

604420

COURT FILE NUMBER 2101-00793
COURT QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANT THOMAS H. FERGUSON
RESPONDENT ALI TEJPAN, ZAHRA TEJPAN, REGISTRAR OF TITLES for the
LAND TITLES OFFICE, JOHN DOE, JANE DOE, ABC
CORPORATION
DOCUMENT **AFFIDAVIT**

ENTERED

Clerk's Stamp



JST
July 23, 2021

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Curtis E. Marble
Carbert Waite LLP
2300 Encor Place
645 – 7th Avenue SW
Calgary, Alberta T2P 4G8
Phone: 403.705.3642
Fax: 403.263.5553
File: 120632.001

AFFIDAVIT OF ROBERT ENGBLOOM

Sworn on June 21, 2021

I, Robert Engbloom, of Calgary, Alberta, make oath and say that:

1. I am a resident of the neighbourhood known as Elbow Park in the City of Calgary, and as such have personal knowledge of the facts and matters deposed to except where stated to be based on information and belief, in which case I believe them to be true.
2. My wife Nancy Engbloom is the legal owner of the land legally described as Plan 3605FO Block 91 Lot 8 (the "**Engbloom Residence**"). I attach a true copy of the title to the Engbloom Residence at **Exhibit "A"**.
3. When the Engbloom Residence was purchased in November 1982, Nancy and I were made aware of the Caveat registered against title as Instrument Number 7648 FT (the "**Caveat**"). We were provided with a copy of the Caveat at the time the Engbloom Residence was purchased. I have maintained the copy of this Caveat in my personal files

in my home since our purchase of the Engbloom Residence, and I provided a copy of the Caveat to Mr. Thomas H. Ferguson at his request. I attach a true copy of the Caveat to my Affidavit at **Exhibit "B"**.

4. I make this Affidavit in support of the Application filed by Thomas Ferguson.

SWORN BEFORE ME at Calgary, Alberta,
this June 21, 2021.



A Commissioner for Oaths for Alberta



ROBERT ENGBLOOM

CURTIS E. MARBLE
BARRISTER and SOLICITOR

This is Exhibit "A"
referred to in the Affidavit of
Robert Engbloom, Q.C. sworn before me
this 21st day of June, 2021.



A (Notary Public)
(Commissioner for Oaths)
in and for the Province of Alberta

CURTIS E. MARBLE
BARRISTER and SOLICITOR



LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0018 008 053 3605FO;91;8 821 195 254

LEGAL DESCRIPTION
PLAN 3605FO
BLOCK 91
LOT 8
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME

ESTATE: FEE SIMPLE
ATS REFERENCE: 5;1;24;9;SE

MUNICIPALITY: CITY OF CALGARY

REGISTERED OWNER(S)
REGISTRATION DATE (DMY) DOCUMENT TYPE VALUE CONSIDERATION

821 195 254 16/11/1982 \$188,000

OWNERS

NANCY STAFFORD ENGBLOOM (LAWYER)
OF 3410-10 ST SW
CALGARY
ALBERTA

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION
NUMBER DATE (D/M/Y) PARTICULARS

7648FT . 21/05/1948 CAVEAT
 RE : SEE CAVEAT
 CAVEATOR - CANADIAN PACIFIC RAILWAY COMPANY.
 2000, 401-9 AVE SW
 CALGARY
 ALBERTA T2P4Z4
 (DATA UPDATED BY: 091097227)

TOTAL INSTRUMENTS: 001

(CONTINUED)

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 17 DAY OF
NOVEMBER, 2020 AT 11:30 A.M.

ORDER NUMBER: 40529522

CUSTOMER FILE NUMBER: 120632.001



END OF CERTIFICATE

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED
FOR THE SOLE USE OF THE ORIGINAL PURCHASER, AND NONE OTHER,
SUBJECT TO WHAT IS SET OUT IN THE PARAGRAPH BELOW.

THE ABOVE PROVISIONS DO NOT PROHIBIT THE ORIGINAL PURCHASER FROM
INCLUDING THIS UNMODIFIED PRODUCT IN ANY REPORT, OPINION,
APPRAISAL OR OTHER ADVICE PREPARED BY THE ORIGINAL PURCHASER AS
PART OF THE ORIGINAL PURCHASER APPLYING PROFESSIONAL, CONSULTING
OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).

