

634127

Exemption Application Form for Spa & Swimming Pools



Waitakere City Council
Te Taitapu o Waitakere

SWP 87 000363
WAITAKERE CITY COUNCIL

Send to: Chief Executive
Waitakere City Council
Private Bag 93109
Henderson
WAITAKERE CITY 1231

For more information:
Civic Centre, Waipareira Avenue,
Henderson
Telephone (09) 839 0400
Facsimile (09) 836 8001

24 APR 2005

Owners Name: MR & CM Williams

CHEQUE FOR
\$250.00
TO CASHIERS

Address of pool: 11 Harding Ave, Te Atatu South

Hereby make application for an exemption from the standard fencing controls relating to pools. I propose to make or have already made the following arrangements for the security of my pool:

Non-complying gate (previously approved as compliant by WCC in 2000) will be made compliant.
Compost bin (closest one of three) on outside of fence is to be removed.

Reasons why proposal should be granted: (See reverse)

Doors opening to ISPA were previously approved by WCC, already bolted at 1.9m above floor, not feasible to have opening inwards or self-closing. Additional fence requested considered unnecessary, see over page for reasons.

Address for Correspondence: 11 Harding Ave, Te Atatu South

Application fee: \$250 (one off)

Signature: MR Williams

Telephone Number: 834 4064

Date: 22.05.05

Note the explanation and requirements on the reverse of this form.

Office Use Only
Site Address: _____
SWP No: _____
ABA No: _____ (If applicable)

A 5

Dispensation Application

Introduction

An exemption is a discretionary power conferred on Council by Section 6 of the Fencing of Swimming Pools Act 1987, to allow in certain circumstances exemptions from the requirements of the Schedule of the said Act.

Information to be Provided

To avoid delay in the processing of your application the following information must be provided.

1. PLANS showing position of swimming pool in relation to house and boundaries, and position of existing and/or proposed fencing. Also the height of the fences, and material of which they are constructed must be stated. Photographs may be provided for clarification.
2. REASONS justifying the proposal. Council may only grant an application where there are circumstances warranting a dispensation from the standard requirements for fencing. The guidelines for fencing of pools are available at the Building counter. It must be shown that such an exemption would not significantly increase danger to young children.

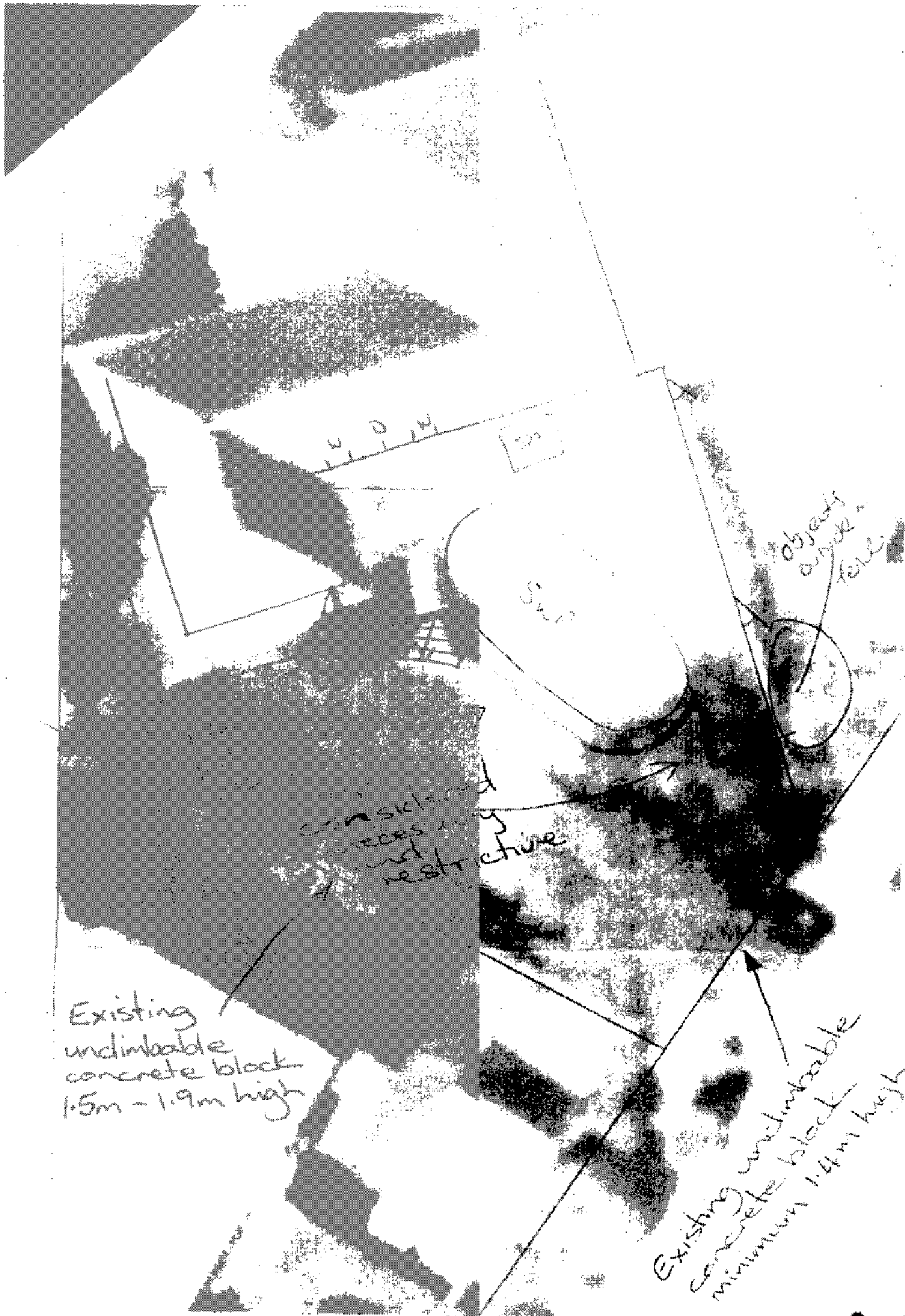
The Council may impose other conditions relating to the property or the pool as are reasonable in the circumstances.

