

DATE: April 29, 2015**FILE:** 3320-20/22612 B 05**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** Debra Oakman, CMA
Chief Administrative Officer**RE:** Section 219 restrictive covenants and section 218 statutory right of way discharge (SL 1 to 13, 1310 Wilkinson Road)
Electoral Area B (Lazo North)
Lot A, District Lot 224, Comox District, Plan 2851, except that part in Plan 16947 and VIP79471 (parent parcel), Strata Lots 1 to 13, District Lot 224, Comox District, Strata Plan EPS17

Purpose

To discharge two section 219 restrictive covenants and a section 218 statutory right of way (SRW) which were registered against the title of the bare land strata development that make up the Harwood Beach Estate property.

Policy analysis

The *Land Title Act* (LTA) is the primary statute regulating how the rights to land are bought and sold in the province of British Columbia (BC). Section 218 of the LTA allows the province and a local government to register a restrictive covenant that specifies an easement to be known as a 'statutory right of way' for any purpose necessary for the operation and maintenance of the undertaking of the local government.

Section 219 of the LTA allows the province and a local government to register a restrictive covenant that specifies an amenity in relation to the land that shall be protected, preserved, conserved, maintained, enhanced, restored or kept in its natural or existing state in accordance with the covenant and to the extent provided in the covenant.

Executive summary

The Harwood Beach Estate strata corporation (grantor) is requesting a discharge of two section 219 restrictive covenants and a section 218 (SRW) which were registered against the title to the bare land strata development that make up the Harwood Beach Estate property. The section 219 restrictive covenants restrict land uses and development activities within the covenant area (covenant EX108776 and EX108777). The section 218 (SRW) provides access onto the covenant area (SRW EX108778). The intent of covenant EX108777 requires that the 15 metre strip of land upland from the present natural boundary (PNB) of the Strait of Georgia be protected, preserved and maintained and to prevent any occupation that will interfere with the natural state. Covenant EX108776 was registered in order to ensure that no building be constructed, or mobile home be located, within 15 metres of the natural boundary of the Strait of Georgia, Little River and wetted areas and establishes a minimum flood construction level at 1.5 metres above the natural boundary of the wetted areas. Together, the two covenants strictly limit land alteration within 15 metres of the PNB. Discharge of these covenants and SRW requires regional board approval. It is recommended that the regional board support the discharge of the section 219 covenants and 218 SRW, as these covenants and the

SRW are redundant given the aquatic and riparian habitat development permit area (DPA) and the floodplain management bylaw (bylaw No. 2782).

Recommendations from the chief administrative officer:

THAT the board accepts the request to discharge section 219 restrictive covenant (EX108777) on the properties legally described as Lot A, District Lot 224, Comox District, Plan 2851, Except That Part In Plan 16947 and VIP79471 (parent parcel), Strata Lots 1 to 13, District Lot 224, Comox District, Strata Plan EPS17 (1310 Wilkinson Road);

AND FURTHER THAT the board accepts the request to discharge section 219 restrictive covenant (EX108776) on the properties legally described as Strata Lots 1 to 13, District Lot 224, Comox District, Strata Plan EPS17 (1310 Wilkinson Road);

AND FURTHER THAT the board accepts the request to discharge section 218 Statutory Right of Way (SRW EX108778) on the properties legally described as Lot A, District Lot 224, Comox District, Plan 2851, Except That Part In Plan 16947 and VIP79471 (Parent Parcel), Strata Lots 1 to 13, District Lot 224, Comox District, Strata Plan EPS17 (1310 Wilkinson Road);

AND FINALLY THAT the chair of the board and the corporate legislative officer be authorized to discharge the 219 restrictive covenants (EX108776 and EX108777) and 218 Statutory Right of Way (SRW EX108778) with all related costs to be borne by the applicants.

Respectfully:

D. Oakman

Debra Oakman, CMA
Chief Administrative Officer

History/background factors

The Harwood Beach Estate bare land strata development is situated adjacent to the Little River ferry terminal. The strata development is within the Lazo North area (Electoral Area 'B') (Figure 1). In 2008, the strata property was created through the bare land strata subdivision process, which included 13 strata lots for residential use and common property for access routes and sewerage treatment. This area supports a high biodiversity of aquatic and terrestrial habitat including a major salmon-bearing stream (Little River), active eagle's nest site, heron habitat, estuarine salt-marsh, freshwater ponds, wetland areas and a driftwood belt. The Harwood Beach Estate development is within the Comox Valley water local service area. A water main runs along Wilkinson Road and provides a water connection to the bare land strata subdivision.

At the time of subdivision, a number of restrictive covenants (EX108776 and EX108777) and a SRW (EX108778) were transferred from a subdivision in 2005 from the parent parcel to what is now known as the Harwood Beach Estate property. In addition, new charges were created as part of the 2008 subdivision (CA1668710, and CA8877028). These charges were registered in favour of the regional district and Island Health Authority pursuant to sections 219 and 218 of the *Land Title Act* on the subject property. Each of these charges are listed in the following table:

Charge	Description/purpose	Status
Restrictive covenant in favour of regional district (EX108777) (Appendix A)	Requires that the 15 metre strip of land upland from the present natural boundary of the Georgia Strait be protected, preserved and maintained and prevent any occupation that will interfere or impair with the natural state	Recommended to be discharged
Statutory right of way (SRW) (EX108778) (Appendix A)	SRW is for monitoring and enforcement. Allows the regional district to enter upon the lands to inspect the covenant area	Recommended to be discharged
Restrictive covenant in favour of regional district (EX108776) (Appendix B)	Prohibiting the siting of buildings or landfilling to support buildings within 15.0 metres of the natural boundary and establishes a minimum flood construction level at 1.5 metres above the natural boundary of the Georgia Strait	Recommended to be discharged
Statutory right of way (SRW) in favour of regional district (CA1668710) (Appendix C)	To provide access to the park and a public walkway. The SRW provides public access to the beach area across the right-of-way, permits the grantee to install and maintain a walkway and prevents the grantor from placing any buildings, structures, paving, fill or any other obstruction within that section of the right-of-way without prior consent of the CVRD	SRW will remain registered in favour of the regional district, as it is an important component for the public to access the Strait of Georgia from the park.
Restrictive covenant in favour of Vancouver Island Health Authority (CA887028) (Appendix D)	Vancouver Island Health Authority requires installation and operation of a sewerage treatment system on common property to service all of the bare land strata lots. This covenants also limits residential development on each strata lot to one single detached dwelling containing one dwelling unit	Charge is in favour of Island Health Authority – no change proposed

Together, the two covenants (EX108776 and EX108777) strictly limit land alteration within 15.0 metres of the present PNB.

In 2014, staff initiated a review of all charges that are registered against the title for the Harwood Beach Estate property. Staff met with the strata corporation for Harwood Beach Estates to discuss the options of modifying or discharging the existing covenants (EX108776 and EX108777) and SRW (EX108778). The strata corporation and staff agree that the covenants (EX108776 and EX108777) and SRW (EX108778) should be discharged, as these covenants are currently regulated by the aquatic and riparian habitat DPA (bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”) and the floodplain management bylaw (bylaw No. 2782).

The aquatic and riparian habitat DPA is designated for the protection of the natural environment, its ecosystem and biological diversity. Bylaw No. 337 contains specific policies to protect the aquatic and riparian habitat areas:

“5. (3) Protect aquatic ecosystems, including riparian areas with tools such as the provincial riparian areas regulation, development permit area designations and guidelines and sound rain water management policies and practices.”

Furthermore, the official community plan contains DPA guidelines for site works within 30 metres of the PNB of the Strait of Georgia or a watercourse. The requirements in this DPA are:

- 1) a biophysical assessment of the site prescribing protective measures, a landscaping plan;
- 2) a landscaping plan is required where disturbance or alteration of the native vegetation within the DPA is proposed. Plan must include a re-vegetation and restoration strategy and an estimate of the full cost of materials and labour for the works; and
- 3) site drainage plan.

The floodplain management bylaw identifies lands that are subject to flooding and regulates development within these lands. The bylaw aims to protect the community against personal injury as well as property damage that can occur as a result of flooding activities. The bylaw establishes the flood level and designates lands within these areas as floodplain. It consists of setbacks and flood construction level regulations. The floodplain bylaw identifies that the habitable area of any structure on the property must be sited 15 metres from the natural boundary of watercourses and sea and 1.5 metres above the natural boundary of any watercourses or sea. Therefore any structures within the Harwood Beach Estate development must comply with the floodplain management bylaw.

The strata corporation has confirmed that all costs associated with the discharge of the covenants and SRW will be borne by the strata corporation. It is staffs opinion that the covenants are no longer necessary as the development restrictions within the covenants are addressed within bylaw No. 337 and bylaw No. 2782. The proposed discharges will not compromise the protection of the natural environment and bylaw No. 2782 contains regulation to protect new development from events that could be cause by erosion/or flooding.

