



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
CROSS LEASE
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R.W. Muir
Registrar-General
of Land

Identifier **NA78C/291**
Land Registration District **North Auckland**
Date Issued 19 December 1989

Prior References
NA68A/360 NA728/33 NA76A/956

Estate Fee Simple - 1/3 share
Area 1090 square metres more or less
Legal Description Lot 3 Deposited Plan 16910

Registered Owners
Todd Justin Emerson as to a 1/2 share
Christopher Willis Chapman as to a 1/2 share

Estate	Leasehold	Instrument	L C083197.2
		Term	999 years commencing on the 1st September 1989

Legal Description Flat 3 Deposited Plan 133372 and Garage 3
Deposited Plan 133372

Registered Owners
Todd Justin Emerson as to a 1/2 share
Christopher Willis Chapman as to a 1/2 share

Interests

B895904.3 Lease of Flat 1 Plan 118335 Composite CT NA68A/360 issued (Affects Fee Simple)
Land Covenant in Lease B895904.3 (Affects Fee Simple)
B988136.2 Lease of Flat 2 Plan 129992 Composite CT NA76A/956 issued (Affects Fee Simple)
Land Covenant in Lease B988136.2 (Affects Fee Simple)
C083197.2 Lease of Flat 3 and Garage 3 DP 133372 Term 999 years commencing on the 1st September 1989 Composite
CT NA78C/291 issued - 19.12.1989 at 11.16 am (Affects Fee Simple)
Land Covenant in Lease C083197.2 - 19.12.1989 at 11.16 am (Affects Fee Simple)
10232340.3 Mortgage to ANZ Bank New Zealand Limited - 6.11.2015 at 1:17 pm

<p>Approved: Registered Surveyors <i>Philip Ernest Knight</i> <i>Philip Ernest Knight</i></p> <p>14/11/89 day of Nov 1989</p> <p>Senior Land Surveyor See Deed 8020151 3</p> <p>14/11/89 day of Nov 1989</p>	<p>CERTIFICATE OF TITLE</p> <p>Boundaries of areas to be leased are along external face of exterior walls, structures and to terraces otherwise shown</p> <p>Restrictive covenant boundaries are not physically defined unless otherwise shown</p> <p>Now C.T. Alford Plan Flat 3 - 78C/291</p>	<p>1 Philip Ernest Knight registered surveyor and holder of an annual practising certificate hereby certify that the boundaries shown hereon are correctly shown in the position shown and situated within the boundaries of C.T. 728/133 (A1) and that the plan is correct</p> <p>Dated this 14th day of Nov 1989 <i>Philip Ernest Knight</i> Signature</p>	<p>No.</p> <p>Total Area 1090 m²</p> <p>Comprised in C.T. 728/133 (A1) (C.T. 76A/955 (A1), C.T. 76A/956 (A1))</p>	<p>Registered Surveyor and holder of an annual practising certificate (or who may act as a registered surveyor pursuant to section 25 of the Survey Act 1980) hereby certify that the plan has been made in accordance with the Survey Regulations 1977 and that the plan and survey are correct and have been made in accordance with the Survey Regulations 1977 or any regulations made in substitution thereof</p> <p>Dated at this day of this day</p> <p>Field Book P Reference Plans P Examined P Approved as to Survey P 14/11/89 day of Nov 1989 Deposited this 17th day of Nov 1989 Chief Surveyor 14/11/89 day of Nov 1989 DP 133372</p>
				<p>TERRITORIAL AUTHORITY Auckland City</p> <p>Surveyed by P. Knight</p> <p>Scale 1 : 200 Date July 1989</p>
<p>LAND DISTRICT North Auckland</p> <p>SURVEY BLK. & DIST. II Tihirangi</p> <p>NZMS 261 SHT RECORD MAP No</p>		<p>Plan of Flat 3 on Lot 3 DP 16910.</p>		<p>DP 39208</p>

C083197.2L

Approved by the Registrar-General of Land, Wellington No. 212336.

