

Clerk's stamp

COURT FILE NUMBER 2101 – 00793

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT THOMAS H. FERGUSON

RESPONDENT ALI TEJPAN, ZAHRA TEJPAN, REGISTRAR OF LAND
TITLES FOR THE LAND TITLES OFFICE, JOHN DOE,
JANE DOE, AND ABC CORPORATION

DOCUMENT **AFFIDAVIT**

PARTY FILING THIS DOCUMENT ZAHRA TEJPAN and ALI TEJPAN

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
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File Ref.: 25569/1

AFFIDAVIT OF ZAHRA TEJPAN

Affirmed on April 13, 2021

I, **ZAHRA TEJPAN**, also known as Zahra Allidina, of the City of Calgary, in the Province of Alberta, **AFFIRM AND SAY THAT:**

1. I am one of the Respondents in the Originating Application commenced by Thomas H. Ferguson for injunctive relief. As such, I have personal knowledge of the facts and matters

in this Affidavit except when I say that they are based on information and belief, in which case I believe them to be true.

2. This Affidavit is provided in relation to the following Applications:
 - (a) This Affidavit is provided in opposition of the Originating Application commenced by Thomas H. Ferguson in Court of Queen's Bench of Alberta Action No. 2101-00793 for injunctive relief; and
 - (b) This Affidavit is provided in support of the Cross-Application commenced by myself and Respondent, Ali Tejpar ("**Ali**") in Court of Queen's Bench of Alberta Action No. 2101-00793 for declaratory relief.

(collectively, the "**Applications**").
3. I was called to the Alberta Bar in 2010 and have been an active member of the Law Society of Alberta since that time.

Background to Purchase of 1023 32 Avenue Southwest, Calgary, Alberta

4. In 2019, my husband, Ali and I began exploring and researching available properties to purchase in Calgary, Alberta in order to locate a lot on which we could build a new family home. Our preference was to find a lot in the Elbow Park neighborhood as we have always loved the neighborhood due its proximity to nearby schools, the Calgary Library, 17th Avenue, and nearby amenities. Ali and I engaged Kamil Lalji, an Associate Broker and Realtor at CIR Realty in early 2019 to assist us in finding and purchasing a suitable property. Our main intention was to find a lot that was appropriate for our plans to build our family home.
5. In mid-December 2019, Mr. Lalji contacted Ali and I to advise of a property for sale in Elbow Park which he believed fit the characteristics we were looking for. The property was municipally described as 1023 32 Avenue SW, Calgary, Alberta and legally described as:

PLAN 3605FO
BLOCK 91
LOT 1
Excepting Thereout All Mines and Minerals

(the "**Subject Property**").

6. Ali and I viewed the Subject Property in mid-December 2019 and spoke with Mr. Lalji about other homes in the area. Mr. Lalji advised that the smaller lot to the west of the Subject Property had been subdivided into two lots and that there were other properties in the immediate neighborhood that had been subdivided. After viewing the Subject Property, Ali and I were interested in placing an offer on the Subject Property. We were particularly interested in the Subject Property because we understood it could be subdivided into two lots.
7. On December 18, 2019, prior to placing an offer on the Subject Property, we requested that Mr. Lalji order a copy of the Certificate of Title to the Subject Property from the Registrar of Land Titles for Alberta (the "**Registrar**"). Mr. Lalji ordered a copy of the Certificate of Title to the Subject Property and received a copy at approximately 12:43 pm on December 18, 2019. Mr. Lalji provided a copy of the Certificate of Title to Ali and I once received. A copy of the December 18, 2019 Certificate Title to the Subject Property received from the Registrar is attached hereto and marked as **Exhibit "A"**.
8. I reviewed the December 18, 2019 Certificate of Title the day I received it and prior to placing an offer on the Subject Property. From my review, I noted there was one instrument registered on the Certificate of Title as follows:

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 T2P 4Z4

the ("**Instrument**").

9. Once I observed the Instrument registered on the Certificate of Title to the Subject Property, and as I could not determine the nature of the interest the Instrument may relate to from how it was registered, I immediately requested that Mr. Lalji obtain a copy of the Instrument from the Registrar. In response to his request, Mr. Lalji received a Section 21 Certificate from the Registrar (the "**Section 21 Certificate**") at 12:45 pm on December 18, 2019 and provided a copy to Ali and I at 12:47 pm on December 18, 2019. The Section

21 Certificate advised that the Instrument had been lost, mislaid, or destroyed and had not been microphotographed. The second page of the Section 21 Certificate included a handwritten note stating that the Section 21 Certificate had been issued pursuant to Section 21 of the *Land Titles Act*, RSA 2000, c L-4 (the "**Act**") on June 3, 2005. A copy of the email from Mr. Lalji enclosing the Section 21 Certificate and a copy of the Section 21 Certificate are attached hereto and marked as **Exhibit "B"**.

10. As the Section 21 Certificate did not provide any further information as to the nature of the interest that the Instrument may have related to, I contacted the Land Titles Office in Calgary by telephone on December 18, 2019. During my call, I explained that I had received the Section 21 Certificate and requested if Land Titles had access to a copy of the Instrument or any other information. In response, the Land Titles Office advised me that they did not have a copy or microfiche copy of the Instrument in their records and that the Instrument had been "lost for quite some time".
11. On December 18, 2019 at approximately 2:00 pm, Ali and I placed an offer to purchase on the Subject Property (the "**Offer**"). The Offer was subject to the following three conditions:
 - (a) We would secure new financing by January 8, 2020;
 - (b) We would be satisfied with a property inspection by January 8, 2020; and
 - (c) We would complete due diligence by January 8, 2020.(the "**Conditions**").
12. As part of completing our due diligence condition, Ali and I spoke with our designer for the subject property about our intention to subdivide the Subject Property. More specifically, our designer discussed the other subdivided properties in the immediate neighborhood of the Subject Property and noted there were several precedents for our proposed type of subdivision. I am advised by Ali, and do verily believe, that as part of our due diligence, the also spoke with a representative from the City of Calgary by telephone and the City of Calgary advised that our proposal was reasonable.

13. On December 29, 2019, prior to waiving the Conditions and in furtherance of completing our condition of due diligence, I contacted Tom O'Leary, a board member of the Elbow Park Residents' Association (the "**EPRA**") by email. I inquired if Mr. O'Leary had time to discuss building a home in Elbow Park and questions I had regarding zoning, in particular as it related to subdividing the Subject Property. A copy of my December 29, 2019 email to Mr. O'Leary and his January 2, 2020 reply is attached hereto and marked as **Exhibit "C"**.
14. On January 2, 2020, Mr. O'Leary and I spoke on the phone to discuss our intended purchase of, and plans for, the Subject Property. I advised Mr. O'Leary of our plan to purchase the Subject Property, subdivide the Subject Property into two lots, build a home on one of the lots, and sell the other lot. In response, Mr. O'Leary advised that he was not the correct EPRA contact for development in Elbow Park but directed me to Jane Virtue, the President of the EPRA. Mr. O'Leary also noted that there was a lot of development in the Elbow Park Community and our proposed plan for the Subject Property sounded exciting.
15. On January 2, 2020, following my telephone call with Mr. O'Leary, I sent an email to Mr. O'Leary and Ms. Virtue advising I had spoken with Mr. O'Leary and that Ali and I were considering building a family home in Elbow Park. I advised Ms. Virtue that we had some questions about zoning which we wanted to discuss with her and that we could provide further details and information on our proposed intentions for the Subject Property if she had time to discuss. A copy of my January 2, 2020 email to Mr. O'Leary and Ms. Virtue is attached hereto and marked as **Exhibit "D"**.
16. Additionally, on January 2, 2020, I asked our realtor, Mr. Lalji to inquire with the seller's realtor of the Subject Property, Gordon Ross of Re/Max Real Estate (Central) to provide further information as to the nature of the interest that the Instrument may relate to. I was advised by Mr. Lalji and do verily believe that he was informed by Mr. Ross that we should contact the caveator, Canadian Pacific Railway Company ("**CP Rail**") as the Registrar had lost the Instrument and the sellers of the Subject Property did not know the nature of the interest the Instrument related to or would have been.
17. On January 6, 2020, I was contacted by Margo Coppus, Chair of the Elbow Park Development Committee (the "**EPDC**") regarding questions I had relating to the

development of the Subject Property. Ms. Coppus advised she was out of the country but that she could review my questions by email and asked that I connect with Ms. Virtue as Ms. Virtue was also familiar with developments in Elbow Park. A copy of my January 6, 2020 email exchange with Ms. Coppus attached hereto and marked as **Exhibit "E"**.

18. Based on Mr. Ross's response to Mr. Lalji's request and the seller's lack of knowledge of the nature of the Instrument, on January 7, 2020, I contacted Cameron Greaves, legal counsel at CP Rail regarding the Instrument. Mr. Greaves directed me to Jon Arnott, in-house counsel at CP Rail. I spoke with Mr. Arnott by phone and explained there was an Instrument registered on title to the Subject Property and the results of my inquiries with the Registrar. Mr. Arnott requested I email a copy of the results I received from the Registrar and advised he would investigate the matter further. On January 7, 2020, following my call with Mr. Arnott, I emailed him a copy of the Certificate of Title to the Subject Property I obtained on December 18, 2019 and a copy of the Section 21 Certificate. A copy of my January 7, 2020 email to Mr. Arnott is attached hereto and marked as **Exhibit "F"**.
19. On January 7, 2020, while I waited for Mr. Arnott's response, I requested that Mr. Lalji contact Mr. Ross and ask if the seller would remove the Instrument as part of the sale. Mr. Ross advised Mr. Lalji that the seller was not interested in removing the Instrument. A copy of the January 7, 2020 email exchange between Mr. Lalji and Mr. Ross is attached hereto and marked as **Exhibit "G"**.
20. On January 7, 2020, I received an email from Ms. Virtue providing her availability for a call to discuss Ali and I's intended plans for the Subject Property. Ali and I spoke with Ms. Virtue for approximately one hour on January 8, 2020 before we waived any of the Conditions. During the call, Ali and I advised Ms. Virtue that we intended to subdivide the Subject Property into two approximately 50' lots and that we intended to build our family home on one of the lots and sell the other. In response, Ms. Virtue stated that the EPRA would not have an objection given the size of the proposed subdivided lots. Specifically, Ms. Virtue noted that these were reasonable size lots, that they fit into the character of the community, and there would be no objection or concern. Additionally, Ms. Virtue mentioned an example of a townhome development in the Elbow Park neighbourhood but noted that this development was drastically different than our proposal. A copy of the

January 7, 2020 email exchange with Ms. Virtue is attached hereto and marked as **Exhibit "H"**.

21. On January 8, 2020, we waived the Conditions on the sale of the Subject Property based on the following:
- (a) The Instrument was lost and the nature of its interest could not be ascertained;
 - (b) The information I had received from Land Titles that they had no further records related to the Instrument;
 - (c) My numerous investigations regarding the Instrument including those with the Caveator, CP Rail and the Seller of the Subject Property revealed no further information on the nature of the Instrument; and
 - (d) The fact that the EPRA was aware of our proposed subdivision of the Subject Property and had no objections.

Further Inquiries Regarding the Instrument

22. On January 10, 2020, I received an email from Heidi Kalyniuk, a Real Estate Specialist at CP Rail in relation to my inquiry with Mr. Greaves and Mr. Arnott. Through a telephone discussion and exchange of emails, Ms. Kalyniuk advised that CP Rail did not have a copy of the Title for the Subject Property or a copy of the Instrument in its records or its archived records. Further, Ms. Kalyniuk advised that the Instrument had been designated as a lost instrument. A copy of my January 10, 2020 email exchange with Ms. Kalyniuk is attached hereto and marked as **Exhibit "I"**.
23. As part of my January 10, 2020 email exchange with Ms. Kalyniuk, she provided me with a letter from CP Rail in which CP Rail advised it no longer had any interest in the Instrument. In the letter, CP Rail also advised that it neither consented to or opposed any effort for removal or discharge of the Instrument from the Subject Property. A copy of CP Rail's January 10, 2020 letter is attached hereto and marked as **Exhibit "J"**.
24. On January 13, 2020, following the receipt and review of CP Rail's January 10, 2020 correspondence, I contacted Mr. Arnott to inquire what additional information CP Rail may have about the Instrument. In my correspondence to Mr. Arnott, I noted that the seller of

the Subject Property and Land Titles had referred me back to CP Rail as they had no record of the Instrument and that Land Titles had stated it was lost. Mr. Arnott advised he had contacted the Director at CP Rail to determine if the Director had the discretion to issue a discharge letter. A copy of my January 13, 2020 email exchange with Mr. Arnott is attached hereto and marked as **Exhibit "K"**.

25. Despite our multitude of efforts, Ali and I were not able to discover any further information about the Instrument prior to purchasing the Subject Property. At the time we placed an offer on the Subject Property, waived Conditions, and ultimately purchased the Subject Property, neither Ali nor I had any knowledge as to the nature of the interest that may have related to the Instrument. In particular, we were not aware of any restrictions on our ability to subdivide the lot, as intended.
26. On January 31, 2020, our purchase of the Subject Property was completed.

Interactions with the EPRA in June 2020

27. On June 7, 2020, Mr. Lalji advised me that Ms. Coppus, the chair of the EPDC was attempting to reach me regarding the Subject Property. When I received this information, I expressed my surprise to Mr. Lalji as when Ali and I had previously spoken with Ms. Coppus, she advised that we did not need to advise the EPRA of our proposal for the Subject Property. I understood that this was the case because the EPRA would review our development documents submitted through the approval process with the City of Calgary. A copy of Mr. Lalji and I's June 7, 2020 text message exchange is attached hereto and marked as **Exhibit "L"**.
28. Once I received this information, on June 16, 2020, I contacted Ms. Coppus and Ms. Virtue as requested. In my initial email, I reminded Ms. Coppus and Ms. Virtue that Ali and I had contacted the EPRA in January 2020 to ensure the EPRA was in agreement with our plan to build a modern style single-family home with attached garage and the proposed size of the subdivided lots, and at all times the feedback from the EPRA had been positive. At that time, I also advised Ms. Coppus that since January 2020, we had been working with an architect and designer on the plan for the property. A copy of my June 16, 2020 email to Ms. Coppus is attached hereto and marked as **Exhibit "M"**.

29. Ms. Coppus replied to me by email the same day and copied Ms. Virtue. Ms. Coppus also copied Michael Major, owner of the property immediately to the West of the Subject Property, municipally described as 1031 32 Avenue SW (the "**Major Property**").
30. In her June 16, 2020 email, Ms. Coppus acknowledged Ali and I's intention to subdivide the Subject Property but indicated it may take a while for us to find a buyer for the west lot. Finally, Ms. Coppus advised that Mr. Major wanted to discuss his plans for landscaping and repairing a retaining wall between the Major Property and the west side of the Subject Property. A copy of Ms. Coppus' June 16, 2020 email is attached hereto and marked as **Exhibit "N"**.
31. On June 18, 2020, Mr. Major sent Ali and I an email in which he detailed his plans for the retaining wall between our properties. In introducing himself in his email, Mr. Major stated he would be our neighbor in the event we proceeded with the subdivision of the Subject Property. A copy of Mr. Major's June 18, 2020 email is attached hereto and marked as **Exhibit "O"**.
32. On June 24, 2020, Ali and I met with Ms. Coppus and Mr. Major at the Subject Property and the Major Property to discuss issues with the retaining wall between the Subject Property and the Major Property and associated potential repairs. During this meeting, Mr. Major advised that his house was located on a subdivided lot. Ms. Coppus and Mr. Major also asked questions regarding our intended subdivision and our plans for our family home. Ali and I answered all questions that Ms. Coppus and Mr. Major posed. At no time during this meeting did Mr. Major or Ms. Coppus raise any concerns with our proposed development or any prohibitions to subdividing the Subject Property.

Interactions with the EPRA in August 2020

33. Ali and I worked closely with Dean Thomas Design Group and Terramatic Technologies Inc. ("**Terramatic**") to plan and develop our proposed subdivision for the Subject Property. As I had discussed with the EPRA and particularly, Ms. Virtue in January 2020, our plan was to subdivide the Subject Property into two approximately 50' lots. Our intention remained to build our family home on one of the lots and sell the other approximately 50' lot to a third party purchaser.

34. Ali and I had approved the subdivision plan and design for the Subject Property in March 2020. This plan was to subdivide the Subject Property into two lots: one lot that was approximately 60 feet and one lot that was approximately 50 feet. Our designer, Dean Bottomley of Dean Thomas Design Group worked with Terramatic from that point forward for the submission of our Subdivision Application to the City of Calgary Subdivision Authority.
35. On August 6, 2020, Terramatic submitted our application to subdivide the Subject Property to the Subdivision Authority through the City of Calgary. Included in our application was our tentative subdivision plan which showed the Subject Property being divided into two lots. A copy of the tentative subdivision plan submitted to the City of Calgary is attached hereto and marked as **Exhibit "P"**.
36. On August 27, 2020, I received an email from Ms. Coppus in which she advised that there was a Zoom Meeting that evening which had been organized by the EPRA to discuss our subdivision application for the Subject Property. Ms. Coppus apologized for the same day notice of the meeting and noted she forgot to include us in the invite but that the meeting could not be rescheduled as any comments on the proposed subdivision were due to the City of Calgary that day. While we were not included in the initial invite, Ms. Coppus stated she hoped we would be able to attend. A copy of Ms. Coppus' August 27, 2020 email is attached hereto and marked as **Exhibit "Q"**.
37. Due to the short notice of the August 27, 2020 meeting, I was unavailable to attend. My husband, Ali attended the meeting on behalf of both of us. I am advised by Ali and do verily believe that he met with the EPRA for approximately an hour and a half to discuss our proposed subdivision of the Subject Property and our subdivision application. I am further advised by Ali, and do verily believe that, during the August 27, 2020 meeting, no one in attendance mentioned any restrictions to our proposed subdivision, whether by way of a caveat or otherwise. I am advised by Ali, and do verily believe, that in a subsequent call between Ms. Coppus and Ali on August 27, 2020, she advised Ali that no new comments were raised after Ali disconnected from the August 27, 2020 meeting.
38. I am advised by Ali, and do verily believe, that shortly after Ali's August 27, 2020 call with Ms. Coppus, Ms. Coppus sent an email to Ali and the other individuals in attendance at the August 27, 2020 meeting. Ms. Coppus' email attached a letter sent by the EPRA

providing comments to the City of Calgary regarding our subdivision application. I have reviewed this letter and it was sent on behalf of the EPRA and the individuals in attendance at the meeting. This letter, referred to by Ms. Coppus as the "Community Response Letter" provides comments from the EPRA and other individuals regarding our subdivision application. The letter notes the matters that were raised during the August 27, 2020 meeting. A copy of Ms. Coppus' August 27, 2020 email and associated letter is attached hereto and marked as **Exhibit "R"**.

