

C918350.1ENC

MEMORANDUM OF ENCUMBRANCE

WHEREAS

- A. CATHERINE PATRICIA MORTON of Auckland, Student and KENNETH IAN SPREADBURY Auckland, Carpenter hereinafter together with their or his or her successors in title referred to as "the Owners") are registered as proprietors as tenants in common in equal shares of the land described in the Schedule hereto (hereinafter referred to as "the land").
- B. The Owners have requested the WAITAKERE CITY COUNCIL (hereinafter referred to as "the Council") to consent to the erection of a pole platform/carport ("the works") on part of the dedicated road area identified by a plan attached to the "Authority for Use" executed by the Owners on the frontage of Lot 191 Deposited Plan 19098 and being Part Allotment 18 Parish of Waikomiti and being comprised and described in Certificate of Title Volume 29A Folio 1209 North Auckland Registry situated at 63 Warner Park Avenue, Laingholm.
- C. The Council has consented to the works on the condition (inter alia) that the Owners enter into and execute this memorandum and also the Authority for Use of even date.

NOW THIS MEMORANDUM WITNESSES THAT:

1. THE Owners hereby encumber all the land described in the Schedule hereto for the benefit of the Council for a term of 999 years commencing from the 1st day of March 1995 with the annual rent charge of TEN DOLLARS (\$10.00) to be paid in advance on the 1st day of July of each year.

2. THE Owners covenant as follows with the Council in respect of the land described in the Schedule hereto:-

- (a) The Owners shall not construct the works or use the works unless and until they comply with all relevant building by-laws and the Council's structural checking Engineer shall have first approved the structural design the works.
- (b) The Owners have (or shall at the request of the Council) enter into a formal agreement authorising the use of the dedicated road area (such agreement to be in such form and at such rental as from time to time may be determined by the Council) and the Owners shall pay in addition to the rent charge hereinbefore specified the fee specified in such agreement and observe and perform all the conditions therein.

## ASB BANK LIMITED

## CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, STEPHEN MYLES WACKROW of Auckland in New Zealand, Manager Loan Securities of ASB Bank Limited

HEREBY CERTIFY

1. THAT I hold the appointment of Manager Loan Securities of ASB Bank Limited at Auckland (hereinafter called "the Bank").

2. THAT by Deed dated the 1st day of July 1991 copies of which are deposited in the Land Transfer Offices at:

Auckland	as No.C.284976.2F	(Auckland Registry)
Blenheim	as No.158586	(Marlborough Registry)
Christchurch	as No.945382.2	(Canterbury Registry)
Dunedin	as No.784017.2	(Otago Registry)
Gisborne	as No.G.184161.2	(Poverty Bay Registry)
Hamilton	as No.B.031034.2	(South Auckland Registry)
Hokitika	as No.088890.2	(Westland Registry)
Invercargill	as No.188600.2	(Southland Registry)
Napier	as No.559192.2	(Hawkes Bay Registry)
Nelson	as No.308917.1	(Nelson Registry)
New Plymouth	as No.382267	(Taranaki Registry)
Wellington	as No.B.182772.2	(Wellington Registry)

I, as holder of the appointment described in paragraph 1 hereof was constituted and appointed as attorney of the Bank on the terms and subject to the conditions set out in the said Deed.

3. THAT as at the date hereof, I have not received any notice or information of the revocation of that appointment by winding up or dissolution of the Bank or otherwise.

SIGNED this

day of 23 MAY 1995

1995



(c) The works shall remain on the dedicated road at the will and pleasure of the Council and the Owners shall at their expense remove the works within one month of notification requiring removal by the Council.

3. THE Owners shall pay the costs of preparation stamping and registration of this encumbrance and any other costs incurred by the Council in relation to this encumbrance.

4. SECTION 104 of the Property Law Act 1952 applies to this Memorandum of Encumbrance but otherwise (and without prejudice to the Council's rights of action at common law as a rent chargee or encumbrancee):

(a) The Council shall be entitled to none of the powers and remedies given to encumbrances by the Land Transfer Act 1952 and the Property Law Act 1952; and

(b) No covenants on the part of the Owners are implied in this memorandum other than the covenants for further assurance implied by Section 154 of the Land Transfer Act 1952.

