

THE CORPORATION OF THE TOWN OF AMHERSTBURG

By-law 2008-75

A By-law to authorize the execution of an Agreement of Purchase and Sale


WHEREAS Richard James Massen has agreed to sell lands located at 3381 Meloche Road in the Town of Amherstburg in the County of Essex and described as Part of Lot 28 Concession 3 Malden as in Instrument Number R1039909 to the Corporation of the Town of Amherstburg:

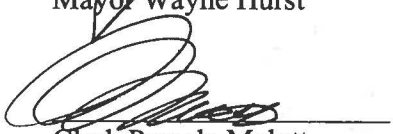
AND WHEREAS the Corporation deems it expedient to enter into an Agreement with Richard James Massen in that regard;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF AMHERSTBURG HEREBY ENACTS AS FOLLOWS:

1. That the Corporation of the Town of Amherstburg enter into an Agreement of Purchase and Sale with Richard James Massen regarding lands located at 3381 Meloche Road in the Town of Amherstburg in the County of Essex and described as Part of Lot 28 Concession 3 Malden as in Instrument Number R1039909, a copy of which Agreement is attached hereto and forms a part of this by-law.
2. That the Mayor and the Clerk be and the same are hereby authorized to execute the said Agreement of Purchase and Sale dated November 14, 2008 and all closing documents related to same on behalf of the Corporation and affix the Corporate seal thereto, as well as any and all other documents that may be necessary to give effect to the terms of the said Agreement.
3. This by-law shall come into force on the final passing thereof.

Read a first, second and third time and finally passed this 24th day of November, 2008.


Mayor Wayne Hurst


Clerk Pamela Malott

Certified to be a true copy of
By-law 2008-75 passed by the
Amherstburg Municipal Council
on Nov 24, 2008.

OFFER TO PURCHASE
Agreement of Purchase and Sale

Purchaser: THE CORPORATION OF THE TOWN OF AMHERSTBURG, 271 Sandwich Street South, Amherstburg, ON N9V 2A5
hereinafter the "Purchaser",

agrees to purchase from,

Vendors: RICHARD JAMES MASSEN, 3381 Meloche Road, Amherstburg, ON N9V 2Y8,
hereinafter the "Vendor", the following:

Property: The property in the Town of Amherstburg, known municipally as 3381 Meloche Road, Amherstburg, Ontario, having a total acreage of approximately Seventy (70) acres, more or less, and legally described as Part of Lot 28 Concession 3 Maiden as in Instrument Number R1039909, and more particularly set out as Parts 1 and 2 in Schedule "A" attached hereto and forming a part of this Agreement, and hereinafter called the "Property".

Purchase Price: The purchase price will be **FOUR HUNDRED SIX THOUSAND DOLLARS** (\$406,000.00) of lawful money of Canada, representing approximately \$5,800 per acre and payable as follows:

Deposit: The sum of ONE THOUSAND DOLLARS (\$1,000.00) as a deposit by cheque will be delivered and payable to the Vendors' Lawyer in trust, upon acceptance of this Offer to be held by them in trust pending completion or termination of this Agreement and to be credited towards the purchase price on completion.

Payment: The Purchaser agrees to pay the balance of the purchase price by way of certified cheque or bank draft on closing subject to all usual adjustments.

Additional Terms and Conditions:

This Agreement is subject to the additional terms and conditions as set out in Schedule "B" attached hereto which forms an integral part hereof.

Terms and

Provisions: This Agreement of Purchase and Sale shall be subject to the following terms and Provisions:

- 1. Planning Act:** Provided that this Agreement shall be effective to create an interest in the property only if the subdivision control provisions of the Planning Act are complied with by the Vendors on or before completion. The Vendors hereby covenant to proceed diligently at their expense to obtain any necessary consent on or before completion.
- 2. Chattels included:** The Purchase Price herein shall also include the following chattels, all of which are owned by the Vendors, free and clear of any encumbrances:

None

- 3. Fixtures excluded:** The Purchasers and Vendors agree that all existing fixtures shall remain affixed to the Property, and are included in the Purchase Price free and clear of all encumbrances except the following:

Hot Water Tank - If Rented

- 4. Rental Items:** The following equipment is rented and not included in the Purchase Price. The Purchaser agrees to assume the rental contracts, if assumable: Hot Water tank - if rented.

- 5. Irrevocability:** This Offer shall be irrevocable by the Purchaser until 5:00 p.m. on the tenth (10th) day (inclusive of weekends and holidays) after the date of execution and presentment by the Purchaser, after which time, if not accepted, this Offer shall be null and void, and the deposit returned to the Purchaser without interest or deduction.

- 6. Completion Date:** This Agreement of Purchase and Sale shall be completed by no later than 6:00 p.m. on the 30th day after acceptance by the Vendor. Upon completion vacant possession of the Property shall be given to the Purchasers unless otherwise provided for in this

agreement. The Purchasers and the Vendors may, at any time, mutually agree to complete this transaction on a date prior to the scheduled closing date indicated above.

7. **Notices:** Any notice or other document required or permitted to be given hereunto to any of the parties hereto shall be in writing, mailed or by registered mail, postage prepaid or delivered by hand to the parties at their respective addresses as set forth herein or as advised by either party.

