

Land Title Act
Form C

8. 11. 12

LAND TITLE OFFICE
VICTORIA

EN027763
EN027764

Province of
British Columbia
GENERAL DOCUMENT

(This area for Land Title Office use)

Page 1 of 11 Page(s)

1. Application: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)
**Woods Adair, Barristers & Solicitors,
201 - 4500 West Saanich Rd. Victoria, B. C.
V8Z 3G2 (479-9367)
FILE NO. 13,356/A**

Al Wameel
Signature of Authorized Agent

(101)

2. Parcel Identifier and Legal Description of Land:
(PID) (Legal Description)

Lot 1 to 6, 9 to 15, 17, 18, and 20 to 24, Section 71, South Salt Spring Island, Cowichan District, Plan VIP 68753 and North 1/2 of Section 71, South Salt Spring Island, Cowichan District, Except that Part in Plan VIP 68753

3. Nature of Interest:*
Description

Document Reference
(page and paragraph)

Person Entitled to Interest

Covenant
Priority Agreement

Entire Instrument
Page 6

Transferee
Transferee

4. Terms: Part 2 of this Instrument consists of (select one only):

01 99/03/31 15:13:23 01 VI 149678
CHARGE \$110.00

- (a) Filed Standard Charge Terms | | D.F. Number:
- (b) Express Charge Terms | X | Annexed as Part 2
- (c) Release | | There is no Part 2 of this Instrument

A selection of (a) or (b) includes any additional or modified terms referred to in item 7 or in a schedule annexed to this Instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. Transferor(s):

521901 B.C. LTD. and PACIFIC COAST SAVINGS CREDIT UNION

6. Transferee(s): (including occupation(s), postal address(es) and postal code(s))*


HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the MINISTER OF TRANSPORTATION AND HIGHWAYS, 103-4475 Viewmont Avenue, Victoria, B.C., V8Z 5K8 and THE CAPITAL REGIONAL DISTRICT, Building Inspection Department, 524 Yates Street, Victoria, B.C., V8W 2S6

7. Additional or Modified Terms:
N/A

8. Execution(s):** This Instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this Instrument, and acknowledge(s) receipt of a true copy of the filed Standard Charge Terms, if any.

Execution Date

Officer Signature(s)

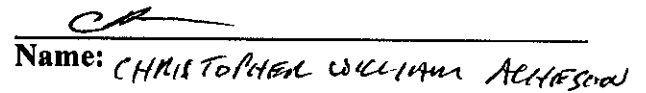

ROBERT D. ADAIR
Barrister & Solicitor
STE. 201 4500 W. SAANICH RD.
VICTORIA, B.C. V8Z 3G2

Y M D
99 03 08

Transferor(s) Signature(s)

521901 B.C. LTD
by its authorized signatory (ies):

AS TO THE SIGNATURE OF:

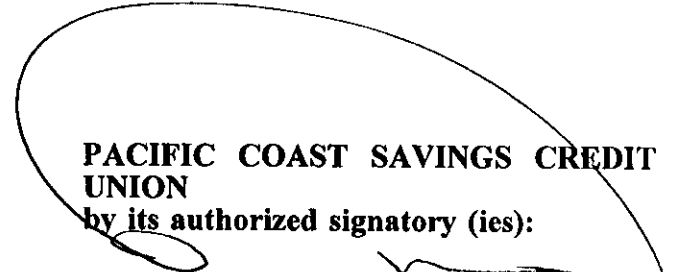
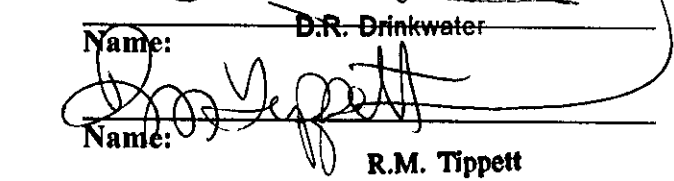

Name: CHRISTOPHER WILLIAM ACHILLES



99/3/11

HEINZ SZCZYPIORKOWSKI
A Commissioner For Taking Affidavits
for British Columbia
722 CORMORANT STREET
VICTORIA, B.C. V8W 1P8

AS TO THE SIGNATURE OF:


PACIFIC COAST SAVINGS CREDIT UNION
by its authorized signatory (ies):
Name: D.R. Drinkwater

Name: R.M. Tippett

OFFICER CERTIFICATION: Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.