Interactions in September 2020 and Receiving the Purported Caveat

39. On August 28, 2020, following the positive feedback we received from the EPRA regarding proposed development of the Subject Property, Mr. Bottomley submitted a Development Permit Application to the City of Calgary on our behalf.
40. On September 11, 2020, the City of Calgary Subdivision Authority approved our proposed subdivision of the Subject Property (the "**Subdivision Approval**") pursuant to section 656 of the *Municipal Government act*, RSA 2000 c M 26. The Subdivision Approval was subject to the removal of the existing dwelling house on the Subject Property prior to endorsement of the final instrument. Further, pursuant to the conditions of the Subdivision Approval, Ali and I were to be responsible for the cost of the relocation of any utilities, were required to provide separate service connections to a public main for each proposed lot, and servicing arrangements were required to be to the satisfaction of the Manager Infrastructure Planning, Water Resources. A copy of the Subdivision Approval is attached hereto and marked as **Exhibit "S"**.
41. On September 22, 2020, myself, Ali, and Architectural Technologist, Brandon Leitch from the Dean Thomas Design Group joined a Development Permit Review Meeting organized by Ms. Coppus on behalf of the EPRA regarding our Development Plan application. The purpose of this meeting was for Ali and I to present our proposed design for our home on the Subject Property. Instead individuals not involved in the design, who are part of the Elbow Park Community, inaccurately presented the design. The design presented was an inaccurate representation of our actual design. Mr. Leitch attempted to correct what was presented. Further, Ali and I were not provided with an opportunity to comment on or present the design. The only opportunity we had to speak was when we were asked to

respond to specific and pointed questions. The inaccurate design was met with critical comment from the owners of other properties in the Elbow Park Community.

42. During the September 22, 2020 meeting, Mr. Major, alongside Ms. Coppus, mentioned to Ali and I that there was a caveat in the Elbow Park community which may prevent us from building two homes on the Subject Property and advised we review this document (the "**Purported Caveat**"). At such time, Ms. Coppus advised that there was a group of individuals in Elbow Park that were in the process of ascertaining the meaning of this Purported Caveat but that they had a document outlining the Purported Caveat and stated the Instrument was the Purported Caveat. This was the first time we were advised by the EPRA, or anyone, that there was a caveat which included restrictions on development. This was despite our multitude of inquiries prior to purchasing the Subject Property, including our direct inquiries with the EPRA.
43. After Ms. Coppus advised me that she possessed a copy of the Purported Caveat and that the alleged Purported Caveat was the Instrument, I asked her, as well as other individuals on the call, how they were aware of this fact and where the Purported Caveat had been obtained from, but no one responded to my inquiries. I stated that we had contacted Land Titles and CP Rail to determine the nature of the interest related to the Instrument and that the Registrar had recorded the Instrument as a lost instrument. Ms. Coppus stated that she had come across a copy of the Purported Caveat but, despite our repeated requests, did not advise how it had been obtained or who had provided it. Instead, Ms. Coppus' only response to our inquiries was that that the EPRA had "just come across a copy" and were researching its effect. Ms. Coppus emailed me a copy of the Purported Caveat during the meeting on September 22, 2020. As neither Ms. Coppus nor anyone else on the call advised where the Purported Caveat had been obtained from and because of my prior knowledge that the Registrar considered the Instrument lost, I was unable to verify that the Purported Caveat I was provided with, was in fact the Instrument registered against the Subject Property. A copy of Ms. Coppus' September 22, 2020 email and attachment are attached hereto and marked as **Exhibit "T"**.
44. On September 24, 2020, shortly after we received the Subdivision Approval, Hugoline Morton, a resident of Elbow Park, filed an appeal with the Subdivision and Development

Appeal Board against the Subdivision Approval (the "**Subdivision Appeal**"). Ali and I received a copy of the Subdivision Appeal on October 5, 2020.

45. When the SDAB released the Board Report for the Subdivision Appeal which included our Application, the City of Calgary Subdivision Authority's response, comments received by opposing parties for the Subdivision Approval, and comments from the EPRA, I reviewed a September 7, 2020 letter from individuals opposing our subdivision.
46. The September 7, 2020 letter was signed by a list of signatories including the Applicant, Thomas Ferguson. The September 7, 2020 letter objected to our proposed subdivision for the following reasons:
 - Contextual Sensitivity; and
 - Prior Precedents in the Area.

A copy of the September 7, 2020 letter is attached hereto and marked as **Exhibit "U"**.

47. I reviewed the September 7, 2020 letter once received and noted the issues raised in opposition of Ali and I's proposed subdivision. The September 7, 2020 letter raised issues with the size of our proposed lots and a prior subdivision that had been rejected but did not raise the existence of the Purported Caveat or any restrictions which prevented subdivision of the Subject Property.

Inquiries into the Purported Caveat in October 2020

48. On October 6, 2020, I spoke with Mr. Arnott and requested whether CP Rail would discharge the Instrument. Mr. Arnott advised that I should contact Ms. Kalyniuk with my request for a discharge as while CP Rail previously would apply for a discharge in such cases, it was now hesitant to expel resources to discharge the Caveat given its lack of interest or concern for the registration. Mr. Arnott advised that CP Rail's practice was to provide a letter advising they did not dispute any discharge. Subsequent to my call with Mr. Arnott, I contacted Ms. Kalyniuk who confirmed that CP Rail would not discharge the Instrument given it did not have an interest but that the January 10, 2020 letter CP Rail had previously provided could be used to seek a discharge of the Instrument from the Court.

49. On October 8, 2020, Ms. Virtue sent an email enclosing a letter from the EPRA and a copy of the Purported Caveat. As I had no information about how a copy of the Purported Caveat had been obtained and understood that the Registrar and the Caveator, CP Rail considered it a lost instrument, I was unable to verify the veracity or authenticity of the document that was purportedly the Instrument. A copy of Ms. Virtue's October 8, 2020 email and letter is attached hereto and marked as **Exhibit "V"**.
50. While I was uncertain, and could not determine, whether the Purported Caveat which Ms. Virtue provided was in fact the Instrument, I thought it would be prudent to inquire with CP Rail and the Registrar to determine if the document provided by the EPRA was authentic and a true copy of the Instrument. As part of my inquiries, I emailed Mr. Arnott and Ms. Kalyniuk on October 14, 2020 to advise that Ms. Virtue had provided a document which she believed was the Instrument. A copy of my October 14, 2020 email to Mr. Arnott and Ms. Kalyniuk is attached hereto and marked as **Exhibit "W"**.
51. On October 14, 2020, I also contacted Mr. Arnott by telephone and advised that I had been given a copy of what was purported to be the Instrument but that the individuals who had provided it to me would not tell me where it had been obtained from. Mr. Arnott thanked me for providing this update but stated the information was unhelpful as CP Rail had no way to verify the authenticity of the Purported Caveat.
52. To further investigate the Purported Caveat provided by Ms. Virtue, I contacted the Manager of the Land Titles Office, Christine De Leon. Ms. De Leon confirmed that the Instrument registered on title to the Subject Property as 7648FT had been recorded as lost or destroyed pursuant to Section 21 of the *Act*. Ms. De Leon advised that as the Instrument had been classified as lost or destroyed pursuant to Section 21 of the *Act*, an application to discharge the Instrument should be brought pursuant to that section. During our call, I advised Ms. De Leon that I had been provided with a copy of a document purported to be the Instrument from a member of the EPRA. Ms. De Leon dismissed this information and stated that the Registrar would not restore a document that had been classified as lost or destroyed to any title unless the validity of the document had been confirmed through Land Titles' records. Ms. De Leon stated that Land Titles did not have any records to confirm the veracity and authenticity of the Purported Caveat.

53. On October 22, 2020, the SDAB held a hearing on the procedural merits of the Subdivision Appeal (the "**Procedural Hearing**"). The SDAB dismissed the Subdivision Appeal and upheld the Subdivision Approval. During the Procedural Hearing, the Applicant, Mr. Ferguson made submissions in opposition of our proposed subdivision. The SDAB dismissed the Subdivision Appeal as it stated the SDAB had no jurisdiction to hear the Subdivision Appeal. The SDAB also noted that it was not required to make a decision on matters related to the restrictive covenant, as the appellant, Hugoline Morton, was not qualified to file an appeal. A copy of the SDAB's October 26, 2020 decision, arising from the Procedural Hearing, is attached hereto and marked as **Exhibit "X"**.
54. On October 27, 2020, I was contacted by Mr. Rick Grol, our agent in the Subdivision Appeal and advised that he had received an email from Curtis Marble of Carbert Waite LLP. In his email, Mr. Marble advised that he had been retained by the Applicant, Mr. Ferguson and a group of neighbors who were interested in upholding and enforcing the Purported Caveat. A copy of the email Mr. Grol received from Mr. Marble on October 27, 2020 is attached hereto and marked as **Exhibit "Y"**.
55. Mr. Marble's October 27, 2020 email to Mr. Grol enclosed a letter. I reviewed the letter wherein Mr. Marble stated that Ali and I were deemed to have notice that the Purported Caveat was a restrictive covenant pursuant to section 48 of the Act. Mr. Marble also provided a copy of the Purported Caveat. This appeared to be the same document I was previously provided by Ms. Virtue. I was still not provided with any information as to where the document originated from. Based on my discussions with Ms. De Leon at Land Titles and the information received from the Registrar, I had no information as to whether the Purported Caveat was an authentic copy of the Instrument, if it was an accurate representation of the Purported Caveat, or if there were further documents which modified the Purported Caveat. A copy of the letter Mr. Grol received from Mr. Marble on October 27, 2020 is attached hereto and marked as **Exhibit "Z"**.

The Discharge of the Instrument

56. Ali and I began discussing the possibility of discharging the Instrument prior to purchasing the Subject Property in January 2020. These discussions continued throughout 2020 given we could not ascertain the true nature of the interest related to the Instrument and that Land Titles considered it a lost instrument. In September 2020, after the meeting with

the EPRA regarding our development proposal, wherein the EPRA alleged there were restrictions on the Subject Property, Ali and I further considered our potential options related to the Instrument and re-engaged our discussions about these options with our counsel. Those communications with our counsel are privileged and we do not agree or intend to waive such privilege.

57. An Originating Application was filed in the Alberta Court of Queen's Bench on November 9, 2020 to discharge the Instrument, Action No. 2001-14288 (the "**Discharge Application**").
58. The Discharge Application requested an Order directing the Registrar to discharge the Instrument pursuant to section 141(1) or Section 21(1) of the *Act*. As CP Rail had provided us with a letter advising they did not have a position on a discharge of the Instrument and reiterated such point in recent communications, no notice of the Discharge Application was provided to the Caveator, CP Rail.
59. We did not commence the Discharge Application pursuant to Section 48 of the *Act* as we were not aware, and had no way to determine, what the nature of the interest underlying the Instrument was. While Ms. Virtue had provided a document which she purported to be the Instrument, our best information was obtained from the Registrar and the Caveator, CP Rail. Both the Registrar and CP Rail advised that the Instrument was a lost instrument, and they did not have any information on what interest it may have related to. Therefore, I did not trust the veracity of the document provided by Ms. Virtue as there was no objective evidence in support of the authenticity of the Purported Caveat being a true copy of the Instrument.
60. Due to several COVID-19 related delays, the Discharge Application was not heard until January 13, 2021 before Master J.R. Farrington. Master Farrington ordered the Registrar to discharge the Instrument and ordered that it did not have to be served on a person pursuant to Section 191 of the *Act*. Attached hereto and marked as **Exhibit "AA"** is a true copy of the Order of Master Farrington, filed January 13, 2021.

The Injunction Application

61. On February 2, 2021, Ali and I were served with a copy of the Application for injunctive relief filed by Mr. Ferguson in Action No. 2101-00793 (the "**Injunction Application**") and supporting affidavit of Mr. Ferguson (the "**Ferguson Affidavit**").
62. Ali and I reviewed the Ferguson Affidavit once we received a copy on February 2, 2021.
63. As I reviewed the Ferguson Affidavit, I noted that Mr. Ferguson had included an application and affidavits from another application. Specifically, he had included an Originating Application filed on November 26, 2020 (the "**Restoration Application**"), an Affidavit he swore on November 25, 2020 (the "**Ferguson 2020 Affidavit**"), and an Affidavit sworn by Robert Engbloom, QC on November 25, 2020 (the "**Engbloom 2020 Affidavit**"). I had never before seen the Engbloom 2020 Affidavit or the Ferguson 2020 Affidavit and was unaware Mr. Ferguson had filed the Restoration Application.
64. In reviewing the Restoration Application and Ferguson 2020 Affidavit, I determined that in December 2020 Mr. Ferguson commenced an application to change the status of the Instrument. The Subject Property was identified as a property affected by the Restoration Application but neither Ali nor I ever received notice that the Restoration Application had been commenced or was heard.
65. At Exhibit "G" of the Ferguson Affidavit, Mr. Ferguson attached a December 16, 2020 Order of Justice Malik in which the status of the Instrument was to be rectified from missing. Neither Ali nor I have been served with a copy of this Order despite the fact it affects the Subject Property.

The Elbow Park Neighborhood

66. On March 30, 2021, my counsel was served with an Affidavit sworn by Mr. Robert Engbloom, QC in support of the Injunction Application (the "**Engbloom Affidavit**"). I have reviewed the Engbloom Affidavit and all associated exhibits.

Subdivision in Elbow Park

67. At Exhibit "C" of the Engbloom Affidavit, Mr. Engbloom provided a copy of a 1946 Plan of Re-Subdivision for Plan 3605F0 (the "**1946 Plan**") which he stated created 60 plan lots

including the Subject Property. At Exhibit "F" of the Engbloom Affidavit, Mr. Engbloom provided a color-coded copy of Exhibit "C" which he states shows those lots that have the Purported Caveat registered against them.

68. Upon reviewing Exhibits "C" and "F" to the Engbloom Affidavit, I realized that the 1946 Plan provided does not accurately represent the lots contained in Plan 3605FO as of today's date. This was in part due to my familiarity with the Elbow Park neighborhood and the investigations we had done regarding properties in the area as part of the Conditions. To confirm my understanding, I obtained a copy of the survey plan for Plan 3605FO in 2021 (the "**2021 Plan**") through the Government of Alberta SPIN 2 Website. A copy of the 2021 Plan is attached hereto and marked as **Exhibit "BB"**.
69. In reviewing the 2021 Plan, I noted that the following lots had been subdivided and were not illustrated on Exhibits "C" or "F" to the Engbloom Affidavit:
- (a) In the 1946 Plan, Block 80, Lot 1 has not been subdivided. In the 2021 Plan, Block 80, Lot 1 has been subdivided into two lots.
 - (b) In the 1946 Plan, Block 91, Lot 11 has not been subdivided. In the 2021 Plan, Block 91, Lot 11 has been subdivided into two lots.
 - (c) In the 1946 Plan, Block 93 contains eight lots numbered 1 through 8. In the 2021 Plan, Block 93 contains nine lots numbered 1,9,10, 3-8.

Plan 3605FO, Block 80, Lot 1

70. To confirm whether Block 80, Lot 1 had been subdivided, I requested a copy of the Certificate of Title for Plan 3605FO, Block 80, Lot 1 through the SPIN 2 website. In response to my request, I received two titles with the following legal descriptions:

- (a) PLAN 3605FO
BLOCK 80
LOT 1
EXCEPTING THEREOUT
ALL THAT PORTION OF THE SAID LOT THAT LIES SOUTH OF A STRAIGHT
LINE DRAWN AT RIGHT ANGLES TO THE EAST LIMIT OF SAID LOT 25.72
METRES NORTHERLY ALONG SAID EAST LIMIT FROM ITS INTERSECTION
WITH THE SOUTH LIMIT OF SAID LOT
EXCEPTING THEREOUT ALL MINES AND MINERALS

AND THE RIGHT TO WORK THE SAME

- (b) PLAN 3605FO
BLOCK 80
LOT 1

ALL THAT PORTION OF THE SAID LOT THAT LIES SOUTH OF A STRAIGHT LINE DRAWN AT RIGHT ANGLES TO THE EAST LIMIT OF SAID LOT 25.72 METRES NORTHERLY ALONG SAID EAST LIMIT FROM ITS INTERSECTION WITH THE SOUTH LIMIT OF SAID LOT
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME

Copies of the Certificates of Titles for Plan 3605, Block 80, Lot 1 are attached hereto and marked as **Exhibit "CC"**.

71. Upon further review of the Certificates of Titles for Plan 3605, Block 80, Lot 1, I noted that neither title had the Purported Caveat registered on Title.

Plan 3605FO, Block 91, Lot 11

72. To confirm whether Plan 3605FO, Block 91, Lot 11 had been subdivided, I reviewed the Certificate of Titles for this property. From my review, I observed that this lot has been subdivided since it was included in the 1946 Plan. There are two Certificates of Title for Block 91, Lot 11. These Certificate of Titles do not have the Purported Caveat as a registered instrument. A copy of the Certificates of Title for Plan 3605FO, Block 91, Lot 11 are attached hereto and marked as **Exhibit "DD"**.

Plan 3605FO, Block 93

73. To further understand the changes to Block 93, I obtained the Certificates of Titles for the following properties:
- (a) Plan 3605FO, Block 93, Lot 9;
 - (b) Plan 3605FO, Block 93, Lot 10; and
 - (c) Plan 3605FO, Block 93, Lot 3.
74. I also reviewed the City of Calgary Plan of Survey which shows the subdivision of Block 93, Lots 2 and 3 in the last 20 years. Specifically, the Plan of Survey shows the subdivision

affecting Lots 2 and 3 of Block 93 in 2003. A copy of the 2003 City of Calgary Plan of Survey is attached hereto and marked as **Exhibit "EE"**.

Plan 3605FO, Block 93, Lot 9

75. I reviewed the Certificate of Title for Plan 3605FO, Block 93, Lot 9. This lot was not included in the 1946 Plan. This Certificate of Title does not have the Purported Caveat as a registered instrument. A copy of the Certificate of Title for Plan 3605FO, Block 93, Lot 9 is attached hereto and marked as **Exhibit "FF"**.

Plan 3605FO, Block 93, Lot 10

76. I reviewed the Certificate of Title for Plan 3605FO, Block 93, Lot 10. This lot was not included in the 1946 Plan. This Certificate of Title has the Purported Caveat listed as a registered instrument on title. A copy of the Certificate of Title for Plan 3605FO, Block 93, Lot 10 is attached hereto and marked as **Exhibit "GG"**.

