

VICTORIA LAND TITLE OFFICE

Apr-10-2019 09:43:41.001

DECLARATION(S) ATTACHED
CA7439118 CA7439121

LAND TITLE ACT
FORM C (Section 233) CHARGE

GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 15 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.

Kristil Hammer
VL2GEH
Digitally signed by Kristil Hammer VL2GEH
Date: 2019.04.10 09:34:44 -07'00'

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

CLAY & COMPANY

Barristers & Solicitors

Main Floor, 837 Burdett Avenue

Victoria

BC V8W 1B3

tel: (250) 386-2261

file no. 38976001 KH

Document Fees: \$296.64

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

SEE SCHEDULE

STC? 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))

TOWNSHIP OF ESQUIMALT

1229 ESQUIMALT ROAD

VICTORIA

BRITISH COLUMBIA

V9A 3P1

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)

PAUL G. SCAMBLER

Barrister & Solicitor

Main Floor 837 Burdett Avenue

Victoria BC V8W 1B3

Y	M	D
19	03	18

ADMIRAL APARTMENTS LTD.
by its authorized signatory:

Robert Garrett Foster

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

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

KATIE M. McGOWAN

A Commissioner for Taking Affidavits for British Columbia

Vancouver City Savings Credit Union
6th Floor, 183 Terminal Avenue
Vancouver, BC V6A 4G2
phone 604 877-6565
expiry date: June 30, 2019

Y	M	D
19	04	01

VANCOUVER CITY SAVINGS CREDIT UNION
by its authorized signatory(ies):

Shelley Cabico
Loan Security Coordinator
Community Business Administration

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

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

ANJA NURVO, BC, LLB

Y	M	D
19	03	18

TOWNSHIP OF ESQUIMALT
by its authorized signatories:

A Commissioner for Taking Affidavits for British Columbia

Corporate Officer
1229 Esquimalt Road
Esquimalt, BC V9A 3P1

Barb Desjardins, Mayor

Laurie Hurst, CAO

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 4 OF 15 PAGES

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

**005-074-011 LOT 17, BLOCK 7, SECTION 10, ESQUIMALT DISTRICT, PLAN 2546 EXCEPT
THAT PART IN PLAN VIP86845**

STC? YES

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

006-324-118 LOT 16, BLOCK 7, SECTION 10, ESQUIMALT DISTRICT, PLAN 2546

STC? YES

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

STC? YES

FORM_E_V24

**LAND TITLE ACT
FORM E**

SCHEDULE

PAGE 5 OF 15 PAGES

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Covenant		Section 219

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		Granting Covenant herein priority over Mortgage CA6608246

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		Granting Covenant herein priority over Assignment of Rents CA6608247

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		Granting Covenant herein priority over Statutory Right of Way FB296754

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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FORM_E_V24

**LAND TITLE ACT
FORM E**

SCHEDULE

PAGE 6 OF 15 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. TRANSFEROR(S):

ADMIRAL APARTMENTS LTD. No. BC1128252
as to Covenant

VANCOUVER CITY SAVINGS CREDIT UNION (FI-97)
as to Priority Agreements

TERMS OF INSTRUMENT - PART 2
S.219 COVENANT

RECITALS:

- A. The Transferor ("**Owner**") is the registered owner in fee-simple of the following lands in the Township of Esquimalt in the Province of British Columbia:

PID: 006-324-118

Lot 16, Block 7, Section 10, Esquimalt District, Plan 2546

PID: 005-074-011

Lot 17, Block 7, Section 10, Esquimalt District, Plan 2546

(the "**Lands**").

- B. The Transferee is the Township of Esquimalt ("**Transferee**" or "**Township**").
- C. The Owner has submitted an application to the Township to rezone the Lands to Comprehensive Development District No. 109 (838/842 Admirals Road) CD No. 109 further to ZONING BYLAW, 1992, NO. 2050, AMENDMENT BYLAW NO. 2926, (the "**Amendment Bylaw**") to authorize the development of a four storey, 28 unit, purpose-built rental, multiple family residential building including a 28 space parking garage (the "**Development**"), and acknowledging that the amenities and the restrictions contained herein are in the public interest, the Owner has offered and voluntarily provided this covenant to the Township, and the Township has accepted this covenant and required its registration as a condition of the Amendment Bylaws (the "**Agreement**").
- D. Section 219 of the *Land Title Act* gives authority for a covenant and indemnity, whether of a negative or positive nature, to be registered against the Lands and granted in favour of the Township with provisions:
- in respect of the use of land or the use of a building on or to be erected on land;
 - that land is to be built on in accordance with the covenant;
 - that land is not to be built on or subdivided except in accordance with the covenant;
 - that land is not to be used, built on or subdivided;
 - that parcels of land designated in the covenant and registered under one or more indefeasible titles are not to be sold or otherwise transferred separately; and
 - that land or a specified amenity in relation to it 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.