8. **G.S.T.** If this transaction is subject to Goods and Services Tax (GST) then such GST shall be in addition to, and not included in, the purchase price, and GST shall be collected and remitted in accordance with applicable legislation. If this transaction is not subject to GST, the Vendors agree to provide on or before closing to the Purchasers or the Purchasers' solicitor a certificate in the form prescribed by the applicable legislation (if so prescribed, or otherwise in a form reasonably satisfactory to the Purchasers or Purchasers' solicitor) certifying that the transaction is not subject to GST.

9. **Title search:** The Purchasers shall be allowed until the 10th day prior to the Closing Date (Requisition Date) to investigate the title to the property at their own expense and to satisfy themselves that there is no breach of municipal or other governmental requirements affecting the real property, and that its present use of vacant farm land may be lawfully continued. The Vendors hereby consent to the municipality or other governmental agencies releasing to the Purchasers details of all outstanding work orders affecting the property, and Vendors agree to execute and deliver such further authorizations in this regard as Purchasers may reasonably require.

10. **Survey:** The Vendors hereby agree to deliver up any Survey that they may have in their possession.

11. **Future use:** The Vendors and Purchasers agree that there is no representation or warranty of any kind that the future intended use of the property by the Purchasers is or will be lawful except as may be specifically provided for in this agreement.

12. **Title:** Provided that the title to the property is good and free from all restrictions, charges, liens, claims and encumbrances, except as otherwise specifically provided in this Agreement, and save and except for:

- (i) any registered restrictions or covenants that run with the land, provided that such are complied with;
- (ii) any registered agreements with a municipality or a supplier of utility services including, without limitation, electricity, water, sewage, gas, telephone or cable television or other telecommunication service, providing such have been complied with or security has been posted to ensure compliance and completion as evidenced by letter from the relevant municipality or utility supplier; and,
- (iii) any minor easements for the supply of utility service to the property or to adjacent properties.

If within the time for examining the title any valid objection to title, or any outstanding Work Order or Deficiency Notice, or to the fact that 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 Vendors or Vendors' solicitor, which Vendors are unable or unwilling to remove, remedy or satisfy, and which the Purchasers will not waive, this Agreement, notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end, and all money theretofore paid shall be returned without interest and without deduction and Vendors and their agents shall not be liable for any costs or damages. Save as to any valid objection so made within such time, and except for any objection going to the root of title, Purchasers shall be conclusively deemed to have accepted Vendors' title to the property. Vendors hereby consent to the municipality releasing to Purchasers details of all outstanding Work Orders or Deficiency Notices affecting the property, and Vendors agree to execute and deliver to the Purchasers or their solicitor such further authorizations in this regard as the Purchasers may reasonably require.

13. **Closing arrangements:** Where each of the Vendors and Purchasers retain a lawyer to complete the Agreement of Purchase and Sale of the Property, and where 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 Vendors and Purchasers acknowledge and agree that the delivery of documents and the release thereof to the Vendors and Purchasers may, at the lawyer's discretion; (a) not occur contemporaneously with the registration of the Transfer/Deed (and other registerable documentation) and (b) be subject to conditions whereby 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. Unless otherwise agreed to by the lawyers, such exchange of documentation will occur in the applicable Land Titles office or such other location agreeable to both lawyers.

14. **Documents and Discharge:** The Purchasers shall not call for the production of any title, deed, abstract, survey or other evidence of title except such as are in the possession or control of the Vendors. In the event that a discharge of any mortgage or charge held by a corporation incorporated pursuant to the Trust and Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union or Insurance Company and which is not being assumed by the Purchasers on completion, is not available in registrable form on completion, the Purchasers agree to accept the Vendors' solicitor's personal undertaking to obtain, out of the closing funds, a discharge or cessation of charge in registrable form and to register same or cause same to be registered on title within a reasonable period of time after completion, provided that on or before completion the Vendors shall provide to the Purchasers a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, together with a direction executed by the Vendors directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.

15. **Inspection:** Purchasers acknowledge having had the opportunity to inspect the property and understand that upon acceptance of the Offer there shall be a binding agreement of purchase and sale between Purchasers and Vendors.

16. **Insurance:** All buildings on the property and all other things being purchased shall be and remain until completion at the risk of the Vendors. Pending completion the Vendors shall hold all policies of insurance, if any, and the proceeds thereof in trust for the parties hereto, as their interest may appear. In the event of substantial damage to the Property before the completion of the transaction, the Purchasers 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 Vendors are taking back a charge/mortgage, or Purchasers are assuming a charge/mortgage, Purchasers shall supply Vendors with reasonable evidence of adequate insurance to protect Vendors' or other mortgagee's interest on completion.

17. **Document preparation:** The Deed or Transfer, save for Land Transfer Tax Affidavit, is to be prepared at the expense of the Vendors in a form acceptable by the Purchasers' solicitor, and if a Mortgage or Charge is to be given back, it shall be prepared at the expense of the Purchasers in a form acceptable to the Vendors' solicitor. If requested by Purchasers or their Solicitor, the Deed or Transfer shall contain the statement of the Vendors and the Vendors' solicitor referred to in Section 50(22) of the Planning Act, as amended.

