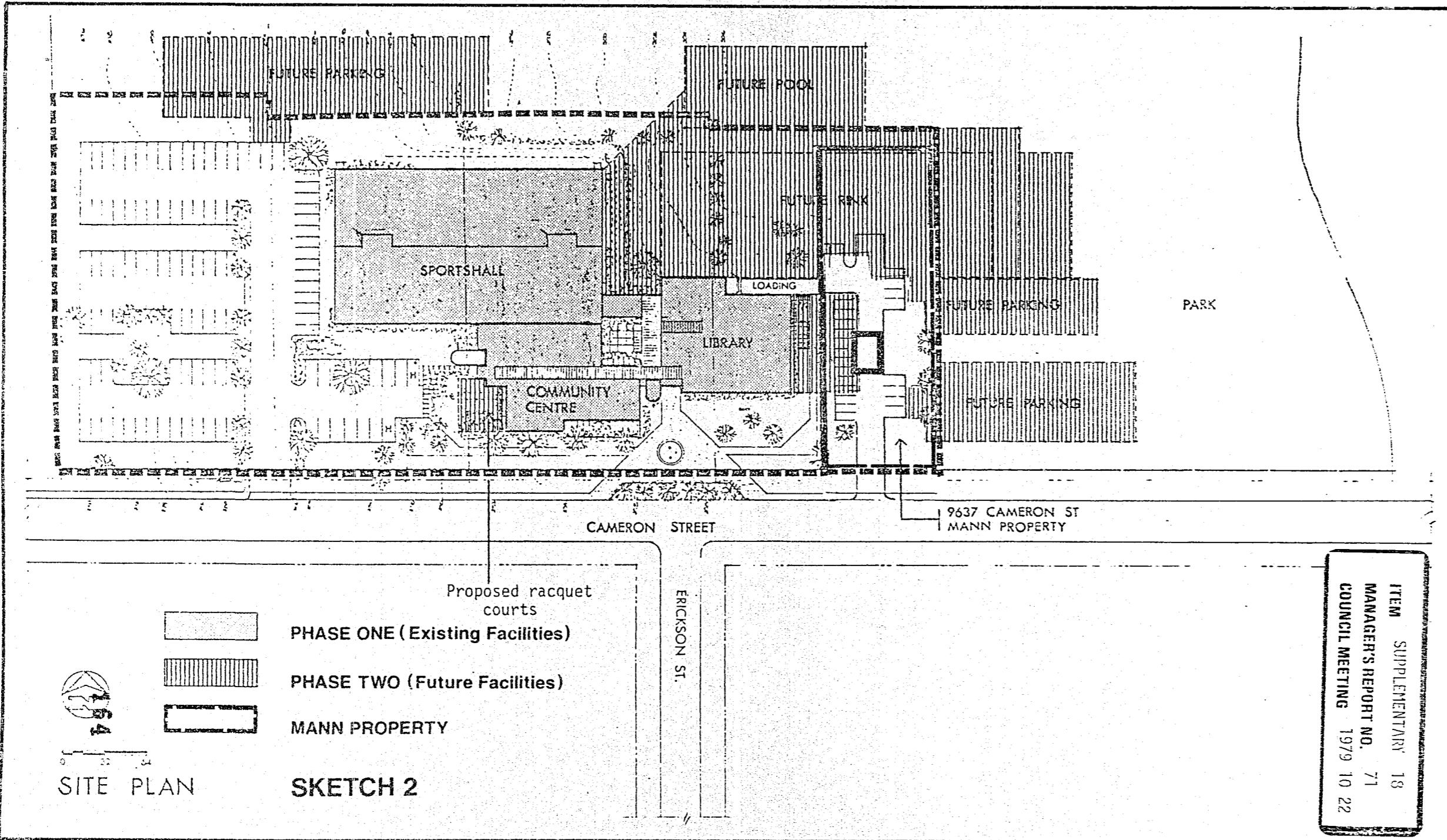
MANN PROPERTY

SKETCH 1

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9637 Cameron St.,  
BURNABY 3, B. C.

March 5, 1978.