Part 2 - TERMS OF INSTRUMENT

WHEREAS:

A. The Transferor, 521901 B.C. LTD. ("Covenantor") is the registered owner of lands and premises situate in the Cowichan District, Province of British Columbia and more particularly known and legally described as:

Lots 1 to 6, 9 to 15, 17, 18, and 20 to 24, all of Section 71, South Salt Spring Island, Cowichan District, Plan VIP 68753 and North 1/2 of Section 71, South Salt Spring Island, Cowichan District, Except that part in Plan VIP68753 (hereinafter called the "Lands").

B. Section 219 of the Land Title Act provides, inter alia, that there may be registered as a charge against the title to land a covenant, whether of a negative or positive nature, in respect of the use of the land or the use of a building on or to be erected on land, in favour of a Municipality, Regional District or the Crown.

C. The Covenantor has agreed to enter into this Agreement and to register it against the title to the Lands as a covenant in favour of Her Majesty the Queen in Right of the Province of British Columbia as represented by the Minister of Transportation and Highways ("Minister") and the Capital Regional District.

D. The Minister considers that the construction on the Lands is subject to or is likely to be subject to possible building hazard due to the steepness of slopes and has required the Covenantor to provide a report certified by a professional engineer, with experience in geotechnical engineering (the "Engineer") that the Lands may be safely used for the use intended.

E. The Covenantor has provided the Minister with a report of the Engineer, a copy of which report is attached to this Agreement as Schedule A ("Report").

NOW THEREFORE, in consideration of the payment of \$1.00 to the Covenantor, the mutual covenants herein contained, and for other valuable consideration, (the receipt and sufficiency of which are acknowledged by the Covenantor), the parties covenant and agree with each other as follows:

1. The Covenantor shall use the Lands only in the manner determined and certified by the Engineer in the Report as enabling the safe use of the Lands for the use intended.

2. Hereafter, no building shall be constructed, nor mobile home located within those parts of Lots 1 to 6, 9 to 15, 17, 18, and 20 to 23, all of Section 71, South Salt Spring Island, Cowichan District, Plan VIP 68753 lying within the areas outlined in bold on the



blanket charge

copy of the attached Reference Plan of Covenants Over The Remainder of the North 1/2 of Section 71, and Parts of Lots 1 to 6, 9 to 15, 17, 18, and 20 to 24, all of Section 71, South Salt Spring Island, Cowichan District, Plan VIP 68753, without:

Covenant Plan VIP 68754

- (a) complying with the recommendations of the Report; and
- (b) prior consent in writing of the Building Inspector for the Capital Regional District.

3. Hereafter, no building shall be constructed, nor mobile home located within that part of Lot 24 Section 71, South Salt Spring Island, Cowichan District, Plan VIP 68753 lying outside the area outlined in bold on the copy of the attached Reference Plan of Covenants Over The Remainder of the North 1/2 of Section 71, and Parts of Lots 1 to 6, 9 to 15, 17, 18, and 20 to 24, all of Section 71, South Salt Spring Island, Cowichan District, Plan VIP 68753, without:

- (a) complying with the recommendations of the Report; and
- (b) prior consent in writing of the Building Inspector for the Capital Regional District.

Covenant Plan VIP 68754

4. Hereafter, no building shall be constructed, nor mobile home located within that part of The Remainder of the North 1/2 of Section 71, South Salt Spring Island, Cowichan District lying outside the area outlined in bold on the copy of the attached Reference Plan of Covenants Over The Remainder of the North 1/2 of Section 71, and Parts of Lots 1 to 6, 9 to 15, 17, 18, and 20 to 24, all of Section 71, South Salt Spring Island, Cowichan District, Plan VIP 68753, without:

- (a) complying with the recommendations of the Report; and
- (b) prior consent in writing of the Building Inspector for the Capital Regional District.

5. The Covenantor shall not alter or add to the buildings or structures on those parts of the Lands specified in paragraphs 2, 3, and 4 of this Agreement unless the Covenantor provides a report certified by a professional engineer with experience and qualifications in geotechnical engineering confirming that the Lands may be used safely for the use intended by such alterations or additions.