Options

The regional board may direct staff to discharge the two subject section 219 restrictive covenants and the 218 SRW registered against the subject properties or not support the discharge of covenants and SRW. Comox Valley Regional District (CVRD) staff recommends that the board grant the request to discharge these covenants and SRW as bylaw No. 337 and bylaw No. 2782 contain site works restrictions that have the same effect as the covenants and SRW charges.

Financial factors

All cost associated with the discharge of the covenants and SRW shall be borne by the strata corporation.

Legal factors

This report and the recommendations contained herein are in compliance with the LTA and regional district bylaws. Unlike the aquatic and riparian habitat DPA guidelines and bylaw No. 2782, the covenants on Harwood Estates in favour of the regional district are contractual. Restrictive covenants are created to impose restrictions that are customised to the needs of an area or development. These covenants are complex, as the covenants are registered against all thirteen strata properties. It is easier to enforce bylaws than enforcing 13 strata properties due to development restrictions that are already addressed within bylaw No. 337 and bylaw No. 2782. In addition, as time passes, regional district bylaws can change and concerns of sea level rise can become a problem to enforce with a covenant that is inconsistent to bylaws, permits and other approval.

Sustainability implications

Goal 5.1 of the Comox Valley sustainability strategy (CVSS) aims to ensure that *“Planning and development is in balance with primary environmental systems (i.e. coastal long shore, watershed, groundwater, energy, climate, ecosystems) such that their carrying capacity is not exceeded.”* The aquatic and riparian habitat development permit within rural Comox Valley official community plan, bylaw No. 337 will ensure that any site works will not have an adverse effect on the shoreline environment. The aquatic and riparian habitat DP complements goal 5.1 of the CVSS.

Intergovernmental factors

There are no intergovernmental factors associated with the discharge of this covenant as the former Regional District of Comox Strathcona and the applicant were the sole signatories.

Interdepartmental involvement

Planning staff has circulated this request to release the two covenants and SRW to community parks department and building services department. Community parks and building services staff have indicated that their interests are unaffected.

Citizen/public relations

As this is an application to discharge two covenants and a SRW, there is no requirement to notify adjacent owners.

Prepared by:

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Ton Trieu, MCIP, RPP
Planner

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A. MacDonald

Ann MacDonald, MCIP, RPP
General Manager of Planning
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Branch

Attachments: Appendix A – “Restrictive Covenant EX108777 and Statutory Right of Way EX108778”
Appendix B – “Restrictive Covenant EX108776”
Appendix C – “Statutory Right of Way CA1668710”
Appendix D – “Installation and Operation of a Sewage Treatment System CA887752”

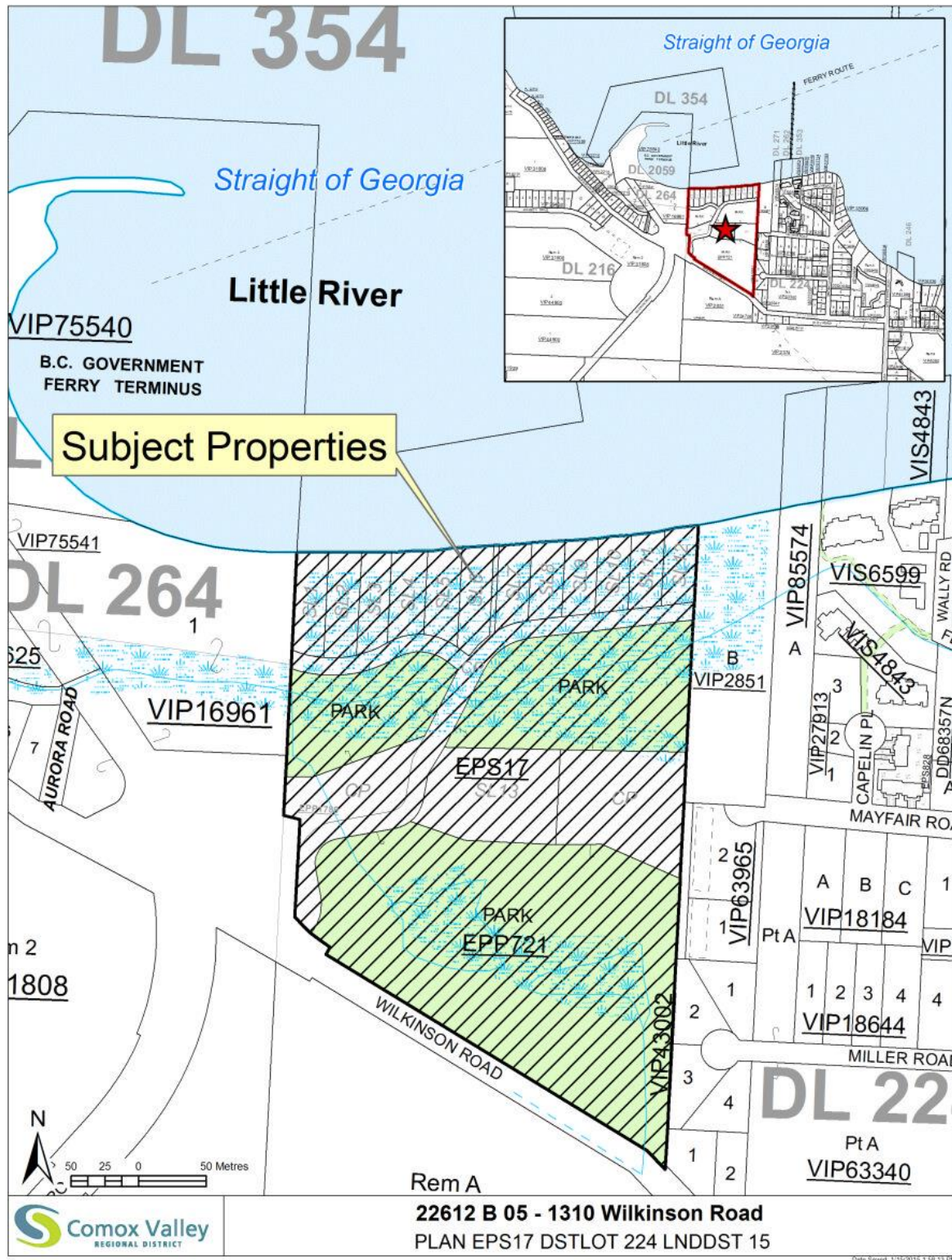


Figure 1: Site map

EX108778

29 AUG 2005

11 44

EX108777

LAND TITLE ACT

Form C (Section 233)

Province of British Columbia

GENERAL INSTRUMENT - PART 1

(This area for Land Title Office Use)

Page 1 of 9 pages

1. Application: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)
 Staples McDannold Stewart
 Barristers & Solicitors
 2nd Floor, 837 Burdett Avenue
 Victoria, BC V8W 1B3 380-7744
 File #126 017/LC/WG *SWIFT*
DYE & DURHAM CO. INC.
 Authorized Signatory 10303
2. Parcel Identifier(s) and Legal Description(s) of Land:
 (PID) (Legal Description)
 002-995-948 Lot A, District Lot 224, Comox District, Plan 2851, except that part in Plan 16947
 001-077-520 Lot A, District Lot 224, Comox District, Plan 16947
3. Nature of Interest Document Reference (page & paragraph) Person Entitled to Interest
 Description
 S. 219 Land Title Act Covenant Entire Document except p 5, para 5.0 Grantee
 S. 219 Land Title Act
 Statutory Right of Way Page 5, Paragraph 5.0 Grantee
4. Terms: Part 2 of this instrument consists of (select one only)
 (a) Filed Standard Charge Terms ☐ D.F. No.
 (b) Express Charge Terms ☒ Annexed as Part 2
 (c) Release ☐ There is no Part 2 of this instrument
- A selection of (a) 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 on the Land described in Item 2.
5. Transferor(s)(Grantor(s)):
0706030 B.C. LTD. (#0706030)
6. Transferee(s)(Grantee(s)): (including postal address(es) and postal code(s)) *
REGIONAL DISTRICT OF COMOX-STRATHCONA 600 Comox Road, Courtenay, B.C. V9N 3P6
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.

Officer Signature:

Execution Date:

Richard J. Swift
RICHARD J. SWIFT, QC
BARRISTER & SOLICITOR
201 - 467 Cumberland Rd.
Courtenay, BC V9N 2C5
Phone: 250-334-4461
 (as to both signatures)

Y	M	D
2005	06	03

Party(ies) Signature:

0706030 B.C. LTD., by its authorized signatories:

Print Name: *Graham Harris*

Print Name: *Don Kirkwood*

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.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

LAND TITLE ACT
Form D

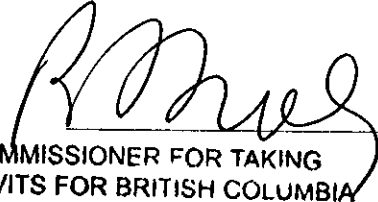
EXECUTIONS CONTINUED

Page 2

Officer Signature:

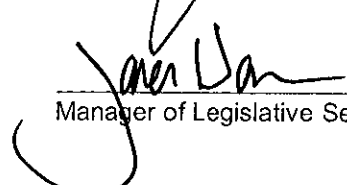
Execution Date:

Party(ies) Signature:


A COMMISSIONER FOR TAKING
AFFIDAVITS FOR BRITISH COLUMBIA
Robert A. Long
600 Comox Road
Courtenay, BC V9N 3P6
Ph: (250) 334-6000

(as to both signatures)

Y	M	D
2005	06	21

REGIONAL DISTRICT OF COMOX-
STRATHCONA by its authorized
signatories
Chair
Manager of Legislative Services

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.