Acc. No. 07 10 09821

Director,  
The Veterans' Land Act,  
1155 Robson St.,  
VANCOUVER, B. C.

Att: Mr. Gilbert

Dear Sir:

Further to our telephone conversation of March 3rd, I respectfully request that you refuse to recommend to your Head Office permission for the Municipality of Burnaby to expropriate my home of twenty-three years and in requesting this, would ask that you kindly consider the following:

IMPROPER PROCEEDINGS OF COUNCIL

- COPY
1. Passing of the By-Law was done in an illegal manner (per my lawyer - Robert Gardner & Associates.
  2. The Municipal representative arrived completely unannounced to me at my home at a most unusual time of night. . . he arrived at dinnertime 7:00 p.m. and I suggested he could return in 1/2 hour but he did not arrive until 9:15 p.m., January 10/78.
  3. The Municipal representative was noted to be trespassing and surveying my property in my absence mid afternoon of January 10th.
  4. The Municipal representative was equipped with a file containing information which I would consider to be confidential, correspondence I'd had two years previous with the Assessment Appeal Board, and I felt this to be intimidating.
  5. Threats of expropriation were made within the first five minutes of his conversation.
  6. Within 13 days expropriation by-law was read 1, 2, 3 times and adopted one week later.

. . . continued

7. Municipal harrassment to come on my property for survey etc., when this has not been done elsewhere in neighborhood.
8. My objections to the Mayor regarding procedures brought forth a reply signed by the Mayor containing several glaring untruths, again I take it as an attempt at intimidation (letter with Robert Gardner & Associates).

IMPROPER USE OF MUNICIPAL POWER

1. Money by-law to proceed with this municipal endeavour was turned down during November election.
2. The Community Plan which is the purported guideline for my expropriation has not been adopted by Council, nor instituted in any other aspect, but has been referred to an advisory planning board and the local residents' group, who are in the process of making counter proposals for land use, in keeping with community wishes and resident requirements.
3. Municipal power has been used in the past to intimidate and threaten the homes of other area residents . . . a road extension was planned to go through neighbouring homes. Council changed its mind at the last minute but not before a great deal of disruption.
4. Every newly elected council has a different concept of the community needs and wishes. . . plans over recent years have been revised, adopted, rescinded and abandoned, depending on the political whim of the day and I refer to press publicity re. railway crossings, zoning applications and in yesterday's Sun a headline - 'Which way you goin', Burnaby?'
5. Two homes on our short street face into the bush as a result of a planning department decision which was popular that particular day.

. . . continued

6. My many enquiries to the planning department assured me my property would not be included in this so called phase of development but may be required at some future date which could mean a period of years. . . Mr. K. Ito, Planning Dept - my last call being in late 1977.

#### LACK OF NEED FOR MY PROPERTY

1. There is an excessive amount of land immediately adjacent to municipally owned land (2.19 acres) which community groups for some time have been requesting as the site of a community centre. . . a portion of this land already dedicated for park or public use. . . which is currently for sale. This is also adjacent to a public school which should make it more desirable.
2. Municipality already owns two parcels, one of approx. 3 acres and the other of five acres.
3. The proposed building for this project is reportedly to be of 6000 sq. ft., but now scaled down in size, so how much land is essential?
4. The development of the proposed community plan will open up many more acres of undeveloped land adjacent to the municipal land.
5. Burnaby's motives with respect to their threatened expropriation of my home should be carefully examined in view of the size of the proposed project and the large amounts of surrounding undeveloped land.

#### MY VALUE

1. It is impossible to replace my small holding of 1/2 acre under the terms of the Veterans' Land Act - which was a part of my late husband's rights as a disabled veteran, who died aged 33 as a result of his war service.
2. My land, as was the intent of the Veterans' Land Act, provides 20% of my living costs, this in order to supplement my minimal pension.

. . . continued

3. Present maintenance costs of my home are within the limits of my pension and is a big economic consideration for me and my family.

4. The location of my home is most essential to me and my family economically, since we are in easy walking distance to public transport, both for job potentials and for the university where my son and daughter are students, it would be financially impossible for them to continue and be required to live in university residence or incur costly transportation.