Plan 3605FO, Block 93, Lot 3

77. I reviewed the Certificate of Title for Plan 3605FO, Block 93, Lot 3. This lot as it currently stands was not included in the 1946 Plan. This Certificate of Title has the Purported Caveat listed as a registered instrument on title. A copy of the Certificate of Title for Plan 3605FO, Block 93, Lot 3 is attached hereto and marked as **Exhibit "HH"**.
78. Based on my review of the titles in Plan 3605FO, Block 93, it is my understanding that several lots in Block 93, which would have been subject to the Caveat, have been subdivided. I further understand that Plan 3605FO, Block 93, Lot 2, no longer exists as its title was cancelled as part of the subdivision of the blocks in Lot 93. A copy of the cancelled Certificate of Title for Plan 3605FO, Block 93, Lot 2 is attached hereto and marked as **Exhibit "II"**.
79. In reviewing the Engbloom Affidavit, I note that Mr. Engbloom raised a prior proposal for subdivision in the Elbow Park neighborhood in 2017 at the property municipally described as 3412-10 Street SW and legally described as Plan 3605FO, Block 91, Lot 7. Upon reviewing Mr. Engbloom's statements, Ali and I contacted Ms. Dunnette at the City of Calgary in an attempt to obtain further details on why the subdivision at 3412-10th Street SW did not proceed.

80. On April 5, 2021, Ali and I received an email from Ms. Dunette regarding the 2017 proposal to subdivide 3412-10 Street SW. Ms. Dunette advised that 3412-10 Street barely met the City of Calgary Land Use Bylaw for lot width. Given the narrow lot widths of the proposed subdivided lots at 3412-10 Street, the City determined that subdivided homes would not fit the existing character of the street. A copy of Ms. Dunette's April 5, 2021 email is attached hereto and marked as **Exhibit "JJ"**.

The Front Setback Condition

81. Upon further review of the Purported Caveat, I noted that for each property purportedly subject to the Purported Caveat, and for which a corresponding agreement of sale is attached to the Purported Caveat for such property, the Purported Caveat requires each house or other building to be more than 25 feet from the Street or Avenue (the "**Front Setback Condition**").
82. Using the City of Calgary assessment search website, Ali and I reviewed the properties in the neighborhood which are alleged by the Applicant to be subject to the Purported Caveat and noted that many of them do not appear to comply with the Front Setback Condition. Ali and I prepared a chart similar to the chart provided at Exhibit "C" of the Engbloom Affidavit. This Chart is a copy of the 2021 Plan and shows which properties do not comply with the Front Setback Condition. A copy of this chart is attached hereto and marked as **Exhibit "KK"**.
83. In reviewing the chart at Exhibit KK, I noted that at least 29 properties appear to not comply with the Front Setback Condition as stated in the Purported Caveat, including the property owned by the Applicant, Thomas Ferguson and the property owned by Nancy Stafford Engbloom.

The Subdivision of the Subject Property

84. Our subdivision approval is to subdivide the Subject Property into two lots of the following sizes:
- (a) The easterly lot of the Subject Property will have a lot size of 471 Square Meters (approximately 5,070 square feet) and a lot frontage of 50 feet; and

- (b) The westerly lot of the Subject Property will have a lot size of 535 Square Meters (approximately 5,759 square feet) and a lot frontage of 60 feet.
85. I have reviewed several other lots in the Elbow Park neighborhood and note they are the following sizes:
- (a) Plan 3605FO Block 91, Lot 11 (1035 32 Avenue SW) has a lot size of 529 Square Meters (approximately 5,694 square feet) and a lot frontage of approximately 55 feet;
 - (b) Plan 3065FO Block 91, Lot 11 (1031 32 Avenue SW) has a lot size of 455 Square Meters (approximately 4,898 square feet) and a lot frontage of approximately 50 feet;
 - (c) Plan 3605FO, Block 93, Lot 9 (3402 8A Street SW) has a lot frontage of approximately 41 feet;
 - (d) Plan 3605FO, Block 93, Lot 10 (3404 8A Street SW) has a lot frontage of approximately 41 feet; and
 - (e) Plan 3605FO, Block 93, Lot 3 (3406 8A Street SW) has a lot frontage of approximately 41 feet.

Conclusion


86. At the time Ali and I purchased the Subject Property we were unaware of the nature of the interest the Instrument registered on title may have related to. Despite conducting multiple Land Titles Searches, contacting the Caveator, contacting the manager of Land Titles, contacting the Legal Department of Land Titles, inquiring with the seller, and advising the neighborhood association of our proposal, we were unable to ascertain the nature of the interest underlying Instrument. We had no notice of the nature of the Instrument that was registered and in particular, no information to suggest it placed any restrictions on the Subject Property.
87. Ali and I have obtained Subdivision Approval for the Subject Permit and our Development Permit relates only to the construction of a single family dwelling.

88. I affirm this Affidavit in opposition of Mr. Ferguson's Application for Injunctive Relief in Court of Queen's Bench of Alberta Action No. 2101-00793. Specifically, I affirm this Affidavit:

- (a) In opposition of a declaration that the subdivision of the Subject Property is a breach of the Purported Caveat;
- (b) In opposition of a permanent injunction requiring us to comply with the Purported Caveat; and
- (c) In opposition of an Order restraining the Registrar from registering any subdivision with respect to the Subject Property.

89. I also affirm this Affidavit in support of a cross-application for declaratory relief in Court of Queen's Bench of Alberta Action No. 2101-00793. Specifically, I affirm this Affidavit in support of a declaration that the Subject Property is not subject to the Purported Caveat and the Purported Caveat has no binding effect on the Subject Property. In the alternative, I affirm this Affidavit in support of a declaration that the Purported Caveat does not prohibit subdivision of the Subject Property.

AFFIRMED BEFORE ME
on April 13, 2021 at Calgary, Alberta.



Commissioner for Oaths in and for the
Province of Alberta.

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)
)
)
)
)



Zahra Tejpar

Sophie Mansfield
Barrister & Solicitor

TAB A

THIS IS EXHIBIT "A" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor



LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0019 755 710 3605FO;91;1 191 238 750

LEGAL DESCRIPTION
PLAN 3605FO
BLOCK 91
LOT 1
EXCEPTING THEREOUT ALL MINES AND MINERALS

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

MUNICIPALITY: CITY OF CALGARY

REFERENCE NUMBER: 181 221 979

REGISTERED OWNER(S)				
REGISTRATION	DATE (DMY)	DOCUMENT TYPE	VALUE	CONSIDERATION
191 238 750	22/11/2019	TRANSMISSION OF LAND		

OWNERS

DAVID JOHN SCHULLI
OF 411 PARKVALLEY DR SE
CALGARY
ALBERTA T2J 4V3
EXECUTOR FOR G RICHARD SCHULLI

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

(CONTINUED)

TOTAL INSTRUMENTS: 001

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 18 DAY OF
DECEMBER, 2019 AT 12:43 P.M.

ORDER NUMBER: 38545140

CUSTOMER FILE NUMBER:



END OF CERTIFICATE

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED
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SUBJECT TO WHAT IS SET OUT IN THE PARAGRAPH BELOW.

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TAB B

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2021.

A handwritten signature in blue ink, appearing to be 'S. Mansfield', is written over a horizontal line.

A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

----- Forwarded message -----

From: **Kamil Lalji** <klalji@cirrealty.ca>

Date: Wed, Dec 18, 2019 at 12:47 PM

Subject: Fwd: Your order fullfilled by Spin2

To: Ali Honeycomb <ali@honeycomb.com>, Zahra Allidina <zahraallidina@gmail.com>

Well, that was a waste of money.

Best Regards,

Kamil Lalji

Associate Broker

CIR Realty

www.yycreadvisors.com

100 707 10th Ave SW

Calgary, AB T2R 0B3

Office: [403-294-1500](tel:403-294-1500)

Cell: [403-383-1579](tel:403-383-1579)

----- Forwarded message -----

From: <LTSysystemSupport@gov.ab.ca>

Date: Wed, Dec 18, 2019 at 12:45 PM

Subject: Your order fullfilled by Spin2

To: <klalji@cirrealty.ca>

Thank you for using Spin2.

**ALBERTA GOVERNMENT SERVICES
LAND TITLES OFFICE**

IMAGE OF DOCUMENT REGISTERED AS:

7648FT .

ORDER NUMBER: 38545165

ADVISORY

This electronic image is a reproduction of the original document registered at the Land Titles Office. Please compare the registration number on this coversheet with that on the attached document to ensure that you have received the correct document. Note that Land Titles Staff are not permitted to interpret the contents of this document.

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THE LAND TITLES ACT

(Section 21)

CERTIFICATE

Dear Sir/Madam:

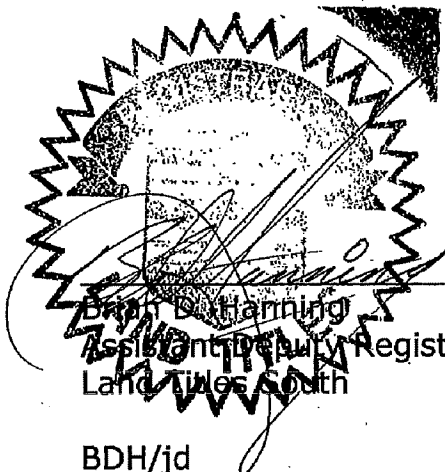
Re: Missing Instrument

Pursuant to Section 21 of the Land Titles Act, I hereby certify that
registered document:

Numbered **7648 F.T.**

has been lost, mislaid or destroyed and has not been micro
photographed.

Yours truly,



Brian D. Hanning
Assistant Deputy Registrar
Land Titles South

BDH/jd

Outgrade Under Dec 21

around June 03, 05 70

July 25th, 2006

TAB C

THIS IS EXHIBIT "C" REFERRED TO IN THE
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2021.



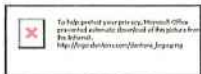
A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

Zahra Tejpar

From: O'Leary, Thomas P. <thomas.oleary@dentons.com>
Sent: Thursday, January 2, 2020 11:44 AM
To: Allidina, Zahra
Subject: RE: Elbow Park Development

Sure thing Zahra. Sorry if this fell through the cracks on my end until now. I can talk today if you want to call my cell at 403 830 8478. Or we can pick a time next week if that works better for you. Please let me know what works.



Thomas P. O'Leary
Partner

D +1 403 268 7303
thomas.oleary@dentons.com
[Bio](#) | [Website](#)

Dentons Canada LLP
15th Floor, Bankers Court, 850 - 2nd Street SW Calgary, AB T2P 0R8 Canada

[Larraín Rencoret](#) > [Hamilton Harrison & Mathews](#) > [Mardemootoo Balgobin](#) > [HPRP](#) > [Zain & Co.](#) > [Delany Law](#) > [Dinner Martin](#) > [MacLay Murray & Spens](#) > [Gallo Barrios Pickmann](#) > [Muñoz](#) > [Cardenas & Cardenas](#) > [Lopez Velarde](#) > [Rodyk](#) > [Boekel](#) > [OPF Partners](#)

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From: Allidina, Zahra <zahra.allidina@esso.ca>
Sent: December 29, 2019 9:25 PM
To: O'Leary, Thomas P. <thomas.oleary@dentons.com>
Subject: Elbow Park Development

Hi Tom,

Happy Holidays! Hope you are doing well. I don't believe that we have had a chance to meet, but I know you support our Law department at Imperial.

If I'm not mistaken, I understand that you are a board member for the Elbow Park Community Association. I'm wondering if I could borrow a few minutes of your time this week to chat about a personal matter? My husband and I are looking to potentially build a home in Elbow Park and I was hoping to run a few questions by you about zoning. We are still in the very early stages of considering this, but trying to do my research!

Please let me know if you might have a few minutes to chat. Thanks very much!

Zahra

Zahra Allidina

Counsel

Law Department, Imperial Oil Limited

zahra.allidina@esso.ca P [587.476.1393](tel:587.476.1393)

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2021.

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A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

ali.l.tejpar@gmail.com

From: Allidina, Zahra <zahra.allidina@esso.ca>
Sent: January 2, 2020 12:25 PM
To: president@elbowpark.com
Cc: O'Leary, Thomas P.; ali.l.tejpar@gmail.com
Subject: Elbow Park Development

Hi Jane,

Happy New Year! Hope you are doing well and had a restful holiday break. I received your contact information from the Elbow Park Community Association website and from a conversation with Tom O'Leary.

I am wondering if you have a few minutes to chat some time in the next few days? My husband and I are looking to potentially build a family home in Elbow Park and we were hoping to run a few questions by you about zoning. We are still in the very early stages of considering this, but trying to do our research! We have also just spoken to Tom and he suggested that we also reach out to you.

Please let me know if you might have a few minutes to chat. We can provide more details and information on our intention. Thanks very much!

Zahra
(403) 613-9261

Zahra Allidina

Counsel

Law Department, Imperial Oil Limited
505 Quarry Park Blvd SE, Calgary AB T2C 5N1 | P5A163

zahra.allidina@esso.ca P 587.476.1393
imperialoil.ca | [Twitter](#) | [YouTube](#)

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BEFORE ME THIS 13TH DAY OF APRIL,
2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

Zahra Tejpar

From: Margo Coppus <margo@coppus.ca>
Sent: Monday, January 6, 2020 6:30 PM
To: Allidina, Zahra
Cc: president@elbowpark.com
Subject: Re: Elbow Park Development

Hi Zahra,

Thanks for contacting us for information.

I am the Chair of the Elbow Park Development Committee and would like to answer any questions you have. Unfortunately I am out of the country until about Feb 5. Would you be able to email your questions?

Jane is also quite familiar with the Elbow Park Developments and I will leave it up to her to give you a call while I am away.

Once I am back, we can invite you to a development permit review meeting with the committee to present your plans/ideas. At that time we can give you some feedback.

Hope this helps,

Margo Coppus

From: Allidina, Zahra <zahra.allidina@esso.ca>
Sent: January 2, 2020 12:25 PM
To: president@elbowpark.com
Cc: O'Leary, Thomas P. <thomas.oleary@dentons.com>; ali.l.tejpar@gmail.com
Subject: Elbow Park Development

Hi Jane,

Happy New Year! Hope you are doing well and had a restful holiday break. I received your contact information from the Elbow Park Community Association website and from a conversation with Tom O'Leary.

I am wondering if you have a few minutes to chat some time in the next few days? My husband and I are looking to potentially build a family home in Elbow Park and we were hoping to run a few questions by you about zoning. We are still in the very early stages of considering this, but trying to do our research! We have also just spoken to Tom and he suggested that we also reach out to you.

Please let me know if you might have a few minutes to chat. We can provide more details and information on our intention. Thanks very much!

Zahra
(403) 613-9261

Zahra Allidina

Counsel

Law Department, Imperial Oil Limited

505 Quarry Park Blvd SE, Calgary AB T2C 5N1 | P5A163

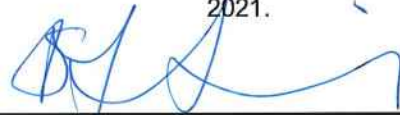
zahra.allidina@esso.ca P 587.476.1393

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2021.

A handwritten signature in blue ink, appearing to be 'S. Mansfield', written over a horizontal line.

A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

Allidina, Zahra

To: Zahra Allidina
Subject: FW: CP Caveat

From: Allidina, Zahra <zahra.allidina@esso.ca>
Sent: Tuesday, January 07, 2020 11:11 AM
To: Jon Arnott <Jon_Arnott@cpr.ca>
Subject: CP Caveat

Hi Jon,

It was nice chatting with you, thanks again for your offer to look into this. Attached is a copy of the Title as well as a copy of the Search Result for the Caveat.

Here are some details on the Caveat:

Registration Number – 7648FT
Date – May 5, 1948
Caveator – Canadian Pacific Railway Company

Please let me know if you need anything else. Thanks again!

Zahra

Zahra Allidina

Counsel

Law Department, Imperial Oil Limited
505 Quarry Park Blvd SE, Calgary AB T2C 5N1 | P5A163
zahra.allidina@esso.ca P 587.476.1393
imperialoil.ca | [Twitter](#) | [YouTube](#)

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LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0019 755 710 3605FO;91;1 191 238 750

LEGAL DESCRIPTION
PLAN 3605FO
BLOCK 91
LOT 1
EXCEPTING THEREOUT ALL MINES AND MINERALS

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

MUNICIPALITY: CITY OF CALGARY

REFERENCE NUMBER: 181 221 979

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

191 238 750	22/11/2019	TRANSMISSION OF LAND		

OWNERS

DAVID JOHN SCHULLI
OF 411 PARKVALLEY DR SE
CALGARY
ALBERTA T2J 4V3
EXECUTOR FOR G RICHARD SCHULLI

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

(CONTINUED)

TOTAL INSTRUMENTS: 001

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 18 DAY OF
DECEMBER, 2019 AT 12:43 P.M.

ORDER NUMBER: 38545140

CUSTOMER FILE NUMBER:



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).

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. {
- OK.
RE TO FORM
Assistant Registrar
- Φ ok

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.

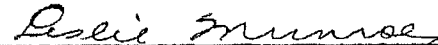
DATED this 29th day of April, A.D.1948.



Witness.

CANADIAN PACIFIC RAILWAY COMPANY

Per



Leslie Munroe, Manager,
Department of Natural Resources.

7648 F.T.

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.

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).
- × 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. X

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 L. L. L.
Witness.

Betty L. L. L.
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. Whinnell

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

CANADA)

PROVINCE OF ALBERTA)

TO WIT:)

I, Betty Gablehouse, of the City of
Calgary, in the Province of Alberta, Stenographer,
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 Gablehouse

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

0.194

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.

APR 1948

EXTRA NEW TITLE
STRICT
TRA REF. CERT
IGN. FEE

Value
VAT
L FEE

Legal Affs

7648
D.B.M.

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.

LAND TITLES OFFICE
CALGARY

CAVEAT.

700246
247

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'clock _____ M., on the _____ day of _____ A.D., 19____ Number _____ Book _____ Folio _____ Registered _____ S. A. L. R. O.

16129

C.F.R. BULLOCK
CALGARY, ALBERTA.

TAB G

THIS IS EXHIBIT "G" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.

A handwritten signature in blue ink, appearing to be 'S. Mansfield', is written over a horizontal line.

