

VICTORIA LAND TITLE OFFICE
APR 23 2024 12:14:37.001
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1. Application

Document Fees: \$81.27

**Dan Marcotte Law Corporation
Barristers and Solicitors
440 Brunswick Street
Prince George BC V2L 2B6
(250) 564-0052**

File No.: 17085/KREH/non-mirror image Covenant

2. Description of Land

PID/Plan Number	Legal Description
012-009-008	LOT 2 DISTRICT LOT 2424 CARIBOO DISTRICT PLAN 33278

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Section 219

4. Terms

Part 2 of this instrument consists of:
(b) Express Charge Terms Annexed as Part 2

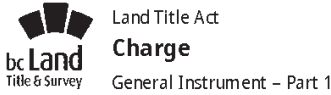
5. Transferor(s)

KIDD REAL ESTATE HOLDINGS LTD., NO.BC0821509

6. Transferee(s)

**CITY OF PRINCE GEORGE
C/O 1100 PATRICIA BOULEVARD
PRINCE GEORGE BC V2L 3V9**

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

Dan Marcotte, K.C.
Barrister & Solicitor
440 Brunswick Street
Prince George BC V2L 2B6

(as to both signatures)

Execution Date

YYYY-MM-DD

2024-04-03

Transferor / Transferee / Party Signature(s)

Kidd Real Estate Holdings Ltd.
By their Authorized Signatory

Print Name: Bruce Charles Kidd

Print Name: Kathryn Teresa Kidd

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

Kali Holahan
Commissioner for Taking Affidavits
for British Columbia
1100 Patricia Blvd.
Prince George BC V2L 3V9

Expires: Sept. 30, 2024

Execution Date

YYYY-MM-DD

2024-04-22

Transferor / Transferee / Party Signature(s)

City of Prince George
By their Authorized Signatory

Print Name: Deanna Wasnik,
Director of Planning &
Development

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.

<p>Electronic Signature</p> <p>Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the <i>Land Title Act</i>, 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.</p>	<p>Tamara May Fennell 5UUVR6</p> <p>Digitally signed by Tamara May Fennell 5UUVR6 Date: 2024-04-22 11:04:22 -07:00</p>
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LAND TITLE ACT

4. Terms

(b) Express Charge terms (annexed to this charge as Part 2)

SECTION 219 COVENANT

THIS INSTRUMENT is dated for reference the 7th day of February, 2024

BETWEEN: KIDD REAL ESTATE HOLDINGS LTD.
#102 - 8191 Hart Highway, Prince George, BC, V2K 3B8
(the "**Owner**")

AND: CITY OF PRINCE GEORGE,
c/o 1100 Patricia Boulevard, Prince George, BC, V2L 3V9

(the "**City**")

WHEREAS

- A. Section 219 of the *Land Title Act*, R.S.B.C. 1996, c.250 provides that a covenant, whether of a negative or a positive nature, in respect of the use of land or the use of a building on or to be erected on land in favour of a municipality may be registered as a charge against title to that land;
- B. The Owner is the registered owner in fee simple of that certain parcel or tract of land and premises situate, lying and being in the City of Prince George, in the Province of British Columbia, legally described as follows:

PID: 012-009-008
Legal Description: Lot 2 District Lot 2424 Cariboo District Plan 33278

(the "**Land**");
- C. The Owner has applied to the City for a rezoning of the Lands under Application No. RZ100735 (the "Rezoning") to the RM1 zone under the Zoning Bylaw.
- D. The Owner has voluntarily requested that the City accept the section 219 covenants created by this Agreement; and
- E. The Owner acknowledges that it is in the public interest that the development and use of the Lands be limited and wishes to grant, and the City accepts, the section 219 covenant contained in this Agreement over the Lands.

THIS AGREEMENT is evidence that in consideration of payment of \$1.00 by the City to the Owner (the receipt of which is acknowledged by the Owner), and in consideration of the premises exchanged below, the Owner covenants and agrees with the City in accordance with s.219 of the *Land Title Act* as follows:

COVENANT

1. The following terms used in this Agreement shall have the respective meanings hereinafter provided:
 - (a) "Construct" or "Construction" means to construct, erect or place a building, structure or improvement, or structurally alter or add to an existing building, structure or improvement;
 - (b) "Density" shall have the same meaning as in the Zoning Bylaw;
 - (c) "Dwellings" shall have the same meaning as in the Zoning Bylaw;
 - (d) "Housing, Two Unit" shall have the same meaning as in the Zoning Bylaw;
 - (e) "Housing, Four Unit" shall have the same meaning as in the Zoning Bylaw;
 - (f) "Housing, Row" shall have the same meaning as in the Zoning Bylaw;
 - (g) "Lands" means those lands in the City of Prince George legally described as PID: 012-009-008, Legal Description: Lot 2 District Lot 2424 Cariboo District Plan 33278
 - (h) "Non Mirror Image" means that the halves of a Housing, Two Unit building are mismatched to achieve asymmetrical balance with use of disparate elements, inequalities, and a variety in texture, colour, form, setbacks, style, and size;
 - (i) "Secondary Suite" shall have the same meaning as in the Zoning Bylaw; and
 - (j) "Zoning Bylaw" means the City of Prince George Zoning Bylaw No. 7850, 2007, as amended or replaced from time to time.