5. My social activities and my church are within a few minutes walking distance from my home and this is of great importance to me in my situation.

6. The exposure and design of my home allows me the advantage of every available hour of sunshine.

7. Our modest life style has given us a great appreciation of our privacy and the park-like setting we have been able to achieve on our property. We have not been financially able to indulge in many outside ventures and our home has become a place of great enjoyment for us.

8. My property contains the following irreplaceable trees and shrubs as well as a very productive vegetable garden:-

- a natural hemlock towers above the front of the property, a tree often admired by passersby
- the largest and most profusely blooming Dogwood tree in all the lower mainland
- two bearing Holly trees (bringing in revenue at Christmastime)
- one giant red beech
- two massive oak trees - planted from seed
- one beautiful red Hawthorne
- border of cedars, hemlock and ornamental evergreens planted by myself and my family
- two bearing English walnut trees
- two bearing apple trees (Northern Spy and Gravenstein)
- two bearing pear trees (Bartlett)

. . . continued

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- three bearing plum trees, each of different variety
- raspberry and blackberry bushes
- ornamental trees and shrubs too numerous to mention

In conclusion, when I am asked so abruptly what dollar value I place on my property and my home, I hope you can understand that it is a very difficult question for me to answer. The destruction of my home and my life style of twenty-three years would pose great problems for me and for my son and daughter. I would ask you to consider again that I have checked and learned that there is more than sufficient land directly adjacent to this proposed project, which is currently for sale and which would cause no disruption to anyone's life style.

I hope I have been able to bring to you, in your capacity as Director and I hope protector of veteran's rights, in so far as the Veterans' Land Act is concerned, a greater insight into my problems, thrust upon me so abruptly.

May I have your support in my request that you suggest to your Head Office a refusal of Burnaby's attempts to expropriate my home.

Yours very truly,

*Mrs. Lillian E. Mann*

Mrs. Lillian E. Mann.

ITEM SUPPLEMENTARY 13  
MANAGER'S REPORT NO. 71  
COUNCIL MEETING 1979 10 22

ITEM 11  
MANAGER'S REPORT NO. 24  
COUNCIL MEETING 1978 03 28

Re: LETTER FROM ROBERT GARDNER & ASSOCIATES  
831 HELMCKEN STREET, VANCOUVER  
PROPERTY OWNED BY MRS. LILLIAN MANN AT 9637 CAMERON STREET  
NORTH-EAST BURNABY LIBRARY/RECREATION CENTRE  
COMMUNITY PLANNED AREA "G"

Mr. Robert C. Gardner is scheduled to appear before Council on 1978 March 28 to discuss the position of his client, Mrs. Lillian Mann, with respect to the latter's property on Cameron Street which is required for the development of the first phase of the North-East Burnaby Library/Recreation Centre.

Mr. Gardner has requested that Council be given copies of all correspondence relative to this matter. This has been done. One of the items is a letter dated 1978 March 05 from Mrs. Mann to the Director of the Veterans' Land Act. Comments on the points made by Mrs. Mann in this letter are contained in the attached report from the Director of Planning and the attached memo dated 1978 January 18 to the Municipal Manager from the Land Agent.

With respect to Mrs. Mann's contention regarding harassment in item 7 which appears at the top of the second page of her letter to the Director of the Veterans' Land Act, staff wishes to advise that it knows of no harassment ever having taken place. Also, in the following item 8, she refers to a letter which she received from the Mayor and which she has taken as an act of attempted intimidation. A copy of this letter is attached.

As a point of further clarification, Mrs. Mann, in Item 2 on page 1 of her letter, states that "...he arrived at dinnertime 7:00 p.m. and I suggested he could return in half hour but he did not arrive until 9:15 p.m., January 10/78."

While it was obviously Mrs. Mann's understanding that our employee would return in about half hour, our employee does not recall Mrs. Mann having made this suggestion, and in fact upon leaving Mrs. Mann's residence he proceeded to carry out negotiations with a neighbour under the impression that Mrs. Mann would be free to see him sometime later in the evening when his other business was finished.