A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor



Zahra Allidina Tejpar <zahraallidina@gmail.com>

Fwd: 1023 32 Avenue SW

Kamil Lalji <klalji@cirrealty.ca>
To: Zahra Allidina <zahraallidina@gmail.com>

Thu, Apr 8, 2021 at 11:19 PM

Best Regards,

Kamil Lalji, BA
Associate Broker
CIR Realty
www.yycreadvisors.com
#100 707 10th Avenue S.W.
Calgary, AB T2R 0B3
Office: 403-294-1500

Begin forwarded message:

From: "Gordon W. Ross" <info@gordonwross.com>
Date: January 7, 2020 at 4:00:06 PM MST
To: Kamil Lalji <klalji@cirrealty.ca>
Subject: RE: 1023 32 Avenue SW

Hi Kamil,

He is not interested in changing the price or removing the caveat, please let me know how your clients would like to proceed.

All the best,

Gordon W. Ross

RE/MAX Real Estate (Central)

Pager: [403-216-1600](tel:403-216-1600)

Direct: [403-245-2703](tel:403-245-2703)

Selling more inner city homes than any individual Realtor in the #1 RE/MAX office in the world!

RE/MAX Real Estate (Central)

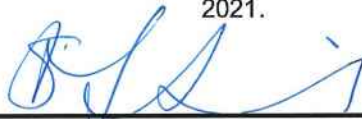
Pager: 403-216-1600

Direct: 403-245-2703

Selling more inner city homes than any individual Realtor in the #1 RE/MAX office in the world!

TAB H

THIS IS EXHIBIT "H" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

From: Jane Virtue <janevirtue@icloud.com>
Sent: Tuesday, January 7, 2020 5:31 PM
To: Allidina, Zahra
Cc: president@elbowpark.com; O'Leary, Thomas P.; ali.l.tejpar@gmail.com
Subject: Re: Elbow Park Development

Hi Zaharia

We can set up a time to chat on the phone. I'm free tomorrow noon to 1 pm and Thursday 10:30 to 1:00. Let me know if that works. You can call my cell at 403-680-9320.

Regards

Jane

Sent from Jane's iPhone

On Jan 2, 2020, at 1:46 PM, Allidina, Zahra <zahra.allidina@esso.ca> wrote:

Hi Jane,

Happy New Year! Hope you are doing well and had a restful holiday break. I received your contact information from the Elbow Park Community Association website and from a conversation with Tom O'Leary.

I am wondering if you have a few minutes to chat some time in the next few days? My husband and I are looking to potentially build a family home in Elbow Park and we were hoping to run a few questions by you about zoning. We are still in the very early stages of considering this, but trying to do our research! We have also just spoken to Tom and he suggested that we also reach out to you.

Please let me know if you might have a few minutes to chat. We can provide more details and information on our intention. Thanks very much!

Zahra
(403) 613-9261

Zahra Allidina

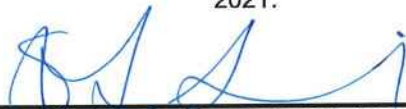
Counsel

Law Department, Imperial Oil Limited
505 Quarry Park Blvd SE, Calgary AB T2C 5N1 | P5A163
zahra.allidina@esso.ca P 587.476.1393
imperialoil.ca | [Twitter](#) | [YouTube](#)

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TAB I

THIS IS EXHIBIT "I" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

[REDACTED]

From: Heidi Kalyniuk <Heidi_Kalyniuk@cpr.ca>
Sent: Friday, January 10, 2020 11:08 AM
To: Allidina, Zahra
Cc: Heidi Kalyniuk
Subject: RE: Request to Discharge Caveat 7648FT - Calgary, AB.
Attachments: image2020-01-10-110557.pdf

Hi Zahra:

I thought it might be the Mount Royal or Bridgeland area. There were numerous caveats registered in favour of CP in these areas, and they usually had to do with a restriction to not build within a certain distance to the road or neighbour's property, etc.

I am going to assume that this caveat falls into that category and would advise we cannot provide you with a discharge. Instead, we send out a standard letter which you can then use going forward.

I've attached it and will send it out by general mail to you today.

Heidi



Heidi C. Kalyniuk
Specialist, Real Estate
O 403-319-7904

7550 Ogden Dale Road SE
Calgary AB T2C 4X9

From: Allidina, Zahra <zahra.allidina@esso.ca>
Sent: Friday, January 10, 2020 9:46 AM
To: Heidi Kalyniuk <Heidi_Kalyniuk@cpr.ca>
Subject: Re: Request to Discharge Caveat 7648FT - Calgary, AB.

This email did not originate from Canadian Pacific. Please exercise caution with any links or attachments.

Hi Heidi,

Thanks for reaching out. The area of Calgary is Elbow Park and the municipal address is 1023 32 Avenue SW.

Please see attached plan that we have received. Unfortunately land titles was not able to provide anything else to us as the instrument is lost (and quite dated).

Thanks,
Zahra

----- IMPORTANT NOTICE - AVIS IMPORTANT ----- Computer viruses can be transmitted via email. Recipient should check this email and any attachments for the presence of viruses. Sender and sender company accept no liability for any damage caused by any virus transmitted by this email. This email

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TAB J

THIS IS EXHIBIT "J" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.

A handwritten signature in blue ink, appearing to read 'S. Mansfield', is written over a horizontal line.

A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor



Heidi C. Kalyniuk
Specialist
Real Estate

7550 Ogden Dale Road SE
Calgary Alberta
Canada T2C 4X9

T 403.319.7904
C
E heidi_kalyniuk@cpr.ca

January 10, 2020

VIA EMAIL PDF

Zahra & Ali Tejpar
1826 – 37 Avenue SW
Calgary, AB T2T 2H4

Dear Sir and Madam:

Re: Caveat No. 7648FT on Lot 1, Block 91, Plan 3605FO – 1023 – 32 Avenue SW, Calgary, AB.

Further to your request, please note Canadian Pacific Railway Company no longer has any interest in Caveat 7648FT registered on Title No. 191 238 750.

Canadian Pacific Railway Company neither consents nor opposes any effort for removal or discharge of Caveat 7648FT from the lands described above.

Yours truly,

Heidi C. Kalyniuk
Specialist, Real Estate West
403.319.7904

/hck

TAB K

THIS IS EXHIBIT "K" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021,



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

[REDACTED]

From: Jon Arnott <Jon_Arnott@cpr.ca>
Sent: Monday, January 13, 2020 4:39 PM
To: Allidina, Zahra
Subject: RE: CP Caveat

Hi Zahra and no worries. I have reached out to the Director to determine whether she has any discretion to issue a discharge letter. I otherwise have no influence. Will let you know if anything positive develops. Keep your fingers crossed!

Jon



Jon Arnott
Legal Counsel
O 403-319-3678
F 403-319-6770
7550 Ogden Dale Road SE
Calgary AB T2C 4X9

From: Allidina, Zahra <zahra.allidina@esso.ca>
Sent: Monday, January 13, 2020 4:11 PM
To: Jon Arnott <Jon_Arnott@cpr.ca>
Subject: RE: CP Caveat

This email did not originate from Canadian Pacific. Please exercise caution with any links or attachments.

Hi Jon,

Hope you had a nice weekend and are staying warm! I am bothering you again about this matter, I apologize. I spoke to Heidi on Friday, she was very helpful and able to send me a No Interest letter indicating that CP does not have a present interest in the caveat and that it neither opposes nor consents to efforts to discharge or remove the caveat. I've attached a copy. However, Heidi was not able to determine what the caveat relates to as there was no paperwork on it – she assumes that it relates to building scheme restrictions.

The one thing that concerned me is that Heidi indicated that CP was not able to remove the caveat. The no interest letter was the only thing that could be provided. I'm concerned as the Seller is not willing to remove the caveat, nor do they have any information on what it pertains to. Both the Seller and Land Titles keep referring us back to CP. I do not want to trouble you again, but is there anything else we can do? I'm looking to confirm what the caveat is about and if there is no interest being claimed, we are seeking a discharge from CP or even a discharge letter that we could present to Land Titles. They have indicated they could accept a discharge letter but the no interest letter doesn't allow them to act on the caveat without initiating a court proceeding. We are closing on the Land on January 30 so I'm trying to weigh our options.

Thanks again!
Zahra

TAB L

THIS IS EXHIBIT "L" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.

A handwritten signature in blue ink, appearing to read 'SM', is written over a horizontal line.

A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor



KL



2 People >

Sun, Jun 7, 12:22 PM

Kamil Lalji

Margo Coppus and the chair of the planning and development commuting for the community of Elbow Park has reached out to me and wants you to reach out to her. Margo@coppus.ca
[403-680-2392](tel:403-680-2392)

Is the chair*

Wants to talk about your plans before you submit to make sure it lines up with the community

KL

That's so odd, when we talk to her, she said we don't need to contact them again as they will see the documents submitted through the process

Kamil Lalji



iMessage



TAB M

THIS IS EXHIBIT "M" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

[REDACTED]

From: Allidina, Zahra <zahra.allidina@esso.ca>
Sent: Tuesday, June 16, 2020 9:30 AM
To: Margo Coppus
Cc: president@elbowpark.com; Ali Tejpar
Subject: RE: Elbow Park Development
Attachments: Re: Elbow Park Development

Hi Margo,

Hope you and your family are doing well. My husband Ali and I received a message from our agent (Kamil Lalji) that you had requested us to contact you. For background, we are the owners of the property located at 1023 32 Avenue SW. We would be happy to speak to you.

By way of background, we had reached out to the Elbow Park Community Association in January just before we confirmed the purchase of the property. I believe you were overseas at that time so we had phone conversations with Tom O'Leary and then a more substantial conversation with Jane Virtue as well 😊 Jane provided us with a good overview of the Community Association's objectives and we in turn provided our high level plans with respect to the property. Essentially, Ali and I wanted to ensure that the Community Association was comfortable with our initial design thoughts and lot sizes, and we received positive feedback on this.

Since January/February, we have closed on the property and are currently working with an architect and designer on our new home plan. We are available this Friday between 9am – 12pm if there is a time that works for you?

Thanks Margo!

Regards,
Zahra

Zahra Allidina

Counsel

Law Department, Imperial Oil Limited
505 Quarry Park Blvd SE, Calgary AB T2C 5N1 | P5A163
zahra.allidina@esso.ca P 587.476.1393
imperialoil.ca | [Twitter](#) | [YouTube](#)

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From: Margo Coppus [mailto:margo@coppus.ca]
Sent: Monday, January 6, 2020 6:30 PM
To: Allidina, Zahra <zahra.allidina@esso.ca>
Cc: president@elbowpark.com
Subject: Re: Elbow Park Development

Hi Zahra,

Thanks for contacting us for information.

I am the Chair of the Elbow Park Development Committee and would like to answer any questions you have. Unfortunately I am out of the country until about Feb 5. Would you be able to email your questions?

Jane is also quite familiar with the Elbow Park Developments and I will leave it up to her to give you a call while I am away.

Once I am back, we can invite you to a development permit review meeting with the committee to present your plans/ideas. At that time we can give you some feedback.

Hope this helps,

Margo Coppus

From: Allidina, Zahra <zahra.allidina@esso.ca>
Sent: January 2, 2020 12:25 PM
To: president@elbowpark.com
Cc: O'Leary, Thomas P. <thomas.oleary@dentons.com>; ali.l.tejpar@gmail.com
Subject: Elbow Park Development

Hi Jane,

Happy New Year! Hope you are doing well and had a restful holiday break. I received your contact information from the Elbow Park Community Association website and from a conversation with Tom O'Leary.

I am wondering if you have a few minutes to chat some time in the next few days? My husband and I are looking to potentially build a family home in Elbow Park and we were hoping to run a few questions by you about zoning. We are still in the very early stages of considering this, but trying to do our research! We have also just spoken to Tom and he suggested that we also reach out to you.

Please let me know if you might have a few minutes to chat. We can provide more details and information on our intention. Thanks very much!

Zahra
(403) 613-9261

Zahra Allidina

Counsel

Law Department, Imperial Oil Limited

505 Quarry Park Blvd SE, Calgary AB T2C 5N1 | P5A163

zahra.allidina@esso.ca P 587.476.1393

imperialoil.ca | [Twitter](#) | [YouTube](#)

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TAB N

THIS IS EXHIBIT "N" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

From: Margo Coppus <margo@coppus.ca>
Sent: Tuesday, June 16, 2020 2:52 PM
To: Allidina, Zahra
Cc: president@elbowpark.com; Ali Tejpar; Mike Major
Subject: Re: Elbow Park Development

External Email - Think Before You Click

Hello Zahra,

Good to hear from you. I am copying your future neighbour Mike Major on this email as he has been trying to contact you as well. He has plans to re-landscape his backyard this summer and would like to redo the retaining wall between his property and your west side.

We would appreciate a meeting with you so that we can discuss his concerns. I realize you are planning to subdivide the west portion, but as we don't know how long it will take to find a buyer, I think it is important that we discuss this with you.

Unfortunately I will be out of town on Friday. Can we set up something for later next week? I should be available anytime next Wed, Thurs or Fri.

Thanks for reaching out to us.

Margo Coppus
margo@coppus.ca

On Jun 16, 2020, at 9:29 AM, Allidina, Zahra <zahra.allidina@esso.ca> wrote:

Hi Margo,

Hope you and your family are doing well. My husband Ali and I received a message from our agent (Kamil Lalji) that you had requested us to contact you. For background, we are the owners of the property located at 1023 32 Avenue SW. We would be happy to speak to you.

By way of background, we had reached out to the Elbow Park Community Association in January just before we confirmed the purchase of the property. I believe you were overseas at that time so we had phone conversations with Tom O'Leary and then a more substantial conversation with Jane Virtue as well😊 Jane provided us with a good overview of the Community Association's objectives and we in turn provided our high level plans with respect to the property. Essentially, Ali and I wanted to ensure that the Community Association was comfortable with our initial design thoughts and lot sizes, and we received positive feedback on this.

Since January/February, we have closed on the property and are currently working with an architect and designer on our new home plan. We are available this Friday between 9am – 12pm if there is a time that works for you?

Thanks Margo!

Regards,
Zahra

Zahra Allidina

Counsel

Law Department, Imperial Oil Limited

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From: Margo Coppus [<mailto:margo@coppus.ca>]

Sent: Monday, January 6, 2020 6:30 PM

To: Allidina, Zahra <zahra.allidina@esso.ca>

Cc: president@elbowpark.com

Subject: Re: Elbow Park Development

Hi Zahra,

Thanks for contacting us for information.

I am the Chair of the Elbow Park Development Committee and would like to answer any questions you have. Unfortunately I am out of the country until about Feb 5. Would you be able to email your questions?

Jane is also quite familiar with the Elbow Park Developments and I will leave it up to her to give you a call while I am away.

Once I am back, we can invite you to a development permit review meeting with the committee to present your plans/ideas. At that time we can give you some feedback.

Hope this helps,

Margo Coppus

From: Allidina, Zahra <zahra.allidina@esso.ca>

Sent: January 2, 2020 12:25 PM

To: president@elbowpark.com

Cc: O'Leary, Thomas P. <thomas.oleary@dentons.com>; ali.l.tejpar@gmail.com
Subject: Elbow Park Development

Hi Jane,

Happy New Year! Hope you are doing well and had a restful holiday break. I received your contact information from the Elbow Park Community Association website and from a conversation with Tom O'Leary.

I am wondering if you have a few minutes to chat some time in the next few days? My husband and I are looking to potentially build a family home in Elbow Park and we were hoping to run a few questions by you about zoning. We are still in the very early stages of considering this, but trying to do our research! We have also just spoken to Tom and he suggested that we also reach out to you.

Please let me know if you might have a few minutes to chat. We can provide more details and information on our intention. Thanks very much!

Zahra
(403) 613-9261

Zahra Allidina

Counsel

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<Mail Attachment.eml>

TAB O

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2021.

A handwritten signature in blue ink, appearing to be 'S. Mansfield', written over a horizontal line.

A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

From: Mike Major <mjmajor@shaw.ca>
Sent: Thursday, June 18, 2020 1:08 PM
To: 'Margo Coppus'; Allidina, Zahra
Cc: president@elbowpark.com; 'Ali Tejpar'
Subject: RE: Elbow Park Development

External Email - Think Before You Click

Sorry about that, this one got out the door before I finished. Please carry on below.....

From: Mike Major <mjmajor@shaw.ca>
Sent: Thursday, June 18, 2020 12:55 PM
To: 'Margo Coppus' <margo@coppus.ca>; 'Allidina, Zahra' <zahra.allidina@esso.ca>
Cc: 'president@elbowpark.com' <president@elbowpark.com>; 'Ali Tejpar' <ali.l.tejpar@gmail.com>
Subject: RE: Elbow Park Development

Hello Zahra and Ali

My wife, Carol and I live at 1031-32 Ave next door to your proposed new lot in the event that you proceed with your subdivision at 1027-32 Ave.

As Margo outlined I am hoping to proceed with some yard work and re-landscaping this summer. I should clarify that I do not need to redo your wooden post retaining wall between our two properties. My work will likely involve removing the wooden planters and the trellis with a lattice fencing that hold some vines on my side of the property line.

Your plans might necessitate replacement of your retaining wall and you may want to replace the fence on the property line once your project is commenced. If that is the case I would be willing to consider expanding the scope of my own project to remove a portion of the old post retaining wall and construct a replacement wall with a common fence. I will have men and equipment on site so I expect that the increased costs for the removal and replacement of a portion of the retaining wall and construction of a common fence along the boundary line at the back of the yards could be done at a lower cost if it is done at the same time.

A common goal for a portion of the old wooden retaining wall and a common fence might be something that would benefit us both. I would understand if your own plans are not yet finalized and may be uncertain at this time. If you would prefer to wait and include whatever retaining wall requirements you might need to incorporate into your plan of subdivision I

would limit my project to my own yard but I would not be inclined to assist with any portion of the later reconstruction or remediation costs of the retaining wall.

I would be able to review RPR's, fence lines and the construction history of the Northern portion of the boundary line with you at any time either in person or over the telephone if you might prefer. I built the new timber small retaining wall and drainage system on the North boundary line beside my driveway after there was a collapse of a portion of the old timber retaining wall and cracks to my concrete retaining wall caused by hydrostatic pressure when my former neighbour, the late Mr. Dick Schulli put in some new sod. Mr. Schulli was soaking the new sod and the extra water caused the damage and destruction I referred to. I built a drainage system complete with weeping tiles and a drain on the Eastern side of my new timber retaining wall which continued all the way down my cement retaining wall by my driveway ending at the sidewalk. I had repairs done to the concrete before the drainage system was filled in.

