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NEW ZEALAND STAMP DUTY AKS

MEMORANDUM OF ENCUMBRANCE

WHEREAS JENNIFER MARIE FARR and OWEN CHARLES STUNELL both of Auckland, School Teachers (hereinafter referred to as "the encumbrancers") are registered as proprietor of an estate in fee simple in all the land situate in the Land Registration District of North Auckland more particularly described in the Schedule hereto.

II THE WAITEMATA CITY COUNCIL (hereinafter called "the City") is by virtue of the Local Government Act 1974 the proprietor of an estate in fee simple in the dedicated road known as Janet Place (hereinafter referred to as "the said road") against which road the land described in the Schedule hereto has road frontage.

III The Encumbrancers has with the consent of the City erected placed or sited in on or over that part of the said road against which the land described in the Schedule has road frontage retaining walls as shown in the plan annexed hereto (such retaining walls and any back filling of such retaining walls upon the said road being hereinafter referred to as "the installation") and the positioning of the installation in on or over the said road is contrary to the provisions of Council's By-laws.

IV The City granted a permit for the erection and positioning of the installation and shall permit the maintenance and continued use of the installation in pursuance of the power of waiver contained in Council's By-laws and upon certain conditions one of which is that the Owner grant the City this rent charge and make the covenants set forth in this Memorandum.

NOW THIS MEMORANDUM WITNESSETH that the Encumbrancer DO HEREBY ENCUMBER the land described in the Schedule hereto for the benefit of the WAITEMATA CITY COUNCIL for a term of 999 years determinable however under Clause 3 of this Memorandum with an annual rent charge of TEN DOLLARS (\$10.00) to be paid by the first day of September in each year if demanded by that date, the first payment if so demanded being due on the 1st of September 1984.

THE ENCUMBRANCERS for themselves and their successors in title covenants with the City:-

1.(a) To comply with all ordinances and by-laws relevant to the installation and to keep the installation maintained to a standard acceptable to the City.
-(b) That upon receiving notice in writing from the City the Encumbrancers shall within the period of one (1) calendar months from the date of receipt of such notice vacate the said road upon under or over which the installation is situated and shall at its own expense demolish and/or remove or cause to be demolished and/or removed the installation and shall leave the said road in such a state as it may be developed for road by the City
-(c) That should any services in the nature of electricity water supply sanitary sewage stormwater drainage telephone gas or other similar service be reticulated or have a connection in or passing through that part of the said road occupied by the Encumbrancers in terms of this Encumbrance and should the Council require at any time that such services or any one or more thereof be resited then the Encumbrancers shall pay to the Council all costs of and incidental to the

location and resiting of such services and such position of the said road as the Council deems appropriate

PROVIDED THAT the covenants in this clause shall be enforceable only against the owners and occupiers for the time being of the land.

2. IT IS DECLARED that Section 104 of the Property Law Act 1952 applies to this Memorandum of Encumbrance but that otherwise (and without prejudice to the City's rights of action at common law or at equity as a rent charge):-

- (a) The City shall be entitled to none of the powers and remedies given to Encumbrancees by the Land Transfer Act 1952 and the Property Law Act 1952 and
- (b) No covenants on the part of the Encumbrancers and its successors in title are implied in this Memorandum other than the covenants for further assurance implied by Section 154 of the Land Transfer Act 1952.

3. THIS rent charge shall immediately determine and the Encumbrancers shall be entitled to a discharge of this Memorandum of Encumbrance:-

- (a) If the installation is destroyed or pulled down or removed from the said road or
- (b) If the covenants expressed in this Memorandum otherwise become obsolete or no longer enforceable.

4. IN the event of the Encumbrancers not complying with the provisions of Clause 1 hereof the City shall have the right to enter upon the said road to carry out such demolition and/or

removal at the expense of the Encumbrancers and without compensation being payable to the Encumbrancers by the City whatsoever.

5. IF during the twelve (12) months preceding the first day of September 1985 and each successive twelve (12) months thereafter there shall have been no breach of the covenants contained herein then the annual rent charge payable hereunder shall be deemed to have been paid and the Encumbrancers shall be entitled to an acknowledgement to that effect.

IN WITNESS WHEREOF these presents have been executed this
4th day of September 1984.