Surrounding boundary fence measures 1.4m to 1.9m high, constructed of unclimbable concrete block. (previously approved by WCC)
Crossed area will be severely restricted by construction of additional fence, this area being used by extended family and friends in conjunction with the swimming pool.

Attached cheque for \$250, however we would appreciate consideration be given to waiving this fee.

Should an exemption be granted we understand that this applies to the property, not just the present owner.

Attached is an excerpt from the Addendum to "Guidelines for Territorial Authorities on The Fencing of Swimming Pools Act 1987" in support of this application.

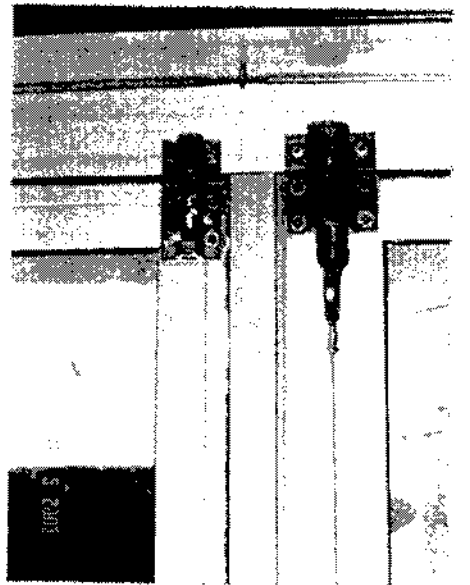
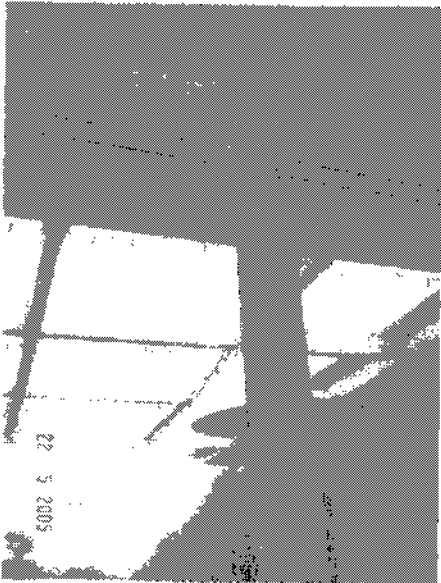
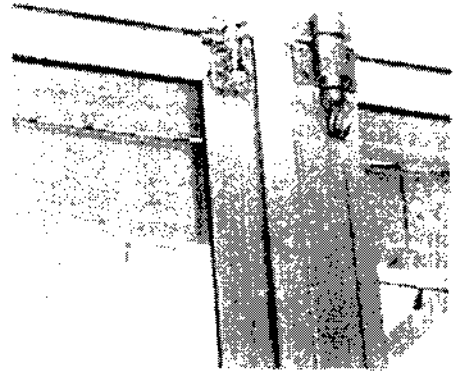


