

IN THE MATTER OF THE EXPROPRIATION ACT, BEING CHAPTER E-16 OF THE REVISED STATUTES OF ALBERTA, 1980, AND AMENDMENTS THERETO;

AND IN THE MATTER OF THE INTENDED EXPROPRIATION BY THE CITY OF EDMONTON OF FIRSTLY: AN INTEREST IN FEE SIMPLE IN LAND, NAMELY: ALL THAT PORTION OF LOT ONE (1), PLAN 3182 H.W., EDMONTON, SHOWN ON FILED RIGHT OF WAY PLAN 862 1903, AS AREA "B" CONTAINING 0.163 HECTARES (0.403 ACRES), MORE OR LESS (NORTH EASTWOOD N.W. 15-53-24-W.4TH) RESERVING THEREOUT ALL MINES AND MINERALS

SECONDLY: AN INTEREST BY WAY OF A TEMPORARY EASEMENT IN LAND, NAMELY: ALL THAT PORTION OF LOT ONE (1), PLAN 3182 H.W., EDMONTON, SHOWN ON FILED RIGHT OF WAY PLAN 862 1903, AS AREA "A", CONTAINING 0.107 HECTARES (0.264 ACRES), MORE OR LESS (NORTH EASTWOOD N.W. 15-53-24-W4TH) RESERVING THEREOUT ALL MINES AND MINERALS;

AND IN THE MATTER OF THE NOTICE OF OBJECTION TO THE SAID INTENDED EXPROPRIATION FILED BY WILLIAM SOKIL AND RUSSELL SOKIL, BOTH OF THE CITY OF EDMONTON, IN THE PROVINCE OF ALBERTA;

AND IN THE MATTER OF AN INQUIRY IN RESPECT THEREOF PURSUANT TO THE PROVISIONS OF THE SAID ACT BY JAMES L. LEWIS, ESQ., Q.C., AS INQUIRY OFFICER APPOINTED BY THE DEPUTY ATTORNEY GENERAL TO CONDUCT THE SAID INQUIRY

REPORT OF THE INQUIRY OFFICER

BEFORE: JAMES L. LEWIS, ESQ., Q.C.,

HELD AT: THE LAW COURTS, EDMONTON, ALBERTA,
ON THURSDAY, THE 14TH DAY OF MAY, 1987, AND FRIDAY, THE
15TH DAY OF MAY, 1987.

APPEARING FOR THE EXPROPRIATING AUTHORITY - C. EDWARD FROST, ESQ.,

APPEARING FOR RUSSELL SOKIL AND WILLIAM SOKIL -
DONALD P. MALLON, OF THE PROWSE AND CHOWNE LAW FIRM.

I. PURPOSE AND INITIATING PROCEDURE

This is an intended expropriation by the City of Edmonton (hereinafter referred to as "the City") of the following land:

FIRSTLY: AN INTEREST IN FEE SIMPLE IN LAND, NAMELY: ALL THAT PORTION OF LOT ONE (1), PLAN 3182 H.W., EDMONTON, SHOWN ON FILED RIGHT OF WAY PLAN 862 1903, AS AREA "B" CONTAINING 0.163 HECTARES (0.403 ACRES), MORE OR LESS (NORTH EASTWOOD N.W. 15-53-24-W.4TH) RESERVING THEREOUT ALL MINES AND MINERALS

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(hereinafter referred to as "the Land"), from the registered owners thereof, Russell Sokil and William Sokil, (hereinafter referred to as "the Sokils"). The land is more particularly set forth and described in Certificate of Title No. 131-U-236. In addition to the City's Notice of Intention to Expropriate registered against the title to the Land on February 26, 1987, as Registration No. 872041890, the following prior encumbrances are registered against the title to the Land:

1. Easement in favour of the City of Edmonton registered as No. 6054 J.F.;
2. Easement in favour of the City of Edmonton registered as No. 6055 J.F.;
3. Caveat by the City of Edmonton registered as No. 1071 J.U.

The City's Notice of Intention to Expropriate dated the 24th day of February, 1987, was served by single registered mail on the 4th day of March, 1987, on the Sokils and their solicitors as well as Edmonton Transfer Ltd., Sokil Holdings Ltd., Sokil Express Lines Ltd., and Sokil Express Lines (Western) Ltd., according to the Affidavit filed as Exhibit 1 at this hearing.

As well, according to this Exhibit, the Notice of Intention to Expropriate was published in the Edmonton Journal on the 5th day of March, 1987, and the 14th day of March, 1987.

The Sokils, through their solicitors, Prowse and Chowne, served a Notice of Objection dated the 26th day of March, 1987, to the intended expropriation by the City.

The Notice of Intention to Expropriate by the City stated that the work or purpose for which the interest in the land is required is for the construction of the 82nd Street Interchange on the Yellowhead Trail in the City of Edmonton and a temporary detour roadway required in connection with this project.

D.W. Perras, Esq., Q.C., Deputy Attorney General for the Province of Alberta, pursuant to Section 15 of the Expropriation Act and Section 21 of the Interpretation Act, appointed James L. Lewis, Esq., Q.C., on the 6th day of April, 1987, as the Inquiry Officer to conduct an inquiry with respect to the intended expropriation by the City pursuant to and in accordance with the provisions of the Expropriation Act and the regulations made thereunder.

On the 7th day of May, 1987, D.W. Perras, Esq., Q.C., Deputy Attorney General for the Province of Alberta, pursuant to Section 23 (1) (b) of the Expropriation Act and Section 21 of the Interpretation Act extended by 30 days, the time within which the Inquiry Officer had to make his report with respect to the intended expropriation by the City. On the same date, namely, the 7th day of May, 1987, D.W. Perras, Esq., Q.C., also granted an Extension Order extending by 30 days the time for registration at the Land Titles Office of the Certificate of Approval by the City pursuant to the Expropriation Act. The latter Order was registered at the Land Titles Office at Edmonton, Alberta, against the Land on the 8th day of May, 1987, as Registration No. 872099817.

The Inquiry Officer served a Notice of Inquiry dated the 27th day of April, 1987, on the solicitor for the City and the solicitors for the Sokils, as well as the encumbrancers registered against the Land, giving notice that an inquiry with respect to the Notice of Objection by the Sokils to the intended expropriation by the City would be held at the Law Courts, Edmonton, Alberta, on Thursday, the 14th day of May, 1987, and Friday, the 15th day of May, 1987, commencing at 9:30 o'clock in the forenoon each day. Each party was requested in the Notice of Inquiry to file with the Inquiry Officer and each of them with the other, a written brief of their case, together with all maps, plans, studies and documents and any other material intended to be presented in evidence at the inquiry.