This is Exhibit "B"
referred to in the Affidavit of
Robert Engbloom, Q.C. sworn before me
this 21st day of June, 2021.

A handwritten signature in black ink, appearing to read "C. Marble", written over a horizontal line.

A (Notary Public)
(Commissioner for Oaths)
in and for the Province of Alberta

CURTIS E. MARBLE
BARRISTER and SOLICITOR


CAVEAT.

7648 FT

THE REGISTRAR
FOR THE SOUTH ALBERTA LAND REGISTRATION DISTRICT:

TAKE NOTICE that the CANADIAN PACIFIC RAILWAY COMPANY

claims an interest in:

- 70.0 m/b
- Lots One (1) to Seven (7), Block Seventy-eight (78);
 - Lots One (1) to Nine (9), Block Seventy-nine (79);
 - Lots One (1) to Five (5) and Lot Eight in Block Eighty (80);
 - Lots Two (2), Three (3), Five (5), Six (6) and Seven (7), Block Ninety (90);
 - Lots One (1), Four (4) and Lots Eight (8) to Eleven (11) inclusive, Block Ninety-one (91);
 - Lots One (1), Seven (7), Eight (8) and Nine (9), Block Ninety-two (92); and
 - Lots One (1) to Eight (8) inclusive, Block Ninety-three (93), according to a plan of part of the City of Calgary, of record in the Land Titles Office for the South Alberta Land Registration District as Plan 3605 F.O., all standing in the register in the name of the Canadian Pacific Railway Company;
- 70.0 m/b
- 

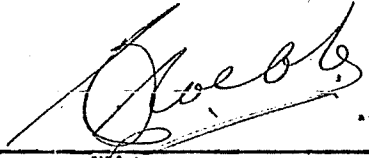
under and by virtue of an Agreement made between the Canadian Pacific Railway Company and Joseph J. Greenan, Barrister, and Mary P. Greenan (his wife), both of the City of Calgary, dated the 29th day of April, 1948, copy of which Agreement is hereto attached.

AND the Canadian Pacific Railway Company forbids the registration of any person as transferee or owner of, or of any instrument affecting the said estate or interest unless such instrument be expressed to be subject to its claim.

IT APPOINTS the Office of its Department of Natural Resources in the City of Calgary, in the Province of Alberta,

as the place at which notices and proceedings relating
hereto may be served.

DATED this 29th day of April, A.D.1948.



Witness.

)
) CANADIAN PACIFIC RAILWAY COMPANY
)

Per Leslie Munroe
Leslie Munroe, Manager,
Department of Natural Resources.

7648 F.T.

X

THIS AGREEMENT made in duplicate this 29th of April, A.D.1948.

BETWEEN:

CANADIAN PACIFIC RAILWAY COMPANY,
(hereinafter called "the Owner"),

OF THE FIRST PART,

- and -

JOSEPH J. GREENAN, Barrister,
and MARY P. GREENAN, (his wife),
both of the City of Calgary, in
the Province of Alberta, (herein-
after called "the Purchasers"),

OF THE SECOND PART.



IN CONSIDERATION of the sum of Nine Hundred Dollars (\$900.00) paid by the Purchasers to the Owner, receipt of which sum is hereby acknowledged, the Owner has sold and agreed to transfer to the Purchasers Lot Seven (7), in Block Ninety (90), according to a plan of part of the City of Calgary of record in the Land Titles Office for the South Alberta Land Registration District as Plan No. 3605 F.O., subject to the following covenants, terms and conditions:

1. That the Owner shall, as and when requested by the Purchasers, transfer to the Purchasers said Lot Seven (7), Block Ninety (90), Plan No. 3605 F.O.
2. As the amount of the 1948 taxes in respect of the said Lot is not yet known, the Purchasers agree to pay the full year's taxes for the year 1948 in respect of the said lot, and upon production by them of their Tax Receipt, the Owner hereby

agrees to refund to them the proportion of the said taxes due from the 1st day of January, 1948, to the 31st day of March, 1948.