My concern going forward is that any new development on 1027 will be putting new pressure on the remaining old wooden posts and timber retaining wall. I do not think the old post portion of the existing retaining wall will be able to contain or withstand any increase in pressure. New construction may result in drainage onto my property and a collapse or further encroachment of the old wall onto the already narrow corridor that exists between the old retaining wall and my home all the way along the Eastern side of my house. I would expect that your subdivision plans will include sufficient drainage and retaining wall reconstruction plans to adequately address the issues that the existing old wooden post retaining wall will present upon any plan to subdivide. If you have plans for the replacement of the wooden posts and old timber retaining wall I would be pleased to have those plans reviewed particularly as I am going to try to proceed with my own work this summer and it might make sense to co-ordinate on the rebuild of a portion of the new retaining wall at this time.

My week next week has some existing commitments but I would be pleased to meet next Wednesday after 3:00 or Thursday after 6:00 or Friday after 6:00. Please feel free to call me any afternoon at home (403.243.2840) to discuss the boundary retain walls in conjunction with your plans for subdivision. If you would like to drop by and allow me to introduce myself before we get together with Margo please do not hesitate to give me a call and swing by to say "Hello".

Welcome to Elbow Park.

Kind regards,
Mike

From: Margo Coppus <margo@coppus.ca>
Sent: Tuesday, June 16, 2020 2:52 PM
To: Allidina, Zahra <zahra.allidina@esso.ca>
Cc: president@elbowpark.com; Ali Tejpar <ali.l.tejpar@gmail.com>; Mike Major <mjmajor@shaw.ca>
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We would appreciate a meeting with you so that we can discuss his concerns. I realize you are planning to subdivide the west portion, but as we don't know how long it will take to find a buyer, I think it is important that we discuss this with you.

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Since January/February, we have closed on the property and are currently working with an architect and designer on our new home plan. We are available this Friday between 9am – 12pm if there is a time that works for you?

Thanks Margo!

Regards,
Zahra

Zahra Allidina

Counsel

Law Department, Imperial Oil Limited

505 Quarry Park Blvd SE, Calgary AB T2C 5N1 | P5A163

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Cc: president@elbowpark.com

Subject: Re: Elbow Park Development

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Margo Coppus

From: Allidina, Zahra <zahra.allidina@esso.ca>

Sent: January 2, 2020 12:25 PM

To: president@elbowpark.com

Cc: O'Leary, Thomas P. <thomas.oleary@dentons.com>; ali.l.tejpar@gmail.com

Subject: Elbow Park Development

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Zahra
(403) 613-9261

Zahra Allidina

Counsel

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<Mail Attachment.eml>

TAB P

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BEFORE ME THIS 13TH DAY OF APRIL,
2021.

A handwritten signature in blue ink, appearing to read 'S. Mansfield', is written over a horizontal line.

A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

PLAN NO. _____
ENTERED AND REGISTERED
ON _____
INSTRUMENT NO.: _____

A.D. REGISTRAR

City of CALGARY
- ALBERTA -

PLAN SHOWING SURVEY of

SUBDIVISION

affecting LOT 1, BLOCK 91, PLAN 3605 FO
in S.E. 1/4 SEC. 9, TWP. 24, RGE. 1, W5M
BY: KRISTA D. LOVSE, A.L.S. 2020

SCALE : 1 : 500



LEGEND

STATUTORY IRON POSTS FOUND SHOWN THUS: ●
 STATUTORY IRON BARS FOUND SHOWN THUS: ◊
 STATUTORY IRON SURVEY POSTS PLANTED SHOWN THUS: ○ MARKED P188
 ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF.
 DISTANCES ON CURVED BOUNDARIES ARE ARC DISTANCES.
 BEARINGS ARE GRID AND DERIVED FROM GPS TIES TO ASCA 114660, 34785 AND 168377

DATUM USED: NORTH AMERICAN DATUM 1983
PROJECTION USED: 3° TRANSVERSE MERCATOR
REFERENCE MERIDIAN USED: 114°
COMBINED FACTOR USED: 0.999736

ALBERTA SURVEY CONTROL MARKERS SHOWN THIS AREA TO BE REGISTERED BY THIS PLAN SHOWN OUTLINED THUS AND CONTAINS 2 LOTS TOTALING 0.100 HECTARES

[illegible]

SURVEYOR

NAME: KRISTA D. LOVISE
SURVEYED BETWEEN THE DATES OF
MAY 23, 2017
AND -
IN ACCORDANCE WITH THE
PROVISIONS OF THE SURVEYS ACT

REGISTERED OWNERS

AU TEJPAR
ZAHRA TEJPAR

SUBDIVISION AUTHORITY

NAME: QTY O
FILE No: -

TERRAMATIC TECHNOLOGIES INC. PHONE (403) 214 3655

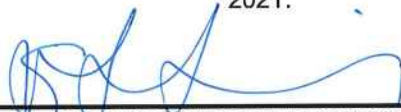
#12-5080-12A ST. S.E., CALGARY E-MAIL: survey@larramatic.com

DRAFTING FILE NO. 20254265 DRAFTER BY: AJ CHECKED BY: KL	FILE No.: 20254265
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TAB Q

THIS IS EXHIBIT "Q" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

ali.l.tejpar@gmail.com

From: Margo Coppus <margo@coppus.ca>
Sent: August 27, 2020 7:55 AM
To: Zahra Allidina; Ali Tejpar
Subject: Fwd: Development Zoom Meeting: Application SB2020-0165

Hi Zahra and Ali,,

I am so sorry! I called a zoom meeting regarding your subdivision application for tonight and totally missed sending the meeting details to you.

I did not see the application until one week ago and have been on vacation with family. It has been very busy and totally slipped my mind.

There are some concerned neighbours who will join, so I hope that you receive this invite on time and will be able to attend tonight at 7:00pm.

Please scroll down the email below for the meeting details.

Let me know if you are having problems with this.

Regards,

Margo Coppus

Margo Coppus
Sent from my iPhone

Begin forwarded message:

From: Margo Coppus <margo@coppus.ca>
Date: August 24, 2020 at 1:42:48 PM MDT
To: Hugoline Morton <hugolinemorton@hotmail.com>, Mike Major <mjmajor@shaw.ca>, Joan Hudson <dhhjph@hotmail.com>
Cc: Vern Yu <vern.yu@enbridge.com>
Subject: Re: Development Zoom Meeting: Application SB2020-0165

Hi All,

Here are the details to join the Zoom meeting this Thursday. I am sending 2 links, as I only have an account for 40 min meetings, but this one may take longer, so I scheduled an additional one. Please join in on the 7:00pm link and when time runs out you can re-join on the next link. Haven't tried this before, but it should work.

Looking forward to meeting you.

First Zoom meeting on Thursday August 27 starting at 7:00pm

Join Zoom Meeting

<https://us04web.zoom.us/j/6559514605?pwd=TzZ1Mm5CYWR1K2k4c3BHYUJHQdEUT09>

Meeting ID: 655 951 4605

Passcode: EPRA

Second Zoom meeting starting at 8:00pm

Join Zoom Meeting

<https://us04web.zoom.us/j/6559514605?pwd=TzZ1Mm5CYWR1K2k4c3BHYUJHQUdEUT09>

Meeting ID: 655 951 4605

Passcode: EPRA

Margo Coppus.

TAB R

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2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

ali.l.tejpar@gmail.com

From: Margo Coppus <margo@coppus.ca>
Sent: August 27, 2020 9:43 PM
To: Hugoline Morton; Vern Wadey; Mike Major; Joan Hudson; Ali Tejpar
Cc: Martina Walsh; Elrose Klause; Byron Brooks; Linda McFarlane; Lara Presber
Subject: Re: SB2020-0165 response letter
Attachments: EPRA SB2020-0165 Comment Letter .pdf; Untitled attachment 00599.html

As promised, here is the community response letter to the City.

Margo Coppus
margo@coppus.ca



Development Review Committee

800 34th Ave S.W.
Calgary, AB, T2S 0X4

Date: August 27, 2020

Ms. Meghan Dunnette
City of Calgary
Planning, Development Assessment #8201
Municipal Building, 800 Macleod Trail S.E.
Calgary, AB T2P 2M5

Sent via email: Cpag.circ@calgary.ca

Meghan.dunnette@calgary.ca

Re:SB2020-0165

Dear Meghan,

The EPRA Development Review Committee held a review meeting on August 27, 2020. The applicant and several neighbours joined the meeting.

We discussed the following concerns:

1. Retaining wall and drainage along the west property line.

The neighbour abutting this property line expressed concerns that the existing retaining wall will not withstand any construction related stress. He would like to see a condition put on the subdivision approval to ensure that a potential buyer will construct an adequately designed retaining wall. His concern is not only for the finished product but to ensure adequate stabilization during construction as well. There have been several issues with improper stabilization and subsequent collapse of retaining walls during construction in Elbow Park. In some cases this has resulted in damage to neighbouring properties and litigations.

2. Preservation of mature trees on the property.

There are several healthy mature trees that add to the character of the neighbouring properties. The Applicant assured that he will do anything

in his power to retain these trees. According to his preliminary design, he will only need to remove one tree. If any trees will have to come down, they will replant slightly mature trees as replacement. Some of these trees will be on the west parcel of the subdivided lot and there is concern that nothing can be done to ensure the survival of these trees other than hope that the future owner will value these trees as well.

3. Utility Easement along the west side?

The neighbour to the south mentioned that she has an easement along her west property line and was wondering whether this easement continues along the subject property. Nobody seemed to know about this. It should be investigated.

4. Privacy for the neighbour to the south.

The Applicant explained that the preliminary design for his house will have all setbacks as per R-C1 bylaw and possibly a bigger setback to the south. They are planning to have a 2-story Great Room to the south, so there won't be any second story windows overlooking the backyard.

As long as the above noted concerns are considered and taken care of by the Applicant as indicated in this meeting, we do not have any objections to this subdivision.

Regards,

Margo Coppus
EPRA Planning Committee Chair

TAB S

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2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor



Conditions of Approval – Subdivision by Plan

Application Number: SB2020-0165
Map Section Number: 9C
Application Description: Tentative Plan - Residential - Inner City
Land Use District: R-C1
Site Address: 1023 32 AV SW
Existing Use: Single Detached Dwelling
Proposed Use: Single Detached Dwelling(s)
Community: ELBOW PARK
Applicant: TERRAMATIC TECHNOLOGIES
Date of Approval: September 11, 2020

CPAG Team:

Subdivision Services

MEGHAN DUNNETTE (403) 268-5436 meghan.dunnette@calgary.ca

Development Engineering

JENNIFER DERBY WAGNER (403) 268-2693 Jennifer.DerbyWagner@calgary.ca

Transportation

FABIAN SNYDERS (403) 268-5094 Fabian.Snyders@calgary.ca

Parks

KIT MOK (403) 268-2914 kit.mok@calgary.ca

Conditions of Approval

The City of Calgary has the authority, granted by Section 656 of the Municipal Government Act to approve or refuse a subdivision application, subject to conditions outlined in Section 655 of the same Act.

The conditions listed below comprise the conditions of approval of the subdivision. These conditions will form the basis of the decision by the Subdivision Authority and can be appealed by the applicant to the Subdivision and Development Appeal Board.

The conditions that need to be addressed prior to the endorsement of the final instrument by the City and conditions that are to be addressed concurrent to the registration of the final instrument have been identified and listed first.

Prior to Endorsement Conditions

Subdivision Services:

1. The existing buildings shall be removed **prior to endorsement of the final instrument**. The Developer must call 311 once the buildings have been removed for final inspection.

Conditions of Approval

Subdivision Services:

2. Relocation of any utilities shall be at the developer's expense and to the appropriate standards.

Development Engineering:

3. Servicing arrangements shall be to the satisfaction of the Manager Infrastructure Planning, Water Resources.
4. Separate service connections to a public main shall be provided for each proposed lot.

Advisory Comments

The following advisory comments are provided by the City of Calgary as a courtesy to the applicant and property owner. These comments will not form the basis of the decision to approve or refuse the proposed subdivision application. They are simply provided for information purposes.

Subdivision Services:

5. Please see circulation comments from the Enmax Power Services.
6. The developer should be aware that Caveat #7648FT may preclude the registration of this subdivision at the Land Titles Office.
7. There are many types of caveats and other agreements that can be registered on the title of the property that can restrict the ability to develop. The City has not reviewed or considered all instruments registered on the title to this property. Property owners must evaluate whether this application is in compliance with any documents registered on title.
8. The West Elbow Communities Local Growth Planning project is currently underway within the subject area. This property is part of a multi-community policy plan (Area Redevelopment Plan) that is being developed to create a future vision for how land could be used and redeveloped. The plan includes 16 communities in the SW quadrant of the city. Further project details are available in the project's website www.calgary.ca/WestElbow.

Development Engineering:

9. If during construction of the development, the developer, the owner of the titled parcel, or any of their agents or contractors becomes aware of any contamination,
 - a. the person discovering such contamination must immediately report the contamination to the appropriate regulatory agency including, but not limited to,

Alberta Environment and Sustainable Resource Development, the Alberta Health Services and The City of Calgary (311).

- b. on City of Calgary lands or utility corridors, the City's Environmental Risk & Liability group must be immediately notified (311).

- 10. The developer is responsible for ensuring that the environmental conditions of the subject property and associated utility corridors meet appropriate regulatory criteria and appropriate environmental assessment, remediation or risk management is undertaken.

The developer is responsible for ensuring that appropriate environmental assessment(s) of the property has been undertaken and, if required, a suitable remedial action plan and/or risk management plan has been prepared, reviewed and accepted by the appropriate regulatory agency(s) including but not limited to Alberta Environment and the Alberta Health Services.

The developer is responsible for ensuring that the development conforms to any reviewed and accepted remedial action plan/risk management plans.

The developer is responsible for ensuring that all reports are prepared by a qualified professional in accordance with accepted guidelines, practices and procedures that include but are not limited to those in the most recent versions of the Canadian Standards Association and City of Calgary Phase I & II Environmental Site Assessment Terms of Reference.

If the potential for methane generation or vapours from natural or contaminated soils and groundwater has been identified on the property, the developer is responsible for ensuring appropriate environmental assessment(s) of the property has been undertaken and appropriate measures are in place to protect the building(s) and utilities from the entry of methane or other vapours.

Issuance of this permit does not absolve the developer from complying and ensuring the property is developed in accordance to applicable environmental legislation.

The developer is responsible for ensuring that the development is in compliance with applicable environmental approvals (e.g. Alberta Environment and Sustainable Resources Development Approvals, Registrations, etc), Alberta Energy Regulatory approvals and related setback requirements, and landfill setback requirements as set out in the Subdivision and Development Regulation.

- 11. The developer shall not alter, redirect, block or otherwise affect the natural drainage pattern on or adjacent to the development site and shall not fill or alter the existing grades of the site, without the approval of the Manager of Infrastructure Planning prior to commencing the development.

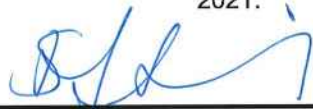
12. No overland drainage will be permitted to leave the plan area, except in conformance with the approved Stormwater Management Report. Overland drainage is to conform to the current edition of Alberta Environment's Stormwater Management Guidelines and The City of Calgary's Design Guidelines for Subdivision Servicing and Stormwater Management and Design Manual. The developer should evaluate the impact of the 1:100 year event on all major storm routes. Storage and/or acceptable conveyance for up to and including the 1:100 year event will be required.
13. Coordinate with the utility owners for the removal and/or relocation of existing utilities located within the subject parcel or for the registration of an easement or utility right of way for the protection of the utilities.
14. No trees, shrubs, buildings, permanent structures or unauthorized grade changes are permitted within the utility rights-of-way.

Parks:

15. There are existing public trees within 6m of the development site. The Streets Bylaw (20M88) and the Tree Protection Bylaw (23M2002) contain clauses intended to protect trees growing on Public Land. No person shall remove, move, cut, or prune a Public Tree or cause a Public Tree to be removed, moved, cut or pruned without prior written authorization from the General Manager, Parks. A copy of the bylaw can be found at www.calgary.ca
16. Prior to any construction activities, a Tree Protection Plan must be obtained separately through Urban Forestry for approval. Visit www.calgary.ca, call 311 and have a 'Tree Protection Plan enquiry' Service Request dispatched to Urban Forestry directly, or email Tree.Protection@calgary.ca

TAB T

THIS IS EXHIBIT "T" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.

A handwritten signature in blue ink, appearing to read 'Sophie Mansfield', is written over a horizontal line.

A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

[REDACTED]

From: Margo Coppus <margo@coppus.ca>
Sent: Tuesday, September 22, 2020 8:09 PM
To: Ali Tejpar; Allidina, Zahra
Subject: Caveat
Attachments: Mt. Royal 2 - Caveat.pdf; ATT00001.htm

External Email - Think Before You Click

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 mlb {
70.0 mlb {
P.K. RE TO FORM
Assistant Registrar
- 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;


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.

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 Registra-
tion 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. X

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, Cecile L. Lueck, 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.

Cecile L. Lueck

E. W. Minchell

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

CANADA)
PROVINCE OF ALBERTA)
TO WIT:)

I, Betty Gablehouse, of the City of
Calgary, in the Province of Alberta, Stenographer,
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 Gablehouse

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.

APR 1948

EXTRA NEW TITLE
TERR. REE. CERT
TERR. REE. ACT

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.

LAND TITLES OFFICE
CALGARY

CAVEAT.

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'clock _____ M., on the _____ day of _____ A.D., 19____ Number _____ Book _____ Folio _____
S. A. L. R. O.

16129

C.F.R. BULLOCK
CALGARY, ALBERTA.

TAB U

THIS IS EXHIBIT "U" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.

A handwritten signature in blue ink, appearing to read 'S. Mansfield', is written over a horizontal line.

A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

Attachment to Hugoline Morton's email September 7, 2020, 7:37 PM

September 7, 2020

Ms. Meghan Dunnette
City of Calgary Planning, Development Assessment
#8201 Municipal Building,
800 Macleod Trail S.E. Calgary, AB
T2P 2M5

Sent via email: Cpag.circ@calgary.ca, Meghan.dunnette@calgary.ca

Re: SB2020-0165, Lot 1, Block 91 - 1023 32 Ave. SW

Dear Ms. Dunnette,

First off, I want to sincerely thank you for allowing my neighbours and I some extra time to comment on the above-listed subdivision application. As previously stated via email, we were only notified of the subdivision via flyer 10 days before a Development Committee of the Elbow Park Community Association meeting on August 27, 2020 and we were not provided with any subdivision plans or house plans. At the meeting, I was notified that the deadline was in fact that night to provide comments to the City of Calgary. We are very grateful that you granted my request for an extension until September 9, 2020 to provide comments.