Existing undimable concrete block 1.5m - 1.9m high

considered pieces and restrictive

objects and fence

Existing undimable concrete block minimum 1.4m high



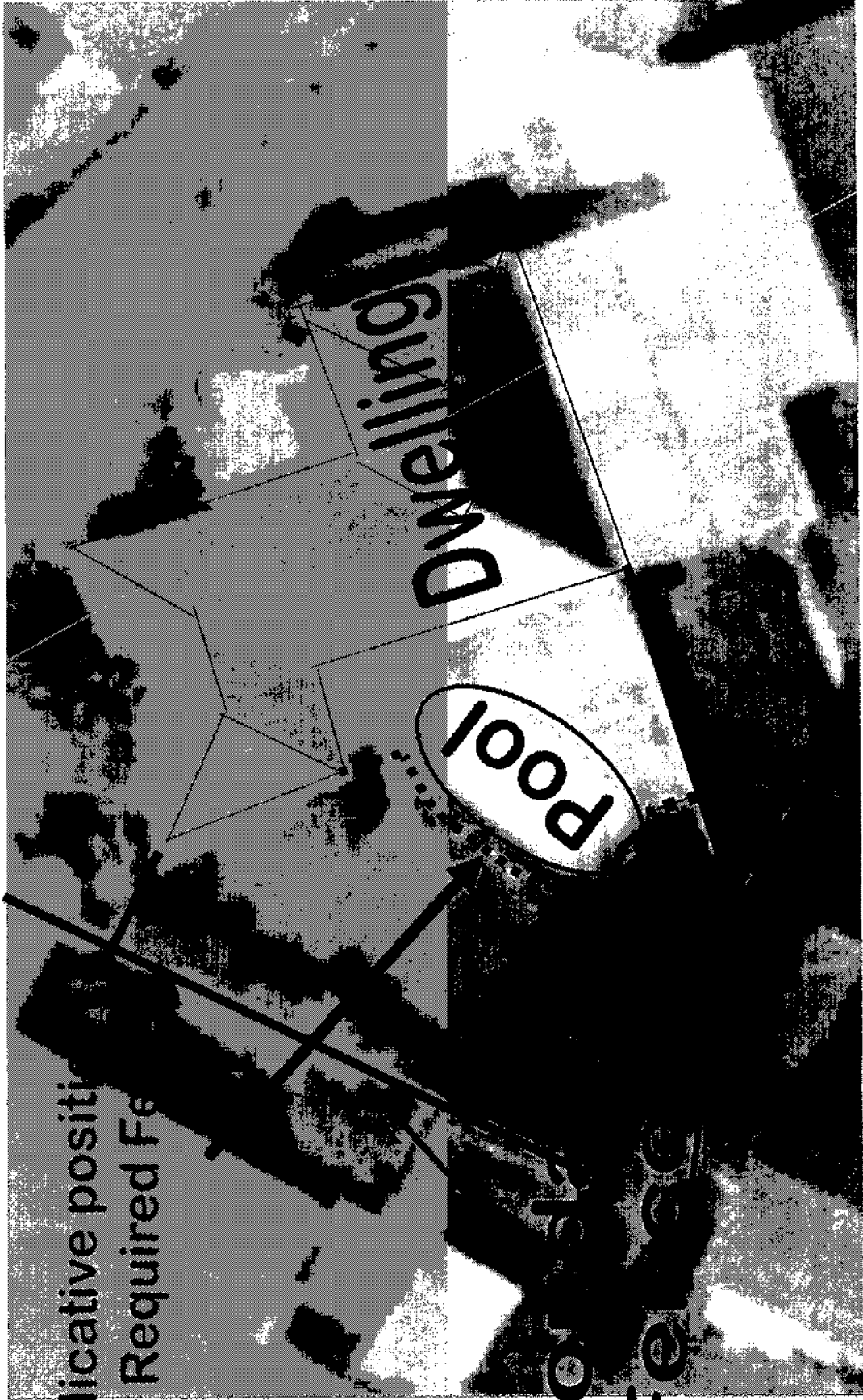
Summary and conclusions of the High Court Judgment

- [52] *Unless exempted, the Fencing and Swimming Pools Act 1967 requires swimming pools and spa pools to be fenced. The pool owner has the option of locating any required fence around the pool itself or around the "immediate pool area". The scope of the immediate pool area is determined in the first instance by the extent to which that area is actually used for activities or purposes properly regarded as taking place in conjunction with the use of the pool for its usual purposes of swimming, wading, paddling or bathing.*
- [53] *Activities in conjunction with the use of the pool need not occur exclusively in conjunction with such use and are not to be excluded from the immediate pool area merely because they are capable of occurring independently of the use of the pool.*
- [54] *But to qualify as an activity or purpose in conjunction with the use of the pool, the activity or purpose must be closely connected, associated or combined with the use of the pool. As well, the area must be sufficiently confined so that it may properly be described as being in the "immediate" area of the pool.*
- [55] *The size of the immediate pool area cannot be defined with precision and will depend on the circumstances of each case. That leaves both territorial authorities and pool owners in a situation of most undesirable uncertainty which is the inevitable consequence of well intentioned but vaguely worded legislation.*
- [56] *It is not within the power of this Court to interpret the Act with any greater precision. That is the proper function of Parliament. Early attention should be given to this as well as clarifying the unsatisfactory inconsistencies between the requirements of the Schedule of the Act and the building code in relation to fences, gates and doors."*

Key Points of the High Court Judgment

- "The immediate pool area" which is to be enclosed by the fence "will extend only so far as the surrounding area is used for activities or purposes carried on in conjunction with the use of the pool". However, this area is not capable of precise definition in width and will vary depending on the circumstances of each case. (The Judge said that the safety objectives of the Fencing of Swimming Pools Act 1967 would not be compromised by a less restrictive interpretation of the "immediate pool area" than that contended for by the Councils.)