TERMS OF INSTRUMENT - PART 2

WHEREAS:

- A. The Grantor is the registered owner in fee simple of;
- PID 002-995-948
Lot A, District Lot 224, Comox District, Plan 2851, except that part in Plan 16947
- PID 001-077-520
Lot A, District Lot 224, Comox District, Plan 16947
- (the "**Lands**");
- B. The Grantee is the Regional District of Comox-Strathcona;
- C. The Lands contain amenities of great importance to the Grantor, the Grantee, and the public. In particular the protection of the aquatic habitat adjacent to the Strait of Georgia, the Little River and its tributary watercourses which provide summer and winter habitat for fish (water quality and quantity are important) and wetlands which provide storage areas for the dry season;
- E. A statutory right of way pursuant to section 218 of the *Land Title Act* in favour of the Grantee is necessary for the operation and maintenance of the undertakings of the Grantee;
- F. Section 219 of the *Land Title Act* provides, among other things, that a covenant, whether of a negative or positive nature, in respect of the use of land, or subdivision of land, or the use of buildings on, or to be erected on, land or to protect, preserve, conserve, maintain, enhance the Lands or a specified amenity in relation to the Lands may be registered as a charge against the title to the Lands.

NOW THEREFORE this Agreement witnesses that pursuant to sections 218 and 219 of the *Land Title Act* and in consideration of the premises and the covenants contained in this Agreement and for the sum of One Dollar (\$1.00) now paid by the Grantee to the Grantor, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereto covenant and agree with the other as follows:

1.0 DEFINITIONS**1.1** In this Agreement:

- (a) "**Covenant Area**" means that area of the Lands:

- (i) within 15.0 metres (49.2 feet) of the top of bank of the Little River;
 - (ii) within 15.0 metres (49.2 feet) of the top of the bank of the two ponds on the Lands;
 - (iii) within 15.0 metres (49.2 feet) of the natural high water mark boundary of the Strait of Georgia; and
 - (iv) within 5.0 metres of the stream which connects the two ponds with the Little River.
- (b) "**Watercourse**" includes a lake, pond, river, creek, spring, ravine, swamp, wetland, and gulch.

2.0 CONSERVATION COVENANT - INTENTIONS

2.1 The Grantor and Grantee agree that this Agreement is intended:

- (a) to forever protect, preserve and maintain the Covenant Area in a natural state, as set out in this Agreement; and
- (b) to prevent any occupation, or use of the Covenant Area that will significantly impair or interfere with the natural state of the Covenant Area.

2.2 The parties agree that this Agreement is to be interpreted, performed and applied in accordance with the intention of the Agreement as set out in section 2.1.

2.3 This Agreement shall be perpetual to reflect the public interest in the protection, preservation, conservation and maintenance of the natural state of the Covenant Area for ecological and environmental reasons.

3.0 USE AND PRESERVATION OF THE LANDS AND COVENANT AREA

3.1 The Grantor covenants and agrees to protect, preserve, conserve, maintain and keep the Covenant Area in its natural or existing state.

3.2 Without limiting the covenant contained in section 3.1, the Grantor covenants and agrees to:

- (a) Not remove existing vegetation, with the exception of non-native invasives in the Covenant Area. Where invasives have been removed, the exposed area(s) shall be replanted with suitable native vegetation as soon as possible;

- (b) Not remove trees in the Covenant Area without written permission of the Grantee and the Ministry of Water, Lands and Air Protection; and if approved, removal is done in such a manner as to prevent the direct or indirect release or deposit of any debris, soil, silt or other deleterious substance into the watercourse within the Covenant Area;
- (c) Not construct, site or erect structures within the Covenant Area without written permission of the Grantee and the Ministry of Water, Lands and Air Protection;
- (d) No channelizing of these watercourses or new drainages will be permitted without further approval by the Grantee, Ministry of Water, Lands and Air Protection, and Department of Fisheries and Oceans.

3.3 The Grantor shall ensure that all construction waste, soil, fill or other substances deleterious to aquatic life, such as yard waste, fertilizers, pesticides/herbicides and petroleum products, are disposed of or placed on the Lands in such a manner as to prevent the direct or indirect release or deposit of such waste, soil, silt or substances into any watercourse on the Lands.

4.0 DISPUTE RESOLUTION

- 4.1 If there is a disagreement regarding a breach of this Agreement which has occurred or is threatened, or if there is disagreement as to the meaning of this Agreement, the Grantor or the Grantee may give notice to the other parties requiring a meeting of all parties within 10 business days of receipt of the notice.
- 4.2 The parties must attempt to resolve the disagreement, acting reasonably and in good faith, within 15 business days of receipt of the notice.
- 4.3 If the parties are not able to resolve the disagreement within that time, the parties may appoint a mutually acceptable person to mediate the matter and the parties must act reasonably and in good faith and cooperate with the mediator and with each other in an attempt to resolve the matter within 20 business days after the mediator is appointed.

5.0 STATUTORY RIGHT OF WAY FOR MONITORING AND ENFORCEMENT

- 5.1 The Grantor grants to the Grantee a licence, and a statutory right of way pursuant to section 218 of the *Lands Title Act*, permitting the Grantee to do the following:
 - (a) to enter upon the Lands to inspect the Covenant Area;
 - (i) at least once each calendar year, with the date for each inspection to be agreed upon by the parties before August 31 each year, but if

the parties cannot agree on those days by August 31 in any year, the Grantee is entitled to enter upon and inspect the Covenant Area in accordance with section 5.1(a)(ii); and

- (ii) at all reasonable times upon prior notice by the Grantee to the Grantor of at least 24 hours, unless, in the opinion of the Grantee, there is an emergency or other circumstance which does not make giving such notice practicable, in the sole discretion of the Grantee;
 - (b) as part of inspection of the Covenant Area, to take samples, photographs and video recordings as may be necessary to monitor compliance and enforce the terms of this Agreement;
 - (c) to enter upon and protect, preserve, conserve, maintain, enhance, restore or rehabilitate, in the Grantee's sole discretion and at the expense of the Grantor, the Covenant Area to as near the condition described in the Report as is practicable if an act of nature or human agency other than as described in section 5.1(d), destroys, impairs, diminishes or negatively affects or alters the Covenant Area from the condition described in the Report;
 - (d) to enter upon and protect, preserve, conserve, maintain, enhance, restore or rehabilitate, in the Grantee's sole discretion and at the expense of the Grantor, the Covenant Area to as near the condition described in the Report as is practicable, if an action of the Grantor or any other person acting with the actual or constructive knowledge of the Grantor:
 - (i) destroys, impairs, diminishes, negatively affects or alters the Covenant Area from the condition described in the Report; or
 - (ii) contravenes any term of this Agreement;
 - (e) to carry out or evaluate, or both, any program agreed upon among the parties for the protection, preservation, conservation, maintenance, enhancement, restoration or rehabilitation of all or any portion of the Covenant Area; and
 - (f) to place survey pegs or other markings on the Lands to increase the visibility of existing survey pegs or other markings.
- 5.2 The Grantee may bring vehicles, equipment and personal property onto the Lands when exercising its rights under this Agreement.
- 5.3 For the purposes of sections 5.1(c) and 5.1(d), the Grantee has the sole discretion to protect, preserve, conserve, maintain, enhance, restore or rehabilitate the Covenant Area.

6.0 ENFORCEMENT

- 6.1 If the Grantee, in its sole discretion, believes that the Grantor has neglected or refused to perform any of the obligations set out in this Agreement or is in breach of any term of this Agreement, that Grantee may serve on the Grantor a notice setting out particulars of the breach and of the Grantee's estimated maximum costs of remedying the breach. The Grantor has 60 days from receipt of the notice, or conclusion of the dispute resolution provision under section 4.0 of this Agreement if invoked, to remedy the breach or make arrangements satisfactory to the Grantee for remedying the breach, including with respect to the time within which the breach shall be remedied.
- 6.2 If the Grantor does not remedy a breach described in section 6.1 within the time specified in section 6.1, the Grantee is entitled to enter the Lands and remedy the breach or carry out the arrangements referred to in section 6.1 and the Grantor shall reimburse the Grantee for any expenses incurred in doing so, up to the estimated maximum costs of remedying the breach as set out in the notice under section 6.1. Expenses incurred by the Grantee under this section are a debt owed by the Grantor to the Grantee.
- 6.3 The Grantor and the Grantee agree that the enforcement of this Agreement shall be entirely within the discretion of the Grantee 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 Grantee to the Grantor or to any other person to enforce any provision or the breach of any provision of this Agreement.