A brief was filed with the Inquiry Officer by the solicitor for the City as well as the solicitors for the Sokils.

The inquiry hearing proceeded on the date and time appointed. Counsel for the City and Counsel for the Sokils appeared at the hearing, no other Counsel or party appearing.

Neither Counsel appearing had any preliminary objections to take with respect to this matter being brought to the inquiry stage. Counsel for the Sokils advised that he had no objection to the negotiations the City had carried on with the Sokils and thus the question of negotiations was not in dispute. He pointed out that his clients' objections were narrow in that these objections pertained to the area being taken and the timing of such taking.

II. SUMMARY OF EVIDENCE ADDUCED AT THE HEARING

A. EXHIBITS

1. Affidavit of Darlene Longridge sworn on the 8th day of May, 1987, with respect to service and publication of the Notice of Intention to Expropriate;

2. Certified copy of the City's resolution passed on the 10th day of February, 1987, authorizing the City to proceed with the proposed expropriation;
3. Aerial photograph of the Land and area surrounding it showing the fee simple area proposed to be taken by the City as well as the temporary easement area required by the City;
4. Enclosure 3 to the City's Submission including three plates of photographs and a Plan of Survey;
5. A 1:500 scale Alignment Plan of the ultimate road proposed by the City;
6. Report of Mr. B. van der Meer, P. Eng. of the City's Transportation Department with attachments 1 to 3 included;
7. Cross Section Plan of the detour roadway at the east end of the existing building on the Land;
8. Photograph of a double turnpike vehicle; 9. Photograph of 135 foot truck and trailer unit;
10. Photograph of a triple trailer unit of approximately 102 1/2 feet;
11. Plates 1 to 7 introduced through Mr. E. Bruce Davison, P. Eng.

B. WITNESSES

The City's first witness was Mr. M.J. (Myron) Kopylech. Mr. Kopylech gave evidence that he has been with the City for 18 years. He has been handling all of the City's expropriations for

the past two and a half to three years and is presently the City's chief negotiator in its appraisal and acquisition Land Management Section of the Real Estate and Supply Services Branch. Mr. Kopylech is an Appraiser and a member of the Appraisal Institute of Canada, having completed all courses leading to the AAIC designation.

Mr. Kopylech gave evidence as to the commencement of negotiations with the Sokils, his having visited the site, talked with the Sokils and subsequently with their solicitors.

Referring to Exhibit 3, Mr. Kopylech gave an overview of the site, pointing out that the Canadian National Railway tracks are to the north of the Land. On the west side of 82nd Street is located a Veterinary Clinic to the north of the Sport-Chek property, the businesses to the east of the Land and the residential area located south of the Yellowhead Highway.

The Land is zoned IM Industrial according to Mr. Kopylech and he explained what this meant. The Land itself is vacant except for a warehouse and office building. The warehouse which is an industrial building has approximately 7500 square feet in it and the office building has approximately 1300 square feet.

There is staff and visitor parking to the south of the buildings on the Land. The westerly section of the Land contains the building and staff parking, the centre portion is for trailer storage, and the easterly portion of the Land is for storage of pipes and industrial containers or boxes.

There are three access points from the Land unto the Yellowhead Trail, namely, one access point to 82nd Street on the west side of the Land and two access points from the south side of the Land. The Land has a slight grade which increases from the east to the west. There is a deep slide slope on the west side of the Land and this becomes greater as you move north towards the CN tracks.

Mr. Kopylech testified that there are two proposed takings by the City, namely, the fee simple taking, and the temporary easement which will last approximately two years for construction purposes. The latter taking will be the first taking and this basically consists of a straight line, east to west, across the south portion of the Land.

Mr. Kopylech pointed out that the interchange proposed for this area is similar to the interchange at 97th Street on the Yellowhead Trail.

In Mr. Kopylech's opinion, the highest or best use of the Land is its present use.

Mr. Kopylech also pointed out that the Land may eventually be zoned IB District. This is part of the Yellowhead structure plan.

Mr. Kopylech identified the Land and its layout as reflected in the photographs entered as Exhibit 4.

He testified that the City has acquired the necessary residential houses on the south side of Yellowhead Trail for its interchange plans. He also mentioned that it is proposed to put up a noise attenuation wall on the south side to protect the housing that will remain from the noise generated by the Yellowhead Trail.

On Cross-examination, Mr. Kopylech acknowledged that he observed the activity on the Yellowhead Trail in the area of the land in particular and acknowledged that it is a busy area.

WITNESS - BILL VAN DER MEER, P. ENG.

Mr. van der Meer testified that he is the Supervisor of Design in the City's Transportation Design Section. He is a graduate with a B.Sc. degree from the University of Alberta in Civil

Engineering in 1974 and commencement employment with the City's Transportation Department in May of 1974 doing road design work. For the past six years he has been the City's Supervisor of Design in the Transportation Department, has been involved with a number of roadway designs, freeway designs and this is his area of expertise. He testified that he has been involved with the Yellowhead Trail design since 1977 which has been almost from the inception of this roadway.

Mr. van der Meer testified as to the background leading up to the proposal for the Yellowhead Trail which first started in October or November of 1975 when public meetings were held with the communities and businesses in the area. This area of the Yellowhead Trail is the north leg of the Truck Route Loop, according to Mr. van der Meer. Arising out of this preliminary work was the interim report of July, 1976, on the Yellowhead Trail. In August of 1976, the Council for the City concurred with the report. The end result is that 125 Avenue and Santa Rosa Road were to be designated as the Truck Route Loop.

In July of 1976, a major funding program was announced by the Province which provided for major continuance corridors through cities and the highway connections through the cities. In the case of the Yellowhead Highway, it is a major link for Highway 16 East to Highway 16 West, the Yellowhead Highway, and thus the origination of the name Yellowhead Trail along 125th Avenue. 125th Avenue and Santa Rosa Road were truck routes and the intention was to improve and upgrade these roads to a much higher standard for the truck route.

In November of 1976, an \$80,000,000.00 grant was announced and the City authorized application be made for this grant. A second report by the City, referred to as the Corridor Implementation Plan described the construction necessary to implement the \$80,000,000.00 in grant money.

82nd Street is a major arterial roadway consisting of four lanes and feeds traffic from 137th Avenue to the downtown area (Jasper Avenue).