Auckland
Land Registry Office

MEMORANDUM OF LEASE

LESSORS: TALI NOMANI of Auckland, Printer and VEALAGI ASUAU NOMANI, his wife, ELLEN BARBARA SEMB, Receptionist and RONALD MCKENZIE, Pathology Technician, both of Auckland as tenants in common in equal shares, DAVID DOUGLAS SHILTON of Auckland, Builder and

LESSEE: CAROLYN DAWN SHILTON, his wife
LESSEE: DAVID DOUGLAS SHILTON of Auckland, Builder and CAROLYN DAWN SHILTON, his wife

SCHEDULE OF LAND AND FLAT

Leasehold Estate in fee simple as to an undivided one-third share

C.T. REFERENCE	DESCRIPTION OF LAND AND LOCALITY	DESCRIPTION OF FLAT
XXXXXX 728/33 Area 1,090 m2	Lot 3 Deposited Plan 16910 Situated in Avondale	Flat No. 3 and Garage 3 on Deposited Plan 133372 called "the Flat" which is part of a building erected on the said land comprising Flats Nos as shown on the said plan (hereinafter called "the said building")

Encumbrances, Liens, and Interests:

Land Covenant in Lease No. B.895904.3 and B. 988136.2;
Leasehold Interest in Leases B.895904.3 in Flat 1 CT 68A/360;
Leasehold Interest in Lease B.988136.2 in Flat 2 CT 76A/956;
~~XXXXXXXXXX~~

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TERM 999 years commencing on the first day of September 19 89

RENTAL 10 cents per annum payable yearly in advance if demanded in writing by the Lessors prior to the commencement of the year for which it is payable.

CONDITIONS The parties hereby agree that:

- The covenants conditions and agreements set out in Schedules A, B & C herein form part of this Lease.
- In any case where the Lessors are proprietors of a leasehold estate in the said land the covenants conditions and agreements set out in Schedule D herein form part of this Lease.
The words "Flat share" shall be deemed to mean a one-third share calculated in terms of the number of flats contained in the said building.
- The words "Land share" shall be deemed to mean a one-third share calculated in terms of the number of flats contained in all buildings erected on the said land.
- In respect of Clauses 6, 13 & 22 in the Schedules hereto where neither sub-clause (a) or sub-clause (b) has been deleted, sub-clause (a) shall form part of this Lease as hereinbefore provided and sub-clause (b) shall not.

AND the Lessors DO HEREBY LEASE to the Lessee and the Lessee DOTH HEREBY ACCEPT this Lease of the Flat to be held by the Lessee as tenant and subject to the conditions restrictions and covenants set forth herein.

IN WITNESS WHEREOF these presents have been executed this 4th day of December 19 89

SIGNED by the said TALI NOMANI and VEALAGI ASUAU NOMANI as Lessors

GILLIAN PREECE
Legal Executive to:
CORRAM, BEVILL &
SOLICITORS

SIGNED by the said ELLEN BARBARA SEMB and RONALD MCKENZIE as Lessors
in the presence of:

SIGNED by the said DAVID DOUGLAS SHILTON and CAROLYN DAWN SHILTON, as Lessors

in the presence of:

SIGNED by the said DAVID DOUGLAS SHILTON and CAROLYN DAWN SHILTON as Lessee
in the presence of:

[Handwritten signature]

[Handwritten signatures of Gillian Preece, Ellen Semb, and Ronald McKenzie]

[Handwritten signatures of David Douglas Shilton, Carolyn Dawn Shilton, and their witnesses]

21. LESSORS NOT LIABLE FOR WATER DAMAGE

That the Lessors shall not be liable to the Lessee or any other person for any water damage caused either by the overflow of the water supply to the said building or to the Flat or by rainwater entering the Flat.

22. (a) SUBLETTING BY LESSEE

The Lessee shall be entitled to let the Flat only to a reputable and solvent subtenant and the Lessee shall ensure that the subtenant first enters into a Tenancy Agreement with the Lessee whereby the subtenant covenants not to do or permit anything to be done in upon or around the Flat which if done or permitted to be done by the Lessee would constitute a breach of any of the covenants conditions and restrictions herein contained.