7.0 RELEASE

- 7.1 The Grantor hereby releases and forever discharges the Grantee of and from any claim, cause of action, suit, demand, expenses, costs and legal fees whatsoever which the Grantor can or may have against the Grantee for any loss or damage or injury that the Grantor may sustain or suffer arising out of or connected with the breach of any covenant in this Agreement.

8.0 INDEMNITY

- 8.1 The Grantor shall indemnify and save harmless the Grantee of and from any claims, suits, demands, action, cause of action, cost, fee, expense or legal fee whatsoever which anyone has or may have against the Grantee or which the Grantee incurs as a result of any loss, damage or injury arising out of or connected with the breach of any covenant in this Agreement.

9.0 REGULATORY POWER

- 9.1 Nothing contained or implied herein shall prejudice or affect the rights and powers of the Grantee in the exercise of its functions under any public or private statutes, bylaws, orders or regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Grantor.

10.0 NO WARRANTY

- 10.1 It is mutually understood, acknowledged and agreed by the parties hereto that the Grantee has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Grantor other than those contained in this Agreement.

11.0 GENERAL

- 11.1 The Grantor agrees to execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.
- 11.2 The Grantor shall pay the legal fees of the Grantee in connection with the preparation and registration of this Agreement.
- 11.3 The Grantor covenants and agrees for itself, its heirs, executors, successors and assigns, that it will at all times perform and observe the requirements and restrictions hereinbefore set out and they shall be binding upon the Grantor as personal covenants only during the period of its respective grantorship of any interest in the Lands.
- 11.4 The restrictions and covenants herein contained shall be covenants running with the Lands and shall be perpetual, and shall continue to bind all of the Lands when subdivided, and shall be registered in the Victoria Land Title Office pursuant to section 219 of the *Land Title Act* as covenants in favour of the Grantee as a first charge against the Lands.
- 11.5 This Agreement shall enure to the benefit of the Grantee and shall be binding upon the parties hereto and their respective heirs, executors, successors and assigns.
- 11.6 Wherever the expressions "Grantor" and "Grantee " are used herein, they shall be construed as meaning the plural, feminine or body corporate or politic where the context or the parties so require.
- 11.7 A copy of the registered Covenant document is to be forwarded to the parties for record keeping. Please include file numbers of both the Grantor and Grantee, so that the Covenant can be properly filed.

Page 9

IN WITNESS WHEREOF the parties hereto hereby acknowledge that this Agreement has been duly executed and delivered by the parties executing Form C (pages 1 and 2) attached hereto.

END OF DOCUMENT

126 017/6/2/05/COVENANT AND SRW/LC/WG

Land Title Act

Form C

(Section 233)

Province of

British Columbia

GENERAL INSTRUMENT

(This area for Land Title Office use)

Page 1 of 5 pages

1. Application: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

SWIFT DATOO & COMPANY, Barristers & Solicitors

201-467 Cumberland Road

Courtenay, B.C. V9N 2C5

Ph: (250) 334-4461 26015 AND/PH

DYE & DURHAM CO. INC.

(Authorized Agent)

2. Parcel Identifier and Legal Description of Land:*

(PID)

(Legal Description)

26400 189
197

LOT 1 DISTRICT LOT 224 COMOX DISTRICT PLAN VIP 79471

LOT 2 DISTRICT LOT 224 COMOX DISTRICT PLAN VIP 79471

3. Nature of Interest:*

Description

Document Reference

(page and paragraph)

Person Entitled To Interest

Covenant

Entire Instrument

Transferee

Transferees Section 219

4. Terms:

Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

D.F. No.

01

05/08/29 11:44:26 01 VI

654465

(b) Express Charge Terms

X

Annexed as Part 2

CHARGE

\$64.75

(c) Release

There is no Part 2 of this instrument

A selection of (a) 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):*

0706030 B.C. LTD. (Inc. No. 0706030)

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, having its offices at 2100 Labieux Road, Nanaimo, British Columbia V9T 6E9 and REGIONAL DISTRICT OF COMOX-STRATHCONA, 4795 Headquarters Road, P.O. Box 3370, Courtenay, British Columbia V9N 5N5

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)

Y	M	D
2005	06	03

Transferor(s) Signature(s)

0706030 B.C. LTD. by its authorized signatory:

Graham Harris

Don Kirkwood

RICHARD I SWIFT OC
BARRISTER & SOLICITOR
201 - 467 Cumberland Rd.
Courtenay, BC V9N 2C5
Phone: 250-334-4461

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Land Title 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.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.
** If space insufficient, continue executions on additional page(s) in Form D.


TERMS OF INSTRUMENT - PART 2**COVENANT****DEFINITIONS:**

- A. The "**Transferors**" mean the Transferors as set out in Item 5 on Page 1 (Form C) of the attached General Instrument - Part 1.
- B. The "**Transferees**" mean the Transferees as set out in Item 6 on Page 1 (Form C) of the attached General Instrument - Part 1.
- C. The "**Lands**" mean the Land(s) as set out in Item 2 on Page 1 (Form C) of the attached General Instrument - Part 1.

WHEREAS:

1. The Transferees have informed the Transferors that the Lands may be subject to periodic flooding, but nevertheless the Transferors desire to place, construct and/or occupy and use buildings upon the Lands.
2. The Transferees have requested that the Transferors enter into a covenant over ~~the "part of" if by Plan~~ the Lands, pursuant to Section 219 of the *Land Title Act*, in the terms hereinafter set forth.
3. Section 219 of the *Land Title Act* provides that there may be annexed to any land a condition or covenant that the land, or any specified portion thereof, is not to be built upon or is not to be used in a particular manner.
1. **WITNESS THAT**, in consideration of the sum of One Dollar (\$1.00) and other valuable consideration now paid by the Transferees to the Transferors (the receipt and sufficiency whereof is hereby acknowledged), the Transferors hereby agree to grant a covenant over the Lands, pursuant to Section 219 of the *Land Title Act*, to the Transferees on the following terms:
 - a. Hereafter, no building shall be constructed, or mobile home located within 15 (m) metres of the natural boundary of The Strait of Georgia, Little River and Wetted Areas. The coastal floodplain setback may be reduced to 7.5 (m) metres where the ocean frontage is adequately protected from erosion by a natural bedrock formation, or works designed by a Professional Engineer with provision for maintenance, such maintenance to be assumed to be the responsibility of the owner.



- b. Hereafter, no area used for habitation, business, or storage of goods damageable by floodwaters shall be located within any building at an elevation such that the underside of the floor system thereof is less than one point five (1.5) metres above the natural boundary of The Wetted Areas.
 - c. In the case of a mobile home, the ground level or top of concrete or asphalt pad on which it is located shall be no lower than the above-described elevation.
 - d. The required elevation may be achieved by structural elevation of the said habitable, business, or storage area, or by adequately compacted landfill on which any building is to be constructed or mobile home located, or by a combination of both structural elevation and landfill. No area below the required elevation shall be used for the installation of furnaces or other fixed equipment susceptible to damage by floodwaters. Where landfill is used to raise the natural ground elevation, the toe of the landfill slope shall be no closer to the natural boundary than the setback requirement given in Condition (a) above. The face of the landfill slope shall be adequately protected against erosion from flood flows.
 1. The Transferors acknowledge that the Transferees do not represent to the Transferors or any other person that any building constructed or mobile home located in accordance with Conditions (a) and (b) herein will not be damaged by flooding or erosion, and the Transferors covenant and agree not to claim damages from the Transferees, or hold the Transferees responsible for damages caused by flooding or erosion to the land or to any building, improvement, or other structure built, constructed, or placed upon the Land and to any contents thereof.
 2. The Transferors will indemnify and save harmless the Transferees and their servants and agents against all losses, damages, costs and expenses, including fees of solicitors and other professional advisors, arising out of any breach, violation or non-performance of any term, condition, covenant, or other provision of this Agreement.
 3. No term, condition, covenant, or other provision of this Agreement will be considered to have been waived by the Transferees unless the waiver is expressed in writing by the Transferees.
 4. Any waiver by the Transferees of any term, condition, covenant, or other provision of this Agreement or any waiver by the Transferees of any breach, violation, or non-performance of any term, condition, covenant, or other provision of this Agreement does not constitute and will not be construed as a waiver of any further or other term, condition, covenant, or other provision of this Agreement or any further or other breach, violation, or non-performance of any term, condition, covenant, or other provision of this Agreement.
 5. The terms, conditions, covenants, and other provisions of this Agreement will extend to, be binding upon, and enure to the benefit of the parties to this Agreement and their respective successors and assigns.
 6. In this Agreement, unless the context otherwise requires, the singular includes the plural and vice versa.
 7. This Agreement will be interpreted according to the laws of the Province of British Columbia.
 8. Where there is a reference to an enactment in this Agreement, the reference will include any subsequent enactment of the Province of British Columbia of like effect and all enactments referred to are enactments of the Province of British Columbia.
- 

9. If any part of this Agreement is found to be illegal or unenforceable, that part will be considered separate and severable and the remaining parts will not be affected thereby and will be enforceable to the fullest extent permitted by law.
10. All obligations on and benefits accruing to the persons comprised in the Transferees or the Transferors apply only in respect of such benefits or obligations which arise during the period in which any such person is registered as owner of any portion of the Lands.
11. This Agreement runs with the Land and will be registered as a charge against the title to the Land under Section 219 of the *Land Title Act*.
12. Nothing contained or implied in this Agreement shall impair, limit, prejudice, or affect the Transferees' rights and powers in the exercise of their functions pursuant to any public or private statutes or any other enactment including the Transferees' bylaws, orders, policies, and regulations and all such powers and rights may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Transferors.
13. The Transferors will do or cause to be done all things and execute or cause to be executed all documents and give such further and other assurances which may be reasonably necessary to give proper effect to the intent of this Agreement.
14. This Agreement will not be modified or discharged except in accordance with the provisions of Section 219(9) of the *Land Title Act*.
15. This is the Instrument creating the condition or covenant entered into under Section 219 of the *Land Title Act* by the registered owner referred to herein and shown on the print of the plan annexed hereto and initialled by me.