X
3. The Owner hereby agrees to insert in all Agreements for Sale entered into by the Owner for the sale of any one of the following lots or parcels of land, namely:

Lots One (1) to Seven (7), Block Seventy-eight (78).

x Lots One (1) to Nine (9), Block Seventy-nine (79).
Lots One (1) to Five (5) and Lot Eight (8) in Block Eighty (80).
Lots Two (2), Three (3), Five (5) and Six (6), Block Ninety (90).
Lots One (1), Four (4), and Lots Eight (8) to Eleven (11),
Block Ninety-one (91).
Lots One (1), Seven (7), Eight (8) and Nine (9), Block
Ninety-two (92); and
Lots One (1) to Eight (8), Block Ninety-three (93), as
shown on said plan No. 3605 F.O.,

restrictive covenants similar to the covenants hereinafter contained.

IT IS HEREBY COVENANTED AND AGREED with the Owner by the above mentioned Purchasers on behalf of themselves, their executors, administrators and assigns, and successors in title, as follows:

(a) That there shall not be erected or suffered or permitted to be erected or used or placed upon the said Lot Seven (7), Block Ninety (90), Plan 3605 F.O., any building whatsoever except for the purposes of a private residence and private garage in connection therewith.

(b) That there shall not be erected upon the said Lot more than one (1) such residence and garage.

(c) That there shall not be erected on the said lot any dwelling house to cost less than Seven Thousand Dollars (\$7,000.00), and same shall be of a neat design and completed in a proper and workmanlike manner.

(d) That if the said dwelling house consists of basement and one floor, the ground area occupied by same shall not be less than Twelve Hundred (1200) square feet, exclusive of the garage, and if it consists of One and a Half ($1\frac{1}{2}$) or more storeys, said dwelling house shall occupy a ground area of not less than One Thousand (1,000) square feet, exclusive of the garage.

(e) That no house or other building shall be located or placed on the said lot within Twenty-five (25) feet of the Street or Avenue, ^{any dwelling house} and shall be not less than Twenty-five (25) feet from the rear of said lot.

(f) That the said lot shall not be used for the purpose of a sand or gravel pit or quarry, and there shall not be removed or suffered or permitted to be removed any sand, gravel, stone or other material, except such as may be necessary for improving the lot or building thereon.

(g) That no house or other building on the said lot shall be used for mercantile, business or manufacturing purposes, and no work of an offensive, dangerous or noisy character shall be carried on which may be or become an annoyance or nuisance.

(h) That all work done on the said lot shall comply in all

respects with By-laws or Building Regulations of the City of Calgary.

(i) That covenants similar to the above shall be inserted in all Agreements for Sale made by the Purchasers for a resale of the said lot.

(j) That the Purchasers and their executors, administrators and assigns, and successors in title, shall observe the aforesaid restrictions applicable to the said lot, and that same shall be enforceable against him or them or on behalf of the owner or owners from time to time of any of the said lots or parcels of land referred to in Paragraph 3 hereof.

(k) That the restrictions aforementioned as imposed on each of the said lots or parcels of land referred to in Paragraph 3 hereof shall be enforceable by or on behalf of or against the owner or owners from time to time of any one or more of the said lots or parcels of land referred to in said Paragraph 3.

(l) The Purchasers shall be entitled to register in the Land Titles Office a Caveat protecting the restrictions above set out, and the transfer by the owner to the purchasers of the said lots or parcels of land referred to in Paragraph 3

hereof shall be expressed to be subject to said Caveat to be registered as aforesaid.

IN WITNESS WHEREOF the Owner has caused these presents to be executed by the Manager of its Department of Natural Resources, and the Purchasers have hereunto set their hands and seals, all on the day and year first above written.

CANADIAN PACIFIC RAILWAY COMPANY

Per Leslie Munroe
Leslie Munroe, Manager,
Department of Natural Resources.

Betty Gablehouse
Witness.

Betty Gablehouse
Witness.

Joseph J. Greenan
Joseph J. Greenan.

Mary P. Greenan
Mary P. Greenan.

CANADA)
PROVINCE OF ALBERTA)
TO WIT: v)

I, Cecil J. Loeb, of the City
of Calgary, in the Province of Alberta, Secretary,
make oath and say:

1. THAT I was personally present and did see Leslie
Munroe, Manager of the Department of Natural Resources of the
Canadian Pacific Railway Company at Calgary, in the Province
of Alberta, named in the within instrument, who is personally
known to me to be the person named therein, duly sign and
execute same for the purposes named therein.

2. THAT the same was executed at the City of Calgary,
in the Province of Alberta, and that I am the subscribing
witness thereto.