NOW THEREFORE in consideration of the payment of the sum of \$10.00 by the Township to the Owner (receipt and sufficiency acknowledged), the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the parties covenant and agree as to the following, including under Section 219 of the *Land Title Act*:

Restrictions and Requirements – Consolidation

1. Notwithstanding broader or greater uses, density or other regulations in the Township's Zoning Bylaw, as amended from time to time, the Owner covenants and agrees the Lands must not be subdivided (including under the *Strata Property Act*, but excepting consolidation in accordance with this Agreement), built upon, or used, until the Owner has consolidated the two (2) parcels that comprise the Lands as one (the "Consolidation"). The Owner further covenants and agrees that the two (2) parcels that comprise the Lands must not be sold or otherwise transferred separately. This provision is only in effect until the Consolidation has occurred.

Restrictions and Requirements – Uses and Two 3-Bedroom Units

2. The Owner further covenants and agrees that the Lands must only be built upon and used in a manner that complies with the following uses and the location of the permitted uses:
 - (a) rental residential dwelling units, for the purpose of providing rental housing to individuals, on any floor of the building;
 - (b) commercial uses, only those permitted by zoning, only located on the ground level of a mixed-use commercial and residential building (notwithstanding that the zoning does not include a regulation regarding the location of the use or the requirement for a mixed-use development); and
 - (c) accessory uses, if and as permitted by zoning.
3. The Owner further covenants and agrees that the Lands must not be built upon or used, unless the building has been designed and constructed to include, and continue to include, a minimum of two 3-bedroom dwelling units.

Restrictions and Requirements – Parking

4. The Owner covenants and agrees that the Lands must not be built upon, used or continue to be used, unless the Owner has provided, at its sole cost and without expectation of compensation from the Township, and continues to provide vehicular and bicycle parking spaces and facilities on the Lands, in accordance with all of the following conditions (in addition to, and not in relief of, the Township's bylaws and development approvals):
 - (a) no fewer than 28 vehicular parking spaces must be provided, generally as shown on the Parking Plan attached as Schedule "A", and 45 bicycle parking spaces;
 - (b) of those, a minimum three (3) vehicular parking spaces must be exclusively for the use of "Visitors", and signed or labeled accordingly (the "Visitor Spaces");
 - (c) a minimum of eight (8) of the vehicular parking spaces must be wired for Level 2 (240V, AC plug with a dedicated 40 amp circuit) electric vehicle charging stations; and
 - (d) without limiting the above, the Owner must not divest or allocate the Visitor Spaces, in a manner that would allow them to be assigned or reserved for the

exclusive use of the dwelling units, occupants or owners, or otherwise sold, leased, or licenced separately. The Owner further acknowledges and agrees that these restrictions and requirements are also intended to prevent any lease or licence of a parking space where that lease or licence causes inconsistency with the terms of this Agreement.

5. The Owner further covenants and agrees that the Township's Director of Development Services may, but is not obligated to, inspect the parking spaces, including Visitor Spaces, and the Owner shall implement any reasonable measures identified by the Director of Development Services as a result of such inspection as necessary for the proper functioning of the parking.

Restrictions and Requirements - One Additional Fire Hydrant

6. The Lands must not be built upon, subdivided (including under the *Strata Property Act*), or used for residential purposes, and the Owner will not be entitled to apply for, and will not apply for, building permits in respect development on the Lands unless and until the Owner has installed one fire hydrant and related piping and appurtenances on the corner of Admirals Road and Naden Street, at its sole cost, as reasonably satisfactory to the Township's Fire Chief.