Approving Officer
Ministry of Transportation



END OF DOCUMENT



VICTORIA LAND TITLE OFFICE

Jul-23-2010 16:17:16.003

DECLARATION(S) ATTACHED
CA1668710LAND TITLE ACT
FORM C (Section 233) CHARGE

GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 11 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

Aniel K. Datoo
RRBW2B

Digitally signed by Aniel K. Datoo
RRBW2B
DN: cn=Aniel K. Datoo RRBW2B,
c=CA, o=www.juricert.com/LKUP.cfm?
id=RRBW2B, ou=BC Lawyer
Practicing
Date: 2010.07.23 11:59:03 -07'00'

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Swift Datoo & Company

Barristers and Solicitors

201 - 467 Cumberland Road

Courtenay, BC V9N 2C5

250-334-4461

27489 AND/ph (SRW Section 218 public
pedestrian and park maintenance)

Document Fees: \$71.90

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

SEE SCHEDULESTC? YES ☐

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

SEE SCHEDULE

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) ☐ Filed Standard Charge Terms D.F. No.(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

SEE SCHEDULE

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

COMOX VALLEY REGIONAL DISTRICT

600 COMOX ROAD

COURTENAY

V9N 3P6

BRITISH COLUMBIA

CANADA

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.

Officer Signature(s)

Execution Date

Transferor(s) Signature(s)

Brenda Petrie, Notary Public #102-565
17th St., West Vancouver BC V7V 3S9
604-926-4035 (as to Donald Kirkwood)
Richard Sarabando Barrister &
Solicitor Bull, Housser & Tupper LLP
3000-1055 W. Georgia Vancouver V6E
3R3 604-641-4924(as to G. Harris)

Y	M	D
10	07	22
10	07	23

THE OWNERS, STRATA PLAN
EPS17 by its authorized signatory:

Donald Kirkwood

Graham Harris

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.

**LAND TITLE ACT
FORM D****EXECUTIONS CONTINUED**

PAGE 2 OF 11 PAGES

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Brenda Petrie, Notary Public
#102-565 17th St., West Vancouver
BC V7V 3S9
Tel # 604-926-4035

Y	M	D
10	07	22

0706030 B.C. LTD. by its authorized
signatory:

Donald Kirkwood

Geoff Garbutt
A Commissioner For Taking Affidavits
for British Columbia
600 Comox Road, Courtenay BC
V9N 3P6

10	07	16
----	----	----

COMOX VALLEY REGIONAL
DISTRICT by its authorized signatory:

T. Ian Smith

Richard Sarabando
Barrister & Solicitor
Bull, Housser & Tupper LLP
3000-1055 W. Georgia
Vancouver V6E 3R3
Tel. # 604-641-4924

10	07	23
----	----	----

ROYAL BANK OF CANADA by its
authorized signatories:

Brad Digby - Sr. Account Manager

Soo-Ling Leung - Account Manager

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.

**LAND TITLE ACT
FORM E****SCHEDULE**PAGE 3 OF 11 PAGES

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR COMMON PROPERTY DISTRICT LOT 224 COMOX DISTRICT STRATA PLAN
EPS17**

STC? YES

[Related Plan Number]

EPS17

-
2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

027-680-029 STRATA LOT 13 DISTRICT LOT 224 COMOX DISTRICT STRATA PLAN EPS17

STC? YES ☐

-
2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

STC? YES ☐

Status: Registered

Doc #: CA1668710

RCVD: 2010-07-23 RQST: 2015-03-26 16.14.00

FORM_E_V16

**LAND TITLE ACT
FORM E****SCHEDULE**

PAGE 4 OF 11 PAGES

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Statutory Right of WayS. 218 Over Part of Strata Lot 13 and Common
Property, District Lot 224, Comox District, Plan
EPS17 - Person Entitled: Transferee

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Status: Registered

Doc #: CA1668710

RCVD: 2010-07-23 RQST: 2015-03-26 16.14.00

FORM_E_V16

**LAND TITLE ACT
FORM E****SCHEDULE****PAGE 5 OF 11 PAGES**

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM, OR GENERAL INSTRUMENT FORM.

5. TRANSFERORS:

With respect to the Common Property District Lot 224 Comox District Strata Plan EPS17:

THE OWNERS, STRATA PLAN EPS17

With respect to STRATA LOT 13 DISTRICT LOT 224 COMOX DISTRICT STRATA PLAN EPS17:

0706030 B.C. LTD. (Inc. No. 0706030)

TERMS OF INSTRUMENT - PART 2

WHEREAS:

- A. The Grantor, The Owners of Strata Plan EPS17 ("the Strata Corporation"), is the registered owner of lands situate in the Comox Valley District in the Province of British Columbia, legally described as:
- PID: not applicable
Common Property, Strata Plan EPS17
- (the "Common Property");
- B. The Grantor, 0706030 B.C. Ltd. ("0706030") is the registered owner of lands situate in the Comox Valley District in the Province of British Columbia, legally described as:
- PID: 027-680-029
Strata Lot 13 District Lot 224 Comox District Strata Plan EPS17
- (the "Strata Lot 13")
- (the Common Property and Strata Lot 13 are collectively referred to as the Grantor's Lands);
- C. The Strata Corporation and 0706030 are together referred to as the Grantor.
- D. The Grantee is the Comox Valley Regional District and is the owner of the lands shown as PARK on Strata Plan EPS17;
- E. This Right of Way is necessary for the operation and maintenance of the Grantee's undertaking to provide access to the PARK and a public walkway for the enjoyment of the general public and in furtherance of this purpose the Grantor has agreed to permit the use of that part of the Grantor's Lands described in Section 1.1 below (the "Walkway") as a public walkway and to grant for that purpose the Right of Way in Section 1.1;

NOW THEREFORE, in consideration of the sum of Ten (\$10.00) Dollars of lawful money of Canada, now paid by the Grantee to the Grantor (the receipt and sufficiency of which is hereby acknowledged by the Grantor), and in consideration of the covenants and conditions agreed to be observed and performed by the parties and for other valuable consideration:

1.0 THE GRANTOR:

- 1.1 The Strata Corporation grants, conveys, confirms and transfers, in perpetuity, to the Grantee the full, free and uninterrupted right, license, liberty, privilege, permission and right of way to operate and otherwise establish the Walkway upon that part of the Common Property shown as Area A and Area D on a Explanatory Plan of Statutory Right of Way over the Common Property District Lot 224, Comox District, Plan EPS17

as shown on Plan EPP7563 a reduced copy of which is attached hereto; and further grants, conveys, confirms and transfers to the Grantee, for and on behalf of and for the benefit, use and enjoyment of all members of the public, the full, free and uninterrupted right, license, liberty, privilege, permission and right of way at all times during daylight hours, to enter, use, go, pass, return, pass over, and cross the Walkway (the "Right of Way"); further, the Grantee may, at its expense, lay down, install, construct, operate, maintain, alter, remove, replace and otherwise establish a Walkway only upon that part of the Common Property shown as Area D aforeaid being the strip of land located between the westerly boundary of Strata Lot 6 and the easterly boundary of Strata Lot 7 both of Strata Plan EPS17 as shown on Plan EPP7563.

- 1.2 The Strata Corporation (as to the Common Property) and 0706030 (as to Strata Lot 13) do grant, confirm and transfer in perpetuity to the Grantee the full free and uninterrupted right, license, liberty, privilege, permission and right of way over that part of the Common Property shown as Area C on aforesaid Plan EPP7563 and that part of Strata Lot 13 shown as Area B on the said Plan EPP7563 for the purpose of gaining access to and exit from the Park in connection with the Grantee's operation and maintenance of its undertaking (the "Maintenance Right of Way").
- 1.3 The Grantors and each of them covenants and agrees to and with the Grantee that the Grantee shall:
- (a) for itself and its servants, agents, workers, contractors and all other licensees of the Grantee;
 - (b) together with machinery, vehicles, equipment and materials;
 - (c) upon, over, under and across the Right of Way and the Maintenance Right of Way;
 - (d) as may be necessary, useful, or convenient for the purposes in sections 1.1 and 1.2; and
 - (e) in connection with the operations of the Grantee in relation to the Walkway and the Park;

be entitled at all times during daylight hours, to enter, use, pass and repass and clear-off all trees, stumps, growth, buildings or obstruction now or hereafter in existence on the Right of Way or the Maintenance Right of Way.