18. **Residency:** The Vendor agrees to produce evidence that they are not now and that on closing they will not be non-residents of Canada within the meaning of Section 116 of the Income Tax Act, or in the alternative, evidence that the provisions of said Section 116 regarding disposition of property by a non-resident person have been complied with at or before closing.

19. **Adjustments:** Any rents, mortgage interest, interest on deposit, realty taxes including local improvement rates and un-metered public or private utility charges and un-metered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to Purchasers.

20. **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 the Vendors and Purchasers or by their respective lawyers who may be specifically authorized in that regard.

21. **Tender:** Any tender of documents or money hereunder may be made upon the Vendors or Purchasers or upon the solicitor acting for the party on whom tender is desired, and it shall be sufficient that a cheque certified by a chartered bank or trust company be tendered instead of cash.

22. **Family Law Act:** The Vendors represent and warrant that no consent to this transaction is required pursuant to Section 21(1) of the Family Law Act, 1986, unless the Vendor's spouses, if any, have executed this Agreement to consent thereto, and that the Transfer/Deed shall contain a statement by the Vendors as required by subsection (3) of Section 21 or the Vendor's spouses, if any, shall execute the Transfer/Deed to consent thereto.

23. **UFFI:** The Vendors represent and warrant to the Purchasers that during the time the Vendors have owned the property, the Vendors have not caused any building on the property to be insulated with insulation containing urea formaldehyde, and that to the best of the Vendors' knowledge no building on the property contains or has ever contained insulation that contains urea formaldehyde. This warranty shall survive and not merge on the completion of this transaction. 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.

24. **Agreement in writing:** It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement or the Property or supported hereby than as

expressed herein in writing. This Offer and its acceptance is to be read with all changes of gender or number required by the context. This agreement including any schedules attached hereto shall constitute the entire agreement between the Purchasers and the Vendors.

25. **Successors and Assigns:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms of this Agreement of Purchase and Sale.

26. **Agreement:** This Offer, when accepted, shall constitute a binding contract of purchase and sale.

IN WITNESS WHEREOF the Purchasers hereto have hereunto set their hands and seals.

DATED at AMHERSTBURG, ON, this 18th day of NOVEMBER, 2008.

SIGNED, SEALED & DELIVERED
in the presence of

)
)
) Purchaser
)
) The Corporation of the Town of Amherstburg
)
) Per: [Signature]
) Name: LAURENCE BURET
) Title: MAYOR
)
) Per: [Signature]
) Name: JANELA MALOIT
) Title: CHIEF ADMINISTRATIVE OFFICER
) & TOWN CLERK
) We have authority to bind the corporation.
)

IN WITNESS WHEREOF the Vendors hereto have hereunto set their hands and seals.

DATED at Harrow, ON, this 14th day of November, 2008.

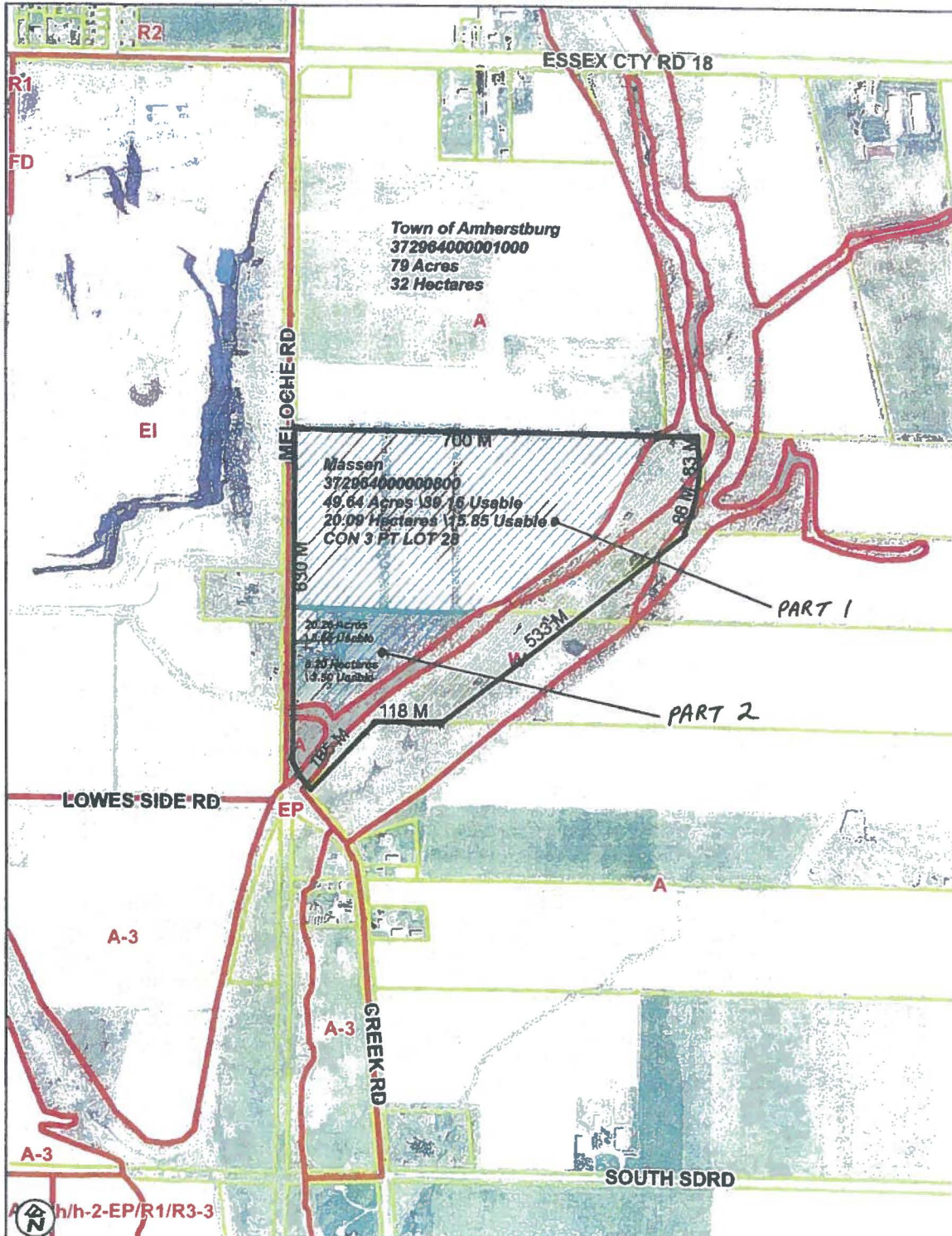
SIGNED, SEALED & DELIVERED
in the presence of