Attached to this letter is the list of households in Elbow Park who support this letter and who oppose the subdivision. Please see **Schedule 1 – Signatories**.

The current total of households opposing the subdivision today is **41** and is growing as people are made aware of the subdivision application.

As you mentioned in your email to me on August 28, 2020, we appreciate that there are limits on the factors that can be considered when assessing a subdivision. However, we believe that the subdivision should not and cannot be approved for these two main reasons:

1. **Contextual Sensitivity:** The subdivision, if approved, is not contextually sensitive to the neighborhood.
2. **City Precedent:** A very similar subdivision application 1 block to the west was rejected in 2018 by Tabatha Helberg, Subdivision Technician at the City of Calgary on the contextual sensitivity basis above in #1.

1. **Contextual Sensitivity.** The RC-1 land district rules states that the bylaw is "*intended to accommodate existing residential development and contextually sensitive redevelopment in the form of Single Detached Dwellings in the Developed Area.*" Contextually sensitive redevelopment requires that the character of the neighborhood be maintained in redevelopment. By examining the Developed Area, specifically blocks 78, 79, 90, 91, 92 and 93, which make up the original development surrounding the subdivision application in question, all of the lots have frontage of between 60 ft and 80 ft, with lot square footage ranging from approximately 7,500 to 9,600 square feet or greater. This was clearly done intentionally at the time of development in 1946 to

SDAB2020-0053

ensure a consistent neighborhood character. The sizes of the lots and the uniformity which was set by the planners of the area in 1946 are the foundation of the character of the neighborhood. Please see the attached **Schedule 2 – Mount Royal Calgary Subdivision Plan**.

Due to the fact that the subdivision application is copyrighted, we are unable to view what the proposed subdivision lots sizes or frontages will be. In the interests of transparency, the neighbours request the opportunity to view the subdivision application to properly evaluate the contextual sensitivity of the proposed subdivision application.

Nonetheless, based on our recollection of the subdivision information from the meeting on August 27, 2020, we believe that the subdivision application if granted would not be contextually sensitive redevelopment. 1023 32 Avenue SW is a corner lot with frontage of approximately 98 ft (east side side) and 110 ft (north side). The subdivision would result in two lots of 50ft frontage with lot footage of approximately 4,900 to 5,200 square feet, which will not be contextually sensitive in the context of the lot frontages and sizes in the rest of the Developed Area. Further, it would erode the foundation set by the planners in 1946 and would be detrimental to the character of this long established neighbourhood.

Others have noted that Lot 11 in Block 91 was redeveloped into two lots of approximately 50ft and therefore, this subdivision application should also be approved. We counter that rationale on the basis that the character of the Developed Area is overwhelmingly the 60-80 ft frontage/ 7,500-9,600 square foot size. Development should not be evaluated on the basis of one or two immediate adjacent parcel but of the totality of the Developed Area. We have also been advised that the subdivision of Lot 11, Block 91 occurred ex parte (in other words, without consultation) approximately 30 years ago and once made known to the neighbours, was not met with support for the very reason that it negatively affected the character of the neighborhood.

2. **City Precedent.** In 2017, an application was made to subdivide 3412 – 10th Street SW. into two lots. That application was on the same legal block (Block 91), but on the west side of the block of the current subdivision application. Tabatha Helberg was the subdivision technician who reviewed the file. The application on 10th Street met all the subdivision requirements including transportation and infrastructure impacts, location and orientation of the proposed subdivision and shape of the new parcel in the same way that the City has indicated the application for the subdivision of 1023 32 Ave SW meets the subdivision requirements. During her review, Ms. Helberg came to view the lot and the neighborhood and ultimately determined that subdividing the 10th Street lot into two parcels would not be contextually sensitive redevelopment per the RC-1 land district rules and the argument set out in #1 above. The application was rejected.

The two lots (10th Street and 32nd Avenue) and their subdivision applications are very similar and since one was rejected, the other one should be as well. Not only is the rationale for rejection

sound and based in the City's own bylaws, it would be prejudicial to reject one application and approve the other.

We also wish to reference the City of Calgary Municipal Development Plan (September 2009) which has an objective to increase density or intensification outside of the city's downtown core. Specifically, section 2.3.2 (also Bylaw 19P2017) states that "attention must be paid to ensuring that appropriate local context is considered when planning for intensification and redevelopment." As stated above, the local context in our view does not support this particular type of redevelopment.

We also note that after examining the Developed Area, very few lots are of a sufficient size to be considered for subdivision, meaning that a coordinated densification of the Developed Area is not possible. Furthermore, to approve the subdivision application for the sake of one additional residence does not achieve densification in a meaningful way. When weighed against the lack of contextual sensitivity, it does not seem to be warranted.

I hope this is helpful. Please let us know whether we can clarify any points or answer any questions related to this matter. My cell is [REDACTED].

Regards,

[signed]

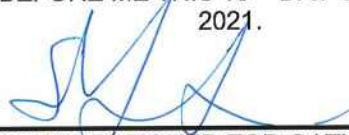
Hugoline Morton
& the signatories in Schedule 1

Schedule 1 – Signatories to Letter

1.	Christie Martin		3827 7A St SW
2.	Chi Dang		3806 8A st SW
3.	Ashley and Lynne Webster		3801 8 ST SW
4.	Kim and Ian Bwint		3622 10st SW
5.	Jacquelyn and Patrick Mitchell		3412 10th St SW
6.	Perminder Basran and Trevor		3610 10th St SW
7.	Lisa Poole		3637 6th St SW
8.	Nicky O'Brien & Pearse Cole		1216 34 Ave SW
9.	Risa Desa		3411 9 st sw
10.	Julie McFadyen & Trevor Cossarini		3635 9 St SW
11.	Robert and Nancy Engbloom		
			3410 10 th St.SW
12.	Melanie and Christian Darbyshire		3628 9 St SW
13.	Alison & Ian Atkinson		3811 9 St SW
14.	Karen Isley & Adam Kirton		3608 9 Street SW
15.	Hugoline Morton & Vern Yu		3405 8A Street SW
16.	Aarnoud & Monica van Weelderen		3404 8A Street SW
17.	Cathy & Jim Yu		3406 8A Street SW
18.	Laura & Adam Roberts		3404 11th St. SW
19.	Allison & David Warkentin		3403 8A St. SW
20.	Gail and Hector McFadyen		411 8A street SW
21.	Camille McCreath		3819 12th St. SW
22.	Gail and John Gorman		3020 7th St. sw.
23.	Dianne and Tom Ferguson		1013 32 Ave SW
24.	Phyllis and Chris Robb		
25.	Richard and Rosemary Buckland		3615 12th St. SW
26.	Krista and Scott Ferguson		3803 10 Street SW
27.	Angela Roehm & Philip Pattison		3824 10 st sw
28.	Ken & Nicole Dixon		3619 12 St SW
29.	John and Andrea Clarke		3627-12th St S.W
30.	Rhonda Fulton		3808 9th Street SW
31.	Krista Poole		3633 7th Street SW
32.	Stephen and Jennifer Larke		3804 10 St. S.W.
33.	Steve and Magda Dizep		919 38 Avenue SW
34.	Rick and Lorena McDonald		3630 8a St SW
35.	Frances and Frank Hagedorn		3810 – 11 St. S. W.
36.	Jenny and Jesse Shouldice		3607 13 th St. SW
37.	Tom and Holly Newton		3807 10 Street SW
38.	Ellen & Bill Chidley		1035 32 nd Ave. SW
39.	Carolyn Christie		1016 32 nd Ave. SW
40.	Paul Kubik		1006 32nd Ave SW
41.	Leslie Grieve		3804 11 St. SW


TAB V

THIS IS EXHIBIT "V" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor



From: Jane Virtue <janevirtue@icloud.com>
Sent: Thursday, October 8, 2020 12:30 PM
To: ali.l.tejpar@gmail.com; Allidina, Zahra
Cc: Margo Coppus; info@deanthomas.ca; klalji@cirrealty.ca
Subject: Letter re: Caveat
Attachments: October 8, 2020.pdf; Mt. Royal 2 - Caveat.pdf; ATT00001.txt

External Email - Think Before You Click

Hi Ali and Zahra,

Please find attached a letter from EPRA and a copy of the Caveat it pertains to. We have also sent the same letter via Canada Post.

Thanks,
Jane Virtue
President EPRA

October 8, 2020

Ali Tejpar & Zahra Allidina
ali.l.tejpar@gmail.com
zahra.allidina@esso.ca
c/o Kamil Lalji
#100, 707 – 10th Avenue S.W
Calgary, AB, T2R 0B3

Re: Subdivision of 1023 32nd Avenue SW

Dear Ali and Zahra,

It was a pleasure to meet you both virtually on the Development Permit Elbow Park Residents Association (EPRA) call on Tuesday, September 22, 2020 and to hear about your plans for your new home in Elbow Park. During the call, the issue of Caveat #7648 was raised and you were provided with an electronic copy of the caveat during the meeting. I understand that Caveat #7648 is on the title to Lot 1, Block 91, Plan 3605FO, also known as 1023 32nd Avenue SW ("Lot 1") and that the Caveat will remain on all of Lot 1 notwithstanding any final subdivision approval by the City of Calgary. EPRA wishes to formally provide you with a copy of Caveat #7648. It is included with this letter.

Caveat #7648 contains a restrictive covenant which states "That there shall not be erected upon the **said Lot** (emphasis added) more than 1 residence and garage." The covenant therefore prohibits the construction of more than one home on Lot 1.


Many of the lots on your block and the surrounding blocks have Caveat #7648 or a similar restrictive covenant on title. All owners who have such a covenant on title have both the burden and the benefit to ensure it is complied with. By way of background, Caveat #7648 and similar restrictive covenants were placed on the titles at the time this section of Elbow Park was developed to preserve the building scheme and neighborhood character that was created at the time of development. As the caveat was intended to help preserve the character of our lovely neighborhood, EPRA considers it extremely important that the caveat be complied with.

In light of the caveat, we strongly urge you to reconsider your plans to subdivide 1023 32nd Avenue SW and your plan to build more than one home on Lot 1. If you choose to proceed with any development in violation of the caveat, you should be aware that there is a large group of neighbours who intend to enforce the caveat. As I am sure you can appreciate, they wish to ensure the character of the neighborhood in which they live is preserved. EPRA has been notified that they have already submitted an appeal of the subdivision approval to the Calgary Subdivision and Development Appeal Board and that they intend to engage legal counsel.

Your realtor and architect are also copied on this letter so that they are aware of the caveat in the performance of their duties as it relates to Lot 1.

We would like to welcome you and your family as soon as possible to Elbow Park and hope to hear about your revised plans soon.

Warmest Regards,



Jane Virtue
President
Elbow Park Residents Association

cc: Branden Leitch, Dean Thomas Design Group (via email) info@deanthomas.ca

Kamil Lalji, CIR Realty (via email) klalji@cirrealty.ca

Margo Coppus, EPRA Development Committee (via email) margo@coppus.ca

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
- P.K.
RE TO FORM
ASSISTANT REGISTRAR


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.

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 Registra-
tion 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.

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.

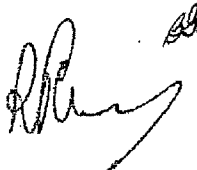
IT IS HEREBY COVENANTED AND AGREED with the Owner by the above mentioned Purchasers on behalf of themselves, their executors, administrators and assigns, and successors in title, as follows:

(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. X

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 L. L. L.
Witness.

Betty L. L. L.
Witness.

Joseph J. Greenan
Joseph J. Greenan.

Mary P. Greenan
Mary P. Greenan.

CANADA)
PROVINCE OF ALBERTA)
TO WIT:v)

I, Cecile L. Loeck, 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.

Cecile L. Loeck

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

CANADA)

PROVINCE OF ALBERTA)

TO WIT:)

I, Betty L. L. L., of the City of
Calgary, in the Province of Alberta, Stenographer,
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 L. L. L.

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

FT.

Apr 2, 1948

TGN, THE
 TRA REF. CERT
 EXTRA NEW TITLE
 CONTACT

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.

ock 93.

C A V E A T.

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'clock _____ M., on the _____ day
of _____ A.D. 19____
Number _____ Book _____ Folio _____

S. A. L. E. L.

16129

C.F.R. BOWEN
CALGARY, ALBERTA

TAB W

THIS IS EXHIBIT "W" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021,

A handwritten signature in blue ink, appearing to be 'S. Mansfield', is written over a horizontal line.

A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor



Zahra Allidina Tejpar <zahraallidina@gmail.com>

FW: Request to Discharge Caveat 7648FT

1 message

Allidina, Zahra <zahra.allidina@esso.ca>
To: Zahra Allidina <zahraallidina@gmail.com>

Wed, Oct 14, 2020 at 4:27 PM

Zahra Allidina

Counsel

Law Department, Imperial Oil Limited

505 Quarry Park Blvd SE, Calgary AB T2C 5N1 | P5A163

zahra.allidina@esso.ca P 587.476.1393

imperialoil.ca | [Twitter](#) | [YouTube](#)

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From: Allidina, Zahra

Sent: Wednesday, October 14, 2020 4:27 PM

To: 'Heidi Kalyniuk' <Heidi_Kalyniuk@cpr.ca>; 'Jon Arnott' <Jon_Arnott@cpr.ca>

Cc: 'ali.l.tejpar@gmail.com' <ali.l.tejpar@gmail.com>

Subject: RE: Request to Discharge Caveat 7648FT

Dear Heidi and Jon,

Hope you both had a restful Thanksgiving weekend. In follow up to the below, I wanted to provide an additional update.

The Elbow Park Community Association has provided me with the attached document (EPCA) which they believe may be the document underlying Caveat 7648FT. I am providing the attached but reiterate that it has not been vetted or accepted (by us) as the true copy of the Caveat; the Community Association **was not able** to advise where it originated, and we do not know if Land Titles would even consider referring to a document from an outside source. I've also attached a letter provided to us by the City to assist with discharge efforts.

Some Notes:

- It appears that the document attached to the EPCA caveat is a purchase and sale agreement for the sale of another lot in the neighbourhood when it was first sold by CP to the next landowners.
- In our view, the document does not meet the common law rules of a restrictive covenant. There is no restrictive covenant noted on the title for our property.
- Land Titles has advised that they do not have a copy of the Caveat or any other documentation relating to it and that it is classified as a Lost Instrument (which has not been micro-photographed) on their records.
- CP Rail has also indicated that it does not have a copy.

Thank you for considering our request.

Regards,

Zahra and Ali

Zahra Allidina

Imperial Oil Limited

505 Quarry Park Blvd SE, Calgary AB T2C 5N1 | P5A163

zahra.allidina@esso.ca P 587.476.1393

imperialoil.ca | [Twitter](#) | [YouTube](#)

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From: Allidina, Zahra

Sent: Wednesday, October 7, 2020 12:40 PM

To: 'Heidi Kalyniuk' <Heidi_Kalyniuk@cpr.ca>; 'Jon Arnott' <Jon_Arnott@cpr.ca>

Subject: RE: Request to Discharge Caveat 7648FT

Hi Heidi and Jon,

Hope you are both doing well. Heidi, I had the opportunity to speak to Jon yesterday on this and wanted to provide you with an update.

Short Background: In January, you had helped me by providing a no interest letter on a 1948 Caveat attached to the title of a property that I was interesting in purchasing. Since then, we did acquire the property and have been working with the City, Land Titles and our lawyer to confirm the subdivision of the property. The subdivision has been approved, conditional on us removing the house on the lot so that two new titles could be registered. We have been advised to have the caveat discharged so I have been working on this, and intended to use your no interest letter.

Other details if helpful: The City, the Land Titles office and the lawyer helping me with the caveat discharge process have strongly suggested that I approach CP to seek a discharge directly. The reason is because the process to discharge on my own is significantly more cumbersome for all parties (timelines, costs and involvement). In that regard, we would please make this request to you and note our willingness to assist in the process in any way and to pay any fee or administrative costs that CP may incur.

Land Titles has confirmed that this Caveat is a Lost instrument. They have told me **not to assume** that this caveat is a restrictive covenant since the notation on title indicates caveat (Notation is "Re: See Caveat") and without a copy, Land Titles would not assume that it is a RC. This was a very important distinction as we aren't forced to rely on sections 137 to 139 of the Act.

My request: If CP can please consider discharging the caveat directly (with the comfort that it is **not** noted as a RC and that it is a Lost instrument), this would allow us to confirm our development plans. We can assist in any way that would be helpful and pay any fee or administrative costs that CP may incur.

I have attached a copy of Title and the Title Search as well. Thanks very much Heidi.

Regards,
Zahra

2 attachments



Letter from City of Calgary Legal Services re Caveat 7648FT.PDF
67K



EPCA (Authenticity not verified).pdf
587K

CAVEAT.

7648 FT.

THE REGISTRAR
FOR THE SOUTH ALBERTA LAND REGISTRATION DISTRICT:

TAKE NOTICE that the CANADIAN PACIFIC RAILWAY COMPANY
claims an interest in:

- 70.0 246 {
70.0 247 {
- 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;
- Ch 016



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.

CANADIAN PACIFIC RAILWAY COMPANY

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


Witness.

7648 F.T.

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 Registra-
tion 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).
- * 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.

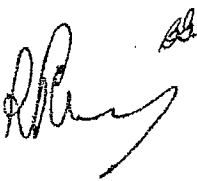
IT IS HEREBY COVENANTED AND AGREED with the Owner by the above mentioned Purchasers on behalf of themselves, their executors, administrators and assigns, and successors in title, as follows:

(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. X

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 L. L. L.
Witness.

Betty L. L. L.
Witness.

Joseph J. Greenan
Joseph J. Greenan.

Mary P. Greenan
Mary P. Greenan.

CANADA)
PROVINCE OF ALBERTA)
TO WIT:V)

I, Cecil L. Leach, 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 L. Leach

E. W. Hinemell

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

CANADA)

PROVINCE OF ALBERTA)

TO WIT:)

I, Betty Gablehouse, of the City of
Calgary, in the Province of Alberta, Stenographer,
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 Gablehouse

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.

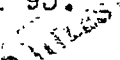
A G R E E M E N T.

File 16129
RRM/JAF

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

Apr. 1948

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.

Doc 93.  10.0.46.

C A V E A T.

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'clock _____ M., on the _____ day
of _____ A.D., 19____
Number _____ Book _____ Folio _____

S. A. L. R. O.

16129

C.F.R. BELLEROS
CALGARY, ALBERTA.