- 1.4 The Grantors and each of them covenants and agrees to and with the Grantee that during an emergency the Grantee, its servants, agents, workers, contractors and all other licensees of the Grantee may exercise their rights in paragraphs 1.1, 1.2 and 1.3 at any time and for certainty, are not limited to daylight hours.
- 1.5 The Grantors and each of them covenants and agrees that the Grantee may place on the Right of Way and the Maintenance Right of Way directional and warning signs for members of the public and for owners or occupants of the Strata Lots within Strata Plan EPS17 PROVIDED that the number, size and location of such signs shall be mutually agreed upon by the Grantors and the Grantee.

2.0 THE GRANTOR COVENANTS TO AND AGREES WITH THE GRANTEE AS FOLLOWS:

- 2.1 The Grantor will not, nor permit any other person, without the written consent of the Grantee first had and obtained, to erect, place, install or maintain any building, structure, addition to a building or structure, manufactured home, concrete driveway or patio, pipe, wire or other conduit, excavation, pile of material or other obstruction, in, on, over or under any portion of the Right of Way EXCEPT that the Grantee acknowledges and agrees that there exist on or about the Right of Way structures, pavement, pipes, wires, cables or other conduits which have been installed by the Grantor prior to the date hereof ("Utilities") and the Grantee covenants and agrees that those Utilities and the inspection, maintenance, repair and replacement of them shall be exempt from the prohibition set out in this paragraph.
- 2.2 The Grantor will not do or knowingly permit to be done any act or thing which will interfere with, damage or prevent access to the Walkway. The Grantor will not carry out any blasting on or adjacent to the Right of Way without the consent in writing of the Grantee, and the consent shall not be unreasonably withheld.
- 2.3 The Grantor will not substantially add to or diminish the soil cover over any of the Walkway installed in the Right of Way and in particular, without limiting the generality of the foregoing, will not construct open drains or ditches along or across any of the Walkway installed in the Right of Way without the consent of the Grantee, and the consent shall not be unreasonably withheld.
- 2.4 The Grantor from time to time and at all times at the reasonable request and at the cost of the Grantee, will to do and execute or cause to be made, done or executed any further and other lawful acts, deeds, things, devices, conveyances and assurances in law required to ensure the Grantee of its rights under this Agreement.
- 2.5 The Grantor will indemnify, save harmless, release and forever discharge the Grantee, its elected officials, officers, employees, agents and contractors, from and against any and all claims, causes of action, demands, costs, expenses and legal fees whatsoever which the Grantee, its elected officials, officers, employees, agents and contractors, may sustain or be put to, including without limitation, for injury to persons or property including death, of any person, directly or indirectly arising or resulting from or attributable to, the Grantor's breach of this Agreement or the negligence or wrongful acts or omissions of the Grantor in connection with or in consequence of this Agreement, save and except to the extent caused by the negligence or wrongful acts or omissions of the Grantee, its elected officials, officers, employees, agents and contractors.

3.0 THE GRANTEE COVENANTS TO AND AGREES WITH THE GRANTOR AS FOLLOWS:

- 3.1 The width of the Walkway will be as set out on the Statutory Right of Way Plan EPP7563.

- 3.2 The Grantee will thoroughly clean all lands to which it has had access under this Agreement of all rubbish and construction debris created or placed thereon by the Grantee and will leave such lands in a neat and clean condition.
- 3.3 The Grantee will carry out all work in a proper and workmanlike manner so as to do as little injury to the Grantor's Lands as possible.
- 3.4 The Grantee will make good at its own expense all damage or disturbance not inconsistent with the purpose of the Walkway which may be caused to the Grantor's Lands in the exercise of its rights hereunder.
- 3.5 The Grantee will restore any fences, fields, lawns, flower beds not occupied by the Walkway, at its cost as nearly as may be possible to the same condition that they were in prior to any entry by the Grantee upon the Grantor's Lands, however, this shall not require the Grantee to restore any trees or surface growth.
- 3.6 The Grantee will indemnify and save harmless the Grantor from and against any and all claims, causes of action, demands, costs, expenses and legal fees whatsoever, which the Grantor may sustain or be put to, including without limitation, for injury to persons or property including death of any person, directly or indirectly arising or resulting from or attributable to the Grantee's breach of this Agreement or any negligence or wrongful acts or omissions of the Grantee, its elected officials, officers, employees, agents and contractors, or members of the public, in connection with or in consequence of this Agreement, save and except to the extent caused by the negligence or wrongful acts or omissions or default of the Grantor.

4.0 THE PARTIES COVENANT TO AND AGREE WITH EACH OTHER AS FOLLOWS:

- 4.1 No part of the title in fee-simple to the Grantor's Lands shall pass to or be vested in the Grantee under or by virtue of this Agreement, and the Grantor may fully use and enjoy all of the Grantor's Lands subject only to the rights and restrictions in this Agreement. It is acknowledged by the Grantee that the Areas A and C aforesaid which are part of the Grantor's Lands are part of the Common Property owned by the Strata Corporation and such are used as roads by the Strata Corporation and the individual owners of the strata lots in Strata Plan EPS17.
- 4.2 Notwithstanding anything herein contained, the Grantor shall have the right, at all times, to cross, traverse and use the Walkway for purposes of the use, maintenance and enjoyment of the Grantor's Lands, including the use on the walkway of motorized and non-motorized vehicles and equipment, provided however the Grantor shall take reasonable precaution to ensure that in exercising such right, he does not make the Walkway unsafe for the use by the public or interfere with the use and enjoyment of the Walkway by the public.
- 4.3 Nothing in this Agreement shall be interpreted as restricting the Grantee's right to make rules or impose restrictions or prohibitions regarding use of the Walkway by the public.

- 4.4 The Grantor acknowledges that these covenants are covenants running with the Grantor's Lands and are enforceable against the Grantor and his successors in title, but the Grantor is not personally liable for breach of these covenants after the Grantor has ceased to be the owner of the Land.
- 4.5 The parties herein shall do and cause to be done all things and execute and cause to be executed all documents which may be necessary or desirable to give proper effect to the intention of this instrument.
- 4.6 In the event of the Grantor breaching any of its covenants and agreement herein the Grantee may cause, but shall not be obliged to cause, such breach to be rectified and the cost to the Grantee, as the case may be, of such rectification shall be a debt due from the Grantor to the Grantee.
- 4.7 Where the expression "Grantor" includes more than one person, all covenants made by the Grantor shall be construed as being several as well as joint with respect to all persons constituting the Grantor.
- 4.8 This Agreement shall continue to benefit and be binding upon the Grantor and Grantee, and their respective heirs, administrators, executors, successors and assigns, as the case may be.
- 4.9 Gender specific terms include both genders and corporations, and the singular, and plural forms are interchangeable, according to the context.

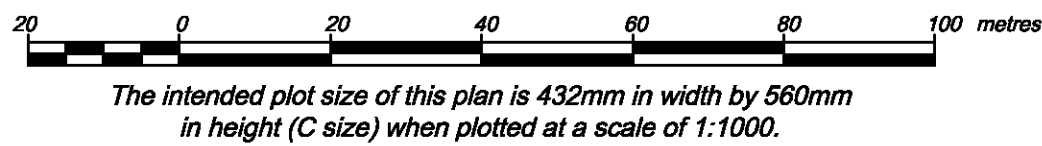
IN WITNESS WHEREOF the parties hereto hereby acknowledge that this Agreement has been duly executed and delivered by the parties executing Form C attached hereto.

