

C337756.6 ENC

MEMORANDUM OF ENCUMBRANCE

W H E R E A S

I RULDOLF STEINER SCHOOLS (TITIRANGI) TRUST BOARD (in respect of the land described in the First Schedule hereto) AND ~~MAXWELL COTTER of Auckland, Potter and~~ LIADAN JUDITH MARY COTTER of Auckland, Potter (in respect of the land described in the Second Schedule hereto) are registered as proprietors of the estates in fee simple more particularly described in the First and Second Schedules hereto and have requested the WAITAKERE CITY COUNCIL (hereinafter called "the Council") pursuant to the provisions of the Local Government Act 1974 to consent to a plan of subdivision of the above described land in terms of a plan lodged for deposit under No. 140604

II THE Council has agreed to consent to such subdivision on the condition (inter alia) that the said RUDOLF STEINER SCHOOLS (TITIRANGI) TRUST BOARD (hereinafter called "the Owner") as the person who shall on deposit of the said Plan No. 140604 be registered proprietor of the land in the Third and Fourth Schedules hereto enters into and executes these presents.

NOW THIS MEMORANDUM WITNESSETH that:

1. THE Owner hereby encumbers all the land described in the Third and Fourth Schedules hereto for the benefit of the Council for a term of 999 years commencing from 1st day of August 1990 with an annual rent charge of TEN DOLLARS (\$10.00) to be paid on the 1st day of August each year if demanded by that date.

2. THE Owner for itself and its successors in Title covenants with the Council as follows:

- (a) Any cuts or fills greater than 0.5 metres in height or depth on the sloping ground around any residential building erected on the land described in the Third Schedule hereto must be adequately retained by a wall designed by a registered Engineer experienced in geomechanics and constructed in accordance with that design.
- (b) Specific design of building foundations and on site earthworks erected or carried out on the land described in the Fourth Schedule hereto will require specific design by a Registered Engineer experienced in geomechanics and constructed in accordance with that design.

3. THE Owner shall pay the costs of preparation, stamping and registration and enforcement of this encumbrance and any other costs incurred directly or indirectly by the Council in relation to this encumbrance or its enforcement.

4. SECTION 104 of the Property Law Act 1952 applies to this Memorandum of Encumbrance but otherwise (and without prejudice to the Council's rights of action at common law as a rent chargee or encumbrancer):

- (a) The Council shall be entitled to none of the powers and remedies given to encumbrancers by the Land Transfer Act 1952 and the Property Law Act 1952, and;
- (b) No covenants on the part of the Owner and its successors in title are implied in this memorandum other than the covenants for further assurance implied by Section 154 of the Land Transfer Act 1952.

5. IF during the twelve (12) months preceding the first day of August 1991 and each successive twelve (12) months thereafter there shall have been no breach of the covenants

contained herein then the annual rent charge payable hereunder shall be deemed to have been paid and the Owner shall be entitled to an acknowledgement to that effect.

6. THE covenants contained in Clause 2 hereof shall be enforceable only against the registered proprietors for the time being of the land described in the Third and Fourth Schedules hereto and not otherwise against the Owner or its successors in title.

7. THE provisions of this encumbrance and the Council's rights and remedies hereunder are in addition to and shall in no way derogate from the Council's rights and duties in respect of the land in the Third and Fourth Schedules hereto.

IN WITNESS WHEREOF these presents have been executed  
the 12<sup>th</sup> day of May 1998

1998  
1991 777

FIRST SCHEDULE

An estate in fee simple in all that parcel of land situated in the North Auckland Registry described as follows:

<u>Area</u>	<u>Lot</u>	<u>D.P.</u>	<u>C.T.</u>
36.0160 ha	4	133824	79A/219

SECOND SCHEDULE

An estate in fee simple in all that parcel of land situated in the North Auckland Registry described as follows:

<u>Area</u>	<u>Lot</u>	<u>D.P.</u>	<u>C.T.</u>
2841m <sup>2</sup>	1	82425	39A/315

THIRD SCHEDULE

An estate in fee simple in all that parcel of land situated in the North Auckland Registry described as follows:

<u>Area</u>	<u>Lot</u>	<u>D.P.</u>	<u>C.T.</u>
3334m <sup>2</sup>	1	140604	83C/144

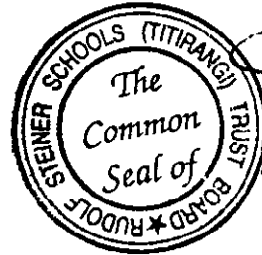
FOURTH SCHEDULE

An estate in fee simple in all that parcel of land situated in the North Auckland Registry described as follows:

<u>Area</u>	<u>Lot</u>	<u>D.P.</u>	<u>C.T.</u>
3297m <sup>2</sup>	2	140604	83C/145

THE COMMON SEAL of the  
RUDOLF STEINER SCHOOLS  
(TITIRANGI) TRUST BOARD  
 was hereunto affixed in the  
 presence of:

)  
)  
)  
)  
)



*John McNeil*  
*Allyddeloy*

\_\_\_\_\_  
 \_\_\_\_\_

MEMORANDUM OF ENCUMBRANCE

RULDOLF STEINER SCHOOLS  
(TITIRANGI) TRUST BOARD and  
MAXWELL COTTER and LIADAN JUDITH  
MARY COTTER  
Owners

WAITAKERE CITY COUNCIL  
Encumbrancer

Particulars entered in  
the Register as shown  
in respect of the land  
referred to herein

Assistant Land  
Registrar  
North Auckland Land  
Registry

Correct for the  
purposes of the Land  
Transfer Act 1952.

9.09 09.JAN92 C 337756.6

PARTICULARS ENTERED IN REGISTER  
LAND REGISTRY  
AUCKLAND  
ASST. LAND REGISTRAR  
83c/144



Solicitor for the Encumbrancer  
EARL KENT ALEXANDER BENNETT  
SOLICITORS  
HENDERSON

630w



6  
ENC  
\$ 711 (for m fee)