6. The Covenantor, the Minister, and the Capital Regional District agree that the enforcement of this Agreement shall be entirely within the discretion of the Minister or the Capital Regional District and that the execution and registration of this covenant against the title to the Lands shall not be interpreted as creating any duty on the part of the Minister or the Capital Regional District to the Covenantor or to any other person to enforce any provision of this Agreement.

7. The Covenantor releases and forever discharges the Minister and the Capital Regional District from any claim, cause of action, suit, demand, expenses, costs and legal fees which the Covenantor may have against the Minister or the Capital Regional District for any loss or damage or injury that the Covenantor may sustain or suffer arising out of the issuance of a building

permit under this Agreement or the use of the Lands as a result of the issuance of a building permit to construct, alter or add to a building or structure on the Lands, or as result of possible rock falls or other geotechnical hazards.

8. The rights given to the Minister and the Capital Regional District by this Agreement are permissive only and nothing in this Agreement imposes any legal duty of any kind on the Minister or Capital Regional District to anyone, or obliges the Minister or the Capital Regional District to enforce this Agreement, to perform any act or to incur any expense in respect of this Agreement.

9. This Agreement does not

- (a) affect or limit the discretion, rights or powers of the Minister or the Capital Regional District under any enactment or at common law, including in relation to the use or subdivision of the Lands,
- (b) affect or limit any enactment relating to the use or subdivision of the Lands, or
- (c) relieve the Covenantor from complying with any enactment, including in relation to the use or subdivision of the Lands.

10. Every obligation and covenant of the Covenantor in this Agreement constitutes both a contractual obligation and a covenant granted under s. 219 of the *Land Title Act* in respect of the Lands and this Agreement burdens the Lands and runs with it and binds the successors in title to the Lands. This Agreement burdens and charges all of the Lands and any parcel into which it is subdivided by any means and any parcel into which the Lands is consolidated. The Covenantor is only liable for breaches of this Agreement that occur while the Covenantor is the registered owner of the Lands.

11. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

12. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.

13. This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.

14. The Covenantor must do everything reasonably necessary to given effect to the intent of this Agreement, including execution of further instruments.



As evidence of their agreement to be bound by the above terms, the Covenantor has executed and delivered this Agreement under seal by executing Part 1 of *the Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

CONSENT AND PRIORITY AGREEMENT

PACIFIC COAST SAVINGS CREDIT UNION ("Chargeholder") the holder(s) of mortgages and assignments of rents registered in the Land Title Office, Victoria, B.C., under charge numbers EM33663, EM33664, EM121014 and EM121015 hereby approve(s) of, join(s) in and consent(s) to the foregoing grant of covenant ("Covenant") and to its registration in the Land Title Office aforesaid with priority over the said mortgages and assignments of rent ("Charges").

This Consent and Priority Agreement is evidence that in consideration of payment to it of \$1.00 by the transferee described in item 6 of Part 1 of the Form C to which this Agreement is attached (the "Transferee"), the Chargeholder agrees with the Transferee as follows:

1. The Chargeholder consents to the granting and registration of the Covenant and the Chargeholder agrees that the Covenant binds its interest in and to the Lands.
2. The Chargeholder grants to the Transferee priority for the Covenant over the Chargeholder's right, title and interest in and to the Lands and the Chargeholder postpones the Charges, and all of its right, title and interest thereunder, to the Covenant as if the Covenant had been executed, delivered and registered prior to the execution, delivery and registration of the Charges.

As evidence of its agreement with the Transferee to be bound by this Consent and Priority Agreement, as a contract and as a deed executed and delivered under seal, the Chargeholder has executed and delivered this Agreement by executing Part 1 of *the Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

This is the instrument creating the condition or covenant entered into under Section 219 of the Land Title Act by the registered owner(s) referred herein and shown on the print of plan annexed hereto and initialled by me.