[Signature]
 (Witness)
)
) Vendor: Richard James Massen
) Vendor - Richard James Massen
)
)
)

Vendors' Lawyer:
Peggy Golden
Golden & Golden
13 King Street West
P.O. Box 279, Harrow, ON N0R 1G0
phone: (519)738-4111, fax: (519)738-3470

Purchasers' Lawyer:
Armando F. DeLuca
Mousseau DeLuca McPherson Prince
500-251 Goyeau Street
Windsor, ON N9A 6V2
phone: (519)258-0615, fax: (519)258-6833

**Schedule "A" to
 Agreement of Purchase and Sale between
 The Corporation of the Town of Amherstburg
 and Richard James Massen**



**Schedule "B" to
Agreement of Purchase and Sale Between
The Corporation of the Town of Amherstburg
and Richard James Massen**

The terms and conditions set out herein are incorporated and form an integral part of the Agreement of Purchase and Sale between the Purchaser and the Vendor.

1. The Purchaser agrees that, for a period of thirty (30) years from the date of acquisition, the Property shall be used only for municipal purposes, which purposes may include agricultural uses.
2. The Vendor and the Purchaser acknowledge that the Vendor and Mr. Carey Collard currently reside in a portion of the subject Property containing approximately 20 acres and more particularly indicated as Part 2 on Schedule "A" attached hereto. The Purchaser hereby agrees and confirms that the Vendor shall be permitted to continue to use, occupy and enjoy the portion of the property indicated as Part 2 on Schedule "A", during his lifetime and further that Mr. Carey Collard shall be permitted to continue to use, occupy and enjoy the portion of the property indicated as Part 2 on Schedule "A" for a further period not to exceed six (6) years from a date which is the earlier of either the death of the Vendor or such time as the Vendor no longer uses that portion of the Property as his principal residence. The use of the aforementioned 20 acre portion of the property, indicated as Part 2 on Schedule "A", shall be at an annual fee of one dollar (\$1) and subject to the reasonable terms and conditions as required by the Purchaser for such use, occupation and enjoyment. The Purchaser covenants and agrees that any such use may be consistent with the prior use of that portion of the Property.
3. The Purchaser shall be responsible for all costs associated with the preparation and registration of a Reference Plan, if required, to properly identify the Property. In the event a Reference Plan is required, the Completion Date as indicated in paragraph 6 of the Agreement of Purchase and Sale shall be extended to a date no later than 14 days after the completion and registration of any such Reference Plan.
4. The Vendor covenants, represents and warrants that as of the date of the acceptance of this Agreement: there are no legal actions, suits or proceedings pending or threatened with respect to the Property; the Vendor has not received any notice of and is not aware of any expropriation or proposed expropriation of the Property or any part thereof; there exist no agreements, covenants or instruments that in any way prevent or prohibit the Vendor from entering into this Agreement or complying with or satisfying any of its terms or conditions.
5. The Purchaser covenants and agrees that it shall make every reasonable effort to ensure that the older oak trees located on the Property shall not be removed unless it is necessary and essential to remove these trees in the event of development of the Property. The Purchaser further covenants and agrees that remedial action is required to rectify a current drainage issue on the portion of the property which will continue to be occupied by the Vendor (being Part 2 on Schedule "A"), and that the Purchaser agrees, at its sole cost and expense, to rectify any current drainage issues associated with this portion of the property in accordance with the directions and instructions of the Drainage Superintendent of the Town of Amherstburg and ensure proper drainage is maintained on the property which continues to be occupied by the Vendor.
6. The Purchaser acknowledges that approximately thirty eight (38) acres of the Property are leased to Steven Patrick on a sharecrop basis for the current 2008 crop season and as such, the Purchaser acknowledges and agrees that the crops and any rights and harvesting and profits to the crops are for the benefit of the Vendor and/or their tenant, Steven Patrick, and that the crops shall be harvested by the Closing Date. The Vendor agrees to provide to the Purchaser a copy of any written documentation evidencing such sharecrop arrangement within ten (10) days of acceptance of this Agreement and to assign to the Purchaser all rights and obligations associated therewith upon the Closing Date. If possible the Vendor covenants and agrees to terminate any sharecropping arrangement with Steven Patrick, and any other party, before the Closing Date.

