

REGIONAL DISTRICT OF ALBERNI-CLAYOQUOT

BY-LAW NO. 236

A BY-LAW TO AUTHORIZE THE REGIONAL BOARD TO ENTER INTO A LAND USE CONTRACT WITH SOUTH BAY DEVELOPMENTS LTD., RESPECTING SECTION 77, ALBERNI DISTRICT.

The Board of the Regional District of Alberni-Clayoquot, in open meeting assembled, enacts as follows:

1. The Board is hereby authorized to enter into the Land Use Contract attached hereto and made part of this by-law.
2. This By-law may be cited as "Land Use Contract No. 24 , 1978".

Read a first time this 28th day of June , 1978
Read a second time this 26th day of July , 1978
Read a third time this 26th day of July , 1978

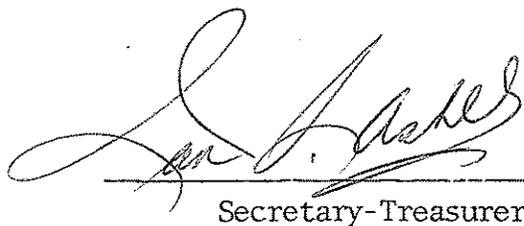
Approved by the Minister of Municipal Affairs and Housing

this 20th day of December , 1978

Reconsidered and finally adopted by a two-thirds majority of all the Directors present having among them a two-thirds majority of the votes cast.

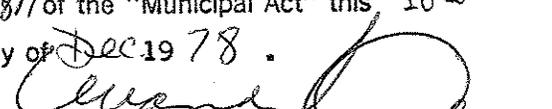
this 20th day of December , 1978

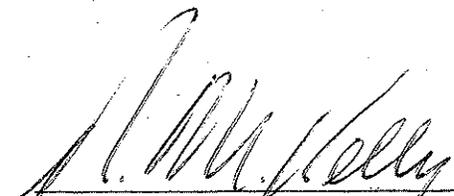

Chairman


Secretary-Treasurer

I hereby certify the foregoing to be a true and correct copy of By-law No. 236, cited as "Land Use Contract No. 24, 1978, as read a third time by the Regional Board on the 26th day of July , 1978.

APPROVED pursuant to the provisions of section 798A of the "Municipal Act" this 20th day of Dec 19 78 .


Minister of Municipal Affairs
APPROVAL No. 781178


Assistant Secretary-Treasurer

Terms and Conditions of

LAND USE CONTRACT

between

Regional District of Alberni-Clayoquot

and

The Owners of Section 77, District Alberni
(situate in Barclay District)

Respecting Section 77, District Alberni
(situate in Barclay District)

THIS AGREEMENT made this day of

BETWEEN:

REGIONAL DISTRICT OF ALBERNI-CLAYOQUOT

(hereinafter called the "District")

OF THE FIRST PART:

AND:

SOUTH BAY DEVELOPMENTS LTD., RUTH HELEN
MATSON; DALE FERGUSON; JACOB DOUGLAS
WATCHEL; JAMES LEYLAND McMILLAN; KENNETH
WHITHAM and ELSIE WHITHAM; HENRY MARTIN
ECKHOLDT and ANNA ECKHOLDT; GEORGE DEREK
LAVERTY and MARY LAVERTY; HARRY MARSTON
CRAVEN and PATRICIA CRAVEN; SHARYN LINETTE
URQUHART; FRANK NORDQUIST; EDWIN PETER MAY
and GLORIA MONICA MAY; WILLIAM FERGUSON
HENDERSON; HELLE LANGHOLZ BERTELSEN;
JANELLE WESTON EADES; TIMOTHY CHARLES FRANCIS
HOLMES; CARLO WIBECK OLESEN and SONYA OLESEN.