Mr. van der Meer referred to his report entered as Exhibit 6 and stated that originally the plan for this interchange was a diamond interchange, similar to what is being constructed on Whitemud Drive and 59th Avenue or Whitemud Drive and 159 Street. This plan was changed to a tight-diamond plan and the only example in the City of this is the 97th Street and Yellowhead Trail interchange at present. The tight-diamond design requires less land than the diamond design. This design was proposed because the City recognized the high cost of land for a diamond interchange as opposed to a tight-diamond interchange. Notwithstanding that less land is required for a tight-diamond interchange design as opposed to a diamond interchange plan, the roadway construction costs are higher for the tight-diamond. The tight-diamond design for the interchange at 82nd Street and Yellowhead Trail is the present proposal of the City.

Mr. Van der Meer then described in detail the minimum standard bulb proposed at 79th Street and Yellowhead Trail and the desirable standard bulb proposed at the east end of the Land and Yellowhead Trail, the bulbs being at each end of the service road to the north of the Yellowhead Trail, east of the Land.

Access to and exit from the minimum bulb at approximately 79th Street and Yellowhead Trail can be made by truck traffic going either east or west. Access to the larger bulb at the west end of the service road immediately to the east of the southeast corner of the Land can only be made by Westbound traffic and exiting from this area can only be made to the west.

Access to the Land can be made anywhere off the large bulb. At present it is proposed that there would be an all channel

island at the west end bulb. This bulb does not allow all directional access. The minimum bulb at the east end of the service road does allow for all directional access.

The design standard used for trucks on the Yellowhead Trail is the WB 15 truck standard for which a turning template has been developed. Trucks of this size which are 15 metres long can access and exit the minimum bulb at the east end of the service road in either direction but if a truck of this size exits the larger bulb at the west end of the service road and wishes to travel east, it would have to exit the bulb in a westerly direction, travel to the interchange at 82nd Street, make a u-turn in order to travel eastward.

The WB 15 Truck Template shows the desirable and not the minimum standard for turning diameter. The template was developed by Delcan Engineering for Roads and Transportation Associations of Canada which is a National Association representing the road authorities of the Federal, Provincial and Municipal Governments as well as Trucking Associations.

At present and for the past two years there are trucks larger than WB 15 size trucks using the City of Edmonton roads. Approval for larger trucks than the WB 15 to use the City of Edmonton Highways was given within the last two years. These larger sized vehicles have to use certain roads within the City. These vehicles are referred to as Double 48 and Double Turnpike units.

At a meeting with the Sokils in January of this year, Mr. van der Meer learned for the first time about the larger traffic using this roadway. He pointed out that no template has been designed as yet for Double 48 and Double Turnpike vehicles.

The Double 48 vehicle will be able to use the service road but it would take up pretty well the whole area of the service road. In addition, a larger bulb would be required in order for a Double 48 or a Double Turnpike vehicle to access the Land.

Mr. van der Meer acknowledged that he had no knowledge of the traffic patterns on the Land, no knowledge of the Double 48 vehicle requirements but did point out that the City's proposal did not affect the permanent buildings on the Land.

Later on in the hearing, it was learned that even larger trucks are contemplated to use such highways as the Yellowhead Trail.

Mr. van der Meer testified that the design requirements for this roadway have been approved by the City. Approval is not required from Alberta Transportation. Any redesign work would require retendering and renegotiation of the contract.

On the question of the City's detour road plans, Mr. van der Meer testified that the City considered one lane in each direction on the detour road, constructing the north half first and then constructing the south half. This was in 1982. Subsequently, traffic volumes were assessed and it was determined that at least two lanes in each direction must be maintained. Mr. van der Meer then referred to his report entered as Exhibit 6 and read from it. In this report, Mr. van der Meer stated:

"The need for an improved roadway through the City of Edmonton, which would connect Highway 16 East to Highway 16 West, was identified in the early 1970's. A brief history of the planning process and the City and Provincial Government approvals of the 'Highway No. 16 Corridor' is outlined in the attached Land Acquisition Report (Attachment No. 1). On January 12, 1982, City Council approved the implementation of the Yellowhead Trail/82 Street Interchange as described in the report entitled 'Addendum No. 3 to Highway No. 16 - Corridor 82/Street/Yellowhead Trail Tight Diamond Interchange Functional Plan'. This report was prepared by Delcan Engineering and is dated September 1981.

The purpose of the Delcan Report was to prepare preliminary plans showing the horizontal and vertical alignment of the proposed Yellowhead Trail/82 Street Interchange and also to develop construction staging plans. The construction staging requires some temporary detour roads in order to maintain traffic flows during construction. The Delcan report assumed that:

- (i) One lane per direction must be left open at all times on Yellowhead Trail.
- (ii) Two lanes per direction must be left open at all times on 82 Street.
- (iii) All turning movements must be preserved throughout the construction period.

Upon completion of the Delcan Report, the City of Edmonton - Transportation Department proceeded with the final design. At this time, the need for two lanes in each direction on the Yellowhead Trail was identified. Two through lanes in each direction are required for the following reasons:

1. Major traffic volume increases have occurred on Yellowhead Trail since the preparation of the Delcan Report in 1981.
2. The existing two lanes in each direction are running at capacity during peak periods, therefore a reduction in the number of lanes would result in major delays.
3. There are a large number of trucks on this route. A one lane roadway would slow all traffic to the truck speeds further reducing the capacity to carry traffic.
4. A vehicle breakdown or traffic accident would result in a complete shutdown on this major truck route.

During March 1987, construction detours (i.e. lane closures) were required to accommodate utility relocations in this area. A traffic analysis was undertaken which confirmed that a one lane detour would result in major delay (Attachment No. 2).

The City proceeded with Construction Staging Plans (Stages 1 to 7) based on the following criteria:

1. A minimum of 2 through lanes in each direction for both Yellowhead Trail and 82 Street, plus left turn bays.

2. The noise walls and berms would be constructed first in order to screen the residents from the roadway construction.
3. The amount of temporary roadway construction should be minimized i.e. use as much of the existing road pavement and sections of newly constructed pavement as possible for detour roads.
4. Minimize the impact of the detour roads on adjacent properties.

Based on these criteria, the concept developed was a split detour road with the westbound running north of the structural site and the eastbound immediately south of the structure. This split intersection has the added benefit of providing an improved traffic operation (i.e. higher capacity) than a single intersection. The final Staging Plans (Plan No. FR16 004 Z01 Stages 1 to 7) were approved on December 9, 1983.

The final design of the westbound detour road which affects the Sokil property is based on the following controls:

- The detour alignment is an extension of the existing north side service road (east of 82 Street) and passes immediately north of the bridge structure excavation.
- There is a requirement for a right turn bay at the intersection (replacing the existing right turn bay).
- A 5 m boulevard is required north of the roadway for (i) a side slope (due to vertical elevation difference) (ii) temporary streetlights and temporary traffic signs.