Restrictions and Requirements – Transit Passes

7. The Owner further covenants and agrees to provide a one-year BC Transit bus pass for the Victoria Regional Transit System (each a "Transit Pass") to each occupant of a dwelling unit in 838/842 Admirals (each an "Occupant") in accordance with the following:
 - (a) only those **Occupants** who are residents of a dwelling unit will be entitled to a Transit Pass;
 - (b) the Owner will only be required to provide a maximum of 56 Transit Passes, on average up to two Transit Passes per dwelling unit, however where none or only one pass is requested for a dwelling unit, then requests for a third pass for alternate units must be accommodated, up to 56 Transit Passes in total;
 - (c) the Transit Passes may be in the form of an actual transit pass, a voucher, or a reimbursement and must be provided to each resident within 30 days of occupation of the dwelling unit (the "**Transit Contribution Date**");
 - (d) unless the parties agree that this Section has been or may be satisfied in another matter, acting reasonably, then:
 - (i) prior to applying for occupancy permits in respect of the building it constructs upon the Lands, the Owner will provide security (the "**Transit Security**") to secure the performance of the Owner's covenants of this Section, such amount being determined by the following calculation:

$$56 \times (\text{Cost of Annual Pass OR Cost of Monthly Pass} \times 12 \text{ times})$$

- (ii) the Owner will provide the Transit Security in accordance with Council Policy entitled "Financial Security FIN-14" (April 18, 2006), unless Council

resolves otherwise, as determined in the Township's sole discretion;

- (iii) the Transit Security, or such proportionate amount, will be released upon the Owner providing evidence to the satisfaction of the Township's Director of Development Services, acting reasonably, that each Occupant has received a Transit Pass on or before the applicable Transit Contribution Date, such evidence may include an acknowledgment and receipt signed by each respective Occupant.

Indemnity and Release

8. The Owner covenants and agrees to indemnify and save harmless the Township from any and all claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees (on a solicitor-client basis) whatsoever, in law or equity, which anyone has or may have against the Township or which the Township incurs as a result of any loss, damage, deprivation, enrichment or injury, including economic loss, arising out of or connected with the restrictions or requirements of this Agreement, the breach of any covenant in this Agreement, or the use of the Lands contemplated under this Agreement.
9. The Owner releases and forever discharges the Township of and from any claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees (on a solicitor-client basis) whatsoever, in law or equity, which the Owner can or may have against the Township for any loss, damage, deprivation, enrichment or injury, including economic loss, arising out of or connected with the restrictions or requirements of this Agreement, the breach of any covenant in this Agreement, or the use of the Lands contemplated under this Agreement.
10. Without limiting the above release and indemnity, the Owner acknowledges that this Agreement contains conditions, restrictions, requirements, benefits or gifts that may not be specifically identified or required by bylaw. The Owner hereby expresses its intention to be solely responsible for the costs resulting from satisfying the conditions of this Agreement, and to donate any contribution to the Township as a gift without any expectation of credit, payment or reward of any kind. The Owner further releases, waives and forever discharges the Township from and against any claims, actions, or causes of action, whether based in contract, tort or equity, for damages or losses, for the recovery of the contributions or costs incurred, including legal expenses, or for unjust enrichment, in connection with the provision of those contributions.
11. The releases and indemnities of this Agreement shall survive its termination.

Registration

12. The restrictions and requirements in this Agreement are covenants running with the Lands in favour of the Township and intended to be perpetual, and shall continue to bind all of the Lands when subdivided.
13. At the Owner's sole cost, the Owner must do everything necessary to secure priority of registration and interest for this Agreement over all encumbrances of a financial nature on the Lands.
14. The Owner agrees to execute all other documents and provide all other assurances

necessary to give effect to the covenants contained in this Agreement. However, the Township acknowledges that if the Amendment Bylaws are not adopted by the Township by May 31, 2019 and the related Development applications are abandoned, then this Agreement shall be discharged from the Lands.

15. The Owner, as a personal covenant between the parties, agrees to pay the reasonable legal fees and land title office costs of the Township in connection with the preparation and registration of this Agreement.