-OR-

(b) RESTRICTED SUBLETTING BY LESSEE

The Lessee shall not without the prior consent in writing of the Lessors or a majority of the Lessors first had and obtained for that purpose on every occasion sublet or part with the possession or occupation of the Flat or any part thereof but such consent shall not be unreasonably or arbitrarily withheld in any case where:-

- (a) the proposed subletting is for a term not exceeding one year during which the Lessee is unable to personally occupy the Flat and,
- (b) the proposed subletting is to a reputable and solvent person who first enters into a Deed of Covenant with the Lessors to observe perform and fulfill all the obligations of the Lessee hereunder and to be bound by the provisions of this present clause such Deed of Covenant to be prepared by the solicitor for the Lessors at the cost and expense of the Lessee.

Any underletting within the meaning of Sub-section (2) of Section 109 of the Property Law Act 1952 without such consent as aforesaid shall constitute a breach of this present clause.

23. PERFORMANCE OF LESSEES COVENANTS BY LESSORS

That in case of default by the Lessee at any time in the observance or performance of any of the covenants conditions and restrictions herein contained it shall be lawful but not obligatory upon the Lessors or a majority of the Lessors but without prejudice to any of the other rights powers or remedies of the Lessors at the cost and expense of the Lessee in all things to pay all or any moneys and to do and perform all or any acts or things in the opinion of the Lessors or a majority of the Lessors reasonably necessary for the full or partial performance or observance of such covenants conditions or restrictions or any of them and if necessary or convenient for the purpose of exercising any of the powers herein conferred upon the Lessors to enter by Servants agents contractors or workmen upon the Flat or any part thereof AND the Lessee will immediately on demand pay to the Lessors all moneys so paid by the Lessors and the costs charges and expenses of each performance and observance by the Lessors and until such payment the same shall be treated as an advance to the Lessee by the Lessors and shall bear interest at the rate of Ten dollars (\$10) per centum per annum computed from the date or respective dates of such moneys being expended until payment thereof to the Lessors PROVIDED HOWEVER that for the purposes of this Clause 23 the word "Lessors" shall be deemed to mean Lessors other than the Lessee.

24. POWER OF SALE OF LESSEES FLAT BY LESSORS

That in the event of this lease being determined in the manner herein provided then in any such case:-

- (a) the Lessee shall at the direction of the Lessors sell his share in the fee simple of the said land to such person and at such consideration as may be nominated by the Lessors and shall execute all such documents as shall be required to complete any such sale; and
- (b) the Lessors shall use reasonable endeavours to obtain a fair market price for the Lessee's said share in the fee simple but shall not be liable to the Lessee in respect of any loss howsoever incurred; and
- (c) the proceeds of such sale shall be paid to the Lessors who shall be entitled to deduct therefrom all moneys owing by the Lessee to the Lessors and also all expenses and costs howsoever incurred by the Lessors in connection with the arranging of such sale and the completion thereof, and any balance of such proceeds shall be paid to the Lessee by the Lessors;

AND the Lessee doth hereby irrevocably appoint the Lessors to be the Attorneys of the Lessee for the purpose of doing any act matter or thing or executing any document required in connection with the sale of the Lessee's said share in the fee simple (in the event of the Lessee making default in so doing) and no person shall be concerned to see or enquire as to the propriety or expediency of any act matter or thing done or agreed to be done by the Lessors pursuant to this Clause AND the Lessee hereby agrees to allow ratify and confirm whatever the Lessors shall do or agree to do by virtue of any of the powers herein conferred on them PROVIDED HOWEVER that for the purposes of this Clause 24 the word "Lessors" shall be deemed to mean Lessors other than the Lessee.

25. NON-MERGER

That there shall be no merger of this Lease with the Lessee's freehold estate in the said land.

26. ARBITRATION

That if any dispute or question or difference whatsoever shall arise between the parties to this Lease or their respective representatives or assigns or between one of the parties hereto and representatives of the other of them relating to these presents or any clause or anything herein contained or the construction hereof or as to duties or liabilities of either party in connection with the said land, the said building or the Flat or as to the use or occupation thereof then and in every such case the matter in difference shall be referred to arbitration in accordance with the Arbitration Act 1998 and its Amendments or any Act in substitution therefor.