***EXPLANATORY PLAN OF STATUTORY RIGHT OF WAY
OVER PART OF STRATA LOT 13 AND COMMON PROPERTY,
DISTRICT LOT 224, COMOX DISTRICT, PLAN EPS17.***

PLAN EPP7563

BCGS 92F.076

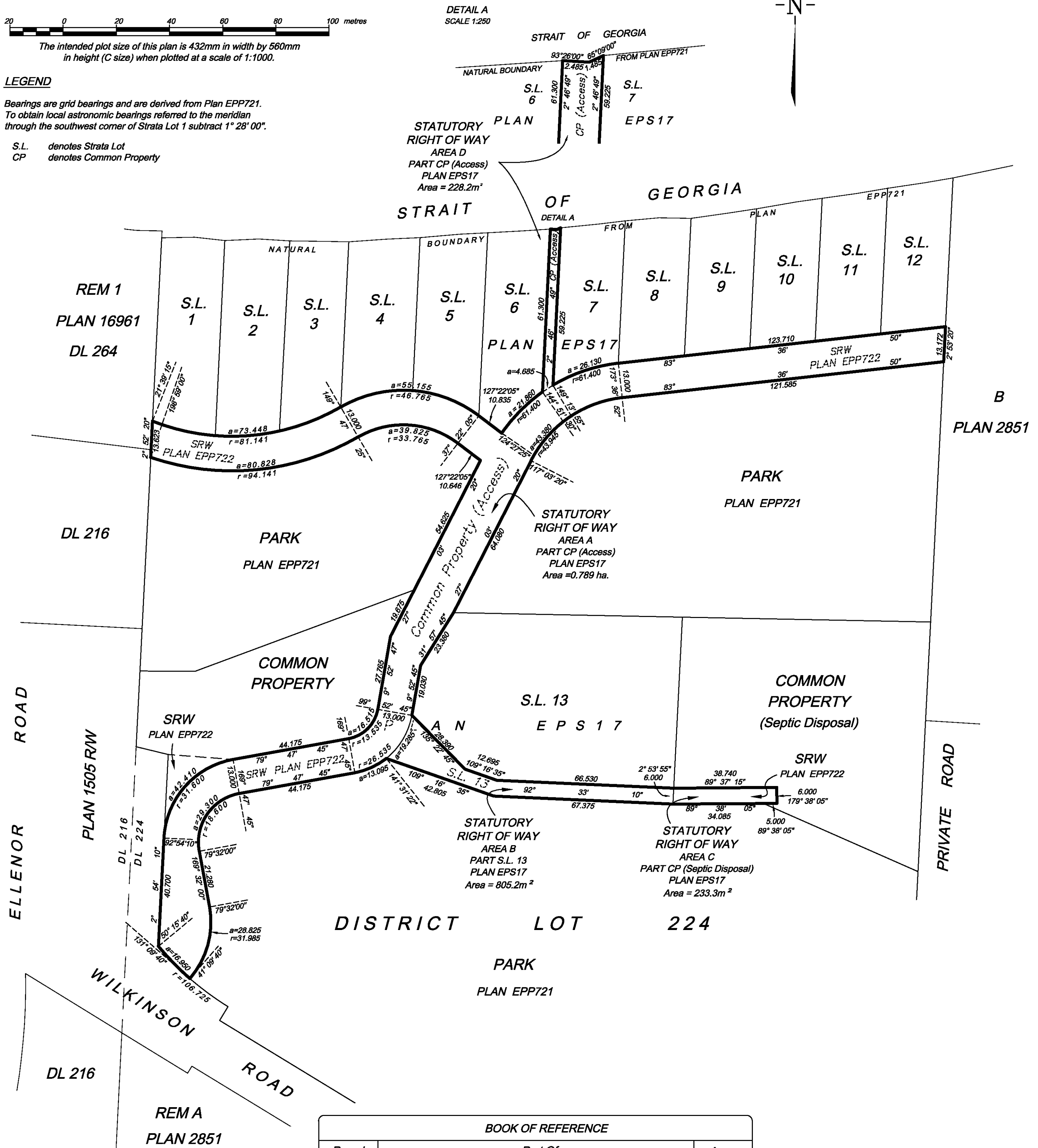
Pursuant to Section 113 of the Land Title Act.



LEGEND

*Bearings are grid bearings and are derived from Plan EPP721.
To obtain local astronomic bearings referred to the meridian
through the southwest corner of Strata Lot 1 subtract 1° 28' 00".*

S.L. denotes *Strata Lot*
CP denotes *Common Property*



BOOK OF REFERENCE		
Parcel	Part Of	Area
Area A	Common Property (Access), DL 224, Comox District, Plan EPS17	0.789 ha
Area B	Strata Lot 13, DL 224, Comox District, Plan EPS17	805.2 m²
Area C	Common Property (Septic Disposal), DL 224, Comox District, Plan EPS17	233.3 m²
Area D	Common Property (Access), DL 224, Comox District, Plan EPS17	228.2 m²
	Total Area	0.916 ha

*This plan lies within the
Comox Valley Regional District.*

This plan is based on the following Land Title and Survey Authority of BC records:

PLAN EPP722 & EPS17

Donald A. Grant, BCLS

**LAND TITLE ACT
FORM DECLARATION****Related Document Number: CA1668710**

PAGE 1 OF 2 PAGES

Your electronic signature is a representation that: you are a subscriber as defined by the Land Title Act, RSBC 1996, C.250, the original or where designated by the Director, a true copy of the supporting document is in your possession and that the summary of the material facts set out in this declaration accurately reflects the material facts set out in each supporting document and if a supporting document is evidenced by an imaged copy the material facts of the supporting document are set out in the imaged copy of it attached. Each term used in the representation and declaration set out above is to be given the meaning ascribed to it in Part 10.1 of the Land Title Act.

Azim Nurdin Dattoo DKKWXP	Digitally signed by Azim Nurdin Dattoo
	DKKWXP
	DN: cn=Azim Nurdin Dattoo DKKWXP,
	c=CA, o=Lawyer, ou=Verify ID at www.
	juricert.com/LKUP.cfm?id=DKKWXP
	Reason: I am the author of this
	document
	Date: 2010.08.06 14:17:17 -0700

I, AZIM N. DATOO, Barrister and Solicitor, declare that:

There is an error in the Statutory Right of Way filed on the 23rd day of July 2010 under number CA1668710 in which there was no Strata Property Act Form E (Certificate of Strata Corporation) submitted along with this Statutory Right of Way.

The error has been corrected. The corresponding Strata Property Act Form E (Certificate of Strata Corporation) is attached to this Declaration.

I, AZIM N. DATOO, make this declaration and know it to be true based on information and reasonable belief.

Azim N. Dattoo

NOTE:

A Declaration cannot be used to submit a request to the Registrar for the withdrawal of a document.

Fee Collected for Document: \$32.70

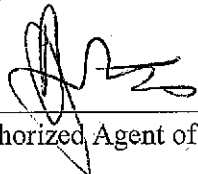
Strata Property Act**FORM E****CERTIFICATE OF STRATA CORPORATION**

*(Sections 78, 79, 80, 100, 214, 257, 259, 261, 262, 263, 266, 269, 274, 283 of the Act
and Sections 17.20 to 17.22 of the Regulations)*

**CERTIFICATE FOR SECTION 78, 79, 80, 214, 257, 259, 261, 262, 263 OR 266 OF
THE ACT OR SECTION 17.20 OF THE REGULATION**

The Owners, Strata Plan EPS17 certify that a resolution referred to in section 79 of the *Strata Property Act* was passed by a ☒ unanimous vote or ☐ 3/4 vote [*check appropriate vote*] at an annual or special general meeting held on July 12, 2010 and that the attached instrument, schedule, plan or other document conforms to the resolution.

For the purposes of section 165(4)(f) of the *Land Title Act*, execution of the attached instrument has been approved by a resolution at an annual or special general meeting in accordance with the requirements of the *Strata Property Act* or the Strata Property Regulation, and the instrument conforms to the resolution.



Authorized Agent of Council Member

FORM_C_V14 (Charge)

VICTORIA LAND TITLE OFFICE

LAND TITLE ACT

Aug-18-2008 14:07:38.001

CA887752

FORM C (Section 233) CHARGE

GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 8 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

Azim N. Datoo
Q.C. 2LPLWF

Digitally signed by Azim N. Datoo Q.C.
2LPLWF
DN: cn=Azim N. Datoo Q.C. 2LPLWF,
o=CA, ou=Verify ID at www.jurloert.
com, c=KUP, cn=7id-2LPLWF, ou=BC
Lawyer Practising
Date: 2008.08.15 14:31:00 -0700

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Swift Datoo & Company
Barristers and Solicitors
201 - 467 Cumberland Road
Courtenay, BC V9N 2C5
Document Fees: \$64.65

250-334-4461

27489 AND/ph (Easement over Part
Strata Lot 13 Plan EPS17)

Deduct LTO Fees? YES ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR PART OF STRATA LOT 13, DISTRICT LOT 224, COMOX DISTRICT, PLAN
EPS17**

STC? YES

Related Plan Number: **EPP723**

3. NATURE OF INTEREST CHARGE NO. ADDITIONAL INFORMATION

Easement

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) ☐ Filed Standard Charge Terms D.F. No.(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

0706030 B.C. LTD. (INC. NO. BC0706030)

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

THE OWNERS, STRATA PLAN EPS17

2969 MATHERS AVENUE
WEST VANCOUVER

V7V 2J7

BRITISH COLUMBIA
CANADA

Incorporation No _____

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.

Officer Signature(s)

Elizabeth Regehr
Barrister and Solicitor
200 - 467 Cumberland Road
Courtenay BC V9N 2C5
250 334-4461

Execution Date		
Y	M	D
08	08	15

Transferor(s) Signature(s)

0706030 B.C LTD. by its authorized
signatory:

Azim Datoo

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 is the registered owner in fee simple of the land described in Item 2 of this Form C (hereinafter called the "Servient Tenement")
- B. As of the date of this agreement the Transferor and the Transferee are the same corporate entity.
- C. The Transferee has developed a bare land strata project and is the registered owner of Strata Lots 1 through and including 13 being all the strata lots of the bare land strata Plan EPS17 a reduced copy of which is attached as Schedule hereto and the Common Property of the said bare land strata plan (hereinafter called the "Dominant Tenement").
- D. The Dominant Tenement and the Servient Tenement are adjacent to each other.
- E. The Transferee requires an easement over a portion of the Servient Tenement, for the purpose of conveying and disposing of sewage from the Strata Lots in Plan EPS17 to the septic disposal area located in the Common Property which is part of the Dominant Tenement.
- F. The Transferor has agreed to grant to the Transferee an easement over a portion of the Servient Tenement for the foregoing purpose, on the terms and conditions set out below.