Approving Officer, Minister of
Transportation and Highways



Schedule A

cc: W-MLSL Page 7



**VANDINE
GEOLOGICAL
ENGINEERING
LIMITED**

Tel: (250) 598-1028

Fax: (250) 592-1459

email: vandine@islandnet.com

267 Wildwood Avenue, Victoria, B.C., Canada V8S 3W2

15 February 1999

File 98118

Mr Larry Bader
c/o Island View Property
PO Box 371, Ganges Post Office
Salt Spring Island, BC
V8K 2W1

**RE: Geological Engineering Assessment of the North ½ of Section 71,
South Salt Spring Island, Cowichan District**

Dear Mr Bader:

At your request I have carried out a geological engineering assessment of the natural hazards on the above described property. You provided me with two earlier engineering reports for the area:

- "Drainage Report, for Subdivision of North ½ of Section 71 and part of Lot 5, Plan 49595 of Section 77, South Salt Spring Island, Cowichan District", November 1996, prepared for Tricomali Developments by, R.C. LeNoury, PEng, and
- "Report of Preliminary Geotechnical Assessment, Proposed Subdivision of North ½ of Section 71, and Lot 5, Section 76 and 77, South Saltspring Island, Cowichan District, Plan 49595, except Plan 49775", July 4, 1997, prepared for Woods Adair, by Levelton Engineering Ltd.

I supplemented this information with the following bedrock and surficial geology reports and maps of the area:

- "(Bedrock) Geology, Victoria, Scale 1:100,000", Geological Survey of Canada, Map 1553A, by J.E. Muller, 1983
- "Saltspring Island Terrain, Scale 1:20,000", BC Ministry of Environment, by B Thomson, 1983
- "Soils of the Gulf Islands of British Columbia, Volume 1, Soils of Saltspring Island", Report 43, BC Soil Survey, by L.J. P vanVliet, A.J. Green and E.A. Kenney, 1987
- "Surficial Geology of the Mayne Island Area, NTS 92B14, Scale 1:50,000", Geological Survey of Canada, Open File 1993-28, by N.W. Rutter and H.E. Blyth, 1993
- "A Reconnaissance Terrain Stability and Soil Erosion Hazard Assessment of Salt Spring Island", Report to the Island Trust, Salt Spring Island, by Terra Firma Geoscience Services, March 1996

I carried out my site visit on August 12 and 13, 1998 in the company of Mr Bill Grandell of Wolfe-Milner Land Surveying Ltd, and yourself for a portion of the time.

RECEIVED

MAR 15 1999

MINISTRY OF TRANSPORTATION
AND HIGHWAYS
SOUTH ISLAND DISTRICT

Mr Larry Bader
February 15, 1999

File 98118
Page 2 of 3

My investigation consisted of a series of geological traverses over the property. No subsurface investigations were carried out. Following the site visit, I provided you with a letter report and sketch map, dated August 18, 1998, summarizing the areas recommended for restrictive covenant for reason of natural hazards. The following summarizes my findings and recommendations.

The property is located within the southern portion of Salt Spring Island, immediately west of Stewart Road and 2.5 km north of the north end of Fulford Harbour.

The entire property is underlain by granitic igneous intrusive bedrock. This bedrock, which is quite resistant to weathering and erosion, forms a prominent bedrock height of land in the central portion of the property, and hummocky terrain elsewhere. The maximum elevation is approximately 340 m, in the southern portion of the property. The terrain falls off in all directions from that promontory. Over the property as a whole, the terrain falls off most abruptly to the east, where some very steep bedrock bluffs occur. The terrain falls off much more gradually to the north, west and south. In several locations on the property, local bedrock bluffs occur.

The bedrock is covered in places by a relatively thin and discontinuous veneer of glacial drift (till) and colluvium, composed of reworked till and weathered bedrock.

In general, the bedrock is relatively massive, however, a number of fractures to exist. Where these fractures are located in proximity to the local or regional bedrock bluffs, the bedrock is less massive and more broken up, and often there is evidence that rockfalls have occurred from some portions of the bluffs in the past. The rockfalls debris consisted of several blocks of rock, and was usually limited to less than 100 m³, and often much less.

It is likely that over time, especially during earthquake shaking, further small rockfalls will occur in the vicinity of the regional and local bedrock bluffs. To minimize the affect of any future rockfalls on any proposed development at the top or bottom of the bluffs, set back lines should be established along the tops and the bottoms of the steeper bluffs. The recommended set back lines were located on the ground during the August 1998 site visit with numbered surveyor's flagging markers, VG1 to VG4, VG7 to VG9, VG11 to VG29, VG33 to VG45, VG60 to VG85, VG100 to VG101. Their locations were approximated with a Global Positioning System (GPS) and sketched on a 1:3,000 scale plan, a copy of which was provided to you and to Wolfe-Milner Land Surveying Ltd in my August 18, 1998 letter and sketch. Following that Wolfe-Milner Land Surveying Ltd surveyed those locations. Refer to their 1:2,000 scale plan entitled "Reference Plan of Covenants over parts of Lots 1 to 6, 9 to 15, 17, 18, and 20 to 24, all of Section 71, South Salt Spring Island, Cowichan District", dated January 27, 1999. Note that not all the "VG" locations referred to above are labelled on this plan.