**RECOMMENDATION:**

1. THAT a copy of this report be sent to Mr. Robert Gardner.

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MANAGER'S REPORT NO. 71  
COUNCIL MEETING 1979 10 22

PLANNING DEPARTMENT  
1978 MARCH 21

ITEM 11  
MANAGER'S REPORT NO. 24  
COUNCIL MEETING 1978 03 28

TO: MUNICIPAL MANAGER  
FROM: DIRECTOR OF PLANNING

SUBJECT: EXPROPRIATION DISCUSSION - PROPERTY AT  
9637 CAMERON STREET OWNED BY MRS. LILLIAN MANN  
NORTH-EAST BURNABY LIBRARY/RECREATION CENTRE  
SITE - PHASE I  
COMMUNITY PLAN AREA "G"

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The Planning Department has been requested to reply to a submission by Robert Gardner and Associates on behalf of Mrs. Lillian Mann. Our comments relate to community planning matters, discussed in a letter dated 1978 March 05 sent by Mrs. Mann to the Director, The Veterans' Land Act and specifically to two sub-sections of her letter entitled "Improper use of municipal power" and "Lack of need for my property".

Sub-section "Improper use of municipal power"

Point 1 - A referendum to permit the Library Board to borrow sufficient funds to pursue a comprehensive capital development program was not passed by the electorate in 1977 November. The overall library expansion program remains as adopted and its pursuance is subject to the availability of capital funds. The North-East Burnaby Library was a component of the borrowing initiative. However, due to the high priority aspect of this branch library, sufficient funds have been provided for the pursuance of this component. Also, the branch Library is a smaller cost component of the overall library-recreation centre complex.

Point 2 - The Community Plan Area "G" dated 1970 July 13 remains adopted unless revised or rescinded in whole or in part by a motion of Council. Various minor adjustments have been passed by Council over the years and is reflected in the attached updated Sketch. Council on 1976 October 04 ratified the designation of the Cameron-Reese Site for the North-East Burnaby

Library/Recreation Complex as an effective amendment to the Community Plan Area "G". Further possible revisions are being pursued for the sub-area of Area "G" between Sullivan Street and Cameron Street, but as related to Mrs. Mann in a telephone discussion of 1978 February 23, the report referred by Council to the Advisory Planning Commission for comment is still under consideration. The essential sub-area revisions concern the matter of the Beaverbrook Drive Extension and the land use of the sub-area west of the library/recreation centre complex but does not affect other established components such as the location of the library/recreation complex site itself.

We understand that the Sullivan Heights Ratepayers Association with which the Municipality has had an extensive continuing dialogue over the years, intends to appear before the Advisory Planning Commission as a delegation in order to submit further comments.

Point 3 - The municipality has, through due process, pursued the development of the adopted Community Plan Area "G". We would note that as a result of significant resident opposition at a townhouse proposal rezoning public hearing (RZ #47/72) for a site within the sub-area between Cameron and Sullivan the applicant withdrew his application. Since that time various studies of alternative alignments for the Beaverbrook Drive Extension have been pursued by the Planning Department at the direction of Council.



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Point 4 - Over the years since 1970, the Council has approved a number of amendments to Community Plan Areas "G" and "H", to respond to changing conditions. However, these amendments are essentially reasonable refinements which have maintained the basic community plan concept and, in fact, have enriched and strengthened the concept plan.

Point 5 - To our knowledge the single-family dwelling subdivision orientation to which Mrs. Mann refers is with respect to a situation prior to the adoption of the major policy report, Apartment Study 1969.

Point 6 - Many enquiries have been made by Mrs. Mann over the years to the Planning Department, and she has been advised as accurately as possible as to the current status of planning in this area.

With respect to a telephone enquiry by Mrs. Mann in 1977 late summer, we would note that Mrs. Mann was aware that her property was within the confines of the overall Cameron/Reese Library/Recreation Centre Site, but could not be told of the timing of acquisition of her property until Council had finalized the site (School Board notice dated 1977 October 26) and finalized the phasing of initial land acquisition to accommodate the Phase I development (1977 December 12). No definite steps had been taken at that time to acquire her property for the Phase I site due also to continuing staff discussions on the size of the Phase I library/recreation centre development.

