

THE TOWN OF CARMAN
BY-LAW NO. 72/1143 ✓

R.P.

A by-law of The Town of Carman to provide for the entering into of an Agreement with Barbara Lynn Walker of The Town of Carman, wife of Donald Walker, of the same place, Farmer, for an Easement for a Right-of-way over a portion of the North-East Quarter of Section 30-6-4 wpm, with respect to the construction of an Expansion of Sewage Treatment and Disposal Facilities and appurtenances thereto at or near The Town of Carman.

WHEREAS Part IV, Division I, of The Municipal Act, R.S.M. 1970, c. 100 - cap. M225, provides as follows:

196(1) For the purposes of this Part, "land" includes an easement over or in respect of land, and any other right in the nature of such an easement.

196(2) The power granted to a municipality under this Act to acquire land for any of its purposes includes the power to acquire by lease, purchase, gift, donation or otherwise, but does not include the power to take or expropriate without the consent of the owner unless that power is expressly given.

197(1) A municipality may acquire
(a) any real or personal property that the council thereof deems
(i) to be necessary for the purposes of the municipality; or
(ii) will facilitate the exercise of the powers of the municipality or the discharge of the duties thereof; and
(b) any interest in any such property.

197(9) Subject to section 202, a municipality may acquire, and hold for the use of the municipality, land situated outside the municipality, if the council of the municipality in which the land lies has, by resolution, given its consent to the acquisition of the land."

AND WHEREAS it is deemed desirable for The Town of Carman to enter into an Agreement with Barbara Lynn Walker for an easement for a Right-of-way over a portion of the North-East quarter of Section 30-6-4 wpm with respect to the construction of an Expansion of Sewage Treatment and Disposal Facilities and appurtenances thereto at or near The Town of Carman;

AND WHEREAS the council of The Rural Municipality of Dufferin, in which the land aforesaid lies, has, by resolution, given its consent to the acquisition of the said land;

NOW THEREFORE the council of The Town of Carman, in council assembled, hereby enacts as a By-Law as follows:

1. THAT the Mayor and Secretary-Treasurer of The Town of Carman shall be authorized to execute an Agreement in the form and substance hereto attached, and forming part of this by-law.
2. THAT the council of The Town of Carman hereby directs the Mayor and Secretary-Treasurer to execute the said Agreement on behalf of The Town of Carman.

Read a first time this tenth day of February, A.D. 1972.

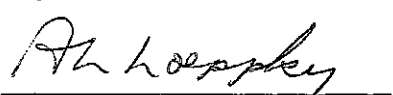
Read a second time this tenth day of February, A.D. 1972.

Read a third time this tenth day of February, A.D. 1972, upon the affirmative vote of two thirds of the whole council on a resolution suspending the requirement of The Municipal Act, section 183(2).

DONE AND PASSED by the council of The Town of Carman, in council assembled, at The Town of Carman, in Manitoba, this tenth day of February, A.D. 1972.


Mayor

(seal)


Secretary-Treasurer

MEMORANDUM OF AGREEMENT made this 27th day of
1972

BETWEEN:

BARBARA LYNN WALKER of the Town of Carman,
in Manitoba, wife of Donald Walker, of the same
place, Farmer,

(hereinafter called the "Grantor")

OF THE FIRST PART.

- and -

THE TOWN OF CARMAN

(hereinafter called the "Town")

OF THE SECOND PART.

WHEREAS the Grantor is registered as the owner of an estate in
fee simple in possession in the following described land:

The North-east quarter of Section Thirty (30), in the
Sixth (6) Township and Fourth (4) Range West of the
Principal Meridian in Manitoba, excepting thereout
all that portion taken for a Right-of-way under Plan
Nos. 750 and 984, registered in the Morden Land
Titles Office, and all that portion taken for a Lagoon,
as shewn under plan No. 1177 registered in the Morden
Land Titles Office. (hereinafter referred to as "said land").

AND WHEREAS the Town and the Grantor have negotiated an
Agreement for an Easement for a Right-of-way over a portion of said land
legally described as:

All that portion of the North-east quarter of Section
30-6-4 wpm lying between the Northern limit of the
Canadian National Railway Right-of-way and a line drawn
Twenty-five (25') Feet perpendicularly distant
north of a parallel with the northern limit of said
Canadian National Railway Right-of-way as same affects
said Quarter Section.

NOW, THEREFORE, this Agreement witnesseth that in consideration
of the sum of ONE (\$1.00) DOLLAR now paid by the Town to the Grantor
(the receipt of which is hereby acknowledged), the parties hereto covenant
and agree as follows:

1. The Grantor hereby grants to the Town, its successors and
assigns, forever, the right, license and easement to enter
upon all that portion of said land hereinafter called the
"Right-of-way", and use, excavate, construct, place,
operate, inspect, maintain, repair, alter, add to and
remove on, under, across, along, over, through or from
the Right-of-way an underground sewage pipe and related
equipment and facilities.