Delcan's preliminary plans for the Yellowhead Trail Interchange also identified the need for an improved service road connection onto the new roadway. Since Yellowhead Trail is a truck route, the service road connection must be designed to accommodate semi-trailer truck movement. The final design was based on the R.T.A.C. W.B 15 turning vehicle templates."

Mr. van der Meer then went on to testify that it is the City's intention to minimize the impact on any particular property and that a one lane detour could cause a major traffic problem if there is vehicle breakdown. Thus, a two lane detour is proposed by the City.

Mr. van der Meer then testified as to the specific requirements of the City keeping in mind the attempt by the City to minimize the temporary requirements from the Land for the detour area. For example, in the City's plan, the westbound traffic will use the service road which will be extended through and past the Land. The maximum grade of 1 to 1 at 82nd Street interchange will be established for the detour road. A maximum slope was used in the City's design for this detour in order to minimize the temporary City requirements. The City aligned the detour as far south as it was possible to do in order to minimize the land requirements which are of a temporary nature, and this alignment cannot be shifted any further south than what is proposed. The width of the lanes is 3.75 meters with a 5 meter offset to accommodate the slide sloping. The boulevard is the minimum width of 5 meters whereas it is usually 7 meters. He then detailed the requirements for roadway signs and streetlighting , keeping in mind that it was still a major truck route and heavily used.

The staging of the construction according to Mr. van der Meer is such that construction of the detour area on 82nd Street commences this year. The bridge structure on 82nd Street will be constructed in two sections or two halves. The City proposes to clear the site on the southeast portion of the intersection first and then construct the west half of the structure in order to accommodate five lanes of traffic. It was originally planned that the detour road in a westward direction was to start in August but will not start until at least September of this year. There is a major drainage area in the southeast corner that has to be completed and the actual construction of the detour road, because of this, may not actually start until October of this year. The westbound detour road is to be in operation by the end of October of this year and will continue in operation until both halves of the bridge structure have been completed. The structure completion time is approximately two years. A large excavation is required on the west side of 82nd Street south of the Yellowhead Trail. This is for the underpass.

Mr. van der Meer then detailed the bridge construction staging explaining that it is a single spand structure.

The noise attenuation wall runs from approximately 89th Street where it will be approximately 5 meters high to 82nd Street, and then a five meter high noise wall to about 80th Street or possibly beyond, consisting of an earth berm with the noise wall on top of it. It is proposed to keep the alignment of the detour clear of the berm wall as the City wishes to build the berm wall as soon as possible.

On cross-examination, Mr. van der Meer acknowledged that it was the City's intention to maximize efficiency and provide minimum impact to the land-owners. In other words, the City took into account in its design the residential and industrial users of land in this area.

Insofar as the Sokils were concerned, Mr. van der Meer referred to enclosure 7 to the City's Submission. There were questions from the Sokils and the City had provided answers.

Mr. van der Meer was aware that the City had issued permits to the Sokils to operate turnpike doubles in the City between May 22nd of 1986 to the end of December 1986.

According to Mr. van der Meer, a turnpike double is an oversize truck requiring a special permit. The Yellowhead Trail is not designed for these trucks but the movement of the size of this vehicle was checked, and it was determined that the size of this vehicle fits into the road design proposed for the Yellowhead Trail. It is possible for this size of vehicle to access the Land. He did acknowledge that this was not an ideal way to get this information and did attempt to get all the information possible on

turnpike doubles including the templates for such vehicles. He did attempt to extrapolate the information on such length of vehicles to determine the approximate templates necessary for this size of vehicle.

Mr. van der Meer acknowledged that the Delcan WB 15 template was designed in approximately 1977.

There are no signals at the easterly bulb on the service road for traffic in or out. The proposed minimum size of bulb is sufficient to accommodate traffic in and out but is substandard for sharp right turn traffic because of the location of a building immediately to the north of this bulb. The City could not afford to buy this because of the price.

Mr. van der Meer acknowledged that there is no benefit for the existing westbound traffic for the design of a large bulb at the west end of the service road. He did state though that it is not a redundant feature. It was designed to the highest standard that it could be designed to, namely, the WB 15 truck template.

Mr. van der Meer did acknowledge that he did not know the day to day operations on the Land by the Sokils nor was he was aware of the number of trucks using this area on a daily basis. He did acknowledge that there used to be another trucking company or companies to the east of the Land. He was not aware of the number of trucks that would turn off the service road.

The island at the west intersection of the bulb channelizes the movement of vehicles in and out of this area. It defines the in and out lane according to Mr. van der Meer. If there were a large number of trucks using this area, the City would have to look at redesigning this island. For example, if there were 100 oversized trucks in and out of this area on a monthly basis, the City probably would look at revising the design of the island.

The set up of the maintenance building on the Land was reviewed with Mr. Van der Meer.

Mr. van der Meer acknowledged that the WB 15 template is designed for trucks negotiating a turn at 15 kilometers per hour maximum. If a truck negotiates the turn at 5 kilometers per hour, it will make it in less than the design of the turn. There is some forgiveness in the template design. He acknowledged that the turning bay on the northeast corner of the Yellowhead Trail and 82nd Street is based on existing volumes of turning traffic.

The cross-section proposed for the southerly portion of the Yellowhead Trail was reviewed with this witness, he pointing out that the grade portion behind the road at a 10 to 1 slope which is 10 feet wide provides for snow removal, slopes towards the road for drainage, leaves room for the necessary signage and lighting, the lighting being some 3 meters from the curb for safety purposes.

Mr. van der Meer pointed out that the proposed Yellowhead Trail is not an arterial road but is of a higher standard than an arterial road. There is grade separation at most but not all of it and it is close to an expressway standard. It is a rather unique situation, he acknowledged.

He testified that it was not possible to put a retaining wall at the edge of the road. An offset is needed and the retaining wall could be put behind the offset which might gain you one to two feet in width by doing it this way. He said he did not know the cost of the average two foot retaining wall.

On reexamination, Mr. van der Meer stated that the concerns of the adjacent property owners with respect to the service road was reviewed and meetings held with these people to determine their concerns.

The additional cost of a diamond versus a tight-diamond is approximately \$3,500,000.00. The estimated cost of the tight-diamond in 1981 dollars is approximately \$17,000,000.00 whereas for the diamond design, it is approximately \$20,500,000.00. The significance of the tight-diamond versus the diamond design is that 25% to 33 1/3% less land is required from the Sokils for the tight-diamond.

