



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

**BY-LAW NO. 201-2000**

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**BEING A BY-LAW TO AUTHORIZE THE SALE  
OF TOWN-OWNED LANDS LOCATED ON THE  
NORTH SIDE OF DOMINION ROAD  
(RICK STEWART CONSTRUCTION LTD.) (12090205)**

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**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 located on the north side of Dominion Road described as Lot 93, Plan 59, Now Plan 399, were declared surplus by By-law No. 189-96 on the 9<sup>th</sup> day of September, 1996, and

**WHEREAS** Notice of the proposed sale of the aforesaid surplus lands was published in The Times on October 1, 8, 15 and 22, 1996, and

**WHEREAS** an offer to purchase lands on the north side of Dominion Road described as Lot 93, Plan 59, NP 399 in the amount of \$12,000.00 has been received from Rick Stewart Construction Ltd., and

**WHEREAS** it is deemed desirable to accept the Agreement of Purchase and Sale from Rick Stewart Construction Ltd. 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 the Agreement of Purchase and Sale from Rick Stewart Construction Ltd. for the sale of lands on the north side of Dominion Road described as Lot 93, Plan 59, NP 339, in the amount of Twelve Thousand Dollars (\$12,000.00) in the form of Schedule "A" annexed hereto to this by-law be and it is hereby approved and authorized.
- (2) **THAT** the Mayor and Clerk be and they are hereby authorized and directed to execute any and all documentation necessary to complete this transaction.
- (3) **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.

(4) THAT the proceeds from this sale shall be credited to the General Revenues.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 6<sup>th</sup> DAY OF  
NOVEMBER, 2000.

  
MAYOR

  
CLERK

I, the Clerk, Carolyn J. Booth, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 201-2000 of the said Town. Given under my hand and the seal of the said Corporation this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_



## SCHEDULE "A" TO BY-LAW NO. 201-2000

10:30:00 MON 14:58 FAX 905 871 3951

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# AGREEMENT OF PURCHASE AND SALE (FOR USE IN THE PROVINCE OF ONTARIO)



**PURCHASER:** Rick Stewart Construction Ltd., agrees to purchase from

**VENDOR:** The Corporation of the Town of Fort Erie, the following

**REAL PROPERTY:**  
 Address Lot 93 Dominion Road fronting on the North side of Dominion Road  
 In the Town of Fort Erie, Regional Municipality of Niagara  
 and having a frontage of 50 feet more or less by a depth of 151.9 feet more or less and legally described as  
Lot 93 Plan Plan 59 NP 389

**PURCHASE PRICE:** Twelve Thousand Dollars (CDN\$ 12,000.00)  
**DEPOSIT:** upon acceptance One Thousand Dollars (CDN\$ 1,000.00)  
 Purchaser submits ( upon acceptance )

Cash or negotiable cheque payable to Coldwell Banker Colonial Realty to be held in trust pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. Purchaser agrees to pay the balance as follows:  
 pay the balance of the purchase to the vendor on closing, subject to the usual closing adjustments.

This offer is conditional upon the purchaser receiving an acceptable contract to build a home on the lot, with required municipal approvals within 30 (thirty) days of the date of acceptance of this offer by the purchaser, failing which this offer shall become null and void and the purchaser's deposit shall be returned in full without interest or penalty.

The purchaser agrees to build a residence on the property within Two (2) years of the closing date of this transaction. Should the purchaser not construct a residence on the property within the two (2) year period, the Corporation of the Town of Fort Erie may, at its option, purchase the lands at the herein described price without interest.

The purchaser acknowledges that 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 own solicitor with respect to conducting searches of Governmental records or obtaining an environmental audit of the subject lands prior to the date of closing of the transaction. The purchaser is required to remit his objections concerning the environmental condition of the property, as a result of search or 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 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.

**SCHEDULE(S)** attached hereto form(s) part of this Agreement.

- CHATELAIN INCLUDED:**
- FIXTURES EXCLUDED:**
- RENTAL ITEMS:** The following equipment is rented and not included in the Purchase Price. The Purchaser agrees to assume the rental contract(s), if assumable.

**IRREVOCABILITY:** This Offer shall be irrevocable by purchaser until 5 p.m. on the 20th day of December 2000  
 after which time, if not accepted, this Offer shall be null and void and the deposit shall be returned to the Purchaser in full without interest.

**COMPLETION DATE:** This Agreement shall be completed by no later than 6:00 p.m. on the 15th day of February 2001  
 Upon completion, vacant possession of the property shall be given to the Purchaser unless otherwise provided for in this Agreement.

**NOTICES:** Vendor hereby appoints the Using Broker as Agent for the purpose of giving and receiving notices pursuant to this Agreement. Only if the Co-operating Broker represents the interests of the Purchaser in this transaction, the Purchaser hereby appoints the Co-operating Broker as Agent for the purpose of giving and receiving notices pursuant to this Agreement. Any notice relating hereto or provided for herein shall be in writing. This offer, any counter offer, notice acceptance thereof, or any notice shall be deemed given and received, when hand delivered to the address for service provided in the Acknowledgement below, where a facsimile number is provided herein, when transmitted electronically to that facsimile number.

FAX No. 905-871-3951 (For delivery of notices to Vendor) FAX No. \_\_\_\_\_ (For delivery of notices to Purchaser)

**GST:** If this transaction is subject to Goods and Services Tax (G.S.T.), then such tax shall be in addition to the Purchase Price  
 If this transaction is not subject to G.S.T., Vendor agrees to certify on or before closing, that the transaction is not subject to G.S.T.