In a further telephone call of 1978 January 11 Mrs. Mann indicated that she had been contacted by the Land Agent's department. She was informed of Council's action in authorizing the pursuance of the acquisition of the Phase I site which included her property.

#### Sub-Section "Lack of Need for my property"

Point 1 - The Cameron/Reese site for the North-East Burnaby Library/Recreation Centre complex was established in accordance with carefully determined locational criteria and a comprehensive analysis of alternative sites. The Cameron/Reese site is confirmed as the optimum site.

Point 2 - We understand this reference to mean the site of Rezoning #47/72 which was acquired by the Municipality in order to protect the various Beaverbrook Drive Extension options. We would reiterate the point that the Cameron/Reese site is confirmed as the optimum site.

Point 3 - The proposed library/recreation centre complex has from inception been considered to be a building of at least 1 858 m<sup>2</sup> (20,000 sq.ft.) to 2 322 m<sup>2</sup> (25,000 sq.ft.) in size. However, with the refinement of the recreation program to include a sports hall in the Phase I development, the size of the proposed Phase I building is 4 312 m<sup>2</sup> (46,412 sq.ft.). To accommodate this complex and its required parking, a Phase I site of 1.7 ha (4.2 acres) is required. The Library Board has already acquired 0.83 ha (2.04 acres) of the Phase I site.

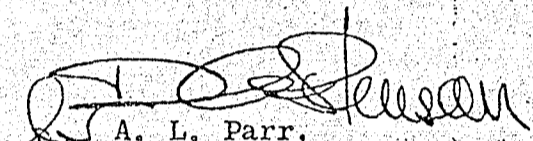
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Point 4 - The proposed community plan will not open up any more land for development than outlined in the 1970 adopted Community Plan Area "G". In fact, with the designated Cameron/Reese site, less land is available for residential use.

Point 5 - We refer to the previous comments in explanation of this point.

This is for the information of Council.