Real Estate Lawyers' Association of Windsor and Essex County (RELAWEC) Protocol²⁰⁰¹

IN THE MATTER OF title to: Pt Lot 28 CON 3 as in R1039909; Amherstburg

AND IN THE MATTER OF the sale thereof from RICHARD JAMES MASSEN to THE CORPORATION OF THE TOWN OF AMHERSTBURG

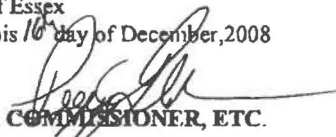
I, RICHARD JAMES MASSEN, SOLEMNLY DECLARE that:

- 1. I am the vendor in the above transaction and the absolute owners in fee simple in possession of the lands described above. There are no liens, easements, charges, mortgages or encumbrances affecting any part of the said lands, except as what is registered on title.
- 2. Since the said lands were conveyed to the undersigned and until the present time, we has/have been in actual, continuous, exclusive, open and undisturbed possession of the whole of the said lands, either personally or by tenants. During the said period of our ownership no one has ever made entry on the said lands, or brought action to recover said lands, or any part thereof, under, or in respect of any claim adverse to our title and the undersigned has/have never made any acknowledgment in writing of any right, claim or title of any other person in respect of any part of the said lands.
- 3. The undersigned are not aware of any encroachments on said lands.
- 4. The undersigned believe that all buildings on said lands stand wholly within the limits of said lands.
- 5. There are no judgments or executions against the undersigned, and so far as we are aware there are none affecting the said lands.
- 6. The undersigned has/have not made any assignment for the benefit of creditors, nor has/have there been any assignment made pursuant to the provisions of *The Bankruptcy Act*, nor any petition for such an order has been served upon the undersigned.
- 7. There are no leases or tenancies affecting the said lands except for the following:
- 8. This sale transaction does not contravene *The Planning Act* because the grantor does not retain the fee or the equity of redemption in, or power, or right to grant, assign or exercise a power of appointment with respect to any land abutting the lands affected by the deed.
- 9. That there are no legal actions, suits or proceedings pending or threatened with respect to the subject property. I have not received any notice of and am not aware of any expropriation or proposed expropriation of the property or any part thereof. There exist no agreements, covenants or instruments that in any way prevent or prohibit the vendor from entering into this Agreement or complying with or satisfying any of its terms or conditions.

AND we make this Solemn Declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

SEVERALLY DECLARED before me }
at the Town of Harrow }
in the County }
of Essex }
this 16 day of December, 2008 }


Richard James Massen


A COMMISSIONER, ETC.

*Real Estate Lawyers' Association of Windsor and Essex County (RELAWEC) Protocol***VENDOR(S) CLOSING CERTIFICATE AND UNDERTAKING****DELIVERED TO:** THE CORPORATION OF THE TOWN OF AMHERSTBURG**AND TO:** MOUSSEAU,DELUCA,MCPHERSON,PRINCE, LLP**RE:** TOWN OF AMHERSTBURG P/F MASSEN**THE VENDOR(S) CERTIFIES AND UNDERTAKES TO THE PURCHASER(S) THAT:**

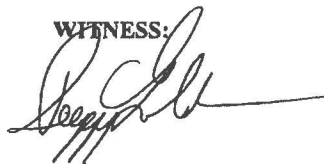
1. **ADJUSTMENTS AFTER CLOSING:** If an adjustment on the Statement of Adjustments is found to be incorrect, omitted from the price of adjustments on closing, or could not be calculated on closing, the Vendor(s) and the Purchaser(s) agree to readjust the item after closing and make the appropriate payments to each other. Acceptance of the Statement of Adjustments by the Purchaser(s) on closing constitutes evidence of the Purchaser(s) reciprocal agreement to readjust as provided for in this paragraph;
2. **PAYMENT DIRECTION:** The adjusted balance of the Purchase Price shall be paid to the Vendor(s) lawyer in trust or as he or she may otherwise direct;
3. **U.F.F.I. WARRANTY:** During the time the Vendor(s) has owned the property, the Vendor(s) has not caused any building on the property to be insulated with insulation containing ureaformaldehyde. To the best of the 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;
4. **PLANNING ACT:** The Vendor(s) does not retain any lands abutting the lands being conveyed, contrary to the *Planning Act*;
5. **CONSTRUCTION LIENS:** There has been no work, construction, remodeling, repairs or improvements made to the premises or materials ordered within forty-five (45) days of closing of the transaction which could give rise to the right of anyone to claim a lien against the property pursuant to the *Construction Lien Act*, or any amendments thereto. The undersigned Vendor(s) agree to indemnify and save harmless the Purchaser(s) against any such claims or actions, including all legal costs of defending same, if a claim for lien is registered within forty-five (45) days of the closing of this transaction;
6. **PROPERTY TAX APPEALS:** The undersigned Vendor(s) hereby assign the right to pursue and carry on any property tax appeal relating to the Property and instituted by the Vendor(s), or its predecessor in title, prior to the closing of this transaction. The Purchaser(s) are hereby authorized by the Vendor(s) to carry on said appeal at the Purchaser(s) expense and as the Purchaser(s) shall see fit;
7. **SPECIAL PROVISIONS:** Any special provisions related to this transaction are listed in Schedule "A" attached hereto and are hereby incorporated into this Certificate.