**TITLE SEARCH:** Purchaser shall be allowed until 6:00 p.m. on the 8th day of February 2001 (Requisition Date)

examine the title to the property at his own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which conditions in this Agreement are fulfilled or otherwise waived or; (ii) five days prior to completion, to satisfy himself that there are no outstanding work and or deficiency notices affecting the property, that its present use ( residential ) may be lawfully continued and that the principal building may be insured against risk of fire. Vendor hereby consents to the municipality or other governmental agencies releasing to Purchaser details of all outstanding work orders affecting the property, and Vendor agrees to execute and deliver such further authorization in this regard as Purchaser may reasonably require.

**FUTURE USE:** Vendor and Purchaser agree that there is no representation or warranty of any kind that the future intended use of the property by Purchaser or will be lawful except as may be specifically provided for in this Agreement.

**TITLE:** Provided that the title in the property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for: (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telephone services to the property or adjacent properties; and (d) any easements for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television or other services which do not materially affect the present use of the property. If within the specified time referred to in paragraph 8 any valid objection to title or to outstanding work order or deficiency notice, or to the fact the said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Vendor and which Vendor is unable or unwilling to remove, remedy or satisfy or obtain insurance same and as against risk of fire in favour of the Purchaser and any mortgagee, (with all related costs at the expense of the Vendor), and which Purchaser will not waive, Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned with interest or deduction and Vendor, Listing Broker and Co-operating Broker shall not be liable for any costs or damages. Save as to any valid objection to title by such day and except for any objection going to the root of the title, Purchaser shall be conclusively deemed to have accepted Vendor's title to the property.

**CLOSING ARRANGEMENTS:** Where each of the Vendor and Purchaser retain a lawyer to complete the Agreement of Purchase and Sale of the property, and in the transaction will be completed by electronic registration pursuant to Part III of the Land Registration Reform Act, R.S.O. 1990, Chapter L4, and any amendments thereto, the Vendor and Purchaser acknowledge and agree that the delivery of documents and the release thereof to the Vendor and Purchaser may, at the discretion: (a) not occur contemporaneously with the registration of the transfer/deed (and other registrable documentation) and (b) be subject to conditions to the lawyer receiving documents and/or money will be required to hold them in trust and not release them except in accordance with the terms of a written agreement between the lawyers.

OREA Standard Form: Do not alter when printing or reproducing the standard pre-set portion.  
 REAL FORMS 2880

Revised Nov. 1991  
 Coldwell Banker Colonial R.



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. **INSPECTIONS:** Purchaser acknowledges having had the opportunity to inspect the property 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 of 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, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Vendor, and any Charge/Mortgage to be given 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 (2) 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 rent, 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 shall 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. **TENDERS:** 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 heretofore 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-printed portion hereof, the added provision shall supersede the standard pre-printed provision to the extent of such conflict or discrepancy. 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 pender 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 30 day of October, 2000  
 SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:  
 (Witness) Beth O'Brien (Purchaser) [Signature] (Seal) DATE Oct 30/00  
 (Witness) \_\_\_\_\_ (Purchaser) \_\_\_\_\_ (Seal) DATE \_\_\_\_\_

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 this \_\_\_\_\_ day of \_\_\_\_\_, 2000  
 SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:  
 (Witness) \_\_\_\_\_ (Vendor) \_\_\_\_\_ (Seal) DATE \_\_\_\_\_  
 (Witness) \_\_\_\_\_ (Vendor) \_\_\_\_\_ (Seal) DATE \_\_\_\_\_  
 mayor \_\_\_\_\_ (Seal)  
 clerk \_\_\_\_\_ (Seal)

**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 \_\_\_\_\_, 2000.

**CONFIRMATION OF REPRESENTATION**  
 I hereby acknowledge and confirm the Listing Broker represents the interests of the \_\_\_\_\_ in this transaction.  
 (Vendor/Vendor and the Purchaser) (Vendor/Purchaser)

Signature of Listing Broker or authorized representative \_\_\_\_\_  
 Signature of Co-operating Broker or authorized representative \_\_\_\_\_  
 Name of Listing Broker: \_\_\_\_\_  
 Name of Co-operating Broker: \_\_\_\_\_  
 Tel. No. \_\_\_\_\_ FAX No. \_\_\_\_\_  
 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 "B"**  
**TO**  
**BY-LAW NO. 201-2000**

**IN THE MATTER OF** the sale of Town-owned surplus lands described as Lots 93, Plan 59, NP 399 in the Town of Fort Erie on the north side of Dominion Road (hereinafter called "the lands")

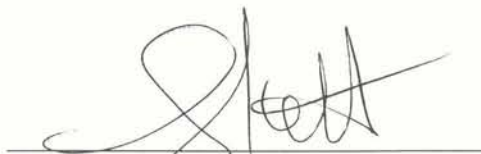
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**C E R T I F I C A T E**

I, Carolyn J. Booth, 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. Notice of the sale of the surplus lands was published in the local paper, being The Times on October 1, 8, 15 and 22, 1996, in compliance with By-law No. 44-95.
3. An appraisal was obtained for the lands.

DATED at Fort Erie, Ontario, this 7<sup>th</sup> day of November, 2000.

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