

## NOTICE OF REGISTRATION

**Date of Issue:** September 9, 2024  
**Submitter's Name:** Ben Ramsden  
**File Reference:** 124128

**Description:** S.219 Covenant - 734 Sea Terrace

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**The following application(s) have now reached final status:**

COVENANT	CB1570284	REGISTERED
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Product support is available online at <https://help.ltsa.ca>. You can also call the Customer Service Centre for land title and survey practice matters, or Technical Support for all registry and product questions at 604-630-9630 or toll free at 1-877-577-LTSA (5872). Non-urgent support requests can be submitted online at <https://ltsa.ca/contact-us-0>.



## 1. Application

Document Fees: \$81.27

**Ben Ramsden, Carvello Law Corporation**  
**203 - 1005 Broad Street**  
**Victoria BC V8W 2A1**  
**(250) 590-7230**

## 2. Description of Land

PID/Plan Number

Legal Description

**005-388-902****LOT 4, SECTION 11, ESQUIMALT DISTRICT, PLAN 9757**

## 3. Nature of Interest

Type

Number

Additional Information

**COVENANT****s.219**

## 4. Terms

Part 2 of this instrument consists of:

**(b) Express Charge Terms Annexed as Part 2**

## 5. Transferor(s)

**1491319 B.C. LTD., NO.BC1491319**

## 6. Transferee(s)

**TOWNSHIP OF ESQUIMALT**  
**1229 ESQUIMALT ROAD**  
**ESQUIMALT BC V9A 3P1**

## 7. Additional or Modified Terms



## 8. Execution(s)

This instrument creates, assigns, modifies, enlarges 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 / Transferee / Party Signature(s)

\_\_\_\_\_  
**Clayton Loewen**  
**Barrister & Solicitor**  
#307-32615 South Fraser Way  
Abbotsford BC V2T 1X8

YYYY-MM-DD

**2024-08-08**

**1491319 B.C. LTD.**  
By their Authorized Signatory

\_\_\_\_\_  
**Name: Peter Helm**

Lawyer/Notary Public

**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 / Transferee / Party Signature(s)

\_\_\_\_\_  
**Sarah Holloway**  
**Commissioner for Taking Affidavits**  
**for British Columbia**  
1229 Esquimalt rd.  
Esquimalt BC V9A 3P1

YYYY-MM-DD

**2024-08-29**

**TOWNSHIP OF ESQUIMALT**  
By their Authorized Signatory

\_\_\_\_\_  
**Name: Barbara Desjardins, Mayor**

Deputy Corporate Officer  
Corporation of the Township of  
Esquimalt

\_\_\_\_\_  
**Name: Debra Hopkins, Corporate  
Officer**

As to both signatures

**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.

**Benjamin Philip  
Ramsden EJS3H8**

**Digitally signed by  
Benjamin Philip Ramsden  
EJS3H8**

**Date: 2024-09-03  
10:28:01 -07:00**

## TERMS OF INSTRUMENT - PART 2

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### RECITALS:

- A. The Transferor (the "**Owner**") is the registered owner in fee-simple of those lands with a current civic address of 734 Sea Terrace, more particularly described in Item #2 of Form C, in the Township of Esquimalt in the Province of British Columbia, namely:

005-388-902      Lot 4, Section 11, Esquimalt District, Plan 9757 (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. 159 (734 Sea Terrace) CD No. 159 further to ZONING BYLAW, 1992, NO. 2050, AMENDMENT BYLAW, 2023, NO. 3116 (the "**Amendment Bylaw**") to authorize the development of one (1) multiple family residential four (4) storey building on the Lands, including a maximum of seventeen (17) residential dwelling units (the "**Dwelling Units**"), and a minimum of Fourteen (14) parking spaces including covered parking garage that contains a minimum Twelve (12) parking spaces and a minimum of Two (2) outdoor parking spaces that include One (1) parking space reserved as a carshare service parking space and One (1) parking space reserved as a visitor parking space (collectively, the "**Development**"), and acknowledging that the amenities and restrictions contained herein are in the public interest the Owner has offered and voluntarily provided this Section 219 Covenant to the Township, and the Township has accepted this covenant and required its registration as a condition of the Amendment Bylaw (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; 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*:

1. The Owner and Township agree that this Agreement shall be interpreted in accordance with the definitions in the Township's Zoning Bylaw, as amended from time to time.

