

1. Updated Agenda

Documents:

[7-21-16 AGENDA.PDF](#)

2. 481 Danforth Street (Interpretation Appeal)

2.I. Letter From The Applicant

Documents:

[LETTER FROM APPLICANT 7-13-16 .PDF](#)

2.II. Application

Documents:

[INTERPRETATION APPEAL APPLICATION WITH ATTACHMENTS.PDF](#)

2.III. Violation Letter

Documents:

[VIOLATION LETTER.PDF](#)

2.IV. Memo And Exhibits

Documents:

[MEMO AND EXHIBITS.PDF](#)

2.V. E-Mail From P. Bulger

Documents:

[E-MAIL FROM P BULGER REGARDING LEASE.PDF](#)

2.V.i. Lease

Documents:

[LEASE.PDF](#)

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Kent Avery, Chair
Donna Katsiaficas, Secretary
Chip Gavin
William Getz
Eric Larsson
Joseph Zamboni

APPEAL AGENDA

The Board of Appeals will hold a Public Hearing on Thursday, July 21, 2016, 6:30 p.m., Council Chambers, 2nd Floor, City Hall, 389 Congress Street, Portland, Maine, to hear the following appeal:

1. New Business:

A. Interpretation Appeal:

481 Danforth Street, 481, LLC, owner, Tax Map 71, Block A, Lot 001, R-4 Residential Zone: The applicant is challenging the Zoning Administrator's determination in a letter dated May 25, 2016 that the use of residential dwelling units for transient guests is not permitted in the R-4 Residential Zone (section 14-47 and section 14-102). Representing the appeal is Paul Bulger, Esq.

2. Adjournment

JEWELL & BULGER, P.A.

Attorneys at Law
477 Congress Street, Suite 1104
Portland, ME 04101-3453

Thomas F. Jewell, Esq.
tjewell@jewellandbulger.com

T: (207) 774-6665
F: (207) 774-1626

Paul S. Bulger, Esq.
pbulger@jewellandbulger.com

July 13, 2016

City of Portland
ATTN: Anne Machado
389 Congress Street
Portland, ME 04101

Re: Feddersen NOV - 481 Danforth Street – 71-A-1 (the “Property”) – R-4
Residential Zone – Alleged Violation – Unauthorized Rental to “Transient
Guests”

Dear Ms. Machado:

This Opinion supplements my Application for Interpretation in response to the enforcement action. The Notice of Violation dated May 25, 2016 orders that 481 Danforth Street (which is located in the R-4 Residential Zone, and is a 3-unit multifamily dwelling) must be used *exclusively* for residential occupancy by families”, and not rented short-term, by what she calls “transient guests”.

The Petitioner disagrees. This Appeal submits that for an owner occupied residence in the residential zone, a short-term rental or guest stay is accessory to a residential use.

The Zoning Administrator references, §14-47, which defines the term “dwelling” among other terms as: “Not more than sixteen (16) individuals living together in a dwelling unit as a single nonprofit housekeeping unit...” “Transient Guest” is defined as “A person who occupies a facility offering accommodations on an overnight basis for compensation and whose actual occupancy is limited to no more than fifteen (15) days out of any sixty-day period”. (§14-47). The Administrator asserts that “Because the rental of residential dwelling¹ units to someone for fewer than 15 days out of a sixty-day period constitutes a rental to “transient guests” rather than to a family, such rentals are not permitted in the R-4 zone (§ 14-102).” The Administrator apparently relied upon the definition of “*Transient guest*”: A person who occupies a facility² offering accommodations on an overnight basis for compensation and who actual occupancy is limited to no more than fifteen (15) days out of any sixty-day period”).

¹ The NOV does not assert that any existing dwelling unit at 481 Danforth Street is unlawful, only that the short term use is unlawful. Assuming the use of the term dwelling in the Ordinance implies any degree of permanence, it would be the physical permanence of the structure that would be implied (see *Your Home, Inc. v. City of Portland*, 432 A.2d 1250, 1254 (Me. 1981)), not the permanence of the occupants of the building, who could be living there. A dwelling could be occupied by the owner, a month to month tenant at will, a weekly renter, or an overnight renter.