27. PROCEDURE FOR DECISIONS

That in the event of the Lessee or any Lessor requiring any matter or thing to be done by the Lessors which the Lessors are empowered to do pursuant to the terms of this Lease or pursuant to their rights and powers as owners of the said land and the buildings thereon or which may be desirable for the efficient and harmonious administration of the said land and the buildings thereon the following procedure shall be carried out:-

- (a) Such Lessee or Lessor shall give notice thereof in writing setting out the proposed action and shall cause the same to be served upon all the other Lessors either personally or by leaving the same at or posting the same to the last known respective place of abode or address of the other Lessors and in the event of such notice being effected by post the same shall be sent by registered letter and service shall be deemed to have been effected on the day after posting thereof.
- (b) If the proposed action is not agreed to unanimously within fourteen days after the last date of service of the said notices that matter shall deemed to be a question to be arbitrated pursuant to Clause 26 hereof.
- (c) The parties hereto shall be bound by any decision arrived at in accordance with the provisions of this Clause and the parties hereto shall give all reasonable assistance in the carrying out and implementation of such decision.

[Handwritten signatures and initials]

28. COLOUR SCHEME

That notwithstanding the provisions of Clause 27 hereof, any exterior painting of the said building shall be carried out in such a colour scheme as is agreed upon by the Lessors but if agreement cannot be reached then the colour scheme shall be as near as is practicable to the existing colour scheme.

29. NON-DEVOLUTION OF LIABILITY

That without negating the provisions of Sections 97 and 98 of the Land Transfer Act 1952, upon registration of a Memorandum of Transfer of the Lessee's interest hereunder to any Transferee, the Transferor shall thenceforth be released from all future liability whatsoever under the covenants and agreements herein expressed or implied but without releasing the Transferor from any liability which may have arisen hereunder prior to the registration of such Memorandum of Transfer and thenceforth after the registration of any such Memorandum of Transfer the obligations herein expressed or implied on the part of the Lessee shall in all respects devolve upon and be observed and performed by such Transferee, and the Lessors shall have no recourse to the Transferee's antecedents in title.

30. INTERPRETATION

That wherever used in these presents:--

- (a) The expression "the Lessors" shall include and bind the person/s executing these presents as Lessors and all the Lessors for the time being under these presents and all the respective executors administrators successors assigns and successors in title of each Lessor and if more than one jointly and severally.
- (b) The expression "the Lessee" shall include and bind the person/s executing these presents as Lessee and all the Lessees for the time being under these presents and all the respective executors administrators successors assigns and successors in title of each Lessee and if more than one jointly and severally.
- (c) The expression "a majority of the Lessors" shall be deemed to mean any number of Lessors for the time being who together own more than an undivided one-half share in the fee simple of the said land.
- (d) Words importing one gender shall include the other gender as the case may require.
- (e) Words importing the singular or plural number shall include the plural or singular number respectively.
- (f) The clause headings shall not form part of this Lease and shall have no bearing on the construction or interpretation of the same.

~~SCHEDULE D (Special Covenants for Leasehold Estates)~~

~~31. IT IS HEREBY COVENANTED AND AGREED BY AND BETWEEN THE LESSORS AND THE LESSEE AS FOLLOWS:--~~

~~(a) Interpretation~~

- ~~(i) The expression "Head Lease" means the Memorandum of Lease referred to in the Schedule of Land and Flat and the expressions "Head Lessor" and "Leasehold Estate" shall have corresponding meanings.~~
- ~~(ii) The expressions "fee simple" "freehold interest" and "freehold estate" where they occur in Schedules A, B & C hereof shall unless inconsistent with the context refer to and include the leasehold estate.~~

~~(b) Lessee to pay share of Head Lease rental~~

~~That the Lessee will upon demand in writing by the Lessors pay to the Lessors or a person nominated by the Lessors or a majority of the Lessors a Land share of the rental from time to time payable under the Head Lease and any other moneys expended by the Lessors in the performance of their obligations thereunder or in or about any renewal thereof as hereinafter provided.~~

~~(c) Lessee to observe terms of Head Lease~~

~~That the Lessee will from time to time and at all times observe perform and keep all and singular the covenants agreements and conditions contained and implied in the Head Lease so far as they affect the Flat and will save and keep harmless and indemnify the Lessors from and against all costs claims damages expenses actions and proceedings for or on account of breach of covenant or otherwise under the Head Lease as shall be occasioned by breach by the Lessee of any covenant condition or agreement herein contained or implied and on his part to be observed performed or fulfilled.~~