WITNESS - BRICE W. STEPHENSON

Mr. Stephenson testified that he is the General Supervisor, Forecasting and Assessment for the Transportation Planning Branch of the City's Transportation Department. He is a graduate in Civil Engineering with a B.Sc. degree from the University of Alberta in 1978, and obtained his Master of Science degree in Civil Engineering in 1981 from the University of Alberta. He has been in his present position since 1984, having worked previously for City Transportation between 1978 and 1981 and was with GCG Engineering partnership between 1981 and 1984.

Mr. Stephenson described 82nd Street and Yellowhead Trail as a very congested intersection, in fact, the fourth most congested intersection in the City of Edmonton. Both roadways are classed as major arterial and function with the Yellowhead Trail having the higher designation because it is designated as a truck route as well as a dangerous goods route.

According to Mr. Stephenson, the original concept for the detour provided for a single lane both ways prior to the opening of the Yellowhead Highway at each end. Earlier this year, major construction for utilities at this intersection reduced the use of the highway to one lane each way and this caused major congestions. The City was able to test the original concept of one lane each way for this road during construction. The object is to maintain the

present capacity during the construction. Therefore, four lanes each way is what the City intends for this intersection during construction.

Mr. Stephenson acknowledged that if you start taking away turning lanes, then you reduce the capacity of the roadway.

Mr. Stephenson also testified that there would be a 10% capacity reduction if the turning bay on the north side was left out.

The design of a roadway is based on the peak hour time period.

On cross-examination, Mr. Stephenson acknowledged that a major congestion is one where you have a five minute wait period with no vehicles moving. If the north turning bay was eliminated, this would cause a major congestion.

Mr. Stephenson did acknowledge that if two car lengths was eliminated from the turning bay on the north side, this would not cause a serious congestion problem but any more than this might.

If traffic congestions occur, the traffic starts to use alternate routes.

In view of the fact that the detour will be about a two year duration, the City is not prepared to accommodate traffic on a two lane reduction basis as it did for the short duration of the utility changes earlier this year.

The car bay on the north will accommodate approximately 10 cars under the City's design proposal.

WITNESS - MR. RUSSELL SOKIL

Mr. Sokil is one of the registered owners of the Land with his brother, William Sokil. The Land is held in trust by both of them for Sokil family interests including Sokil Holdings Ltd. in which they have major shareholdings.

He testified that Edmonton Transfer Ltd., Sokil Express Lines Ltd., and Sokil Express Lines (Western) Ltd. all are renters of the Land.

Referring to Exhibit 5, Mr. Sokil reviewed the different areas of the Land, pointing out the parking area at the south and east end of the Land, the concrete pad in the middle of the yard of approximately 250 feet where trailers are parked when ready to go, the northwest corner being occupied by vehicles waiting for repair, the line haul trailers at the south end of the maintenance building which are plugged in and ready to go. The purpose of the service facility for trucks as well as trailers, the location of the shop offices and parts department to the south and west of the main maintenance building, the inspection and repair bay on the east end of the maintenance building where the trucks enter from the north and exit from the south end after safety inspection before leaving on a trip and how the trucks and trailers exit through the yard.

Mr. Sokil testified that he has been doing this type of work since 1951, purchased the Land in 1967, and works a 10 to 12 hour day, seven days a week.

There are no 46 foot or 48 foot trailers on the pad as these are assembled in the north end of the Land and then brought through the shop. The number of vehicles going in and out of his operation on a 24 hour basis is between 60 and 80 vehicles. About five of these vehicles will be a multiple unit but the multiple units could run as high as 10 to 15 on a given day.

Mr. Sokil described a turnpike double as two 48 foot trailers plus a truck in front having an overall length of approximately 115 feet. On special occasions these trailers might be a length of 140 feet.

Exhibits 8, 9 and 10 were introduced at this point, Exhibit 8 being a photo of a double turnpike, Exhibit 9 being 135' truck, and Exhibit 10 being 102.5' triple truck and trailer unit.

In Edmonton he said that double turnpikes are allowed on certain roads. It is economic to use double turnpikes.

He described the economics of the trucking industry and pointed out that the industry is about 40% below what it was two years ago.

He then described in greater detail the operation or flow of trucks on his lot, where they come in, where they are parked, how and when and where they are serviced and how they exit the Land.

The truck units that are parked in front of the four doors of the maintenance building usually range in length from 30 feet to 35 feet. In the aerial photograph entered as Exhibit 5, the truck units are approximately 27 feet in length.

If the City takes the temporary easement it proposes, a 30 foot truck would not be able to move out from the south end of the maintenance building as there is not enough room. The truck units are approximately 9 1/2 feet wide, the parking lanes are approximately 10 feet wide and thus the vehicles are approximately 6 inches apart when parked.

He testified that if he had unlimited land he would put together a similar operation to what he has now. He described his operation as running at about 99% efficiency at the present time.

The impact of the large bulb at the southeast end of his property which would be the west bulb on the service road would prevent the trucks, leaving his property, from making a turn to the west.

In his view, Mr. Sokil testified that the City's proposal would cause a total close down of his whole operation, including that which exists in Calgary and Lethbridge because he would end up having to haul singles instead of multiple units and this would make it uneconomic and put him out of business.

Mr. Sokil testified that he cannot increase rates to offset the higher cost of the problems created by the City.

This industry, the trucking industry, is the highest regulated industry. The safety standards are extremely high and safety inspections have to occur every 800 kilometers or 500 miles. Thus, his shop is running 24 hours a day.

The Motor or Transport Board regulates everything that is hauled and where it can be hauled to.

The area at the south end of the land is empty at present, the City having removed the plug-ins for the cars last winter. The staff does not know where it will park their cars. There are between 16 and 30 cars at any given time to be parked on the land.

On cross-examination, Mr. Sokil explained how the truck and trailer units leave the maintenance shop following preparations for a trip and safety inspections, have to make an S turn through the yard in order to leave the yard and travel west on the Yellowhead Trail.

In Mr. Sokil's view, it is not feasible to operate with the large bulb at the southeast end of his Land as proposed by the City.

Turnpikers are coming through his existing set up for servicing and exiting and may have to go on existing City boulevard land to accomplish this. The turnpike double started travelling on City roadways in May of 1986. These turnpikers started using the roads in Saskatchewan about two years before being able to do so in Alberta.

Triples have been allowed in Alberta for a number of years and are approximately 13 feet shorter than turnpikers.

Turnpikers can consist of two-45 foot trailers or two-46 foot trailers or two-48 foot trailers and could even go longer.

Mr. Sokil suggested that he have an east and south entrance and exit with the old bulb being used at the southeast end of his property which is presently outside the boundaries of the Land.