THESE STATEMENTS:

1. reflect the Vendor's obligations, or if more than one Vendor, their joint and several obligations to the Purchaser(s) concerning the sale of the Property to the Purchaser(s) according to an Agreement of Purchase and Sale between them;
2. are binding on the Vendor(s) successors and assigns;
3. are enforceable after closing; and
4. are made jointly and severally, if there is more than one (1) Vendor.

Dated at Harrow, this 16th day of December, 2008.

WITNESS:



) 
) Richard James Massen

SCHEDULE "A"

**Schedule "B" to
Agreement of Purchase and Sale Between
The Corporation of the Town of Amherstburg
and Richard James Massan**

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1. The Purchaser agrees that, for a period of thirty (30) years from the date of acquisition, the Property shall be used only for municipal purposes, which purposes may include agricultural uses.
2. The Vendor and the Purchaser acknowledge that the Vendor and Mr. Carey Collard currently reside in a portion of the subject Property containing approximately 20 acres and more particularly indicated as Part 2 on Schedule "A" attached hereto. The Purchaser hereby agrees and confirms that the Vendor shall be permitted to continue to use, occupy and enjoy the portion of the property indicated as Part 2 on Schedule "A", during his lifetime and further that Mr. Carey Collard shall be permitted to continue to use, occupy and enjoy the portion of the property indicated as Part 2 on Schedule "A" for a further period not to exceed six (6) years from a date which is the earlier of either the death of the Vendor or such time as the Vendor no longer uses that portion of the Property as his principal residence. The use of the aforementioned 20 acre portion of the property, indicated as Part 2 on Schedule "A", shall be at an annual fee of one dollar (\$1) and subject to the reasonable terms and conditions as required by the Purchaser for such use, occupation and enjoyment. The Purchaser covenants and agrees that any such use may be consistent with the prior use of that portion of the Property.
3. The Purchaser shall be responsible for all costs associated with the preparation and registration of a Reference Plan, if required, to properly identify the Property. If the event a Reference Plan is required, the Completion Date as indicated in paragraph 6 of the Agreement of Purchase and Sale shall be extended to a date no later than 14 days after the completion and registration of any such Reference Plan.
4. The Vendor covenants, represents and warrants that as of the date of the acceptance of this Agreement there are no legal actions, suits or proceedings pending or threatened with respect to the Property; the Vendor has not received any notice of and is not aware of any expropriation or proposed expropriation of the Property or any part thereof; there exist no agreements, covenants or instruments that in any way prevent or prohibit the Vendor from entering into this Agreement or complying with or satisfying any of its terms or conditions.
5. The Purchaser covenants and agrees that it shall make every reasonable effort to ensure that the older oak trees located on the Property shall not be removed unless it is necessary and essential to remove these trees in the event of development of the Property. The Purchaser further covenants and agrees that remedial action is required to rectify a current drainage issue on the portion of the property which will continue to be occupied by the Vendor (being Part 2 on Schedule "A"), and that the Purchaser agrees, at its sole cost and expense, to rectify any current drainage issues associated with this portion of the property in accordance with the directions and instructions of the Drainage Superintendent of the Town of Amherstburg and ensure proper drainage is maintained on the property which continues to be occupied by the Vendor.
6. The Purchaser acknowledges that approximately thirty eight (38) acres of the Property are leased to Steven Patrick on a sharecrop basis for the current 2008 crop season and as such, the Purchaser acknowledges and agrees that the crops and any rights and harvesting and profits to the crops are for the benefit of the Vendor and/or their tenant, Steven Patrick, and that the crops shall be harvested by the Closing Date. The Vendor agrees to provide to the Purchaser a copy of any written documentation evidencing such sharecrop arrangement within ten (10) days of acceptance of this Agreement and to assign to the Purchaser all rights and obligations associated therewith upon the Closing Date. If possible the Vendor covenants and agrees to terminate any sharecropping arrangement with Steven Patrick, and any other party, before the Closing Date.

Real Estate Lawyers' Association of Windsor and Essex County (RELAWEC) Protocol²⁰⁰¹

STATUTORY DECLARATION

IN THE MATTER OF title to: Pt lot 28 CON 3 as
in R1039909; Amherstburg

AND IN THE MATTER OF the sale thereof from
RICHARD JAMES MASSEN to **THE**
CORPORATION OF THE TOWN OF
AMHERSTBURG

I, RICHARD JAMES MASSEN, SOLEMNLY DECLARE that:

- 1. I/We am/are not now, and will not be on the day of closing a non-resident(s) of Canada within the meaning of Section 116 of the Income Tax Act of Canada;

I/We make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me at the Town of Harrow)
in the County of Essex, this 16th day of)
December, 2008)


A COMMISSIONER, ETC.

