

C382054.6 ENC

MEMORANDUM OF ENCUMBRANCE

WHEREAS

I STEPHEN GRANT CHALMERS and ELIZABETH CHALMERS,
Manufacturers (jointly) and LARRY NORMAN GRIFFIN and SARAH
FOWLER, Restaurateurs (jointly) all of Auckland as tenants in
common in equal shares (hereinafter referred to as "the
Owners") are registered as proprietors of an estate in fee
simple in all that parcel of land containing 5.6865 hectares
more or less being Lot 1 Deposited Plan 111883 and being part
Allotment 39 Parish of Waikomiti together with an estate in fee
simple as tenants in common in equal shares as to an undivided
one half share in all that parcel of land containing 452m²
more or less being Lot 5 Deposited Plan 111883 and being part
Allotment 39 Parish of Waikomiti and being all the land
comprised and described in Certificate of Title Volume 63A Folio
128 North Auckland Registry SUBJECT TO:- (i) Section 308(4) of
the Local Government Act 1974; (ii) Resolution B.633891.5;
(iii) Fencing Covenants in Transfers 599975, 589053 and
294449.1; (iv) Memorandum of Encumbrance B.633891.10; (v)
~~Mortgage B.880452.2.~~

II THE Owners have requested the WAITAKERE CITY COUNCIL
(hereinafter called "the Council") pursuant to the provisions of
the Local Government Act 1974 to consent to a plan of
subdivision of the above described land in terms of a plan
lodged for deposit under No. 140017

III THE Council has agreed to consent to such subdivision
on the condition (inter alia) that the Owners enter into and
execute these presents.

STATEMENT OF PASSING OVER INFORMATION:

This information has been supplied to us by a third party. Accordingly, the Vendor and Austar Realty Limited are merely passing over this information as supplied to us by others. While we have passed on this information supplied by a third party, we have not checked, audited, or reviewed the records or documents and therefore to the maximum extent permitted by law neither the Vendor nor Austar Realty Limited or any of its' salespersons or employees accept any responsibility for the accuracy of the materials. Intending purchasers are advised to conduct their own investigation.

NOW THIS MEMORANDUM WITNESSETH 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 1st day of March 1991 with an annual rent charge of TEN DOLLARS (\$10.00) to be paid on the 1st day of March each year if demanded by that date.

2. THE Owners for themselves and their successors in Title covenant with the Council that specific design of on-site earthworks and foundations by a registered Engineer experienced in geomechanics will be obtained for all residential buildings and all means of stormwater disposal systems erected or placed on the land described in the Schedule hereto and that all such on-site earthworks, foundations and stormwater disposal systems shall be constructed in accordance with such design.

3. THE Owners shall pay the costs of preparation, stamping and registration and enforcement of this encumbrance and any other costs incurred directly or indirectly by the Council in relation to this encumbrance or its enforcement.

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 encumbrancer):

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

(b) No covenants on the part of the Owners and their 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.

5. IF during the twelve (12) months preceding the first day of March 1992 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 Owners shall be entitled to an acknowledgement to that effect.

6. THE covenants contained in Clause 2 hereof shall be enforceable only against the registered proprietors for the time being of the land described in the Schedule hereto and not otherwise against the Owners or their successors in title.

7. THE provisions of this encumbrance and the Council's rights and remedies hereunder are in addition to and shall in no way derogate from the Council's rights and duties in respect of the land in the Schedule hereto or of any building erected thereon.

IN WITNESS WHEREOF these presents have been executed
the 17th day of July 1991

SCHEDULE

An estate in fee simple in all those parcels of land situated in the North Auckland Registry described as follows:

<u>Area</u>	<u>Lot</u>	<u>D.P.</u>	<u>C.T.</u>
1.7705 hectares	1	140017	83A/860
5155m ²	2	140017	83A/861
8825m ²	3	140017	83A/862
1.7070 hectares	4	140017	83A/863
1.7035 hectares	6	140017	83A/860

SIGNED by the said)
STEPHEN GRANT CHALMERS)

in the presence of:-)

Keith Langton
Solicitor
Auckland



SIGNED by the said)
ELIZABETH CHALMERS)

Elizabeth Chalmers

in the presence of:)

Keith Langton
Solicitor
Auckland

SIGNED by the said)
LARRY NORMAN GRIFFIN)

L N Griffin

in the presence of:)

Keith Langton
Solicitor
Auckland

SIGNED by the said)
SARAH FOWLER)

S.G. Fowler

in the presence of:)

Keith Langton
Solicitor
Auckland

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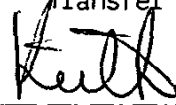
STEPHEN GRANT CHALMERS,
ELIZABETH CHALMERS, LARRY
NORMAN GRIFFIN and SARAH FOWLER
Owners

WAITAKERE CITY COUNCIL
Encumbrancer

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

Assistant Land
Registrar
North Auckland Land
Registry

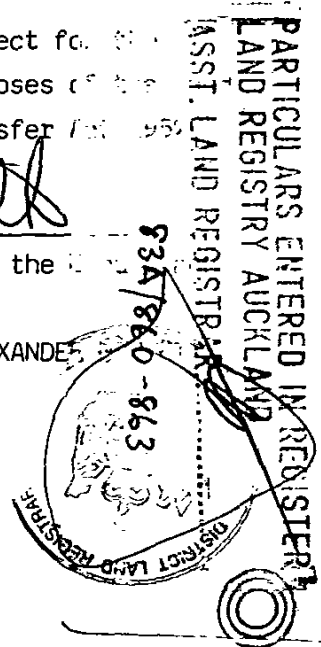
Correct for
purposes of the
Transfer Act 1952



Solicitor for the

EARL KENT ALEXANDER
SOLICITORS
HENDERSON

719w



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