(Hereinafter called the "Owners")

OF THE SECOND PART:

WHEREAS

The District pursuant to Section 702A of the Municipal Act may, notwithstanding any by-law of the District or Section 712 or Section 713 of the Municipal Act, enter into a Land Use Contract containing such terms and conditions for the use and development of land as may be mutually agreed upon, and thereafter the use and development of the land shall be in accordance with the Land Use Contract;

AND WHEREAS

the Land Use Contract entered into pursuant to the said section 702A shall have the force and effect of a restrictive covenant running with the land;

AND WHEREAS

The Municipal Act requires that the Regional Board of the District in exercising the powers given by Section 702A shall have due regard to the considerations set out in Section 702(2) and 702A(1) in arriving at the use and development permitted by any land development contract and the terms, conditions and considerations thereof;

AND WHEREAS

the said Regional Board of the District having given due regard to the considerations set forth in Section 702(2) and 702A(1) of the Municipal Act has agreed to the terms, conditions and considerations herein contained;

AND WHEREAS

the owners are owners of interests in Section 77, Alberni District and they have presented to the District a scheme of use and development of those portions of the lands herein described and have requested the District to enter into a Land Use Contract under the terms and conditions and for the consideration hereinafter set forth

AND WHEREAS

the owners acknowledge that they are fully aware of the provisions and limitations of Section 702A of the Municipal Act and the Regional By-Laws, and the District and the owners mutually acknowledge notice that the Regional Board of the District cannot enter into this contract until the Regional District has held a public hearing thereon in the manner prescribed by law and has duly expressed at such hearing, and unless at least two-thirds of the votes cast vote in favour of the District entering into this contract;

AND WHEREAS

the District and owners agree that this Land Use Contract shall be registered in the Land Registry Office in the City of Victoria as a first charge against the lands having priority over any and all restrictive covenants and any liens, entries, judgments, mortgages, leases, agreements or any other encumbrances or charges excluding any reservations in favour of the Crown and also excluding two Crown granted mineral claims known as Lot 48 "Medoc" and Lot 49 "Kitchener" and registered under number 370184-G;

NOW THEREFORE THIS AGREEMENT WITNESSETH

that in consideration of the premises and the covenants and the conditions hereinafter set forth, the District and the Owners hereby agree as follows:

1. INTERPRETATION AND DEFINITION

To the extent that words or phrases in this Land Use Contract require definition, the provisions of Section 3 of the "Alberni-Clayoquot Zoning By-Law 1971" shall apply.

2. USE AND DEVELOPMENT OF LAND

2.01

This contract envisages the use of an area outlined in green on Schedule "A" hereto to be governed by the Regulations of the A-4 Undeveloped Land District of the Regional District of Alberni-Clayoquot and 41 separate areas of not less than 2.023 ha. each fronting on the foreshore for recreational and vacation homes but not permitting permanent residence, in which the primary purpose shall be the provision of a wilderness experience and excepting, as not part of this Land Use Contract, that portion of the said Section 77 outlined in blue on Schedule "A" hereto and reserved for future possible use as a fishing lodge.

2.02

Those areas to be rezoned are those set out and numbered 1 to 41 in Schedule "A" hereto and the use of the land shall be limited as follows, namely:

- (a) No more than one recreational vacation home shall be constructed within each numbered area so rezoned.
- (b) The uses permitted shall be those set out in the RVZ Zoning of the District, namely:
 - (i) Dwellings or mobile-homes not occupied as the permanent home or residence of any family, but rather as a vacation or seasonal residence for a family or families maintaining permanent residence elsewhere.
 - (ii) Accessory buildings or uses.
 - (iii) On one of the said areas one single-family dwelling may be constructed for the use of a caretaker, provided that no caretaker's dwelling shall continue to be used as a permanent residence for any family or families having among them school-age children; school-age children shall be construed to mean those persons between the ages of six years and eighteen years who are able to attend school. No other portions of lands rezoned shall be used for permanent residence.
- (c) Vacation homes shall contain no less than 18.58601 square meters of floor area and shall not exceed in size the normal requirements of a single family dwelling and shall not exceed 111.48 sq. meters.
- (d) Every vacation home shall be located no closer than 10.668 meters to the highwater mark of the shore and not less than 4 meters in grade above the high water mark.
- (e) Tree-cutting in a strip paralleling the shoreline and extending 10.668 meters inland from all points along the normal highwater mark of the shoreline shall be limited so that natural trees shall be preserved as far as practicable, and where removed they shall be replaced with vegetation that is effective in retarding runoff, preventing erosion and enhancing natural beauty.
- (f) Development and operation of boat launching and moorage facilities shall be limited to those areas marked on Schedule "A" and held by the owners pursuant to a foreshore lease.
- (g) The District shall not be required to provide at any time any services by way of the construction and maintenance of any internal or external roads, the provision of schools, ambulance services, garbage disposal, fire fighting or other services or facilities whatsoever.
- (h) All roads and other facilities constructed upon the lands shall be deemed to be private roads and facilities and maintenance thereof shall be the sole responsibility of the owners.
- (i) The Owners of the said Section 77 or any interest therein shall be subject to the restrictions set out in Schedule "B" hereto.