2. The Town shall, in due course, indicate, fix and determine the location of the Right-of-way either by means of a plan of survey to be filed in the Morden Land Titles Office or by means of a metes and bounds description set forth in an instrument to be filed in said office.
3. [✓] ~~The Grantor hereby grants to the Town the right of free and unimpeded ingress and egress to and from the right-of-way over and upon lands adjoining the right-of-way which are now or may hereafter be owned by the Grantor insofar as ingress and egress cannot conveniently be had from the right-of-way. ✓~~
4. The Town shall exercise the rights, licenses and easements hereby granted in a careful and workmanlike manner so as to cause a minimum of inconvenience or damage to the Grantor, and shall make good any such damage.
5. The Grantor shall not, without the prior consent in writing of the Town, excavate, drill, place, install, erect or permit to be excavated, drilled, placed, installed or erected on, over or under the right-of-way any pit, well, foundation, pavement, material, fence, structure, or thing within 2 feet of underground pipe but otherwise the Grantor shall have the right fully to use and enjoy the right-of-way subject always to and so as not to interfere with the rights, licenses and easements hereby granted.
6. The Grantor hereby agrees that the rights, licenses and easements hereby granted shall be exercisable forthwith and at any and all times hereafter by the Town and by its servants, agents and employees, in any manner, free and without charge.
7. The Town performing and observing the covenants and agreements on its part to be performed and observed shall and may hold and enjoy the rights, licenses and easements hereby granted without hindrance, molestation or interruption on the part of the Grantor or of any person claiming by, through under or in trust for, the Grantor.
8. To the intent that the burden of all rights, licenses, easements, grants, covenants and agreements contained in this Agreement may run with said land, the Grantor covenants and agrees with the Town that the rights, licenses and easements hereby granted shall enure to the benefit of the Town, its successors and assigns, and shall be binding upon the Grantor, and on the successors in title of the Grantor, the owners or occupiers for the time being of said land or any part thereof.

IN WITNESS WHEREOF the parties hereto have executed these presents.

_____)
 _____)
 _____)
 _____)
 _____)
 _____)

Barbara Lynn Walker

 Grantor

 THE TOWN OF CARMAN
M. Jensen

 Mayor
R. L. Hoepfley

 Secretary-Treasurer

M. Jensen
ALL
BdW

The
Municipality of
THE TOWN OF CARMAN

S. I. JENSEN
MAYOR

A. L. LOEPKY
SECRETARY-
TREASURER

CARMAN, MANITOBA

INCORPORATED 1905

In the matter of an agreement negotiated between Barbara Lynn Walker and The Town of Carman for an easement for a Right-of-way over the land legally described as follows:

All that portion of the North-east quarter of Section 30-6-4 wpm lying between the Northern limit of the Canadian National Railway Right-of-way and a line drawn Twenty-five (25') Feet perpendicularly distant north of a parallel with the northern limit of said Canadian National Railway Right-of-way as same affects said Quarter Section.

The Town hereby undertakes:

1. To remove and windrow the topsoil over the pipeline excavation before commencing the pipeline excavation and to replace the topsoil upon completion of the construction and to rebuild the road presently existing on the right-of-way to a condition at least equal to its present condition.
2. Upon completion of the construction, to conduct, in the presence of the Grantor, an inspection of the work and to take all reasonable steps necessary to correct any deficiencies then noted to the satisfaction of the Grantor.

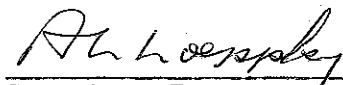
DATED at The Town of Carman, in the Province of Manitoba, this nineteenth day of May, A. D. 1972.

~~nineteenth~~
TWENTY-SEVENTH

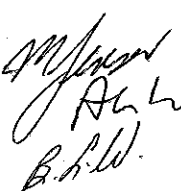
THE TOWN OF CARMAN



Mayor



Secretary-Treasurer


(seal)

CONSENT UNDER DOWER ACT

I, DONALD WALKER, of the Town of Carman, the husband of BARBARA LYNN WALKER, hereby consent to the making of the same by her.

DATED this 27th day of May 1972. WITNESS Angela Ashton, Donald L. Walker

CERTIFICATE OF ACKNOWLEDGMENT OF CONSENT BY WIFE

The above consent was acknowledged before me by [Name], wife of [Name], apart from her husband, to have been voluntarily executed by her of her own free will and accord and without any compulsion on the part of her husband. She has further acknowledged that she is aware of the nature and effect of the same. DATED at the [Town] of [Town] in the Province of Manitoba, this [Day] day of [Month] 19 [Year]

A COMMISSIONER FOR OATHS in and for the Province of Manitoba. My commission expires [Date], 19 [Year]

AFFIDAVIT OF EXECUTION OF CONSENT BY HUSBAND

CANADA PROVINCE OF MANITOBA

I, ANGELA ASHTON of the TOWN of CARMAN in the Province of Manitoba,

TO WIT:

make oath and say:

- 1. That I was personally present and did see DONALD WALKER the husband of BARBARA LYNN WALKER execute his consent to the within instrument.
2. That I know the said DONALD WALKER and am satisfied that he is of the full age of twenty-one years.
3. That the said consent was executed at aforesaid and that I am a subscribing witness thereto.