~~(d) Lessors to pay Rent and observe Covenants:~~

~~That the Lessors shall and will throughout the term hereby created pay the rent reserved by and duly and punctually perform and observe all and singular the covenants and provisions expressed or implied in the Head Lease and on the part of the Lessee thereunder to be performed and observed and will not do quit or suffer any act or thing whereby or in consequence whereof the power of re-entry into possession or any of the incidental ancillary or subsidiary powers vested in the Head Lessor by the Head Lease shall or may become exercisable.~~

~~(e) Rights of Renewal~~

~~That the Lessors will from time to time and so often as the same shall require to be done and at all proper times for so doing give all such notices do all such things execute all such documents and pay all such costs, charges and expenses as shall or may be necessary or desirable to procure from the Head Lessor the renewal of the Head Lease and of every lease so procured AND when and so often as the Head Lessor shall grant and execute unto the Lessors hereunder a new Head Lease as aforesaid the Lessors hereunder will at the cost and expense of the Lessee hereunder deliver unto the Lessee hereunder and the Lessee hereunder shall accept and take in substitution for this present sublease or (as the case may be) for the then last preceding sublease of the Flat for the term of such newly granted head lease less the last day thereof a sublease at the same Flat share of rental and upon with and subject to the same covenants agreements conditions and provisions as are herein contained and implied including this present clause AND for the better enabling the Lessee hereunder to secure and enjoy the benefit of this present Clause the Lessors for the time being hereunder DO HEREBY JOINTLY AND EACH OF THEM DO TH SEVERALLY IRREVOCABLY NOMINATE CONSTITUTE AND APPOINT the Lessee for the time being hereunder the Attorney for them and each of them and in their name and in the name of each of them to give all such notices and to do all such acts matters and things and to make all such appointments and to pay all costs, charges and expenses and to give, make execute and deliver all such documents and paper writings as shall for all or any of the purposes aforesaid be desirable necessary or expedient.~~

Handwritten signatures and initials in the bottom right corner.

Handwritten signatures and initials on the left margin.

11(a) A N D the Lessor doth hereby covenant and agree with the Lessee that the Lessor other than the Lessee shall not during the continuance of this Lease use for any purpose whatsoever that part of the land shown as "Area B" on Deposited Plan 133372 TO THE INTENT THAT the said restrictive covenant shall be forever appurtenant to the estate and interest of the Lessee hereunder for all purposes connected with the use and enjoyment thereof.

PROVIDED HOWEVER that no objection hereunder shall be taken to the Lessor entering upon the said land shown as "Area B" for the purpose of effecting repairs or maintenance to any other flat on the said land or to any services thereto which shall cross under, upon or over the said land shown as "Area B" to the said other flat.

A N D PROVIDED FURTHER that the Lessor who shall so enter the land shown as "Area B" for a purpose aforesaid shall reinstate the said land to the condition in which it was prior to such entry.

[Handwritten signatures and initials]
VN

REGISTERED IN DUPLICATE

T. & V.A. NOMAI, E.B. SEMB & R. MCKENZIE,
D.D. & C.D. SHILTON

Correct for the purposes of the Land Transfer Act.

[Handwritten Signature]
Solicitor for the Lessee

LESSORS

D.D. & C.D. SHILTON

LESSEE

I hereby certify for the purposes of the Stamp and Cheque Duties Act 1971 that no Lease duty is payable on this Instrument by reason of the application of Section 35 (1) of that Act and that the provisions of subsection (2) of that Section do not apply

[Handwritten Signature]

SOLICITOR FOR THE PARTIES

Composite C.T. 780 1991 issued
above in fee simple

[Handwritten Signature]
A.L.R.

LEASE

Particulars entered in the Register as shown in the Schedule of Land herein on the date and at the time stamped below.

TO
The District Land Registrar
North Auckland Registry

District
Assistant Land Registrar
of the District of Wellington

Please issue a Composite Certificate of Title for the share in the fee simple and the Leasehold Interest set out in the within Lease and note the Restrictive Covenant created hereon on the said Composite Title

[Handwritten Signature]

SOLICITOR FOR THE LESSEE

WADSWORTH NORTON
SOLICITORS
AUCKLAND

11.16 19. DEC 89 C 0831972
PARTICULARS ENTERED IN REGISTER
LAND REGISTRY AUCKLAND
ASST. LAND REGISTRAR