### Restrictions and Requirements – Step 3 of BC Energy Step Code

2. The Owner covenants and agrees that the Lands must not be built upon, except with buildings that meet or exceed the standards and requirements of Step 3 of the BC Energy Step Code and the Township's Bylaws.
3. For greater certainty, the restrictions and requirements of Section 2 of this Agreement are intended to supplement, not replace or override, Township Bylaws and Building Code requirements.

### Restrictions and Requirements – Parking for One (1) Car Share Vehicle

4. The Owner covenants and agrees:
  - (a) in this section, the following terms have the following meanings:
    - (i) **"Car Share Vehicle"** means a four (or more)-seat, four-wheel automobile, van or pickup truck provided by the Owner for the Shared Vehicle Service pursuant to the Shared Vehicle Service Agreement;
    - (ii) **"Shared Vehicle Service Agreement"** means the agreement between the Owner and the Shared Vehicle Organization which sets out the terms by which the Shared Vehicle Organization will provide a Shared Vehicle Service to the occupants of the Development;
    - (iii) **"Shared Vehicle Organization"** means an entity whose principal business objective is to provide its members with a Shared Vehicle Service;
    - (iv) **"Shared Vehicle Service"** means the provision, for a fee, of a car-sharing service by which such members have self-serve access to a fleet of shared vehicles which they may reserve for use on an hourly or other basis;
  - (b) at its expense, to enter into and maintain a Shared Vehicle Service Agreement with a Shared Vehicle Organization for the provision of a Shared Vehicle Service to each residential household in the Development; and
  - (c) that the Lands must not be subdivided (including under the *Strata Property Act*), built upon or used unless the Owner has provided, at its sole cost and without expectation of compensation from the Township, and continues to provide, in accordance with all of the following conditions (in addition to, and not in relief of, the Township's bylaws and development approvals), One (1) vehicular parking space and facilities situated on the front yard of the Lands that is, and remains, for the exclusive use of the Car Share Vehicle, and is signed or labelled accordingly, and that is wired for, and has installed, a Level 2 (240V, AC plug with a dedicated 40 amp circuit) electric vehicle charging station (or better) (the **"Car Share Space"**).
5. The Owner further covenants and agrees, without limiting the above, that:
  - (a) the Owner must not divest or allocate the Car Share Space, in a manner that would allow it to be assigned or reserved for the exclusive use of any of the dwelling units, occupants or owners, or otherwise sold, leased, or licenced separately, and 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;  
and

- (b) the occupants of the Dwelling Units must only park on the Lands in parking stalls specifically designated for residents' parking and not in the Car Share Space.

### **Restrictions and Requirements – Two (2) Electric Cargo Bicycles or Tricycles**

6. The Owner covenants and agrees that the Lands must not be occupied, used, or continue to be used unless the Owner, including the strata organization if the Development is stratified pursuant to the *Strata Property Act*, provides, and continues to provide and maintain as amenities for the use of the occupants of each of the Dwelling Units, a minimum of:
  - (a) Two (2) electric cargo bicycles or tricycles that may be either long-tail cargo bicycles or front-load cargo tricycles, being bicycles or tricycles that respectively have a cargo space for hauling cargo at their rear or front and an integrated electric motor which can be used for propulsion (the "**Amenity Electric Bikes**").
7. The Owner further covenants and agrees that:
  - (a) the total collective retail value of the Amenity Electric Bikes when purchased must be at least \$7,500.00, not including sales taxes; and
  - (b) the Owner, including the strata organization if the Development is stratified pursuant to the *Strata Property Act*, must periodically maintain and replace the Amenity Electric Bikes so that the Dwelling Units have the benefit of at least two functioning and safe Amenity Electric Bikes.
8. For certainty, the Owner acknowledges and agrees that the Amenity Electric Bikes are not personal to the occupants and may not be taken by them when they move or be stored within their Dwelling Units, but rather are the property of all of the Dwelling Units and the Development to be stored in the Two (2) Amenity Stalls of the Development and used by whomever occupies the Dwelling Units at any given time through implementation by the Owner, including the strata organization if the Development is stratified pursuant to the *Strata Property Act*, of a bicycle-share program for the Amenity Electric Bikes.