) 
) Richard James Massen
) Richard James Massen

FAX MEMORANDUM

TO: **MAYOR WAYNE HURST** FAX # 519-736-5403
THE CORPORATION OF THE TOWN OF
AMHERSTBURG

FROM: **ARMANDO F. DeLUCA, Q.C.** FAX # 519-258-0615
MOUSSEAU DeLUCA McPHERSON PRINCE LLP

DATE: **AUGUST 11, 2010**

OUR REF. # **23565** NO. OF PAGES SENT: 4

RE: **LEASE WITH RICHARD JAMES MASSEN**

Further to our telephone conversation of August 10, 2010 with regard to the enquiry you received from one **SHARON COLLARD** regarding her question: does she get "free rent for six years if Jimmy Massen dies", I have retrieved our closed file and attach hereto a copy of the Lease made by the Town with Richard James Massen on December 18, 2008.

As you can see on pages 1 and 2 thereof:

Page 1 "To Have and to Hold the premises for and during the lifetime of the Party of the Second Part (**RICHARD JAMES MASSEN**), and further, to have and to hold the premises for the occupation by **CAREY COLLARD** for a period of six years from the date which is the earlier of either the death of the Party of the Second Part or such time as the Party of the Second Part no longer uses the Property as his principal residence."

Page 2 "Upon the death of the Lessee this agreement may be assigned by the Estate of the Lessee to **CAREY COLLARD**."

Accordingly, as you can see, there is no mention of any **SHARON COLLARD** in this Lease, only **CAREY COLLARD**.

So if **CAREY COLLARD** dies before **MR. MASSEN**, the Lease is at an end.


 Armando F. DeLuca, Q.C.

This Indenture

made in duplicate the 18th day of December, 2008 .

Between

THE CORPORATION OF THE TOWN OF AMHERSTBURG

hereinafter called the "Lessor"
OF THE FIRST PART

and

RICHARD JAMES MASSEN

hereinafter called the "Lessee"
OF THE SECOND PART

Witnesseth that in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the said Lessee to be paid, observed and performed, the said Lessor hath demised and leased and by these presents **DOTH** demise and **LEASE** unto the said Lessee **ALL THAT** message and tenement located in the following municipality, namely,

In the Town of Amherstburg, County of Essex

and being composed of Part of Lot 28, Concession 3, Town of Amherstburg, County of Essex, municipally known as 3381 Meloche Road, Amherstburg and shown as Part 2 on Schedule "A" attached hereto.

(hereinafter called the "premises"), upon the following terms and conditions.

*

To Have and to Hold the premises for and during the lifetime of the Party of the Second Part, and further, to have and to hold the premises for the occupation by Carey Collard for a period of six years from a date which is the earlier of either the death of the Party of the Second Part or such time as the Party of the Second Part no longer uses the Property as his principal residence.

YIELDING AND PAYING therefor yearly and every year during the said term unto the said Lessor the sum of \$1.00 of lawful money of Canada, without any deduction, defalcation or abatement whatsoever to be payable on the 31st day of December in each and every year. The first of such payments to become due and to be made on the 31st day of December, 2009.

THE Lessee covenants with the Lessor:

to pay rent.

to pay water rates and charges for gas, electricity and telephone.

PROVIDED that the Lessee may remove his fixtures, if such removal may be, and is, done without injury to the premises.

PROVIDED that, where the premises become vacant and so remain for a period of 90 days, it shall be presumed that the Lessee has abandoned the premises and the Lessor may re-enter and take immediate possession of the premises.

THE Lessor covenants with the said Lessee for quiet enjoyment.

THE Lessor covenants that the Lessee may continue such use, occupation and enjoyment of the property consistent with the use of the property during the ownership of the lands by the Lessee.

XX Upon the death of the Lessee this agreement may be assigned by the Estate of the Lessee to Carey Collard.

Notice of the Lease may be registered on the title to the lands.

This agreement may be signed in counterparts.

IT IS HEREBY declared and agreed that the expressions "Lessor" and "Lessee", wherever used in this Indenture, shall, when the context allows, include, be binding on and enure to the benefit of not only the parties hereto, but also their respective executors, administrators and assigns.

AND it is further agreed between the parties hereto that wherever the singular and masculine are used throughout this lease they shall be construed as if the plural or feminine had been used, where the context or the party or parties hereto so require, and the rest of the sentence shall be construed as if the grammatical and terminological changes thereby rendered had been made.

IN WITNESS WHEREOF the said parties hereto have hereunto set their hands and seals.

Signed, Sealed and Delivered

in the presence of
C. Harpel-Hatch

THE CORPORATION OF
THE TOWN OF AMHERSTBURG


Per: Wayne Hurst, Mayor



Per: Pamela L. Malott, CAO & Clerk
We have authority to bind the
Corporation

Richard James Massen

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IN WITNESS WHEREOF the said parties hereto have hereunto set their hands and seals.