TAB X

THIS IS EXHIBIT "X" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

Calgary Subdivision and Development Appeal Board
PO Box 2100, Station M, #8110
Calgary, AB T2P 2M5
Email: info@calgarysdab.ca



CALGARY SUBDIVISION AND DEVELOPMENT APPEAL BOARD

Citation: 2020 CGYSDAB 53

Case Name: SDAB2020-0053 (Re)

File No: SB2020-0165

Appeal by: Hugoline Morton

Appeal against: The Subdivision Authority

Hearing date: October 22, 2020

Decision date: October 26, 2020

Board members: Jim Palmer, Presiding Officer
Kristi Beunder
Katherine Camarta
Sean MacLean
Bob Merchant

DECISION

Description of Application:

1 The appeal before the Subdivision and Development Appeal Board was brought by Hugoline Morton.

2 On September 11, 2020, the Subdivision Authority approved the application of Krista Lovse, Terramatic Technologies, for a subdivision at 1023 32 Avenue SW, (Legal Desc: 3605FO; 91; 1) in the community of Elbow Park. The property is owned by Ali Tejpar and Zahra Tejpar and has a land use designation of Residential - Contextual One Dwelling (R-C1).

Procedural History:

3 The hearing commenced on October 22, 2020 with consideration of jurisdictional and procedural issues. The hearing concluded on October 22, 2020.

Decision:

4 The appeal is struck and the decision of the Subdivision Authority is upheld. The Board has no jurisdiction to hear the appeal. The subdivision tentative plan remains effective as approved on September 11, 2020.

Submissions:

5 The Board received oral and/or written submissions from:

- a) Martin Beck for the Subdivision Authority;
- b) Hugoline Morton, the appellant;
- c) Tom Ferguson, a neighbour in favour of the appeal;
- d) Joan Hudson, a neighbour in favour of the appeal;
- e) Rick Grol, agent for the applicant-owner; and
- f) Ali and Zahra Tejpar, the applicant-owner.

Preliminary Issue

6 The Board raised a preliminary issue regarding whether it had jurisdiction to hear the matter brought forward by the appellant.

Submission of the Subdivision Authority

7 Mr. Beck submitted that the application is for a tentative plan subdivision located at 1023 - 32 Avenue SW.

8 The appeal before the Board was filed by an adjacent landowner, Hugoline Morton. Pursuant to subsection 678 (1) of the *Municipal Government Act*, RSA 2000 c. M-26 (the MGA), the decision of a Subdivision Authority for approval of a subdivision application may only be appealed by the applicant, government department, council or a school board. As the appellant did not fall within those listed parties within the MGA, Mr. Beck stated that the Board lacks the jurisdiction to entertain the matter.

Submission of the appellant

9 Ms. Morton submitted that the criteria of the Subdivision Authority to approve the subdivision was subjective and arbitrary. She stated that it was unfair that the legislation only allows for limited parties to file a subdivision appeal, particularly when adjacent owners are the most affected by the decision. She expressed disappointment in the legislation as well as the arbitrary and subjective nature of the Subdivision Authority's decision-making process.

Other submissions in favour of the appeal

10 Mr. Ferguson submitted that there is a restrictive covenant on title of his property and the approval ought to be subject to the requirement of the restrictive covenant. He noted that he intended to enforce the restrictive covenant on the property.

11 Ms. Hudson submitted that the restrictive covenant on title should be followed as with the rest of the neighbourhood.

Submission of the applicant

12 Mr. Grol submitted that pursuant to subsection 678 (1) of the MGA, the right of appeal for a subdivision approval is limited to the persons listed in the MGA and the appellant does not qualify as any of the persons or entities listed under that subsection. Therefore, the appeal should be struck since the Board lacks jurisdiction to hear the matter.

13 He expressed disappointment that the appellant, being a lawyer, and having read the legislation, proceeded to file the appeal without considering the time and resources of other parties.

14 Ali and Zahra Tejpar were in support of Mr. Grol's submission.

RebuttalThe Subdivision Authority

15 The Subdivision Authority had no additional comment.

The appellant

16 Ms. Morton clarified that the subdivision website makes no reference to a party's standing when filing an appeal. She submitted that she was not aware she may lack standing until the hearing notice was sent to her by the Board's administration. Nevertheless, she decided to proceed with the matter in case there was a chance that the Board's position would change during the proceedings.

17 Additionally, despite being a lawyer, planning law is not within her area of practice and expertise.

Other party in favour of the appeal

18 Mr. Ferguson submitted that the proposed development design does not comply with the caveat on the restrictive covenant.

The applicant-owner

19 The applicant had no further comment.

Reasons:

20 The Board reviewed all evidence and arguments, written and oral, submitted by the parties and will focus on key evidence and arguments in outlining its reasons.

21 The Board notes that section 678 (1) of the MGA provides direction by defining the parties qualified to submit an appeal for a subdivision; the applicant, a government department, a municipal council and a school board.

22 The Subdivision Authority advised the subdivision tentative plan was approved on September 11, 2020 and that the appellant was an adjacent landowner who did not have qualified standing to appeal a subdivision based on section 678 of the MGA. The appellant expressed disappointment in the Subdivision Development's decision and in the legislation and the other parties stated a restrictive covenant regarding the matter should be enforced. The appellant provided no evidence to support her claim to make a subdivision appeal.

23 The Board finds it has insufficient evidence to demonstrate that the appellant has qualified standing to appeal the decision of the Subdivision Authority to approve the tentative plan of the subdivision in the ordinary course. The Board therefore, finds that the appellant, as prescribed by section 678 of the MGA, is not eligible to file the subject subdivision appeal

24 The Board is not required to make decisions on the matters related to the approval process, the integrity of the legislation and the restricted covenant as the appellant is not qualified to file an appeal.

25 The Board finds, in accordance with the requirements of section 678(1) of the MGA, that it has no jurisdiction to hear the appeal.

Conclusion:

26 For the reasons set out above, the appeal is struck and the decision of the Subdivision Authority is upheld on the terms and conditions originally determined.

Jim Palmer, First Vice Chair and Decision Writer
Subdivision and Development Appeal Board

Issued on this 26th day of October, 2020

TAB Y

THIS IS EXHIBIT "Y" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.

A handwritten signature in blue ink, appearing to be 'S. Mansfield', written over a horizontal line.

A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

ali.l.tejpar@gmail.com

From: Rick Grol <rgrol@shaw.ca>
Sent: October 27, 2020 1:03 PM
To: Zahra Allidina; Ali I Tejpar; Bruce Brander
Subject: Fwd: Caveat #7648 - Our File: 120632.001
Attachments: SCAN0087.PDF

Zahra/Ali/Bruce,

FYI: I was cc-ed on the attached correspondence.

Rick Grol
T 403-922-8269
E rgrol@shaw.ca

This email (including attachments) is confidential and may contain privileged information. If you are not an intended recipient, please delete this email and notify us immediately. Any unauthorized use or disclosure is prohibited.

From: "Penny McConnell" <mcconnell@carbertwaite.com>
To: "rgrol" <rgrol@shaw.ca>
Cc: "Curtis Marble" <marble@carbertwaite.com>
Sent: Tuesday, October 27, 2020 12:48:57 PM
Subject: Caveat #7648 - Our File: 120632.001

Good Afternoon,

Please see attached which is forwarded on behalf of Curtis Marble.

Regards,
Penny

Penny McConnell Legal Assistant to Matt Bobawsky and Curtis E. Marble
D: 403.705.3630 | F: 403.263.5553

CARBERT//WAITE LLP

CARBERT WAITE LLP
2300 Encor Place | 645 - 7 Ave SW | Calgary, AB T2P 4G8
T: 403.263.5656 | F: 403.263.5553 | carbertwaite.com

If this email is not intended for you, please do not read it or otherwise deal with it. Its contents are confidential and privileged. As a courtesy, please reply by email to advise that this email has been miscommunicated. Thank you.

TAB Z

THIS IS EXHIBIT "Z" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.

A handwritten signature in blue ink, appearing to read 'SM', is written over a horizontal line.

A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

CURTIS E. MARBLE
marble@carbertwaite.com
403.705.3642

CARBERT//WAITE LLP

File No: 120632.001

October 27, 2020

DELIVERED VIA COURIER

Ali Tejpar and Zahra Allidina
c/o Kamil Lalji
#100, 707 – 10 Avenue SW
Calgary, AB T2R 0B3

Dear Sir/Madam:

Re: Caveat #7648
Lot 1, Block 91, Plan 3605FO (1023 32 Avenue SW)

We are retained by Thomas Ferguson Q.C. on behalf of a group of residents in the neighborhood of Elbow Park who are interested in upholding and enforcing Caveat #7648 (the "Restrictive Covenant"). As you are aware, the Restrictive Covenant is registered on the title to Lot 1, Block 91, Plan 3605FO (the "Lot"), also known as 1023 32 Avenue SW. Pursuant to section 48 of the *Land Titles Act*, R.S.A. 2000 c. L-4 you are deemed to have notice of the Restrictive Covenant. While you have previously been provided a copy of the Restrictive Covenant, we attach a copy for ease of reference.

Caveat #7648 contains a restrictive covenant. A restrictive covenant is a private contractual document between property owners. Any property owner with a restrictive covenant registered against their title has the legal right to enforce that restrictive covenant against any other property owner with the same restrictive covenant. The Restrictive Covenant states in particular that:

"That there shall not be erected upon the said Lot more than 1 residence and garage."

Your proposed development would violate this and other terms of the Restrictive Covenant. Our clients demand that no development be undertaken with respect to the Lot that would violate the terms of the Restrictive Covenant. Should you proceed with any development of the Lot in violation of Caveat #7648, our clients will pursue all of the legal remedies available to them, including seeking injunctive relief and costs.

Yours truly,

CARBERT WAITE LLP



Curtis E. Marble

cc. Mr. Rick Grol, by email, rgrol@shaw.ca.

Encl.

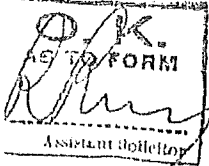
00918438.v4

C A V E A T.

7648 FT

THE REGISTRAR
FOR THE SOUTH ALBERTA LAND REGISTRATION DISTRICT:

TAKE NOTICE that the CANADIAN PACIFIC RAILWAY COMPANY
claims an interest in:

- 70.0 246
- 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;
- 70.0 247
- 
- 10/1


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.

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,

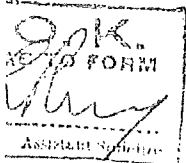
- and -

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 Registra-
tion 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.

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

- 1 -

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. X

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 Gahlehouse
Witness.

Betty Gahlehouse
Witness.

Joseph J. Greenan
Joseph J. Greenan.

Mary P. Greenan
Mary P. Greenan.

CANADA)
PROVINCE OF ALBERTA)
TO WIT:v)

I, Cecil L. Webb, 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 L. Webb

E. W. Minnace

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

CANADA)
PROVINCE OF ALBERTA)
TO WIT:)

I, Betty L. L. L., of the City of
Calgary, in the Province of Alberta, Manager,
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 L. L. L.

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 GAIG, K.C.
C.P.R. SOLICITOR
CALGARY, ALBERTA.

Ar 5. 1948

GN. THE
TRA BR. CERT
EXTRA NEW TILIM
STACT

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.

C A V E A T.

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'clock _____ on the _____ day
of _____ A.D. 19____
Number _____ Book _____ Folio _____

S. A. L. R. L.

C.F.R. 100-100-100
CALGARY, ALBERTA

TAB AA

THIS IS EXHIBIT "AA" REFERRED TO IN
THE AFFIDAVIT OF ZAHRA TEJPAN
SWORN BEFORE ME THIS 13TH DAY OF
APRIL 2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

CLERKS STAMP:



COURT FILE NUMBER 2001-14288

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT(S) Zahra Tejpar and Ali Tejpar

RESPONDENT(S) Canadian Pacific Railway Company


DOCUMENT **ORDER**

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT

HD LAW GROUP
#210, 6111 – 36 Street SE
Calgary, AB T2C 3W2
ATTENTION: Ryan Hager
Phone: 403-685-1465
Fax: 587-430-0616
Email: ryan@hdlawgroup.ca

DATE ON WHICH ORDER WAS PRONOUNCED:	January 13, 2021
NAME OF MASTER / JUSTICE WHO MADE THIS ORDER:	J. Farrington

UPON THE APPLICATION of the Applicants; AND UPON reading the Affidavit of Zahra Tejpar provided; AND UPON it appearing that the Respondent, Canadian Pacific Railway Company, does not oppose the application; AND UPON hearing counsel for the Applicant; IT IS HEREBY ORDERED THAT:

1. The Registrar of the Southern Alberta Land Title is hereby directed to ~~forfeit~~  discharge the Caveat registered as No. 7648FT, against the real property legally described as:

PLAN 3605FO
BLOCK 91
LOT 1
EXCEPTING THEREOUT ALL MINES AND MINERALS

2. This Order was granted *ex parte* and does not have to be served on any person pursuant to s. 191(1) of the *Land Titles Act* RSA 2000, c L-4.

3. Compliance with Rule 6.13 is hereby dispensed with.



MASTER IN CHAMBERS

TAB BB

THIS IS EXHIBIT "BB" REFERRED TO IN
THE AFFIDAVIT OF ZAHRA TEJPAN
SWORN BEFORE ME THIS 13TH DAY OF
APRIL, 2021.



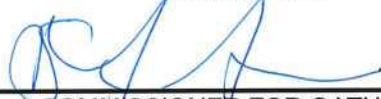
A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor



TAB CC

THIS IS EXHIBIT "CC" REFERRED TO IN
THE AFFIDAVIT OF ZAHRA TEJPAN
SWORN BEFORE ME THIS 13TH DAY OF
APRIL, 2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor



LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0019 756 568 3605FO;80;1 191 168 607

LEGAL DESCRIPTION

PLAN 3605FO
BLOCK 80
ALL THAT PORTION OF LOT 1 THAT LIES SOUTH OF A STRAIGHT LINE
DRAWN AT RIGHT ANGLES TO THE EAST LIMIT OF SAID LOT 25.72 METRES
NORTHERLY ALONG SAID EAST LIMIT FROM ITS INTERSECTION WITH THE
SOUTH LIMIT OF SAID LOT
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME

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

MUNICIPALITY: CITY OF CALGARY

REFERENCE NUMBER: 141 318 596

REGISTERED OWNER(S)				
REGISTRATION	DATE (DMY)	DOCUMENT TYPE	VALUE	CONSIDERATION
191 168 607	21/08/2019	TRANSFER OF LAND	\$941,000	\$941,000

OWNERS

DWIGHT DINO TEOTICO
OF 916-32 ST NW
CALGARY
ALBERTA T2N 2W2

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION		
NUMBER	DATE (D/M/Y)	PARTICULARS
991 331 282	10/11/1999	CAVEAT RE : ENCROACHMENT AGREEMENT CAVEATOR - DOUGLAS BISSON ARNETT LEADER, CORPORATE PROPERTIES GROUP

(CONTINUED)

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2
191 168 607

REGISTRATION
NUMBER DATE (D/M/Y) PARTICULARS

12TH FL, MUNICIPAL BLDG
800 MACLEOD TRAIL SE
CALGARY
ALBERTA T2P2M5
AGENT - DAVID JACOBS

201 090 953 14/05/2020 MORTGAGE
MORTGAGEE - THE BANK OF NOVA SCOTIA.
4 KING ST WEST, 2 FLOOR
TORONTO
ONTARIO M5H1B6
ORIGINAL PRINCIPAL AMOUNT: \$2,445,068

TOTAL INSTRUMENTS: 002

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 5 DAY OF APRIL,
2021 AT 10:54 A.M.

ORDER NUMBER: 41359684

CUSTOMER FILE NUMBER: 25569/1 SFMD



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).



LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0013 138 599 3605FO;80;1 041 228 515

LEGAL DESCRIPTION

PLAN CALGARY 3605FO
BLOCK EIGHTY (80)
LOT ONE (1)
EXCEPTING THEREOUT
ALL THAT PORTION OF THE SAID LOT THAT LIES SOUTH OF A
STRAIGHT LINE DRAWN AT RIGHT ANGLES TO THE EAST LIMIT
OF SAID LOT 25.72 METRES NORTHERLY ALONG SAID EAST
LIMIT FROM ITS INTERSECTION WITH THE SOUTH LIMIT OF
SAID LOT
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME

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

MUNICIPALITY: CITY OF CALGARY

REFERENCE NUMBER: 041 085 234

REGISTERED OWNER(S)				
REGISTRATION	DATE(DMY)	DOCUMENT TYPE	VALUE	CONSIDERATION
041 228 515	18/06/2004	TRANSFER OF LAND	\$731,000	\$731,000

OWNERS

CHERYL ANN DOOLEY
OF 1037 PREMIER WAY SW
CALGARY
ALBERTA T2T 5W6

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION		
NUMBER	DATE (D/M/Y)	PARTICULARS
861 044 932	17/03/1986	UTILITY RIGHT OF WAY

(CONTINUED)

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2
041 228 515

REGISTRATION
NUMBER DATE (D/M/Y) PARTICULARS

GRANTEE - THE CITY OF CALGARY.
"EAST 3 METRES"

041 350 889 16/09/2004 CAVEAT
RE : ENCROACHMENT AGREEMENT

131 146 549 21/06/2013 MORTGAGE
MORTGAGEE - THE TORONTO DOMINION BANK.
500 EDMONTON CITY CENTER EAST, 10205-101 STREET,
5TH FLOOR
EDMONTON
ALBERTA T5J5E8
ORIGINAL PRINCIPAL AMOUNT: \$910,000

TOTAL INSTRUMENTS: 003

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 5 DAY OF APRIL,
2021 AT 10:54 A.M.

ORDER NUMBER: 41359684

CUSTOMER FILE NUMBER: 25569/1 SFMD



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).

