

Status: Registered

Doc #: CA9549686

RCVD: 2021-12-01 RQST: 2022-05-10 14.03.45

DECLARATION(S) ATTACHED



Land Title Act

Charge

General Instrument – Part 1

VICTORIA LAND TITLE OFFICE

DEC 01 2021 13:01:29.003

CA9549686

1. Application

Stewart McDannold Stuart
837 Burdett Avenue
2nd Floor
VICTORIA BC V8W 1B3
2503807744

File No.: 111 1908 HB-ce
 PGMv2

2. Description of Land

PID/Plan Number	Legal Description
028-991-125	LOT 1 SECTION 97 RENFREW DISTRICT PLAN EPP24972
009-592-342	THAT PART OF SECTION 97, RENFREW DISTRICT AS SHOWN COLOURED RED ON PLAN 344R

3. Nature of Interest

Type	Number	Additional Information
COVENANT		

4. Terms

Part 2 of this instrument consists of:

(b) Express Charge Terms Annexed as Part 2

5. Transferor(s)

PACIFIC GATEWAY MARINA AND SPORT FISHING INC., NO.BC0935388

6. Transferee(s)

CAPITAL REGIONAL DISTRICT
625 FISGARD STREET
VICTORIA BC V8W 1R7

7. Additional or Modified Terms



Land Title Act

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General Instrument – Part 1

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.

Witnessing Officer Signature

Execution Date

Transferor Signature(s)

See Affidavit of Execution

YYYY-MM-DD

2021-11-29**Pacific Gateway Marina and Sport Fishing Inc.**

By their Authorized Signatory

Luke Mari

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.

Witnessing Officer Signature

Execution Date

Transferor Signature(s)

Jessica D.B. Arnet
Commissioner for Taking Affidavits
for British Columbia
625 Fisgard Street
Victoria BC V8W 1R7

YYYY-MM-DD

2021-11-26**Capital Regional District**

By their Authorized Signatory

Ted Robbins

Expiry: Feb 28, 2023

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.

Electronic Signature

Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSBC 1996 c.250, that you certify this document under section 168.41 (4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.

**Heidi Eileen
Boudreau 5LNHAR****Digitally signed by
Heidi Eileen Boudreau
5LNHAR****Date: 2021-11-30
20:08:57 -08:00**

TERMS OF INSTRUMENT - PART 2

WHEREAS:

- A. The Transferor is the registered owner in fee simple of those lands and premises more particularly described as:
- PID: 028-991-125
LOT 1, SECTION 97, RENFREW DISTRICT, PLAN EPP24972
- PID: 009-592-342
THAT PART OF SECTION 97, RENFREW DISTRICT AS SHOWN COLOURED RED
ON PLAN 344R
- (the "**Lands**").
- B. The Transferee is the Capital Regional District.
- C. The Transferor wishes that the Transferee extend the Water Service to include the Lands with the intention of developing the Lands to supply Single Family Equivalents located on the Lands with water.
- D. The Transferor acknowledges that it is in the public interest that the development and use of the Lands be limited and wishes to grant this covenant to the Transferee.
- E. Section 219 of the *Land Title Act* provides that a covenant, whether of negative or positive nature, in respect of the use of land or the use of a building on or to be erected on land may be granted in favour of a regional district and may be registered as a charge against the title to that land.

NOW THEREFORE in consideration of the premises and covenants contained herein and for the other valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereto covenant and agree as follows:

1. In this Agreement, the following words have the following meanings:

"Parent Parcel" means the entirety of the lands as described in Recital A whether or not such Lands are subsequently subdivided or consolidated.

"Single Family Equivalent" means any building, improvement or structure on the Lands that is supplied with water by the Water Service or any building improvement or structure that has its water meter located on the Lands and is supplied with water by the Water Service.

"Single Family Equivalent Unit" means a residential dwelling unit or combination of dwelling units or other uses serviced by the Water Service where the design for water usage for such unit does not exceed 1450 litres per day as specified in the latest Sewage System Standard Practice Manual prepared by the BC Onsite Sewage Association, to be verified by the installation of a water meter.

“Water Service” means the local area service for the supply, treatment, conveyance, storage and distribution of water to a portion of the Juan de Fuca Electoral Area by Capital Regional District Integrated Water Services as established by the *“Port Renfrew Water Supply Local Service Establishment Bylaw No. 1, 1989”*, as amended from time to time.

2. The Transferor covenants and agrees with the Transferee that it shall not use or permit the use of the Lands or any building on the Lands for any purpose, or construct any building on the Lands, except in strict accordance with this Agreement.
3. If the Lands are included in the Water Service, the Transferor shall not, nor shall it allow any person to construct, install, place, use, or occupy any building, structure or improvement on the Lands if such construction, installation, use or occupation results in there being more than 19 Single Family Equivalent Units connected to the Water Service on the Parent Parcel, including any subdivided part unless the Transferor has obtained the approval of the Transferee, which approval may be withheld in the Transferee’s sole discretion, acting reasonably, should there be insufficient water system capacity availability in the Water Service .
4. The Transferee shall not be obliged to issue a building permit or an occupancy permit with respect to any building or structure on the Lands that will result in greater than 19 Single Family Equivalent Units connected to the Water Service on the Parent Parcel, unless the Transferee is, in its sole discretion, acting reasonably, satisfied that there is sufficient water system capacity availability in the Water Service .
5. The Transferor shall, at its sole expense, do all that is necessary to ensure that this Agreement is registered against the Lands at the Victoria Land Title Office.
6. The Transferor shall reimburse the Transferee for any expense that may be incurred by the Transferee as a result of a breach of a covenant under this Agreement.
7. The Transferee may, at any time, without the consent of the Transferor or anyone, release or cause to be released, this Agreement as a charge against title to the Lands or any portion thereof and, upon such release, this Agreement shall be discharged and of no further force and effect.
8. The Transferor and the Transferee agree that the enforcement of this Agreement shall be entirely within the discretion of the Transferee and that the execution and registration of this Agreement against the title to the Lands shall not be interpreted as creating any duty on the part of the Transferee to the Transferor or to any other person to enforce any provision or the breach of any provision of this Agreement.
9. The Transferor shall indemnify and save harmless the Transferee from any and all claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which anyone has or may have against the Transferee or which the Transferee incurs as a result of any loss or damage or injury, including economic loss, arising out of or connected with:
 - a. the breach of any covenant in this Agreement;
 - b. the use of the Lands contemplated under this Agreement;
 - c. restrictions or requirements under this Agreement.