5. THE covenants hereof shall be enforceable only against the Owners or occupiers for the time being of the land described in the Schedule hereto and not otherwise against any former Owners or occupier of the land.

6. THE Owners hereby authorise the Council to complete Schedule B (if any) hereof by the insertion therein of the appropriate Certificate of Title references in respect of the allotments described therein and any other necessary description AND agrees to produce or otherwise make available for the Council the titles to the allotments which are to be subject to this agreement to enable registration of this agreement against those titles and to do everything to facilitate such registration AND further agrees that if this agreement shall not have been registered at such time as the Owners shall transfer title to the land referred to in the Schedule hereto or any part hereof then the Owners shall not transfer title to the said land or any part thereof unless such transfer(s) shall contain the covenants evidenced by this agreement.

7. IN this memorandum covenants by any two or more persons shall be joint and several. Words importing the singular and plural number shall include the plural and singular number respectively.

**FIRST SCHEDULE**

An estate in fee simple in that piece of land containing 1062m<sup>2</sup> being Lot 191 Deposited Plan 19098 and being Part Allotment 18 Parish of Waikomiti and being comprised and described in Certificate of Title Volume 29A Folio 1209 North Auckland Registry and being all the land comprised and described in Certificate of Title 29A/1209 (North Auckland Registry)

**SUBJECT TO:**

- (1) Fencing covenant contained in Transfer 609596.
- (2) Drainage easement created by Transfer 215494.
- (3) Mortgage C449302.4.

DATED this 20<sup>th</sup> day of MAY 1995.

SIGNED by the said CATHERINE PATRICIA MORTON in the presence of:-

*C.P.M.*

*Edward J.P.*

SIGNED by the said KENNETH IAN SPREADBURY in the presence of:-

*Edward J.P.*

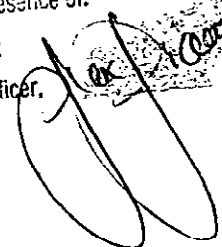
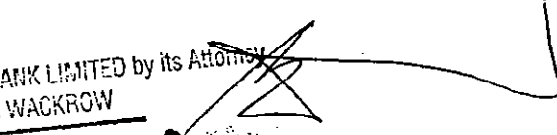
*K.I. Spreadbury*

Edward John Turner, J.P.  
21 Laingholm Dr. Laingholm,  
Auckland, 7, Ph. 817-3073.

**MORTGAGEE CONSENT**

ASB Bank Ltd being the Mortgagee under Mortgage No. C.449302.4 (North Auckland Registry) consents to registration of this encumbrance and COVENANTS with the Council that in the event it exercises its power of sale under the said Mortgage any land sold pursuant to its power of sale shall be sold subject to these presents. The Mortgagee acknowledges for the purposes of the Contract (Privity) Act 1982 this covenant is intended to create an obligation on the Mortgagee enforceable by the Council.

SIGNED by the said Mortgagee (by the affixing of its common seal) in the presence of:-

~~SIGNED by ASB BANK LIMITED by its Attorney  
STEPHEN MYLES WACKROW~~  
in the presence of:  
Witness:  
Bank Officer.    
AUCKLAND

MEMORANDUM OF ENCUMBRANCE

Correct for the purposes of the Land  
Transfer Act 1952



Solicitor for the Encumbrancee

CATHERINE PATRICIA MORTON and  
KENNETH IAN SPREADBURY

Owners

WAITAKERE CITY COUNCIL

Encumbrancee

Particulars entered in the Register as shown  
in respect of the land referred to herein.

Assistant Land Registrar  
North Auckland Land Registry

CORBAN REVELL  
SOLICITORS  
HENDERSON  
AUCKLAND

1<sup>st</sup> Enc - 60  
C.T. 29A/1209

2.49 00.NOV.95 C 918350  
PARTICULARS ENTERED IN REGISTER  
LAND REGISTRY AUCKLAND  
29/11/2009