General

16. The Owner 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.
17. It is mutually understood, acknowledged and agreed by the parties that the Township has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Owner other than those contained in this Agreement.
18. Nothing contained or implied in this Agreement:
 - (a) prejudices or affects the rights, powers or discretion of the Township 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 Owner;
 - (b) imposes any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement or the breach of any provision in this Agreement; or
 - (c) imposes any public law duty, whether arising from the principles of procedural fairness or the rules of natural justice, on the Township with respect to its exercise of any right or remedy expressly provided in this Agreement or at law or in equity.
19. The Owner covenants and agrees that the Township may withhold development permits, building permits and other approvals related to the use, building or subdivision of land as necessary to ensure compliance with the covenants in this Agreement, and that the issuance of a permit or approval does not act as a representation or warranty by the Township that the covenants of this Agreement have been satisfied.
20. The Owner covenants and agrees that:
 - (a) if the Township advises of a breach of this Agreement, as determined in its reasonable discretion, the Owner must promptly remedy that breach at its sole cost;
 - (b) if the Owner has not remedied the breach to the reasonable satisfaction of the Township within thirty (30) days of notice or other longer time period specified by the Township, the Township may, but is under no obligation to, remove or

rectify the breach at the expense of the Owner without further notice; and

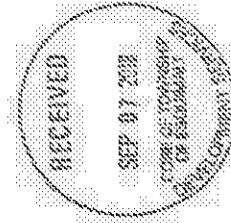
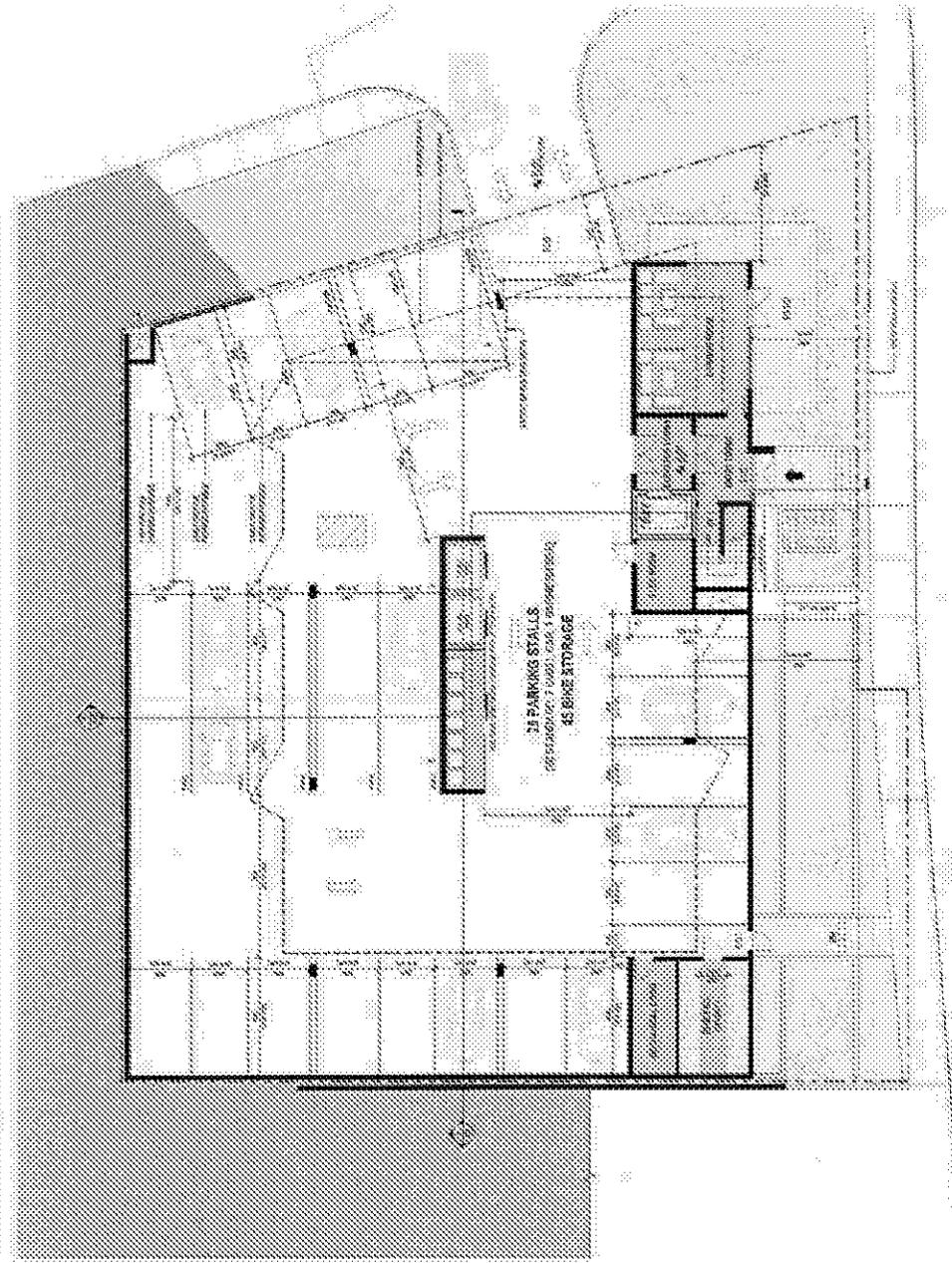
- (c) any costs to the Township of such removal or rectification is a debt due from the Owner to the Township together with interest at a rate of 1% per annum in excess of the Prime Lending Rate of the Royal Bank of Canada in effect from time to time, and:
 - (i) the Owner shall pay such costs and interest to the Township forthwith upon demand; and
 - (ii) failing payment, the Township may add such costs to property taxes for the Lands.
- 21. 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. The Owner agrees that the Township is entitled to obtain an order for specific performance or a prohibitory or mandatory injunction in respect of any breach of this Agreement by the Owner.
- 22. 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 is effective unless it is written and signed by both parties.
- 23. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 24. The Owner acknowledges having received legal advice prior to executing this Agreement, and the Owner agrees that it fully and completely understands this Agreement and its impact on the Lands.
- 25. Any notice required or permitted to be give in connection with this Agreement will be in writing and delivered personally or sent by prepaid express mail to the applicable addresses set out above. If notice is delivered personally, it will be considered given when delivered. If notice is mailed, it will be considered given five days after mailing by deposit at a Canada Post mailing point or office. A party may only change their address for delivery under this section by notice to the other party in accordance with this section.
- 26. This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