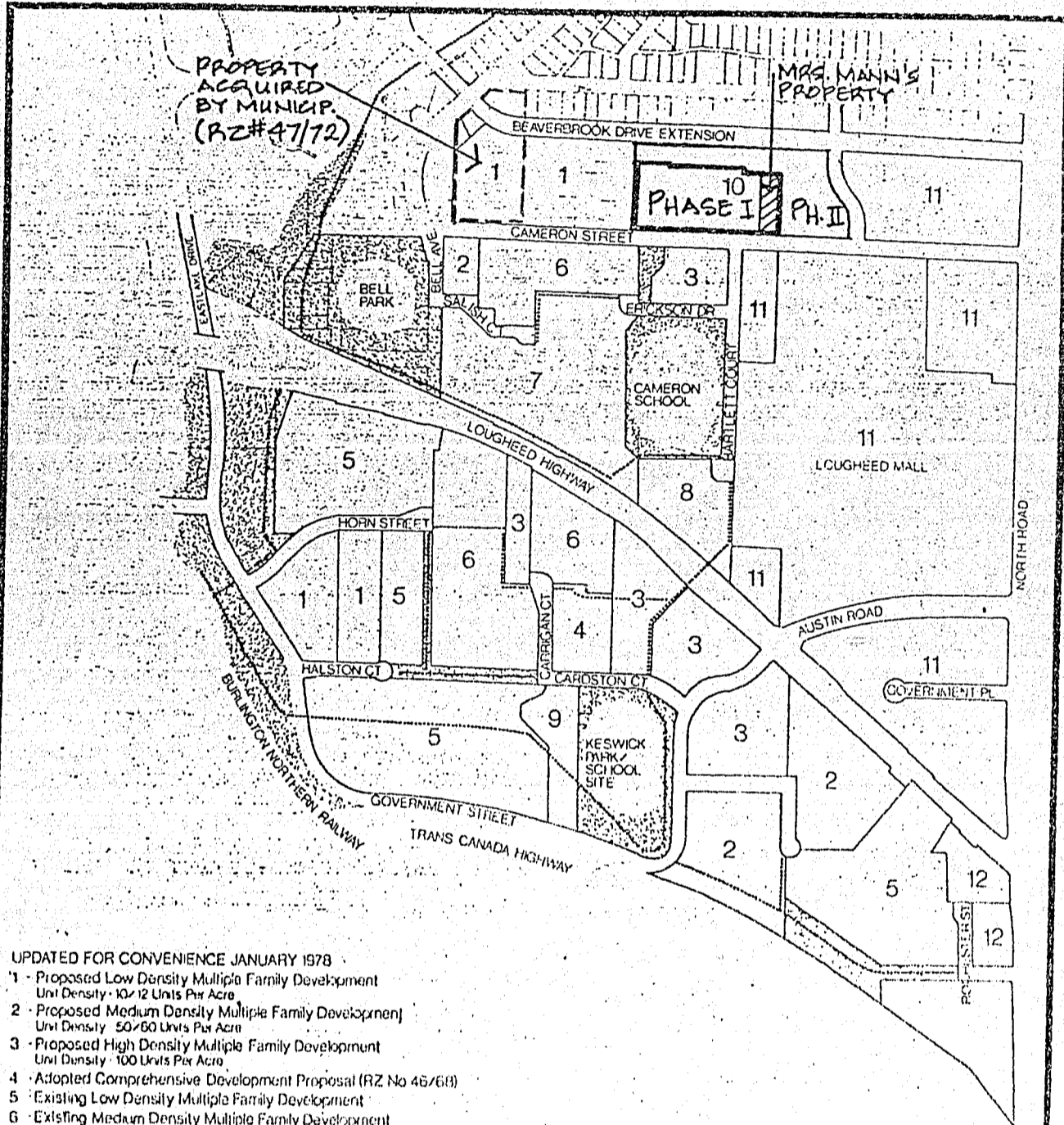
  
A. L. Parr,  
DIRECTOR OF PLANNING.

KI:cm  
Attach.

c.c. Land Agent  
Parks and Recreation Administrator

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- UPDATED FOR CONVENIENCE JANUARY 1978
- 1 - Proposed Low Density Multiple Family Development  
Unit Density - 10/12 Units Per Acre
  - 2 - Proposed Medium Density Multiple Family Development  
Unit Density - 50/60 Units Per Acre
  - 3 - Proposed High Density Multiple Family Development  
Unit Density - 100 Units Per Acre
  - 4 - Adopted Comprehensive Development Proposal (RZ No 46/68)
  - 5 - Existing Low Density Multiple Family Development
  - 6 - Existing Medium Density Multiple Family Development  
(Frame Apartments)
  - 7 - Existing Medium Density Multiple Family Development  
Unit Density - 80 Units Per Acre
  - 8 - Existing High Density Multiple Family Development
  - 9 - Proposed High Density Multiple Family Development  
Max FAR - 2.02; RZ No 26/75
  - 10 - Proposed Library/Recreation Centre Complex
  - 11 - High Density Commercial Development Area
  - 12 - Existing Low Density Neighbourhood Commercial  
Development Area
- Pedestrian System

↑ North  
 Ref Date: July 1970  
 [Logo]

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## AREAS "G" & "H"

### COMMUNITY PLANS FIVE & TEN

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MUNICIPAL MANAGER

78 01 18

LAND AGENT

Northeast Burnaby Recreation Complex  
Lot 1, ex. W80', D.L. 6, Blk. 23, Pl. 6991  
9637 Cameron Street - (LILLIAN E. MANN)

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Reference Mrs. Mann's letter to Mayor T.W. Constable dated 1978 January 13.

During the afternoon of 1978 January 10 we left our business card with the son requesting him to advise Mrs. Mann that we would be calling that evening.

At 19:00h we had an appointment with the adjoining owner so we called on Mrs. Mann to arrange an appointment. Mrs. Mann said she was having supper and would be prepared to see us later. She was expecting us and advised us that she had a surprise waiting for us. Our appointment with the adjoining owner ended around 21:00h so we called back on Mrs. Mann as arranged, sat down in the kitchen and commenced negotiations.