NOW THEREFORE THIS INDENTURE WITNESSES that in consideration of the premises and the sum of TWENTY-FIVE (\$25.00) DOLLARS and other good and valuable consideration now paid and given by the Transferee to the Transferor (the receipt and sufficiency whereof are hereby acknowledged), the parties agree as follows:

1. Access Easement

The Transferor hereby grants to the Transferee and its successors and assigns the full, free and uninterrupted right, license, liberty and easement to enter upon over and through that portion of Servient Tenement (hereinafter called the "Easement Area") which is outlined in heavy black on Reference Plan EPP723, a reduced copy of which is attached as Schedule B hereto:

- a. to enter over, on, in and under the Easement Area to:
 - .. (i) conduct surveys and examinations;
 - .. (ii) dig up, remove and replace soil;
 - (iii) construct, install, operate, maintain, clean, cover with soil, alter, relocate, renew, inspect and replace pipes, power lines, manholes, meters, valves, pumps, and similar equipment or any of them together with all ancillary attachments and fittings (collectively called "the Works")

for the purpose of conveying, draining, containing, metering and disposing of water,

sewage and liquid waste from the Strata Lots on Plan EPS17 to the Septic Disposal Area and the Common Property on Plan EPS17;

- b. to bring on to the Easement Area all materials, equipment and workers it requires for the Works;
- c. to clear the Easement Area and keep it clear of anything which may constitute an obstruction to the use of the Easement Area or the Works.

2. General

The Transferor hereby consents and agrees with the Transferee that it will not at any time make, place, erect, maintain or permit any building, structure, excavation or obstruction upon the Easement Area which might in any way interfere with the rights given to the Transferee under this agreement.

3. Indemnity

The Transferee agrees to indemnify and save harmless the Transferor from any and all liens, loss, damages, costs, charges or expenses in any way arising from or caused by the granting of the easements contained herein or anything done hereunder.

4. Risk and Release

The Transferee does hereby accept all risks associate with its entry to and occupation of the Easement Area, as its own risks, save and except where such risks are caused by the negligent or deliberate acts or omissions of the Transferor, and, without limiting the generality of anything contained herein, the Transferee for itself and the Transferee's agents hereby releases and discharges the Transferor and its directors, employees, agents, contractors, subcontractors and invitees from any and all responsibility and liability, whether arising in tort, contract or otherwise, in respect of all loss, damage, personal and property injury and death arising out of or attributable to the state, topography or condition of the Easement Area, save and except where such loss, damage, personal and property injury and death are caused by the negligent or deliberate acts or omissions of the Transferor.

5. Environmental Issues

The Transferee agrees to comply with all environmental regulations and standards imposed from time to time, and agrees to indemnify and save the Transferor harmless from and against any claims, fines or costs that may arise as a result of the Easement Area not meeting appropriate environmental standards.

6. Increased Taxes

The Transferee will pay to the Transferor the amount of any real property or other taxes payable arising as a result of the Transferor's use of the Easement Area, or the improvements located thereon.

7. Continued Use by Transferor

The Transferee acknowledges that the easement hereby granted is non-exclusive and that the Transferee covenants and agrees not to use or permit the Easement Area to be used in a manner that will prohibit or restrict the use thereof by the Transferor, its servants, agents, customers, invitees, licensees or any person having business with the Transferor or its successors and assigns.

8. Further Documents

The Transferor will, if so required, execute such further and other documents in respect of the easements hereby granted, as may reasonably be required.

9. Running with the Land

The easements hereby granted shall be fo the same force and effect to all intents and purposes as a covenant running with the lands, and shall attach to, benefit and run with each and every part into which the Servient Tenement or any part thereof may hereafter be subdivided and these presents, including all covenants and conditions herein contained shall extend to and be binding upon and enure to the benefit of the successors and assigns of the parties hereto.

Schedule "A"
(see attached Bare Land Strata Plan EPS17)

Schedule "B"
(see attached Reference Plan EPP723)

REGISTERED VICA887752 RCVD:2008-08-18 RQST:2010-01-08-11.20.51.920

REFERENCE PLAN OF EASEMENT OVER PART OF STRATA LOT 13, DISTRICT LOT 224, COMOX DISTRICT, PLAN EPS17.

Pursuant to Section 99(1) of the Land Title Act.

BCGS 92F.076



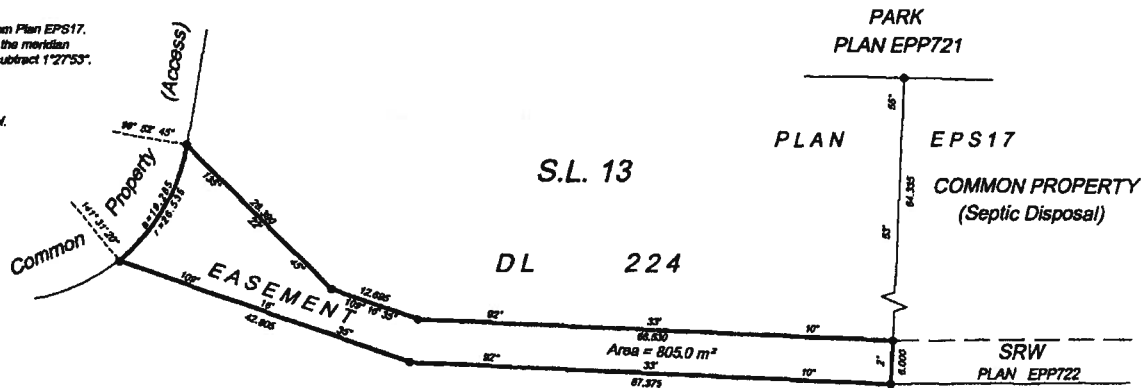
The intended plot size of this plan is 280mm in width by 432mm in height (B size) when plotted at a scale of 1:500.

LEGEND

Bearings are grid bearings and were derived from Plan EPS17. To obtain local astronomic bearings referred to the meridian through the southeast corner of Strata Lot 13, subtract $1^{\circ}27'53''$.

- denotes standard iron post found
- S.L. denotes strata lot

All distances are in metres and decimals thereof.



BOOK OF REFERENCE

Parcel	Area
Pt. Strata Lot 13, Plan EPS17	805.0 m ²
Total Easement Area	805.0 m ²

PARK
PLAN EPP721

This plan lies within the
Comox Valley Regional District.

The field survey represented by this plan was
completed by Donald A. Grant, BCLS on the
30th day of April, 2008.

C716 Eas13.dwg
April 18, 2008

SAFETY LAND SURVEYING INC.
2089 CLIFF AVENUE
COURTNEY, B.C. V8R 2L3
PH: (250) 334-3088
WWW.SAFTY1.COM

FILE: C716

FORM_DECGEN_V14

**LAND TITLE ACT
FORM DECLARATION****Related Document Number: CA887752**

PAGE 1 OF 1 PAGES

Your electronic signature is a representation that: you are a subscriber as defined by the Land Title Act, RSBC 1996, C.250, the original or where designated by the Director, a true copy of the supporting document is in your possession and that the summary of the material facts set out in this declaration accurately reflects the material facts set out in each supporting document and if a supporting document is evidenced by an imaged copy the material facts of the supporting document are set out in the imaged copy of it attached. Each term used in the representation and declaration set out above is to be given the meaning ascribed to it in Part 10.1 of the Land Title Act.

Azim N. Dattoo Q.C. 2LPLWF	Digitally signed by Azim N. Dattoo Q.C. 2LPLWF DN: cn=Azim N. Dattoo Q.C. 2LPLWF, o=CA, o=Verify ID at www.juricat1.com/LKUP.ctm?id=2LPLWF, ou=BC Lawyer Practising: Date: 2008.10.17 13:09:54 -07'00'
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I, AZIM N. DATOO, Barrister and Solicitor, declare that:

There is an error in the Form C - Easement filed on the 18th day of August 2008 under number CA887752 in which there was no Additional Information stated in Item 3.

The error has been corrected by adding the following words in Item 3 as Additional Information:

"Over part of Strata Lot 13 shown on Plan EPP723. Dominant Lands: The Common Property EPS17 and (No PID numbers) Strata Lots 1 through and including 13 of the bare land strata Plan EPS17"

I, AZIM N. DATOO, make this declaration and know it to be true based on information and reasonable belief.

Azim N. Dattoo

NOTE:

A Declaration cannot be used to submit a request to the Registrar for the withdrawal of a document.

Fee Collected for Document: \$0.00