TAB DD

THIS IS EXHIBIT "DD" REFERRED TO IN
THE AFFIDAVIT OF ZAHRA TEJPAN
SWORN BEFORE ME THIS 13TH DAY OF
APRIL, 2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor



LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0010 423 762 3605FO;91;11 891 070 559

LEGAL DESCRIPTION

PLAN 3605 FO
BLOCK 91
THAT PORTION OF LOT 11 WHICH LIES TO THE WEST
OF THE EASTERLY 15.240 METRES IN PERPENDICULAR
WIDTH THROUGHOUT THE SAID LOT
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME

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

MUNICIPALITY: CITY OF CALGARY

REFERENCE NUMBER: 861 115 403

REGISTERED OWNER(S)				
REGISTRATION	DATE (DMY)	DOCUMENT TYPE	VALUE	CONSIDERATION
891 070 559	24/04/1989	TRANSFER OF LAND	\$330,000	\$330,000

OWNERS

WILLIAM GLENN CHIDLEY

AND

ELLEN JOY CHIDLEY

BOTH OF:

1035 - 32ND AVENUE S.W., CALGARY,
ALBERTA

AS JOINT TENANTS

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION		
NUMBER	DATE (D/M/Y)	PARTICULARS
121 016 708	19/01/2012	MORTGAGE

(CONTINUED)

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2
891 070 559

REGISTRATION

NUMBER DATE (D/M/Y) PARTICULARS

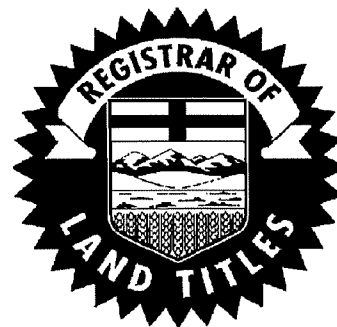
MORTGAGEE - CANADIAN IMPERIAL BANK OF COMMERCE.
309 - 8 AVENUE S.W. CALGARY
ALBERTA T2P2P2
ORIGINAL PRINCIPAL AMOUNT: \$1,070,000

TOTAL INSTRUMENTS: 001

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 8 DAY OF
NOVEMBER, 2020 AT 10:12 P.M.

ORDER NUMBER: 40474835

CUSTOMER FILE NUMBER:



END OF CERTIFICATE

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED
FOR THE SOLE USE OF THE ORIGINAL PURCHASER, AND NONE OTHER,
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PART OF THE ORIGINAL PURCHASER APPLYING PROFESSIONAL, CONSULTING
OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).



LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0019 749 845 3605FO;91;11 841 001 048

LEGAL DESCRIPTION

PLAN 3605FO
BLOCK 91
THE EASTERLY 15.240 METRES
IN PERPENDICULAR WIDTH THROUGHOUT OF LOT 11
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME

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

MUNICIPALITY: CITY OF CALGARY

REGISTERED OWNER(S)				
REGISTRATION	DATE (DMY)	DOCUMENT TYPE	VALUE	CONSIDERATION
841 001 048	04/01/1984			\$260,000

OWNERS

CAROL DAWN MAJOR (SPEECH PATHOLOGIST)
OF 1031-32 AVE SW
CALGARY
ALBERTA

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION		
NUMBER	DATE (D/M/Y)	PARTICULARS

NO REGISTRATIONS

TOTAL INSTRUMENTS: 000

(CONTINUED)

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 8 DAY OF
NOVEMBER, 2020 AT 10:12 P.M.

ORDER NUMBER: 40474835

CUSTOMER FILE NUMBER:



END OF CERTIFICATE

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OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).

TAB E E

THIS IS EXHIBIT "EE" REFERRED TO IN
THE AFFIDAVIT OF ZAHRA TEJPAN
SWORN BEFORE ME THIS 13TH DAY OF
APRIL, 2021. .



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

LOT 2 AND PART OF LOT 3

BLOCK 93

PLAN 3605 FO

WITHIN THE

S.W. 1/4 SEC.9, TWP.24, RGE.1, W5M.

SCALE = 1 : 500



rc-ND

[illegible]

AL.S.
ZENJIES ALBERIA LAND SURVEYOR

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3Y. WILLIAM PANG A.I.S. 2003.

THIS SURVEY WAS PERFORMED BETWEEN THE DATES OF MARCH 25, 2003 TO SEPTEMBER 12, 2003.



OWNER:

854008 ALBERTA INC.

SLIDVISION AJ HD 3 Y

[illegible]

V. PANG SURVEYS INC.
#220, 1300 - 8th STREET S.W.
CALGARY, ALTA T2R 1T2
TEL: 242 8040
FAX: 242 8017
info@pangsurvey.com
844 260-2754



TAB FF

THIS IS EXHIBIT "FF" REFERRED TO IN
THE AFFIDAVIT OF ZAHRA TEJPAN
SWORN BEFORE ME THIS 13TH DAY OF
APRIL, 2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor



LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0030 109 045 0312648;93;9 131 044 440

LEGAL DESCRIPTION
PLAN 0312648
BLOCK 93
LOT 9
EXCEPTING THEREOUT ALL MINES AND MINERALS

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

MUNICIPALITY: CITY OF CALGARY

REFERENCE NUMBER: 101 365 041

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

131 044 440 21/02/2013 TRANSFER OF LAND \$2,150,000 \$2,150,000

OWNERS

RONALD D KIM

AND

KAREN M KIM

BOTH OF:

3402-8A STREET SW

CALGARY

ALBERTA T2T 3B2

AS JOINT TENANTS

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION
NUMBER DATE (D/M/Y) PARTICULARS

881 084 411 25/05/1988 UTILITY RIGHT OF WAY
GRANTEE - THE CITY OF CALGARY.
AS TO PORTION OR PLAN:8810610

(CONTINUED)

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2
131 044 440

REGISTRATION

NUMBER DATE (D/M/Y) PARTICULARS

131 044 441 21/02/2013 MORTGAGE
MORTGAGEE - BANK OF MONTREAL.
235, 401-9 AVE SW
CALGARY
ALBERTA T2P3C5
ORIGINAL PRINCIPAL AMOUNT: \$1,182,500

TOTAL INSTRUMENTS: 002

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 13 DAY OF
OCTOBER, 2020 AT 09:20 A.M.

ORDER NUMBER: 40295386

CUSTOMER FILE NUMBER:



END OF CERTIFICATE

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED
FOR THE SOLE USE OF THE ORIGINAL PURCHASER, AND NONE OTHER,
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OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).

TAB GG

THIS IS EXHIBIT "GG" REFERRED TO IN
THE AFFIDAVIT OF ZAHRA TEJPAN
SWORN BEFORE ME THIS 13TH DAY OF
APRIL, 2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor



LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0030 109 053 0312648;93;10 181 101 123

LEGAL DESCRIPTION
PLAN 0312648
BLOCK 93
LOT 10
EXCEPTING THEREOUT ALL MINES AND MINERALS

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

MUNICIPALITY: CITY OF CALGARY

REFERENCE NUMBER: 081 427 034

REGISTERED OWNER(S)				
REGISTRATION	DATE (DMY)	DOCUMENT TYPE	VALUE	CONSIDERATION
181 101 123	16/05/2018	TRANSFER OF LAND	\$2,500,000	NOMINAL

OWNERS

MONICA VAN WEELDEREN
OF 3404-8A STREET SW
CALGARY
ALBERTA T2T 3B2

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
881 084 411	25/05/1988	UTILITY RIGHT OF WAY GRANTEE - THE CITY OF CALGARY.

(CONTINUED)

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2
181 101 123

REGISTRATION

NUMBER DATE (D/M/Y) PARTICULARS

AS TO PORTION OR PLAN:8810610

081 427 035 17/11/2008 MORTGAGE
MORTGAGEE - CIBC MORTGAGES INC.
SUITE 700, 33 YONGE ST
TORONTO
ONTARIO M5E1G4
ORIGINAL PRINCIPAL AMOUNT: \$1,665,000

TOTAL INSTRUMENTS: 003

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 13 DAY OF APRIL,
2021 AT 10:04 A.M.

ORDER NUMBER: 41418437

CUSTOMER FILE NUMBER: 25569/1 SFMD



END OF CERTIFICATE

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OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).

TAB HH

THIS IS EXHIBIT "HH" REFERRED TO IN
THE AFFIDAVIT OF ZAHRA TEJPAN
SWORN BEFORE ME THIS 13TH DAY OF
APRIL, 2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor



LAND TITLE CERTIFICATE

S		
LINC	SHORT LEGAL	TITLE NUMBER
0012 413 092	3605FO;93;3	151 224 546

LEGAL DESCRIPTION

PLAN 3605FO
BLOCK 93
THE SOUTH 12.50 METRES IN PERPENDICULAR WIDTH
OF LOT 3
CONTAINING 0.050 OF A HECTARE (0.1222 OF AN
ACRE) MORE OR LESS
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME

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

MUNICIPALITY: CITY OF CALGARY

REFERENCE NUMBER: 081 454 758

REGISTERED OWNER(S)				
REGISTRATION	DATE(DMY)	DOCUMENT TYPE	VALUE	CONSIDERATION
151 224 546	01/09/2015	TRANSFER OF LAND	\$1,570,000	\$1,570,000

OWNERS

JAMES YU

AND

CATHERINE YU

BOTH OF:

3406 - 8A STREET SW

CALGARY

ALBERTA T2T 3B2

AS JOINT TENANTS

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2
151 224 546

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

881 084 411 25/05/1988 UTILITY RIGHT OF WAY
 GRANTEE - THE CITY OF CALGARY.
 AS TO PORTION OR PLAN:8810610

TOTAL INSTRUMENTS: 002

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 13 DAY OF APRIL,
2021 AT 08:21 A.M.

ORDER NUMBER: 41416737

CUSTOMER FILE NUMBER: 25569/1 SFMD



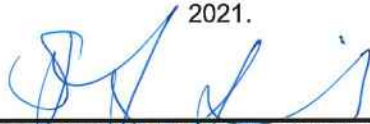
END OF CERTIFICATE

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OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).

TAB II

THIS IS EXHIBIT "II" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor



HISTORICAL LAND TITLE CERTIFICATE
TITLE CANCELLED ON SEPTEMBER 22, 2003

S
LINC SHORT LEGAL TITLE NUMBER
0019 751 924 3605FO;93;2,3 031 240 759

LEGAL DESCRIPTION

PLAN 3605FO
BLOCK 93
LOT 2 AND THAT PORTION OF LOT 3
THAT LIES TO THE NORTH OF SOUTH
12.50 METRES IN PERPENDICULAR
WIDTH OF SAID LOT 3 CONTAINING
0.101 HECTARES (0.251 ACRES) MORE
OR LESS
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME

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

MUNICIPALITY: CITY OF CALGARY

REFERENCE NUMBER: 031 190 710

REGISTRATION	DATE (DMY)	REGISTERED OWNER(S) DOCUMENT TYPE	VALUE	CONSIDERATION
031 240 759	18/07/2003	TRANSFER OF LAND	\$935,000	CASH & MORT

OWNERS

854008 ALBERTA INC.
OF 215 1300 8 ST SW
CALGARY
ALBERTA T2R 1B2

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION NUMBER	DATE (D/M/Y)	PARTICULARS
7648FT	21/05/1948	CAVEAT RE : SEE CAVEAT

(CONTINUED)

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2

031 240 759

REGISTRATION

NUMBER DATE (D/M/Y) PARTICULARS

CAVEATOR - CANADIAN PACIFIC RAILWAY COMPANY.

881 084 411 25/05/1988 UTILITY RIGHT OF WAY
GRANTEE - THE CITY OF CALGARY.
AS TO PORTION OR PLAN:8810610

031 240 760 18/07/2003 MORTGAGE
MORTGAGEE - FIRST CALGARY SAVINGS & CREDIT UNION
LTD.
P.O. BOX 908, CALGARY
ALBERTA T2P2J6
ORIGINAL PRINCIPAL AMOUNT: \$500,000

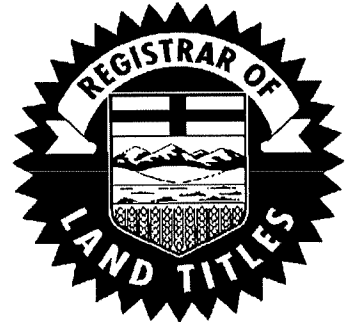
031 324 946 22/09/2003 SUBDIVISION PLAN 0312648
TITLE CANCELLED IN FULL

TOTAL INSTRUMENTS: 004

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 13 DAY OF APRIL,
2021 AT 08:51 A.M.

ORDER NUMBER: 41417101

CUSTOMER FILE NUMBER: 25569/1 SFMD



END OF CERTIFICATE

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OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).

TAB JJ

THIS IS EXHIBIT "JJ" REFERRED TO IN THE
AFFIDAVIT OF ZAHRA TEJPAN SWORN
BEFORE ME THIS 13TH DAY OF APRIL,
2021.

A handwritten signature in blue ink, appearing to read 'S. Mansfield', is written over a horizontal line.

A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor

ali.l.tejpar@gmail.com

From: Dunnette, Meghan E. <Meghan.Dunnette@calgary.ca>
Sent: April 5, 2021 7:22 AM
To: ali.l.tejpar@gmail.com
Cc: 'Zahra Allidina'
Subject: RE: [EXT] SB2020-0165/SDAB2020-0053 Question

Hi Ali,

The subdivision at 3410 10 Street SW just barely met the rules of the land use bylaw for lot width. The lot width was 12.19 meters, the minimum for the R-C1 district is 12.0 meters. Lot width is always significant to subdivision technicians because the width is what impacts the look of the home within the community most significantly. The lot widths of the surrounding parcels are much larger, including your lots that were subdivided. Allowing this subdivision would have meant that two homes would be built that realistically are unlikely to have fit into the existing character of the street. In your case your lots significantly exceed the rules of the land use bylaw and follow an established pattern (the adjacent parcel) of subdivision making your parcel in context (in my view) of the community.

Best Regards;

Meghan

From: ali.l.tejpar@gmail.com <ali.l.tejpar@gmail.com>
Sent: Sunday, April 4, 2021 2:16 PM
To: Dunnette, Meghan E. <Meghan.Dunnette@calgary.ca>
Cc: 'Zahra Allidina' <zahraallidina@gmail.com>
Subject: [EXT] SB2020-0165/SDAB2020-0053 Question

Hi Meghan,

Hope you are doing well. One of our neighbours has compared our approved subdivision (SB2020-0165) with an application made a few years ago at 3412 10 Street SW. In the SDAB2020-0053 appeal report, on page 45, you state the following:

2. Precedence

The application which you refer to on 3412 10 Street SW is significantly different to the one being proposed, with a different orientation and dimensions, and in our opinion is not a comparable example. In addition, decisions on planning matters are not based on precedence. Every application is reviewed on its own merits. As noted in your letter, The City of Calgary has a mandate to increase density throughout the city when the opportunity arises to do so. The proposed subdivision meets the rules of the land use bylaw (and significantly exceeds the minimum requirements), it is not considered to be contextually insensitive nor would result in development that would be insensitive to the character of the community.

Do you have any historical knowledge with the subdivision application at 3412 10 Street SW? I would like to understand why the subdivision did not proceed. I have CC'd my wife Zahra.

Appreciate your help!

Regards,

ALI TEJPAN
+1 403.483.8995

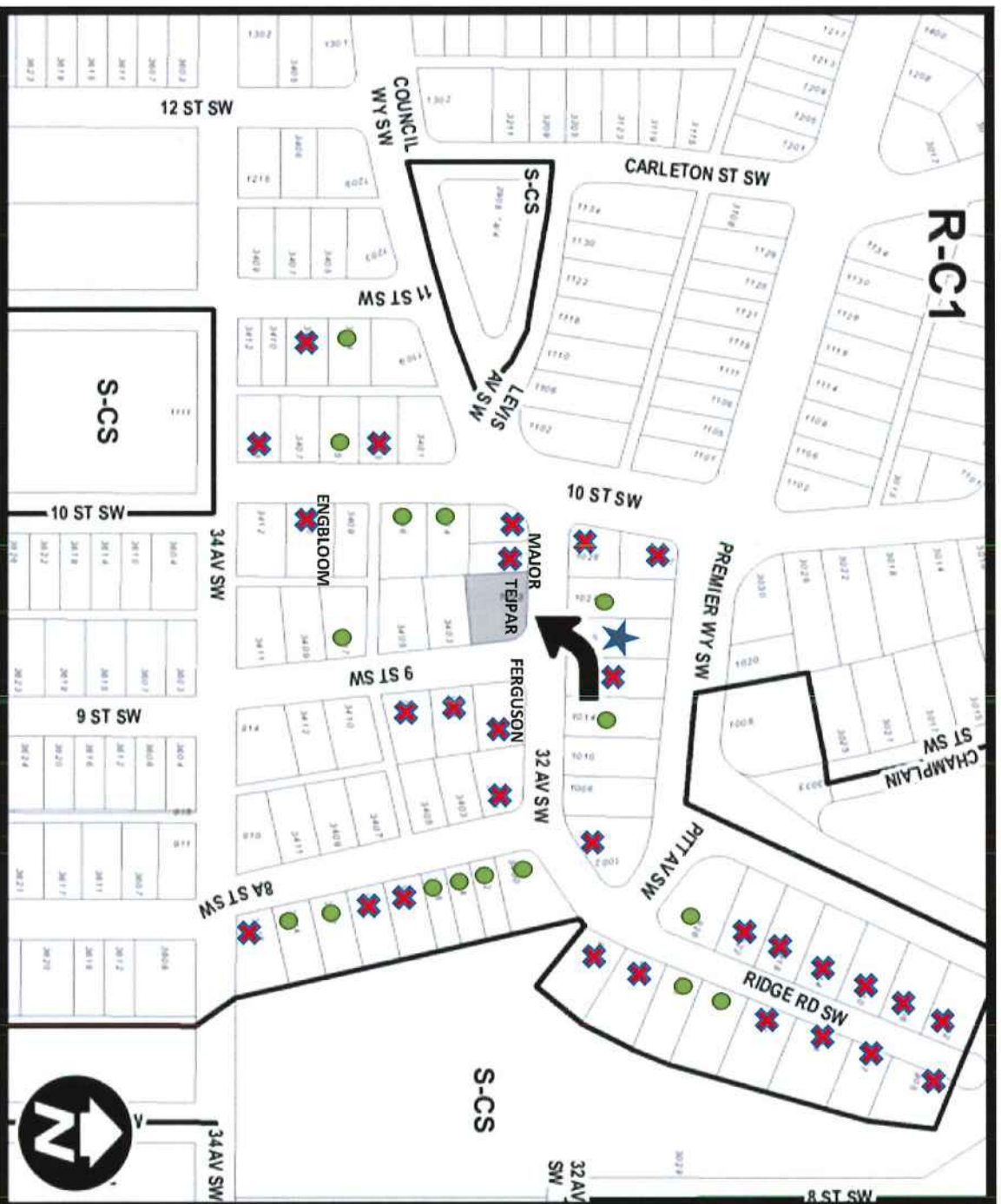
TAB KK

THIS IS EXHIBIT "KK" REFERRED TO IN
THE AFFIDAVIT OF ZAHRA TEJPAN
SWORN BEFORE ME THIS 13TH DAY OF
APRIL, 2021.



A COMMISSIONER FOR OATHS IN AND
FOR ALBERTA

Sophie Mansfield
Barrister & Solicitor



- ✖ Does not comply with front setback
- Complies with front setback
- ★ No dwelling on lot