2.03

The owners shall at their own expense supply, construct and maintain in good working order the following:

- (a) A water system providing a potable water supply as marked on Schedule "A" containing a reserve of not

less than 900,00 litres of water and providing not less than twelve stand pipes to provide water to each of the rezoned areas, which water supply shall meet the requirements of the Ministry of Health.

- (b) Fire fighting equipment maintained on the lands consisting of no less than 304.8 metres of .38 metres (1½") hose and the twelve stand pipes aforesaid from the water system each shall have .38 metres (1½") taps for fire fighting purposes.
- (c) One 2,250 litres tank truck and portable pump and shovels, axes, and grubbing tools suitable for fire-fighting purposes.
- (d) Suitable garbage disposal area within the said Section 77 meeting the requirements of the Ministry of Environment or the Board of Health, or alternatively at their own expense arrangements for the legal disposal of the garbage off the land.
- (e) All roads shown on Schedule "A".
- (f) Such floats and boat launching facilities as shall be approved by the Harbour Commission.

2.04 In the event of default of the owners in maintenance of the facilities and equipment described in 2.03 herein, the District may, at its option, but shall not be required to, enter upon the lands and correct such default, at the owners' expense, and any costs so incurred shall constitute a charge against the said lands, and shall be forthwith payable by the owners and may be added to the taxes charged and assessed against the said Section 77.

2.05 No portion of the area rezoned shall be used for any commercial purposes.

2.06 Except as otherwise specifically provided for, all requirements of the District's by-laws which are not in conflict with this Land Use Contract shall continue to apply.

2.07 This Land Use Contract in no way relieves the owners or occupiers of the lands of the responsibility of adhering to all other legislation, by-laws, and decisions of responsible authorities which may apply to the land and contiguous foreshore.

3. REGISTRATION

3.01 This contract shall have the force and effect of a restrictive covenant running with the land and shall be registered in the Land Registry Office by the District pursuant to the provisions of Section 702A of the Municipal Act.

3.02 The District hereby authorizes the owners to apply for registration of this Land Use Contract in the Land Registry Office in Victoria and confirms that the owners shall provide to the District two certified copies of the contract together with the necessary proof of registration.

4. COSTS

The owners shall bear all costs incurred by the District in respect of this contract including, without restricting the generality of the foregoing all legal costs and the costs of registration in the Land Registry Office.

5. DISSOLUTION

In the event that a Court of competent jurisdiction shall order the sale of the whole of the said lands under the Partition Act, or if all of the co-owners shall voluntarily dissolve co-ownership, the said Section 77 shall be disposed of as a whole.

6. This agreement shall be binding upon the parties hereto, their heirs, executors, administrators, successors and assigns.

THE CORPORATE SEAL OF THE REGIONAL DISTRICT OF ALBERNI-CLAYOQUOT WAS AFFIXED IN THE PRESENCE OF:

Ben A. Mc Knight
Chairman

Lawrence S. Ashby
Secretary-Treasurer

THE CORPORATE SEAL OF SOUTH BAY DEVELOPMENTS LTD. WAS AFFIXED IN THE PRESENCE OF:

President

Secretary

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in the presence of:)
Name: _____)
Address: _____)

Occupation: _____)

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in the presence of :)
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Owner