The Owner and Township acknowledge that this Agreement has been duly executed and delivered by the parties executing Forms C and D attached.

Priority Agreements

1. VANCOUVER CITY SAVINGS CREDIT UNION (the “**Chargeholder**”), the registered holder of charges by way of MORTGAGE and ASSIGNMENT OF RENTS against the Lands, registered under No. CA6608246 and CA6608247 respectively (the “Charges”), agrees with the Township, in consideration of the sum of Ten Dollars (\$10.00) paid by the Township to the Chargeholder (receipt and sufficiency acknowledged), that the Agreement shall be an encumbrance upon the Lands in priority to the Charges in the same manner and to the same effect as if the Agreement had been dated and registered prior to the Charges.

Schedule A: Parking Plan



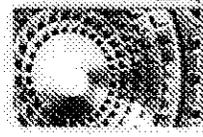
A02

PARKADE PLAN

PART 26-66 - REDESIGN PEST PLANNING

838-842 ADMIRALS ROAD

838-842 ADMIRALS ROAD PROJECT NO. 17-019



PRAXIS architects inc.

**LAND TITLE ACT
FORM DECLARATION**

Related Document Number: CA7439118

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.

Kristil Hammer VL2GEH	Digitally signed by
	Kristil Hammer
	VL2GEH
	Date: 2019.04.16 12:26:07 -07'00'

I, KRISTIL HAMMER, Lawyer at Clay & Company, declare that:

1. I am the lawyer who prepared the Form C Covenant submitted for registration in the Victoria Land Title Office under the Related Document Number;
2. In Part 3 Nature of Interest the last two priority agreements are to be deleted, and the first Priority Agreement amended as set out below.
3. Part 3 Nature of Interest should read as follows:

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Covenant		Section 219
Priority Agreement		Granting Covenant here in priority over Mortgage CA6608246 and Assignment of Rents CA6608247

4. All parties to the document have consented to this change.

I MAKE THIS DECLARATION AND KNOW IT TO BE TRUE BASED ON PERSONAL INFORMATION AND/OR REASONABLE BELIEF.

KRISTIL HAMMER

NOTE:

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

Fee Collected for Document: \$13.91