The atmosphere was amicable. Having advised Mrs. Mann that her property was required by the Municipality, she came out with her surprise and requested the same price for her property as that paid by developers for property on the south side of Cameron Street. We advised her that due to the difference in zoning, the values were not comparable.

Mrs. Mann advised us that she would not accept less and would engage the services of a good Lawyer and fight the Municipality. This being to our advantage, we recommended this course of action.

We were then asked what would happen if she refused to sell the property to which we advised that we had the power of expropriation and mentioned this was under consideration by the Municipality but we wished to avoid such action and hoped that we could reach a reasonable settlement.

Mrs. Mann said she would sell if we paid her price or she would not move.

We do not feel that our approach was threatening. The information regarding her situation is available from the Land Registry Office or the Assessment Authority.

E.W. Crist  
LAND AGENT

FAE/mh

cc: Mayor Tom Constable



OFFICE OF THE MAYOR

THOMAS W. CONSTABLE  
MAYOR

BURNABY  
BRITISH COLUMBIA  
V5G 1M2

1978 January 26

Mrs. Lillian E. Mann  
9637 Cameron Street,  
Burnaby, B. C.

Dear Mrs. Mann:

Further to my letter of 1978 January 18,  
please be advised that I have, in fact, inves-  
tigated your complaints as contained in your  
letter of 1978 January 13.

With reference to your comment that a repre-  
sentative from the Municipality's Land Acqui-  
sition Department arrived unannounced, Mr. Grist  
assures me that he left a business card with  
your son and advised that he would be calling  
on you that same evening. I am informed that  
when he, in fact, did arrive at your residence  
you advised him that you were having supper  
but would be prepared to see him later. In fact  
I am advised that you were expecting the two  
gentlemen and indeed a meeting did take place  
as arranged. The information that you refer to  
as being 'confidential' is easily obtainable  
and available from the Land Registry Office or  
the Assessment Authority.

The question of relocation of one's family,  
of course, can be disturbing. However, it is  
my hope that we can resolve this matter to the  
satisfaction of both parties.

Yours truly,

Tom W. Constable,  
MAYOR.

BCC: Mun. Mgr.

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RETYPE FOR CLARITY

WITHOUT PREJUDICE

9637 Cameron St.,  
Burnaby, B.C. V3J 1M3  
February 26, 1979

Mr. Svend Robinson,  
Robert Gardner & Associates,  
831 Helmcken St.,  
Vancouver, B.C.

Dear Svend:

Thank you for your letter of Feb. 21st also letter plus sketch from the Municipality of Burnaby dated February 14th.

In reply, the Municipal proposal to close off part of the busy intersection of Sullivan Street and Noel Drive (the main traffic access to a large residential sub-division and commercial area) in order to create a half acre lot for me, certainly cannot be taken seriously. I also point out the extension of Beaverbrook Drive, not shown on this sketch, will cross Noel Drive at this same location, leaving this suggested property almost completely surrounded by roadways. The extreme grade and the unstable soil on this corner has rendered this property unsuitable for building ever since the area was first developed some 25 years ago. I consider this proposal most frivolous.

Referring to the sq.ft. prices paid my two neighbours I would point out that I am very familiar with these properties and the circumstances surrounding the sale. They were obtained after much pressure and threats of costly expropriation proceedings. My immediate neighbour was recuperating at the time from serious heart surgery and told me 'he could not fight city hall'. However, sq.ft. prices for land adjacent to mine and now available on the open market is selling for \$10. - \$13. per sq.ft. Therefore, the sq. ft. price suggested for my property could only be considered when added to it would be the cost of construction at \$40. - \$50. per sq. ft. for a custom built home of comparable size and quality to the one I now have.

However, my realtor Dorothy Neilsen, B.Comm. A.E.LePage Ltd., advises me of the availability of a property which satisfies several of the requirements set out in our letter to the municipality of Feb. 9th. It is located at 9977 Cameron Street, comprises .6 acres (mine is .5) and is listed with Royal Trust Company, North Rd. and Lougheed Highway, agent Mr. Laurie Clouston. I would be prepared to seriously consider this property as a replacement to mine.