SWORN before me at the TOWN of CARMAN in the Province of Manitoba this 27th day of May 1972.

Angela Ashton

A COMMISSIONER FOR OATHS in and for the Province of Manitoba. My commission expires [Date], 19 [Year]

AFFIDAVIT OF EXECUTION

CANADA PROVINCE OF MANITOBA

I, Angela Ashton of the TOWN of CARMAN in the Province of Manitoba,

TO WIT:

make oath and say:

- 1. That I was personally present and did see the within name Grantor(s) execute the within instrument.
2. That I know the said party and am satisfied that she is of the full age of twenty-one years.
3. That the said instrument was executed at aforesaid and that I am a subscribing witness thereto.

SWORN before me at the TOWN of CARMAN in the Province of Manitoba this 27th day of May 1972.

Angela Ashton

A COMMISSIONER FOR OATHS in and for the Province of Manitoba. My commission expires [Date], 19 [Year]

AFFIDAVIT OF GRANTOR(S)

CANADA PROVINCE OF MANITOBA

I, BARBARA LYNN WALKER of the [Town] of [Town] in the Province of Manitoba,

TO WIT:

(severally) make oath and say:

- 1. That I am (one of) the within named Grantor(s) and that I am of the full age of twenty-one years.
2. That I am (one of) the (persons) entitled to be registered owner(s) of the within described lands.
3. That my (co-grantor) is the husband of me, (one of the Grantors).
4. That my (co-grantor) is the wife of me, (one of the Grantors).
5. That I have no husband.
6. That the person who consents as wife to the instrument within written is the husband of me, BARBARA LYNN WALKER, the Grantor.
7. That no part of the land referred to in the instrument within written is or ever has been the homestead of me, the Grantor(s), within the meaning of "The Dower Act".

(Severally) SWORN before me at the TOWN of CARMAN in the Province of Manitoba this 27th day of MAY 1972.

Barbara Lynn Walker

A COMMISSIONER FOR OATHS in and for the Province of Manitoba. My commission expires July 27, 1973.

THE MUNICIPAL BOARD OF MANITOBA

WINNIPEG, MANITOBA

MANITOBA) Order No. MI 4/72
THE MUNICIPAL BOARD ACT) April 11, 1972

BEFORE: Mr. C. H. Chappell, Acting Chairman
Mr. L. S. M. Partridge, Member

IN THE MATTER OF Section 202 of
The Municipal Act

- and -

IN THE MATTER OF The Application
of The Town of Carman for approval
of its By-law No. 72/1143

APPEARANCES:

Mr. A. L. Loepky,
Secretary-Treasurer - for The Town of Carman
Mr. Eric Lansky, Councillor - for The Town of Carman
No one contra

WHEREAS The Town of Carman applied to The Municipal Board for approval of its By-law No. 72/1143, being a by-law of The Town of Carman to provide for the entering into of an Agreement with Barbara Lynn Walker of The Town of Carman, wife of Donald Walker, of the same place, Farmer, for an Easement for a Right-of-Way over a portion of the North-East Quarter of Section 30-6-4 wpm, with respect to the construction of an Expansion of Sewage Treatment and Disposal Facilities and appurtenances thereto at or near The Town of Carman;

AND WHEREAS after notice the application was heard at The Town of Carman on the 11th day of April, 1972;

AND WHEREAS The Town of Carman has complied with all the requirements of The Municipal Act and has satisfied the Board that the said By-law should be approved.

THE BOARD, THEREFORE, ORDERS:

1. That By-law No. 72/1143 of The Town of Carman BE AND IS HEREBY APPROVED.

2. Fees payable upon this Order by
The Town of Carman:

Filing Fee \$ 20.00
Hearing Fee \$ 25.00
Total \$ 45.00

THE MUNICIPAL BOARD

"C. H. Chappell"
Acting Chairman

"J. Acthim"
Secretary

CERTIFIED a true copy of Order No.
MI 4/72 issued by The Municipal Board.


Secretary

DATED _____

BETWEEN:

BARBARA LYNN WALKER,
of the Town of Carman, in Manitoba,
wife of Donald Walker, of the same
place, Farmer.

(hereinafter called the "Grantor")
OF THE FIRST PART,

- and -

THE TOWN OF CARMAN

(hereinafter called the "Town")
OF THE SECOND PART.

GRANT OF EASEMENT