WITNESS - E. BRUCE DAVISON

Mr. Davison testified that he is a B.Sc. graduate in Civil Engineering from the University of Saskatchewan in 1972. He has his P. Eng. from British Columbia, Saskatchewan and Alberta. He has his Consultants Licence in both Saskatchewan and Alberta. He has practised his profession in Alberta since 1978. He has been a Transportation Engineer with Louis G. Grimble Professional Ltd. since 1979. His work is in the area of urban transportation, roads and streets, construction and reconstruction of highway projects, site circulation and assessment. He testified that he has been acting since 1963 as an Advisory Consultant to Red Deer, Calgary, Yorkton, Saskatchewan, and other cities. He has testified in Court

previously as a transportation expert with respect to roadway design and has been accepted by the Court of Queen's Bench of Alberta as an expert in his areas of expertise.

He alluded to the preparation and investigation he had done prior to this hearing with a view to determining the permanent effect and problems created by the construction easement and land being requested by the City from the site. His purpose and retainer was to investigate probable solutions to accommodate the City's plan, having in mind that his clients, the Sokils, were in full agreement with the upgrading of the Yellowhead Trail and the interchange proposed at 82nd Street and Yellowhead Trail. He said he visited the Land on numerous occasions.

Exhibit 11 was entered which he testified were plates that he had prepared showing the existing yard plan and utilization, site circulation with turnpike double, yard plan with construction easements, site plan and yard utilization during construction, turning template for a double 48 foot trailer unit, site circulation tight to service building turnpike double and suggested alternate access bulb.

He referred to Exhibit 5 and pointed out the location of a road grader on the site and the fact that the site was under construction at the time the aerial photograph was taken.

The northeast corner of the Land is a feeder truck area. Trucks are then brought from this area into the centre area for loading. The loaded trailers are then staged and grouped, pulled out to the north which requires 180 degree turn through the service area, through the end bay and then the vehicles either go east or west on the Yellowhead Trail.

Smaller trailer units can actually make the turn at the first outlet on the south end of the Land. Otherwise, if such vehicles cannot make this turn, they have to go to the most easterly exit to make the turn.

He described the staff parking of their motor vehicles at the south end of the land and that this parking area had been moved to the east. He described the purpose of the tractors parked at the south end of the building. The feeder trucks, according to Mr. Davison, were those of Edmonton Transfer and are staged at the north end of the building.

There are five bays in the maintenance building, one being a drive through bay and the other four are service bays. He did not personally witness any major overhauls in the maintenance building. The small building to the east and south of the main maintenance building is a parts and administration building.

There is some minimal storage in the southeast corner of the Land.

The basic movement of vehicles in the yard should be consistent for efficiency, according to Mr. Davison. The best movement of vehicles in the yard is counter clockwise.

Once the tractor units are serviced, they are driven from the service bay area, hooked up to the trailer units and sent on their way.

Multiple units are a different story according to Mr. Davison. These units cannot make 180 degree turn. Therefore, these units are staged in the north part of the site. The double 48 units have room to be pulled through the service bay and then make an S to exit the property.

In Mr. Davison's view, the volumes of traffic cannot be increased any further than what is on the Land at present. The efficiency of use is at its maximum level at the present time. The constraint is in trailer parking on the Land.

He testified that there are 60 to 100 movements in and out of the Land every day. Of these movements approximately 15 are multiple units per day and 5 are turnpike units per day. He said he had no concrete information on the turnpikers or large triples using the site.

He said he had no information on the 180 degree turn but has on the 90 or 45 degree turn. He said that he arranged that whenever a random turnpiker came onto the Land that he be called and would go down immediately to the site, which he did. He wanted to determine what the tightest turn such a vehicle could make. When this is done, the wheels will start to skid and the skid marks are pinned and then surveyed. This then was reproduced on plate 5 in Exhibit 11. The outside vehicle path radius was 34.60. The maximum angle of 39 degrees was set between the tractor and trailer. A 22 degree angle was set between two trailers. He then went on in greater detail to describe how the other plates in Exhibit 11 were generated and the effect that the proposal by the City would have on the operations by the Sokils on the Land.

Even taking the trucks or whatever else may be parked at the east side of the maintenance building in order for turnpike vehicles to come as close to the building as possible, in making the turn in the yard, would still necessitate such vehicles encroaching on the proposed bulb. A triple trailer unit would be in about the same position, he testified. This problem would virtually eliminate the counter clockwise movement of the vehicles in the yard. It would also lead to the loss of storage area in the yard.

The only way the Sokils could make their operation work, according to Mr. Davison, would be to remove some of the storage area in the centre and east of the Land, do the vehicle inspections at the north end of the Land, and on exiting, the island in the middle would be overrun each time and vehicles could only exit to the east.

Alberta Transportation may be licencing double 60's this year and the Sokils, in order to remain competitive, have to be in the position to service these vehicles which they could do on their present site.

Mr. Davison then described how he generated on his computer what would happen to a double turnpiker where you have the bulb proposed by the City in its design at the west and east ends of the service road to the east of the Land. The double turnpiker could hardly make it out of the eastbound direction and could not make it out in a westerly direction. He described how such a length of vehicle to enter the service road would have to use the full roadway width of the westbound lanes and part of the eastbound lanes for westbound vehicles but eastbound 48's would have no problem.

He then described how a trailer could go east to 17th Street and then back via Whitemud in order to go in a westerly direction but this would take an additional one and a half to two hours.

In his evidence so far he was only addressing the bulb problems in the City's design and not the temporary easement question. He pointed out that he is not as constrained as the City Transportation Department is.

Mr. Davison suggested that the design criteria of the service road philosophy be changed and be made into a two way

service road with an on-ramp in the westerly direction. If this is missed, vehicles can go further west to the u-turn and return to the service road.

In Mr. Davison's view, if the large bulb at the west end of the service road is reduced in size, only allow egress westbound and only allow exit movement, with the use of a ramp, this could then mean the restoration of the circulation in the Sokils yard on the Land. The key is the west movement, according to Mr. Davison.

One thing that has to be kept in mind is that the Sokils do not want to reduce the level of the services to their customers nor do the other businesses along the service road want to reduce the level of their services to their customers. Mr. Davison said he looked at the businesses to the east of the Sokils Land and determined that these businesses may have, on average, one truck a month. In the case of the Sokils business, the level of service is severely impaired by the City's proposed bulb at the west end of the service road.