10. The Transferor hereby releases and forever discharges the Transferee of and from any claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which the Transferor can or may have against the Transferee for any loss or damage or injury, including economic loss, that the Transferor may sustain or suffer arising out of or connected with:
 - a. the breach of any covenant in this Agreement;
 - b. the use of the Lands contemplated under this Agreement;
 - c. restrictions or requirements under this Agreement.
11. At the Transferor's expense, the Transferor must do everything necessary to secure priority of registration and interest for this Agreement and the Section 219 Covenant it creates over all registered and pending charges and encumbrances of a financial nature against the Lands.
12. Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the Transferee in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if the Agreement had not been executed and delivered by the Transferor.
13. Nothing in this Agreement shall relieve the Transferor from any obligation or requirement arising under any applicable statute, bylaw or regulation in respect of the development of the Lands.
14. Time is of the essence of this Agreement.
15. The Transferor covenants and agrees for itself, its heirs, executors, successors and assigns, that it will at all times perform and observe the requirements and restrictions set out in this Agreement and they shall be binding upon the Transferor as personal covenants only during the period of its respective ownership of any interest in the Lands.
16. It is mutually understood, acknowledged and agreed by the parties hereto that the Transferee has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Transferor other than those contained in this Agreement.
17. The Transferor shall pay the legal fees of the Transferee in connection with the preparation and registration of this Agreement. This is a personal covenant between the parties.
18. The waiver by a party of any breach of this Agreement or failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar, and no waiver shall be effective unless it is in writing signed by both parties.
19. Wherever the singular, masculine and neuter are used throughout this Agreement, the same is to be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.

20. No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.
21. This Agreement shall run 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 Transferee as a first charge against the Lands.
22. The Transferor agrees to execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.
23. 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.
24. This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.
25. This Agreement may be executed in counterpart with the same effect as if all parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement. This Agreement may be delivered by electronic means.

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



I, Heidi Boudreau, a solicitor with Stewart McDannold Stuart, declare as follows:

Please find attached a copy of a true copy of the affidavit of John Mullin which was executed in accordance with s. 49 of the Land Title Act.

Electronic Signature

Your electronic signature is a representation that

- (a) You are a subscriber under section 168.6 of the *Land Title Act*, RSBC 1996 c.250, and that you are authorized to electronically sign this document by an e-filing direction made under section 168.22(2) of the act, or
- (b) You are a designate authorized to certify this application under section 168.4 of the *Land Title Act*, RSBC 1996, c.250, that you certify this application under section 168.43(3) of the act, and that the supporting document or a true copy of the supporting document, if a true copy is allowed under an e-filing direction, is in your possession, or
- (c) If the purpose of this declaration is to bring to the attention of the registrar an error, omission or misdescription in a previously submitted document under section 168.55 of the act, you certify that, based on your personal knowledge or reasonable belief, this declaration sets out the material facts accurately.

**Heidi Eileen
Boudreau 5LNHAR**

**Digitally signed by
Heidi Eileen Boudreau
5LNHAR
Date: 2021-11-30
20:09:29 -08:00**

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

CANADA)
 PROVINCE OF)
 BRITISH COLUMBIA)

IN THE MATTER OF PID 028-991-125, Lot 1 Section
 97 Renfrew District Plan EPP24972 and PID 009-592-
 342, That Part of Section 97m Renfrew District as
 Shown Coloured Red on Plan 344R (the "Property")

AND: Form C Charge to be filed herewith.

AFFIDAVIT OF EXECUTION

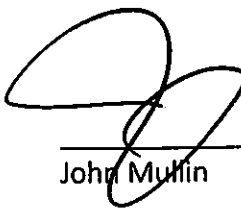
I, John Mullin, Barrister & Solicitor, of 1626 Garnet Road, Victoria, British Columbia, make oath and say that:

1. I am 19 years of age or older and I am acquainted with Luke Mari who is an authorized signatory of the named Transferor in the instrument.
2. I am acquainted with the signature of Luke Mari, named as the authorized signatory of the Transferor and believe that the signature subscribed to the instrument is the signature of Luke Mari.
3. The Transferor existed at the time of the instrument was executed and is legally entitled to hold and dispose of land in British Columbia.
4. Luke Mari, authorized signatory for the Transferor was not physically present when executing the Form C Charge because it was medically unsafe to do so in person due to the COVID – 19 Pandemic but was linked with me using video technology on November 29, 2021. I followed the process described in Practice Bulletin 01-20 Process for Remote Witnessing of Affidavits for use in Land Title Applications and complied with the Law Society of British Columbia best practices for using video-conferencing when providing legal advice or service.

AND I MAKE THIS SWORN STATEMENT conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

SWORN before me at the City of Victoria,)
 in the Province of British Columbia,)
 this 29 day of November, 2021)

A Commissioner for taking Oaths in and)
 for the Province of British Columbia)


 John Mullin

PETER W. DEMEO
Barrister & Solicitor
 1626 Garnet Road
 Victoria, BC V8P 3C8