Signed, Sealed and Delivered

in the presence of

THE CORPORATION OF
THE TOWN OF AMHERSTBURG

Per:

Per:

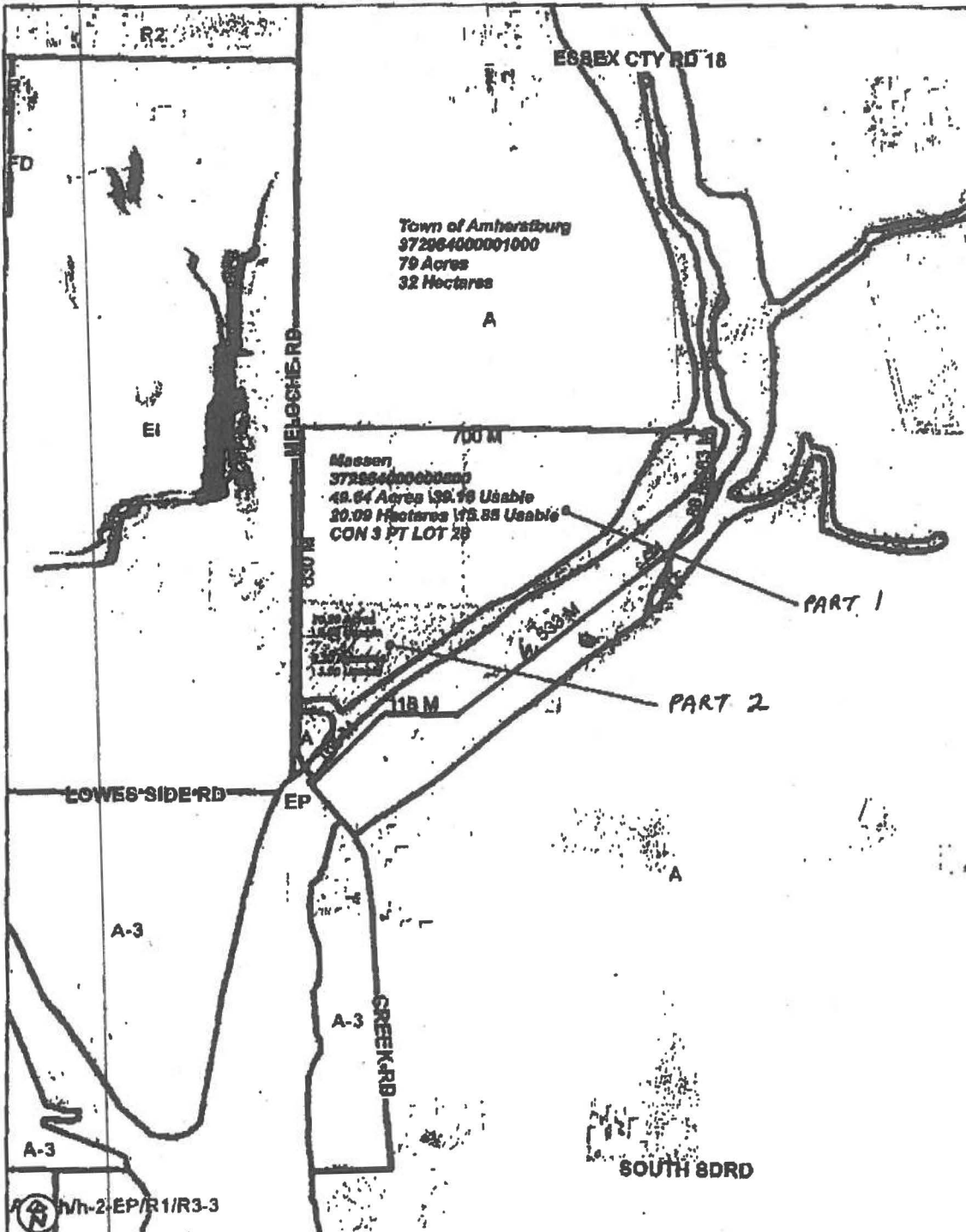
We have authority to bind the
Corporation

Richard James Massen

Richard James Massen

Richard James Massen
as to Richard James Massen

Schedule "A" to
Agreement of Purchase and Sale between
The Corporation of the Town of Amherstburg
and Richard James Massen



PURCHASER'S COVENANT AND AGREEMENT

The Corporation of the Town of Amherstburg (the "Purchaser") hereby covenants and agrees in consideration of the completion of the sale of the lands municipally known as 3381 Meloche Road, Town of Amherstburg (the "Property") by Richard James Meloche (the "Vendor) to The Corporation of the Town of Amherstburg, that it shall make every reasonable effort to ensure that the older oak trees located on the Property shall not be removed unless it is necessary and essential to remove these trees in the event of development of the Property.


The Purchaser further covenants agrees that remedial action is required to rectify a current drainage issue on the portion of the property which will continue to be occupied by the Vendor (being the lands shown as Part 2 on Schedule "A" attached hereto), and that the Purchaser agrees, at its sole cost and expense, to rectify any current drainage issues associated with this portion of the property in accordance with the directions and instructions of the Drainage Superintendent of the Town of Amherstburg and ensure proper drainage is maintained on the property which continues to be occupied by the Vendor.

This Covenant and Agreement shall survive and not merge upon the closing of the transaction.

Dated at the Town of Amherstburg, County of Essex, this 17 day of December, 2008.

THE CORPORATION OF THE TOWN OF AMHERSTBURG

Per: 
Wayne First, Mayor

Per: 
Pamela L. Malott, CAO and Clerk

We have authority to bind the Corporation

Schedule "A" to
Agreement of Purchase and Sale between
The Corporation of the Town of Amherstburg
and Richard James Massen