This is one alternative he suggests. A second alternative is indicated on plate 7 entered as part of Exhibit 11 which is a mirror image of the east bulb which would be put in as the west bulb. In Mr. Davison's view, this is workable. It gives a secondary opportunity to the west bound traffic. The smaller bulb could be superimposed at the west end of the service road and it would be workable. If necessary, more of the Western Propeller land could be taken for the purposes of the bulb and increasing its size to something greater than the minimum standard bulb at the east end of the service road.

On the question of the temporary easement the City is requesting, the land necessary for this temporary easement would eliminate the use of the service bay by any multiple use tractor on the Sokils property. In Mr. Davison's view, even a WB 15 size

vehicle would encroach slightly on the temporary easement the City is proposing. He said that he used the Artak turning templates for the WB 15 design vehicles.

Mr. Davison went into some detail as to how these templates are determined. He also pointed out that the rear, the drive and the front axle of a vehicle can only carry so much load and the load must be balanced to produce an average on each. He pointed out that the rear wheels on a vehicle can be changed to midway up the tractor by changing the pin settings.

According to Mr. Davison, the estimated cost of moving the maintenance building north would be approximately \$750,000.00.

Mr. Davison agreed with Mr. Stephenson that it would make no appreciable difference to the roadway design eliminating two lengths of vehicles from the turning bay at the south end of the Land.

According to Mr. Davison, the question of the City's proposed temporary easement can be reduced with the use of a retainment structure approximately 180 feet long. This is a metal crib wall construction which can be dismantled at the end of construction and used again. He referred to a site in Calgary where this was just done at a cost of \$45,000.00 to \$50,000.00. The problem of the construction easement can be solved with the use of the metal crib wall construction.

In Mr. Davison's view, it is not practical to try and locate tractors at the south end of the maintenance building with the temporary easement proposed by the City in place. Putting in a thin wall, that is, a metal crib wall, would mean the Sokils could still utilize the south end of their maintenance building as they are doing today.

On cross-examination, Mr. Davison said that it is possible to reorganize the Sokils site to allow for double turnpikes. He said the maintenance building could be moved to a different location to allow for circulation on the site. He also said that the building could be demolished and rebuilt possibly in a different configuration and location.

He also acknowledged that it is possible to backup and uncouple to make the turn from the south end of the building but this is not practical and is not efficient. The cost to the owner would be very substantial. It would also involve a secondary inspection which is not happening now with double 48's. The vehicle would have to be reinspected in place because of the uncoupling and recoupling of the vehicles.

Mr. Davison acknowledged that the turning movements of the vehicles are different where there are different pin settings for the rear wheels.

The double 60 will add an additional 24 feet to the length of the trailer and that you are dealing with a triple trailer although the movement may be an articulated movement but nevertheless may be the same or greater turning radius required as is the case with doubles.

Even if the island is removed, there will still be an encroachment on the curb, according to Mr. Davison at the west end bulb in the exiting of the double 48.

Double turnpikers cannot u-turn at the diamond interchange.

Mr. Davison acknowledged that the minimum turning radius is designed for speeds of ten miles per hour.

The reduction of the turning bay by two car lengths will give an additional 24 feet more of land approximately to permit vehicles to turn on leaving the south end of the maintenance building.

Mr. Davison acknowledged that if it was a one way service road, this would affect the level of service to the tenants along the service road.

WITNESS - MR. VAN DER MEER

Mr. van der Meer was recalled by Mr. Frost.

Mr. van der Meer testified that if six meters or two car lengths was taken from the turning bay, this would not provide a full lane width for trucks turning as such trucks left the south end of the maintenance building. The requirement would have to be more than 12 meters. Upwards of 25 meters may be required or four car lengths taken from the turning bay to be utilized for vehicles coming from the south end of the building and making a turn to the east.

Mr. van der Meer acknowledged that the City looked at the turning diameter of WB 15 length of trucks but that larger trailers were not looked at and could not make this turn.

Mr. van der Meer acknowledged that a double turnpiker could make a turn to travel west on the Yellowhead Trail if the island was eliminated and it would not be necessary to go over the curb to accomplish this.

Mr. van der Meer acknowledged that the large bulb at the west end of the service road is the desirable template size of turn and this is what the City desired because it is a truck route with

heavy traffic and dangerous goods route. He testified that there were a number of areas where this design standard had already been used on the Yellowhead Trail and other areas and thus a precedent had been set for it.

Mr. van der Meer acknowledged that it was not impossible to eliminate the larger bulb. The construction of the bulb was a long term construction feature with future uses taken into account.

On further cross-examination, Mr. van der Meer testified that if the trucks exit the Land at the west bulb onto the Yellowhead Trail, a 180 degree turn can be made by the trucks according to the template developed by the City for such a turn by trucks.

III. ARGUMENTS ADVANCED ON BEHALF OF THE PARTIES

Mr. Frost in his summation, reviewed some of the highlights of the evidence given at the inquiry hearing and argued that:

1. The nub of the objection by the Sokils is the placement of the west bulb which presents a problem to and impacts on the Sokils operation.
2. The question of the need for an interchange is not an issue here. The Sokils themselves agree with this.
3. The same criteria as proposed for the bulb at the west end of the service road abutting the Land at the southeast corner has been used already on the Yellowhead Trail. The criteria for such a bulb has already been established. Another criteria for such a bulb is the future and the future uses that may be encountered and to provide for the minimum standard of bulb is not sufficient.

4. Larger vehicles are using the Land and there may be even larger vehicles in the future but the benefits from the desirable size of bulb may be greater to the public than to one property owner.
5. The Sokils may have to move their building.
6. It was established in evidence that the location of the detour road will still leave sufficient room for a WB 15 vehicle to make the turn when leaving the maintenance building. In other words, the five milimeter boulevard and detour road should be maintained as proposed in the City's design.
7. The purpose of the design is to meet the peak traffic requirements for the roadways in this area. The City is dealing with the forecasted traffic using this roadway system and if the width of the roadway is 48 meters or less, than the City will have problems.
8. The City needs the large proposed bulb as vehicles should not have to come to a complete stop to navigate the turn.

Mr. Mallon, in his summation, reviewed some of the highlights of the evidence at the inquiry hearing and argued that:

1. Nothing is impossible as the City's own witness, Mr. van der Meer, acknowledged. The public's interest must be weighed against the interest of the private sector and a solution found that will minimize the impact on the Sokils operation.