In view of the recognized difficulty of obtaining land in my area this property will likely sell quickly and the municipality may wish to act at their earliest possible convenience.

Again, I consider these latest municipal proposals most frivolous and would ask that copies of the February 14th letter and sketch be forwarded to Mr. Keen, V.L.A., Ottawa.

Yours very truly,

c.c. Mr. Keen, V.L.A. Ottawa

Lillian F. Mann

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c.c. Mr. Owen Brown, Secretary to the Minister, #210, 1070 Douglas Street,  
Victoria, B. C., V8W 2C4. 79 08 22.  
Mr. D.E. Keen, Veterans' Land Administration, Department of Veterans' Affairs,  
Ottawa, Ontario, K1A 0P4.  
Mr. Gilbert, Dept. of Veterans' Land Admin., Regional Office, 1155 Robson St.,  
Vancouver, B. C., V6E 1B9.

1979 August 21

Our File: 2-7-30-1  
D.L. 5 - Mann

Mr. Robert C. Gardner  
Robert Gardner & Associates  
Barristers and Solicitors  
831 Helmcken Street  
Vancouver, B.C.  
V6Z 1B1

Dear Mr. Gardner:

Re: Mrs. Lillian Mann - 9637 Cameron Street, Burnaby

I have been away on vacation for three weeks, and on my return on August 20, I reviewed the above file.

It seemed to me that you might appreciate having some indication of the timing involved as far as the Municipality is concerned. With the construction proceeding as it is, we would require possession of Mrs. Mann's property by the end of October of this year. We are therefore anxious to conclude our negotiation with Mrs. Mann for the acquisition of her property, and I am concerned with the position that seems to have developed with respect to the question of timing.

Mrs. Mann's property is required for a fire access along the east side of the joint Library/Recreation Centre as well as for access to the loading/service entrance located behind the library wing of the building. It is an integral part of the first phase of the development of this public facility and we must move onto the property to install fire lines as well as drainage facilities.

While I can appreciate the position that Mrs. Mann is in, I have a deadline that is facing me; therefore, I felt you should be made aware of this information as quickly as possible. I would like to offer the services of my office to resolve the acquisition if that is at all possible. Would you please advise if I can be of any assistance.

Yours truly,

Melvin J. Shelley  
MUNICIPAL MANAGER

MJS:1a

cc: Municipal Solicitor  
The Honourable Allan MacKinnon, Minister, Dept. of Veterans' Affairs,  
Parliament Buildings, Ottawa, Ontario, K1A 0P4

ITEM SUPPLEMENTARY 18  
MANAGER'S REPORT NO. 71  
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1979 October 16.  
Our File: 2-7-30-1.  
(D.L. 6 - Mann)

Mrs. Lillian Mann,  
9637 Cameron Street,  
Burnaby, B. C.

Dear Mrs. Mann:

Re: 9637 CAMERON STREET

Further to Mr. L. G. Finch's letter of 1979 October 02 addressed to Mr. Robert C. Gardner, a copy of which was sent to you, the Municipality is prepared to extend the time for obtaining possession of your property to 1980 January 10. By making arrangements with the contractor, this date is the absolute maximum if the contractor is to complete the job within the terms of his contract.

We would hope that the matter of compensation can be settled by arbitration before that date and that this extension will permit you to relocate with a minimum of inconvenience. We are ready and willing to get to arbitration as quickly as possible.

I would like to repeat that Burnaby is prepared to immediately advance our offer of \$102,587.00 to assist you to relocate by or before January 10, and such pre-payment would be made without prejudice to your rights to claim compensation in excess of that sum.

On August 21, I advised Mr. Gardner of my concern for the deadlines facing us in this project. At the time I offered the services of my office to negotiate the acquisition without arbitration if that is at all possible. Would you please advise me if I can be of any assistance.

Yours truly,

Melvin J. Shelley,  
MUNICIPAL MANAGER.

MJS:bp  
c.c. Municipal Solicitor  
Mayor Constable  
Mr. L. G. Finch  
Mr. R. C. Gardner