3. THAT I personally know the said Leslie Munroe,
and he is in my belief of the full age of twenty-one years.

SWORN before me at the City
of Calgary, in the Province
of Alberta, this 21st day
of May, A.D. 1948.

Cecil J. Loeb

E. W. Minnell
A COMMISSIONER FOR OATHS in and for the
Province of Alberta.

CANADA)
PROVINCE OF ALBERTA)
TO WIT:)

I, Betty Galbreath, of the City of
Calgary, in the Province of Alberta, Heretofore,
make oath and say:

1. THAT I was personally present and did see Joseph J.
Greenan and Mary P. Greenan named in the within instrument,
who are personally known to me to be the persons named therein,
duly sign and execute the same for the purposes named therein.

2. THAT the same was executed at the City of Calgary,
in the Province of Alberta, and I am the subscribing witness
thereto.

3. THAT I personally know the said Joseph J. Greenan
and Mary P. Greenan, and they are in my belief of the full
age of twenty-one years.

SWORN before me at the City)
of Calgary, in the Province)
of Alberta, this 5th day)
of May, A.D. 1948.)

Betty Galbreath

A. C. Bury

A COMMISSIONER FOR OATHS in and for the
Province of Alberta.

CANADA)
PROVINCE OF ALBERTA)
TO WIT:)

I, Leslie Munroe, of the City of Calgary, in the Province of Alberta, Manager, make oath and say:

1. THAT I am agent of the above-named Caveator.
2. THAT I believe I have a good and valid claim upon the said lands and I say this Caveat is not being filed for the purpose of delaying or embarrassing any person interested therein or proposing to deal therewith.

SWORN before me at the City of Calgary, in the Province of Alberta, this 21st day of May, A.D. 1948.

Leslie Munroe

J. D. Munroe

A COMMISSIONER FOR OATHS in and for the Province of Alberta.

DATED

D. 194

BETWEEN:

CANADIAN PACIFIC RAILWAY COMPANY,

OF THE FIRST PART,

- and -

JOSEPH J. GREENAN & MARY P. GREENAN,

OF THE SECOND PART.

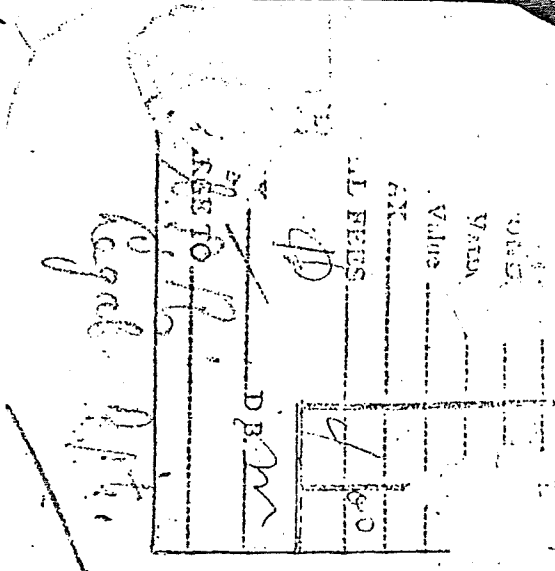
A G R E E M E N T.

File 16129

RRM/JAF

JAMES Mc CAIG, K.C.
C.P.R. SOLICITOR
CALGARY, ALBERTA.

7648 F.T. April 1948



CON. FEE	
EXTRA REF. CERT.	
EXTRA NEW TITLE	
STAMP	

Lots 1 to 7, Block 78; Lots 1 to 9, Block 79; Lots 1 to 5, and Lot 8, in Block 80; Lots 2, 3, 5, 6 and 7 in Block 90; Lots 1, 4, and Lots 8 to 11 inclusive, Block 91; Lots 1, 7, 8 and 9, Block 92; and Lots 1 to 8 inclusive, Block 93.

700, 246,
700, 247,
CALGARY

CAVEAT.

700 246
247

1000

I certify that the within instrument is duly Entered and Registered in the Land Titles Office for the South Alberta Land Registration District at Calgary, in the Province of Alberta at _____ o'clocks _____ on the _____ of _____ A.D., 19____ Number _____ Book _____ Folio _____

[Signature] Registrar
S. A. L. R. D.

16129

C.F.R. BUREAU
CALGARY, ALBERTA.