The NOV is in error in several material respects:

1. The NOV does not consider the fact that §14-102 permits accessory uses in the R-4 district⁴, and that the rental of a dwelling unit on an opportunistic basis when not occupied by the owner is a customary and subordinate activity relating to ownership.

2. The NOV relies upon the limitations applicable to *transient guests*, although those limitations apply to hostels, and rooming units *within* a dwelling unit. The limitation does not apply to the rental of an *entire* dwelling unit, as was the short term rental at 481 Danforth Street. Although §14-404(e) states that: “The term *accessory use* shall include only the letting of rooms *within* an existing dwelling unit in certain limited cases, these limitations are directed at the maximum number of occupants and rooms let within a dwelling unit. They do not apply to the renting of the entire dwelling unit on less than a month to month basis, as occurred here. Since the alleged violation was the rental of an entire dwelling unit, §14-404(e) is not relevant. See Fruchter v. Zoning Bd. of Appeals of Town of Hurley, 133 A.D.3d 1174, 20 N.Y.S.3d 701 (3d Dep’t 2015) (determining that since the short-term rental of a home did not fall under the definitions of “bed and breakfast” or “hotel”, such short-term rental of the dwelling unit was allowable); Atkinson v. Wilt, 94 A.D.3d 1218, 941 N.Y.S.3d 798 (3d Dep’t 2012) (annulling as irrational the zoning board of appeals’ finding that a short-term rental of an entire home violated the zoning code). Additional authority can be found at 2 Rathkopf *The Law of Zoning and Planning* § 23:4 (the d.). It is evident that the limitations on rental activity among the various definitions of §14-47 were intended to apply to definitions for bed and breakfasts, hostels, and comparable rooming house activity (to certain irrelevant substantive provisions, as in §14-136), and not to the activity described in the NOV.

3. The NOV failed to consider that at common law the owner of property to rent owner property on such terms as the owner may choose, that the Portland zoning ordinance is in derogation of that right, and that such ordinance must be strictly construed.⁵

² The term *facility* is not defined. However, a *dwelling* unit is defined, as a “self-contained dwelling unit”. Although a dwelling unit could be a *facility* if rooms were let separately to guests, that is not the case here, as the entire unit is let, to a group of persons within the definition of a family, but on a short term basis.

³ As a NOV asserts that the short term use of the dwelling unit is “unauthorized”, it is possible that the Administrator mistakenly believed that these short term rentals were within the definition of a *hostel* or a *bed and breakfast* or another definition of an activity involving short term residential occupancy requiring *authorization*.

⁴ §14-102(b)(3) lists “Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article” among the permitted uses in the district.

⁵ As a general rule, the owner of land in fee has the right to use the property for any lawful purpose, and any claim that there are restrictions upon such use must be clearly established. Limitations or restrictions by implication are not favored, and must be strictly construed. Jordan v. Orr, 209 Ga. 161, 71 S.E.2d 206, 207 (1952); Shoaf v. Bland, 208 Ga. 709(2), 69 S.E.2d 258 (1952) Town of Union v. Strong, 681 A.2d 14 (Me. 1996).

The concurring opinion of Justice Bench in Brown v. Sandy City Bd. of Adjustment, 957 P.2d 207, 212 (Utah Ct. App. 1998) is particularly on point:

“Despite Sandy’s ability to pass an ordinance to restrict short-term leasing, as discussed above, we must construe existing zoning ordinances strictly against the city. Thus, we must conclude that short-term leases of residential properties are not prohibited by the zoning ordinance. §§15-7-3(a) and 15-7-5(a) of the Code “represent [only] the broad goal sought to be achieved by the [city] in enacting regulations governing” uses of properties in these zones. [citation omitted]. Through the purpose declaration, Sandy explained what its goal was in establishing the residential zones. It then enumerated specific regulations to meet that goal. “By satisfying the actual regulations enumerated in §§15-7-3(b)(2) and 15-7-5(b)(2) the [use of the properties] has met the legal requirements of th[ose] section[s],” *id.* (emphasis added, and thus, met the general purpose of the statute. Although we recognize that short-term leases *may* disrupt the residential environment of a neighborhood in some instances, by failing to prohibit short-term leases, Sandy City has implicitly determined that such practices are conducive to a residential environment. In other words, “[w]e will not find a violation of law simply because [the permitted use may appear] inconsistent with the general intent statement.... when [the use] is in compliance with the substantive provisions of the ordinance”).