On this plan, the areas outlined by bold lines within Lots 1 to 6, 9 to 15, 17, 18, and 20 to 24 are the areas of recommended restrictive covenants. By definition, the remainder of those lots are

MAR 15 1999

MINISTRY OF TRANSPORTATION
AND HIGHWAYS
SOUTH ISLAND DISTRICT

Mr Larry Bader
February 15, 1999

File 98118
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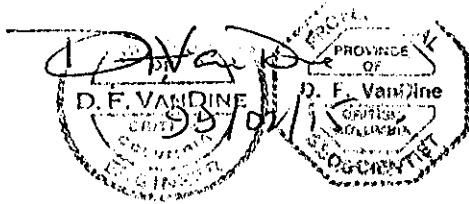
considered as safe building sites -- that is areas in which buildings can be constructed with a very small risk of being affected by natural geological hazards. This assumes that standard practices, with respect to the design and construction of building foundations, are followed.

The areas outlined by a bold line within Lot 24 and within the remainder North 1/2 of Section 71 are recommended safe building sites. The remainder of those areas are, by definition, within recommended restrictive covenant areas. The remainder of those areas are not necessarily unsafe areas in which to build, but at your request, only one safe building site was located within each of these two areas.

The recommended restrictive covenants were established for the property as a whole. Their existence does not preclude the possibility that at sometime in the future their location could be adjusted somewhat, and/or additional safe building sites could be established, based upon further investigation and/or site-specific and design-specific information.

Should you have any questions with regard to this geological engineering assessment, I would be pleased to discuss them with you. Thank you for asking VanDine Geological Engineering Limited to assist you with your development plans. If I can be of further assistance, please don't hesitate to contact me.

Yours very truly,



D.F. VanDine, PEng/PGeo
Geological and Geotechnical Engineer

Enclosure: Wolfe-Milner Land Surveying Limited's "Reference Plan of Covenants over parts of Lots 1 to 6, 9 to 15, 17, 18, and 20 to 24, all of Section 71, South Salt Spring Island, Cowichan District"

✓ cc: Wolfe-Milner Land Surveying Limited

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MAR 15 1999

MINISTRY OF TRANSPORTATION
AND HIGHWAYS
SOUTH ISLAND DISTRICT

P. 10

Doc. No. EN27763-76A

INFORMATION

PAGE _____ NOT AVAILABLE AT TIME OF SCANNING

PLAN PAGE _____

↳ NOT SUITABLE FOR SCANNING, COPY MAY BE OBTAINED FROM THE LAND TITLE OFFICE

THE FOLLOWING DOCUMENT IS OF POOR QUALITY, RETAINED IN HARD COPY AT THE LAND TITLE OFFICE

31 MAR 99 15 12

EN027763

LAND TITLE OFFICE
VICTORIA

LAND TITLE ACT
FORM 11(b)
(Sections 113 and 114)

#50 Plan
. 1 #

APPLICATION FOR DEPOSIT OF
REFERENCE PLAN

109

I, ROBERT ADAIR, Barrister and Solicitor, of #201-4500 West Saanich Road, Victoria, British Columbia, V8Z 3G2, agent of 521901 B.C. LTD. (Inc. No. 521901), of #201-4500 West Saanich Road, Victoria, British Columbia, V8Z 3G2, apply to deposit a Reference Plan of Covenants over Part of the Remainder of the North 1/2 of Section 71, and Parts of Lots 1 to 6, 9 to 15, 17, 18, and 20 to 24, all of Section 71, South Salt Spring Island, Cowichan District, Plan VIP 68753

VIP68754

I enclose:

1. The Reference Plan
2. The reproductions of the Plan required by Section 67(u).
3. Fees of \$_____.

DATED the 31 day of March, 1999.


Signature

01 99/03/31 15:12:13 01 VI 149678
PLANS \$50.00

VIP68754