2. The Sokils operation on the Land is being utilized to its maximum potential at the present time. Anything that is done to the Land whether it be for a two year temporary easement or on a permanent basis will have an impact on the efficiency of the Sokils operation.
3. The Sokils are prepared to allow for a certain amount to be done by the City in proceeding with the interchange which is needed at this intersection but the impact on the Sokils Land and its operation must be minimized.
4. The taking away of vehicle parking on the south end of the land has caused the Sokils problems as they do not know where this parking is going to be located now.
5. The trucking industry is a highly competitive industry and this is desirable from the public's point of view but private business should not be impacted to the extent of impairing the business.
6. The present design of the service road does not service the Sokils operation or Land at all.
7. Two alternative proposals have been suggested to get around the impact of the City's design. The design of the bulb at the west end of the service road could be used only as an exit and the other bulb at the east end of the service road could take all traffic that comes in and goes out from that point.
8. For those forgettable people who do not make the turn at the east bulb, such drivers could go around the diamond interchange and return to the east bulb.

9. The large bulb services off ramp for those turning right off 82nd Street or the service road.
10. The second suggestion is to mirror the small bulb where the City proposes to construct the large bulb. The taking of the land necessary for the large bulb for the drivers who forget the first turn-off is not justified.
11. The WB 15 traffic comes close to the boulevard lane which is a known fact to both parties. The larger vehicles cannot make the turn or if they can make the turn, they would have to travel on City land to do it. The City's design is like dominos, it piles one problem on another.
12. If the Sokils can get one foot or better on the south end of their Land, this would help but a substantial number of feet would make all the difference in the world. Changing the turning bay to two less vehicles and putting up the suggested retaining wall would accommodate the Sokils situation. Moving the turning bay west by four meters which is slightly more than two car lengths, can be accomplished, according to the evidence, and this would solve part of the Sokils problem.
13. It is not fair, sound and reasonably necessary in the City achieving its objectives with its present design. Minor alterations of the design as suggested by the Sokils and their experts would make it fair, sound and certainly reasonably necessary to the City.
14. The Sokils proposal should be given a great deal of weight.

IV. INQUIRY OFFICER'S FINDINGS OF FACT

I FIND THAT:

1. The City has satisfied all of their requirements of the Expropriation Act and taken all of the necessary steps to initiate this inquiry as required by this Act and the regulations thereunder.
2. Negotiations were carried on by the City with the Sokils to acquire the Land but without success. This is not in dispute.
3. The City has passed the necessary resolution authorizing its proceeding with this proposed expropriation.
4. The City's evidence was clear and uncontradicted, in fact, the Sokils agreed with it, as to the purpose and need for upgrading the intersection at 82nd Street and the Yellowhead Trail in Edmonton.
5. The Sokils' objections to the City's proposed expropriation are narrow as their Counsel pointed out, namely, the area proposed to be expropriated, the reason for it and the timing.
6. The City intends to construct a tight-diamond interchange at 82nd Street and Yellowhead Trail. Both roadways are major corridors in the City with the Yellowhead Trail being designated as a truck route and dangerous goods route. The need for such an interchange at this major intersection is unchallenged.

7. The City's requirement for a temporary easement of a two year duration at the south end of the Land which arises out of its design for the detour road will impact on the Sokils operation. It will restrict the Sokils operation to trucks no larger than the WB 15 size for the next couple of years. This may impair the economies of the Sokils business. What is known is that even larger trucks have already, in the past year, been allowed on Edmonton and Alberta roads and even larger trucks may be allowed shortly. If the Sokils cannot accommodate such vehicles in their operation, their business operation could suffer because of it.

8. The Sokils have suggested an alternative through their Engineer, namely, constructing a metal crib retainment structure wall and eliminating approximately two to four vehicle lengths from the turning bay on the north side of the Yellowhead Trail. This would get around the turning diameters required for trucks leaving the maintenance building on the Sokils property. The cost of this wall according to Mr. Davison, which is reusable, is between \$45,000.00 and \$50,000.00.

9. The bulb at the west end of the service road is the City's desirable standard. This impacts significantly on the Land and the Sokils operation. Mr. Davison suggests in plate 7 to Exhibit 11 a lesser standard bulb or, in his evidence, a minimum standard bulb. The service road would be adequate for the traffic.

10. The large bulb at the west end of the service road only services vehicles leaving it and travelling west on the Yellowhead Trail or vehicles entering it travelling from the east on the Yellowhead Trail. The minimum size bulb at the east end of the service road services traffic exiting both east and west on the Yellowhead Trail as well as traffic accessing it from both the east and west off the Yellowhead Trail.
11. The City has not had time to give sufficient design thought to the use of the service road and bulbs by double 48's or double turnpike sized vehicles let alone a double 60 sized vehicle which may be allowed on Alberta highways soon. The City was not aware until January of this year that such sized vehicles were being looked after on the Land.

V. OPINION AND REASON

The question before me for determination as the Inquiry Officer, is whether the intended expropriation by the City is fair, sound and reasonably necessary in the achievement of the objective of the Expropriating Authority, namely, the City.

The City's purpose or objective is clear and unequivocal, that is, the upgrading with an interchange at 82nd Street and Yellowhead Trail. The need to upgrade this intersection is uncontradicted.

Alternatives have been suggested to the City's design for both the permanent easement which would require 0.264 acres from the Land for a two year period as well as to the City's design for the bulb at the west end of the service road which would require 0.403 acres from the Land. Both of these alternatives have been suggested by an expert in transportation design. The alternatives are acceptable to the Sokils in carrying on their business operation on


the Land. The City's design for both the temporary easement and the fee simple taking for the bulb at the west end of the service road would impair the Sokils operation on the Land. Therefore, the City's proposed taking for both the temporary easement and the fee simple title are, in my opinion, in doubt as to whether such taking is fair, sound, or reasonably necessary in achieving the City's objectives. Such doubt having been cast upon the City's design, thus the City's proposed taking must be resolved, in my view, in favour of the land-owner. Therefore, I am not prepared to find that the proposed expropriation by the City is fair, sound and reasonably necessary in achieving its objectives. There are alternatives. These alternatives must be pursued by the City in its design relative to the Land and the Sokils operation.

I therefore find that the intended expropriation by the City is not fair, sound and reasonably necessary in the achievement of its objectives. I would suggest that the City meet with the Sokils transportation expert, Mr. Davison, to try and work out an alternative design acceptable to both parties in view of the evidence adduced at this hearing.

It is my opinion that all reasonable costs of the Sokils be paid by the Expropriating Authority, that is, the City, pursuant to Section 15 (10) of the Expropriation Act.

This Report of the Inquiry Officer is made pursuant to Section 16 (1) of the Expropriation Act to the Approving Authority, the City.

DATED at the City of Edmonton, in the Province of Alberta, this 2nd day of June, 1987.



JAMES L. LEWIS, ESQ., Q.C.,
Inquiry Officer,
1700 Oxford Tower,
Edmonton, Alberta.