The following information is being furnished to you for your information only. It is not intended to constitute an offer of insurance or any other financial product. The information is provided for your information only and should not be relied upon as a basis for any investment decision. The information is provided for your information only and should not be relied upon as a basis for any investment decision.

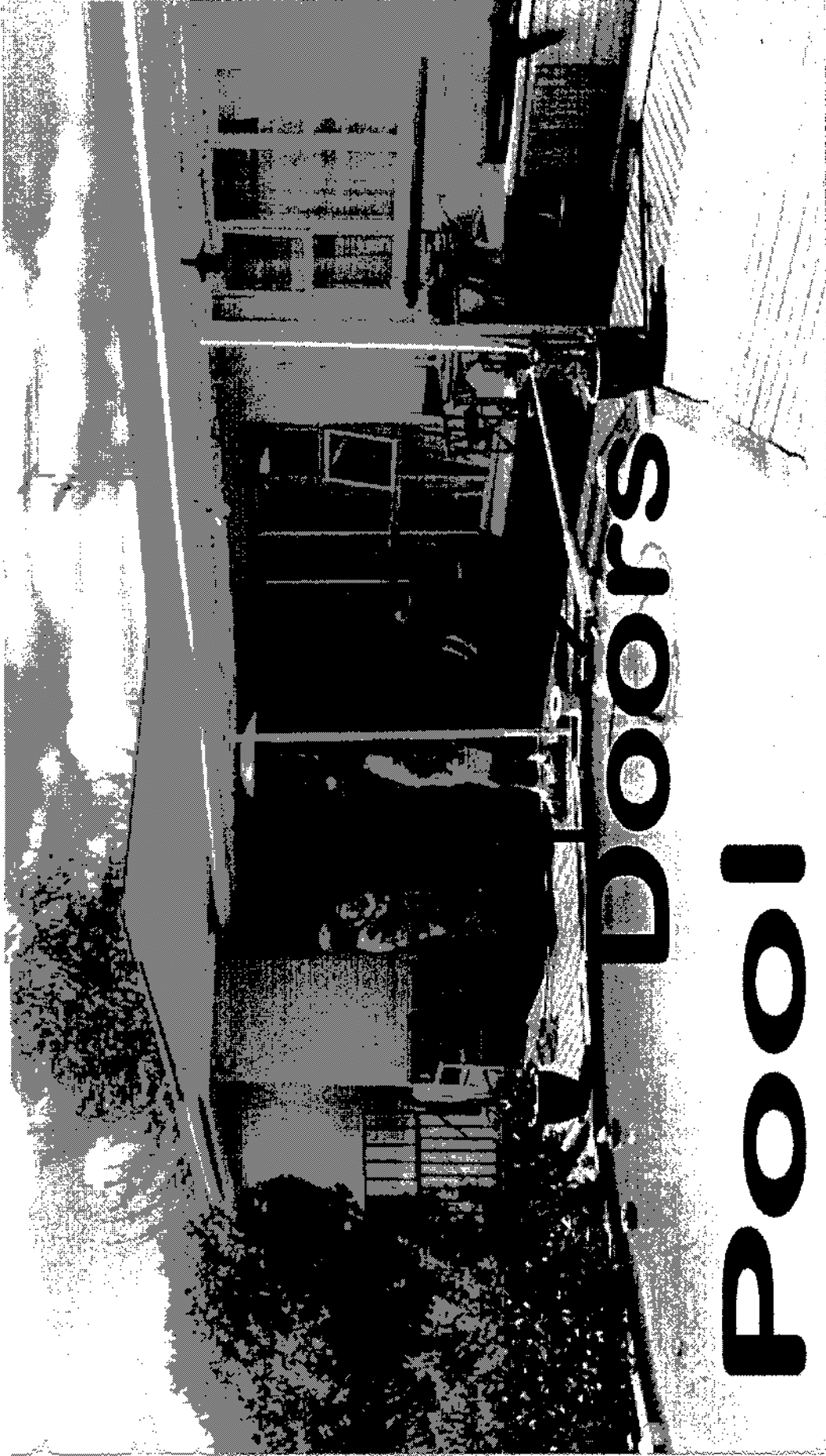


Indicative position
for Required Fence

Boundary
Fence

11Harding Ave

A 11



11 Harding Ave

A 12