### **Restrictions and Requirements – Bicycle Parking**

9. The Owner covenants and agrees that the Lands must not be subdivided (including under the *Strata Property Act*), built upon or used unless the Owner has provided, at its sole cost and without expectation of compensation from the Township, and continues to provide, in accordance with all of the following conditions (in addition to, and not in relief of, the Township's bylaws and development approvals) a minimum of Twenty-Six (26) bicycle stalls on the Lands, each capable of storing at least One (1) bicycle, including:
  - (a) A minimum of Twenty-One (21) of the bicycle stalls on the Lands must be secure indoor bicycle stalls located within the Development (the "**21 Indoor Bike Stalls**"),
  - (b) A minimum Thirteen (13) of the 21 Indoor Bike Stalls within the Development must be provided with electrical charging through provision of accessible Level One (120V) electric outlets that are available and dedicated to charging electric bicycles (the "**13 Electric Stalls**"), and

- (c) A minimum Two (2) of the 13 Electric Stalls must be dedicated, and remain for, the exclusive use of the Amenity Electric Bikes, and must be signed or labelled accordingly (the "**2 Amenity Stalls**").

### **Indemnity and Release**

- 10. The Owner covenants and agrees to indemnify and save harmless the Township and each of its elected and appointed officials, officers, and employees 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, whether as an owner, occupier or user of the Lands, or by a person who has an interest in or comes onto the Lands, or otherwise, or which the Township incurs as a result of any loss, damage, deprivation, enrichment or injury, including economic loss and death, 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.
- 11. The Owner releases and forever discharges the Township and each of its elected and appointed officials, officers, and employees, 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 or anyone, including third parties, can or may have against the Township for any loss, damage, deprivation, enrichment or injury, including economic loss and death, 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.
- 12. Without limiting the above release and indemnity, the Owner acknowledges that this Agreement may be interpreted to contain 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.
- 13. The release and indemnity provisions of this Agreement survive its termination.

### **Registration**

- 14. The restrictions and requirements in this Agreement are covenants running with the Lands in favour of the Township and are intended to be perpetual, and shall continue to bind all of the Lands when subdivided. For greater certainty, future owners of the Lands, or portions thereof, shall be considered the Owner under this Agreement.
- 15. 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.
- 16. The Owner agrees to execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.



17. The Owner 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

18. The Owner covenants and agrees that the Township's Director of Development Services, may, but is not obligated to, inspect the Development, the Car Share Space, the 21 Indoor Bike Stalls including the 13 Electric Stalls and 2 Amenity Stalls, and such other matters addressed by this Agreement, and the Owner shall implement any reasonable measures identified by the Director of Development Services as a result of such inspection.
19. 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.
20. 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.
21. 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.
22. The parties agree that this Agreement shall not be modified or discharged except in accordance with the provisions of section 219(9) of the *Land Title Act*. Such modification or discharge may proceed without a public hearing, at the sole discretion of Township Council.
23. 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.
24. 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.

- 25. 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.
- 26. 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.
- 27. Whenever the plural, singular, masculine or neuter is used herein, the same shall be construed as including the plural, singular, feminine, body corporate or politic unless the context requires otherwise.
- 28. 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.
- 29. The Owner acknowledges having been directed to obtain independent legal advice prior to executing this Agreement, and the Owner agrees and acknowledges that it has read and fully understands all of the terms and conditions of this Agreement and its impact on the Lands.
- 30. Where there is a reference to an enactment of the Province of British Columbia in this Agreement, that reference shall include a reference to any subsequent enactment of the Province of British Columbia of like effect, and unless the context otherwise requires, all statutes referred to herein are enactments of the Province of British Columbia.
- 31. 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 the Form C attached to, and forming part of, this Agreement.