2. Pursuant to Section 219 of the *Land Title Act*, R.S.B.C. 1996, c.250, (it being the intention of the parties that this covenant shall be annexed to and run with the Lands), the Owner covenants and agrees with the City that the Owner shall not Construct upon, use or further subdivide the Lands or permit the Construction upon, use or further subdivision of the Lands except in strict accordance with this Agreement, including, without limitation, that the Owner will:
 - (a) not develop, use or permit the development or use of the Lands so that the Density exceeds twenty two (22) Dwellings per hectare;
 - (b) not Construct any building on any portion of the Lands such that the Density exceeds twenty two (22) Dwellings per hectare;
 - (c) limit the number of Housing, Four Unit Dwellings and Housing, Row Dwellings, counted together, to not more than 20% of the total number of Dwellings on the Lands;

- (d) limit the number of Housing, Two Unit Dwellings to not more than 20% of the total number of Dwellings on the Lands;
 - (e) not Construct any Secondary Suite within any Housing, Two Unit or Housing Four Unit or Housing Row building on the Lands;
 - (f) not develop, use or permit the development of the Lands for apartment use;
 - (g) not Construct any Housing, Two Unit building built on any portion of the Lands that is not Non Mirror Image;
 - (h) not Construct any Housing, Two Unit building on any lot on the Lands adjacent to any other lot on the Lands upon which another Housing, Two Unit building is constructed; and
 - (i) not apply for and the City is not obliged to issue any building permit in respect of any building that does not comply with this Agreement.
3. Subject only to the limitations and restrictions herein set forth and set forth in any other covenant in favor of the City registered against the Lands, the Owner agrees that the use and development of the Lands, and any building or buildings on or to be erected on the Lands, shall be governed by all applicable bylaws of the City as amended from time to time.

INDEMNIFICATION

4. The Owner releases, and covenants and agrees at all times to indemnify and save harmless the City, and its elected and appointed officials and employees, from and against all liability, actions, causes of action, claims, suits, damages, expenses, costs, legal fees, debts, demands or losses suffered or incurred by the Owner, or anyone else, arising from the granting or existence of this Agreement, the use of the Lands contemplated under this Agreement, the restrictions or requirements under this Agreement, from the performance by the Owner of this Agreement, or any default of the Owner under or in respect of this Agreement. The Owner will at all times indemnify the City and save the City harmless from and against all loss, cost, expense and damage, including costs on a solicitor and client basis, that may be suffered or incurred by the City in enforcing this Agreement as a result of any default or breach hereof (collectively, the "Losses"). Notwithstanding the foregoing or anything to the contrary, the indemnity being granted by the Owner hereunder shall exclude such Claims and/or Losses arising from negligent acts or omissions, bad faith or willful misconduct of the City Representatives.

RIGHT PERMISSIVE ONLY

5. The rights given to the City by this Agreement are permissive only and nothing in this Agreement imposes any legal duty of any kind on the City to anyone, or obliges the City to enforce this Agreement, to perform any act or to incur any expense in respect of this Agreement.

NO PUBLIC LAW DUTY OF FAIRNESS

6. Where the City is required or permitted by this Agreement to form an opinion, exercise discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the City is under no public law duty of fairness or natural justice in that regard and agrees that the City may do any of those things in the same manner as if it were a private party and not a public body.

GENERAL

7. This Agreement does not:
 - (a) limit the discretion, rights or powers of the City under any enactment (as defined in the *Interpretation Act*, R.S.B.C., 1996, c.238, on the reference date of this Agreement), bylaw, order or at common law, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner, and in particular, without limiting the generality of the foregoing, in relation to the use or subdivision of the Lands, or
 - (b) relieve the Owner from complying with any enactment (as defined in the *Interpretation Act*, R.S.B.C., 1996, c.238, on the reference date of this Agreement), bylaw, order or at common law, including in relation to the use or subdivision of the Lands.
1. It is mutually understood, acknowledged and agreed by the parties hereto that the City has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Owner with respect to the subject matter of this Agreement other than those contained in this Agreement.
2. Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted under section 219 of the *Land Title Act*, R.S.B.C. 1996, c.250 in respect of the Lands and this Agreement burdens the Lands and runs with it and binds the successors in title to the Lands. This Agreement burdens and charges all of the Lands and any parcel into which it is subdivided by any means and any parcel into which the Lands are

consolidated. The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Lands.

3. The Owner covenants and agrees to do everything necessary, at the Owner's expense, to ensure that this Agreement is registered against title to the Lands with priority over all financial charges, liens and encumbrances registered, or the registration of which is pending, at the time of application for registration of this Agreement.
4. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
5. 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.
6. This Agreement is the entire agreement between the parties regarding its subject.
7. This Agreement binds the parties to it and their respective successors and permitted assigns of the Owner and the City.
8. The Owner must do everything necessary to give effect to the intent of this Agreement, including execution of further instruments.
9. This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.
10. Subject only to the limitations and restrictions herein set forth and set forth in any other covenant in favour of the City registered against the Lands, the Owner agrees that the use and development of the Lands shall be governed by all applicable bylaws of the City as amended from time to time.
11. By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the above terms, the parties each have executed and delivered this Agreement under seal by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms a part of this Agreement.