The Administrator also assumed that the occupants she has prohibited would not qualify as *families* under the Ordinance. They could well be families visiting Portland, or persons awaiting the availability of longer term housing. Finally, the question is not whether the City of Portland could or should prohibit the short term rental of dwelling units, but whether it has actually done so in its Zoning Ordinance (with the intent to prohibit short term rentals).

CONCLUSION

The NOV raises the question of whether the short term rental of an otherwise lawful dwelling unit is prohibited by the Portland City Code, merely because a rental period of the dwelling unit falls within a limitation in the definition of *transient guest* in §14-47. The limitations in the definition of *transient guest* and/or §414-404(e) are irrelevant to Mr. Feddersen’s short term rentals of an entire dwelling unit. If there was any intention to prohibit the short term rental of entire dwelling units, this intention was very poorly expressed in the ordinance. Any reasonable construction of the Portland Zoning Ordinance under applicable rules would not prohibit such rentals. The City Code does not prohibit short term rental of entire dwelling units (as an accessory use), as it is expressly made a permitted activity in the R-4 zoning district.

Please advise if you have any questions concerning the above.

Regards,

Paul S. Bulger

PSB/cmk

cc: Kenneth Thomas



City of Portland, Maine
Department of Planning and Urban Development
Zoning Board of Appeals
Interpretation Appeal Application

Applicant Information:Kenneth Thomas

Name

481, LLC

Business Name

481 Danforth Street

Address

Portland, Maine 04102c/o Paul Bulger, Esq. (207) 774-6665

Telephone

Fax

Applicant's Right, Title or Interest in Subject PropertyLong Term Leasee of Building and Developer
(e.g. owner, purchaser, etc.): (lease attached)**Current Zoning Designation:** R-4**Existing Use of Property:**3-Unit Residential Property**Subject Property Information:**481 Danforth Street

Property Address

Assessor's Reference (Chart-Block-Lot)

Property Owner (if different):481, LLC

Name

481 Danforth Street

Address

Portland, Maine 04102

Telephone

Fax

Disputed Provisions from Section 14 - _____**Order, decision, determination, or interpretation under dispute:** Enforcement Letter RE:Unauthorized Rental, dated May 25, 2016**Type of Relief Requested:**Interpretation Appeal

NOTE: If site plan approval is required, attach preliminary or final site plan.

The undersigned hereby makes application for the relief above described, and certified that all information herein supplied by his/her is true and correct to the best of his/her knowledge and belief.

Signature of Applicant

Date

6-22-16

Paul D. Bulger
Paul D. Bulger
Attorney for Applicant

Amended Attachment to Interpretation Appeal Application

RE: 481 Danforth Street Tax Map 71-A Lot 1

Background

Attached is a copy of a zoning violation letter from the Zoning Administrator. The letter asserts that the property Zoning Administrator has "received complaints" that the owner is renting to transient guests in violation of the zoning ordinance. On inquiry by the applicant, the Zoning Administrator acknowledged that there have been no complaints about renting to transient guests.

The owner, 481, LLC, did list the property for sale through his agent, David Marsden of the Bean Group, earlier this year. The listing created by the broker did market the property as "an overnight rental opportunity." The marketing campaign by the owner was an effort to draw attention to the property. The property has since been de-listed.