SIGNED by the said JENNIFER)
MARIE FARR in the presence of:) Jennifer Marie Farr
Solomon Henderson

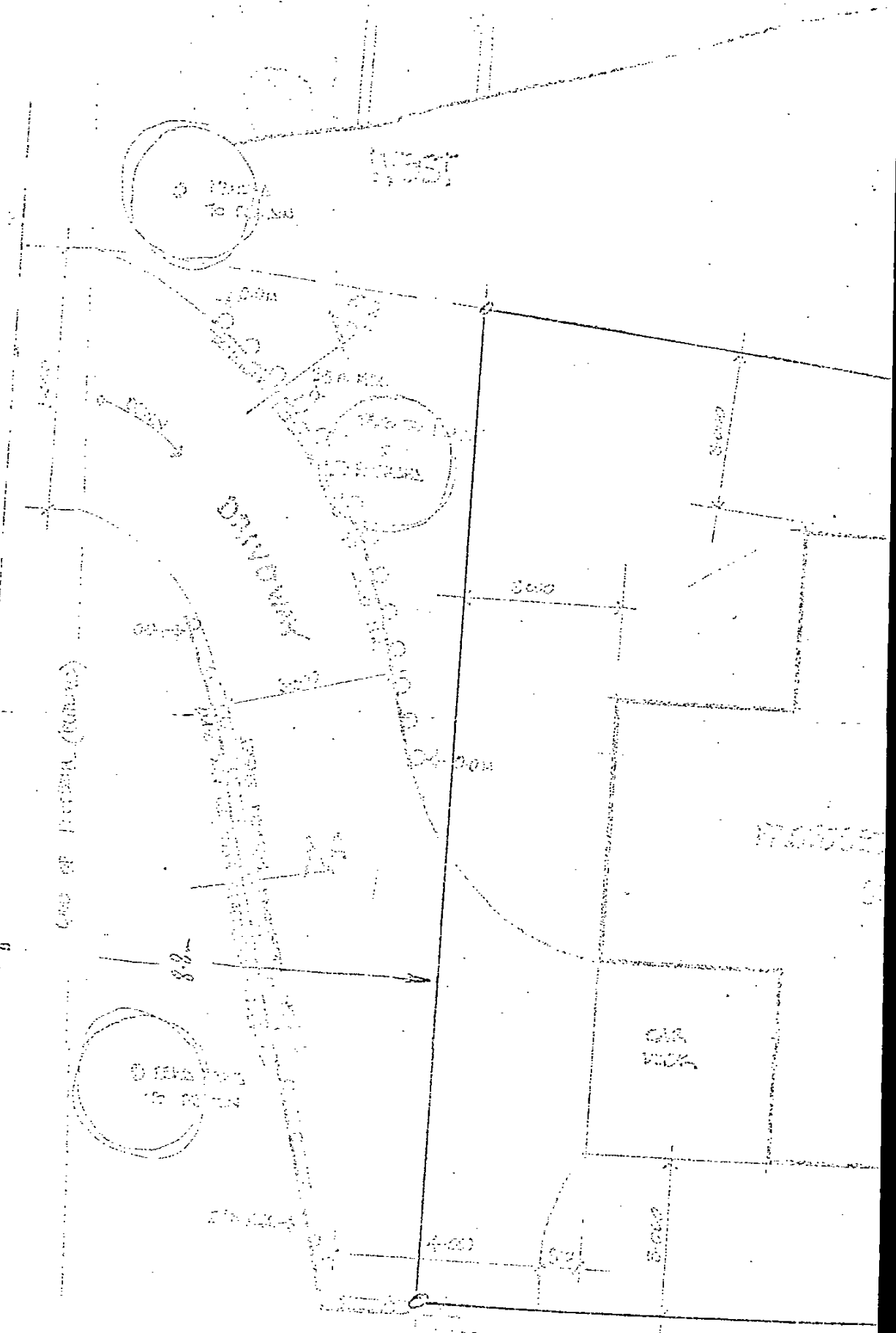
SIGNED by the said OWEN CHARLES) O.C. Stunell.
STUNELL in the presence of:)
Solomon Henderson

SCHEDULE

All that parcel of land containing 822m² more or less being Lot 771, Deposited Plan 35362 and being part Allotment 20, Parish of Waikomiti and being all the land comprised and described in Certificate of Title Volume 9B, Folio 86, North Auckland Land Registry SUBJECT TO Drainage Easement created by Transfer 459460 AND TO Mortgage 775254.3 AND TO Mortgage No. B.313844.2 AND TO Mortgage No. B.313844.3.

L.D.G.E. CARRINGTON

DANST PLACE



SITE PLAN
No

Correct for the purposes of the
Land Transfer Act

Solicitor for the Encumbrancee

J.M. FARR & O.C. STUNELL
Encumbrancer

THE WAITEMATA
CITY COUNCIL Encumbrancee

MEMORANDUM OF
ENCUMBRANCE

EARL KENT & CO.
SOLICITORS
AUCKLAND.

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PARTICULARS ENTERED IN REGISTER
LAND REGISTRY AUCKLAND
ASST. LAND REGISTRAR