Argument

The Zoning Administrator is entitled to enforce the ordinance by its terms, provided that the standard of the ordinance is not unconstitutionally vague, and provided the ordinance bears a reasonable relationship to public health, safety, morals, or general welfare. Further, the enforcement action must not be unreasonable or arbitrary or discriminatory based upon reasonable future development of the community. See LaBay v. Town of Paris, 659 A. 2d. 263 (1995).

The enforcement action must not be exercised in an arbitrary manner. See F.S. Plummer v. Town of Cape Elizabeth, 612 A. 2d. 856 (1992).

As stated in the Zoning Administrator's letter, the term "family" is a defined term and the term "transient guest" is a defined term in the ordinance.

However, the term "residence" or "residential" is not a defined term in the definitions section of the ordinance, nor is "residential" a defined term in the R-4 zone in which the subject property is located.

In fact, the R-4 zone in the West End is characterized by many multi-unit structures, and bed and breakfast operations, that include accessory uses "customarily, incidental, and subordinate to the location function and operation of principle uses," as set forth in the R-4, Sec. 14-102 (6)(3) attached.

The Applicant resides at 481 Danforth Street. 481 Danforth street is his "residence." The rental of rooms or units to guests is incidental to that primary purpose. The Applicant submits that in the absence of an express prohibition of the rental of rooms. The occasional rental of rooms or units incidental to that use is expressly allowed.

The Applicant admits that he has rented a unit or rooms within that unit using the AirBnB platform and that he has supplemented his income by renting rooms using the AirBnB platform. He is one of 100 or so individuals who own property in residential zones in Portland and who have marketed room(s) available on the AirBnB platform, incidental to home ownership according to data available on AirDNA.

The City Housing Committee has acknowledged that the zoning ordinance contains a number of provisions and definitions that touch on the rental of rooms and short-term rentals, but that a comprehensive new reform of the ordinance is needed to address definitional problems in the law. See the attached committee minutes dated October 9, 2015.

The Applicant disagrees with the Zoning Administrator that his rental using AirBnB is not allowed in the zone as incidental to his residential use in the R-4 zone.

The Applicant further submits that the enforcement action against an occupant renting rooms, for which there is no demonstration of a complaint, or particular injury amounts to selective enforcement and is therefore arbitrary and capricious. See F.S. Plummer v. Town of Cape Elizabeth, 612 A. 2d. 856 (1992).

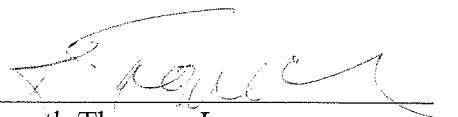
Rules of statutory construction are clearly established under Maine law. In construing ordinances and statutes, the Code Officer must apply the definition and the rules as objectively manifested. See Natale v. Kennebunk Board of Zoning Appeals, 363 A.2d at pg. 1374. In other words, where the definitions are unambiguous, you must look to the words themselves contained in the ordinance as to what they say, and not look for some subjective meaning, something that the reader might wish that they say.

In the instant case, it seems clear to the Applicant that the Zoning Administrator recognizes that there exists a potential issue for owner occupied residences to become short-term rental properties through AirBnB, and that renting a room or unit in an owner occupied property through AirBnB is ancillary and subordinate to the primary use.

AUTHORIZATION

I, Kenneth Thomas, Lessee at property located at 481 Danforth Street, Portland, Maine, hereby authorize my attorney, Paul S. Bulger, Esq., of Jewell & Bulger, P.A., 477 Congress Street, Suite 1104, Portland, Maine, to make an Interpretation Application Appeal on my behalf, and to represent me in all respects related to this matter.

Dated: June 23, 2016


Kenneth Thomas, Lessee



Jeff Levine, AICP
Director, Planning & Urban Development Department

TO: Councilor Donoghue, Chair
Members of the Housing and Community Development Committee

FROM: Jeff Levine, Director
Planning and Urban Development
Tyler Norod, Housing Planner
Housing and Community Development Division

DATE: October 9, 2015

SUBJECT: Consideration of potential regulation reform of short term rentals (STR's) for regulating lodging sites such as AirBnB, HomeAway, Flipkey, VRBO, Craigslist, and others.

I. SUMMARY OF ISSUE

Cities across the country have been struggling to adapt to new market forces brought about by the rise of the "sharing economy". Companies like Uber and Airbnb are often cited as being at the forefront of this web based movement revolutionizing commuting, shopping, and lodging. But these new models are also being scrutinized for their unintended consequences on existing businesses and communities. To date, governments have struggled to reign in these ever evolving markets to provide certainty, safety, and fairness. Given their quick ascension to prominence there has not been sufficient time for public entities to develop and evaluate best practices for how to effectively regulate these industries.

Short term rentals (STR's), such as AirBnB, have garnered significant attention in Portland and elsewhere for both their positive economic impact as well as concerns related to their effects on already tight local housing markets. Critics assert that STR's take apartments and homes out of the market limiting the supply of long term housing for local residents and in doing so increase the cost of housing. Unfortunately, it is a challenge to accurately substantiate these claims. It is difficult to understand how many units are actually being rented out and for how long. Recent surveys of online STR websites conducted during the peak tourist season such as have shown more than 250 STR's within Portland. These STR's offer an average price per night of about \$150. Each website offers its own listings but many STR units are listed on multiple sites making an accurate total count problematic.



Jeff Lavine, AICP
Director, Planning & Urban Development Department

There is clear financial incentive for property owners to prefer STR's over traditional long term tenants or to even not sell a property as they move out of their owner occupied unit to another property. If each of these units were rented out 30 days a month the average unit would generate approximately \$4,500 per month. This figure is greatly in excess of the average monthly rent for the surrounding residential market. It is unclear whether or not the limited number of STR's in Portland have a significant impact on the overall housing stock and market. According to the STR research firm AirDnA, Portland has approximately 32,700 housing units. Given the more than 250 STR's being advertised approximately less than 1% of the City's housing stock is being offered as a STR. However, most of the units offered as STR's are limited to the Peninsula which may have a disproportionate impact on those neighborhoods.

Review of STR market trends shows that the majority of hosts are likely using these units part time to generate additional income to support a variety of expenses ranging from home repair, student loans, medical bills, taxes, child expenses, or simply additional discretionary income. In Portland, these may be long term residents who utilize STR's to enable them to stay in their homes and further participate in the local economy.

Unfortunately, some STR hosts have taken advantage of the market to buy up existing housing stock for the sole purpose of using it as an STR. These units effectively operate as an unlicensed hotels or bed & breakfasts. Not only do these types of practices remove long term housing options from the City's supply but they also can increase the perceived value of real estate. Traditional buyers may now have to compete with individuals or companies who assume greater revenue capacity with STR's over long term rentals. Although difficult to confirm exact figures, recent reviews of online STR sites have shown at least four individuals or companies who have multiple properties apparently used exclusively as STR's.

II. REASON FOR SUBMISSION

The Committee requested that staff research STR's in Portland and examine what regulations currently exist that STR's may fall within and where these uses may be allowed.



Jeff Levine, AICP

Director, Planning & Urban Development Department

III. INTENDED RESULT

The intended result is to determine the best policy approach for Portland that balances the pros and cons of STR's with the housing and economic goals of the City.

IV. COMMITTEE GOAL/COUNCIL GOAL ADDRESSED

The potential regulation of STR's is in line with the Committee and Council's goals of providing additional housing options that are affordable to a variety of Portland residents. Potential regulation may also impact economic development goals of the City as they related to tourism.

V. FINANCIAL IMPACT

Depending on policy recommendations by the Committee there is the possibility that STR regulation could result in additional registration and penalty fees to the City. Potential regulation could also result in additional lodging tax revenue for the State although that would be difficult to achieve and may not happen for a significant period after regulations are put in place. Cooperation from the various STR enabling websites would be necessary to effectively recover these tax revenues. Potential regulations may also effect tourism related revenue in the City. Potential regulation efforts could inhibit, support, or not have any effect on tourism depending on future steps taken. It is difficult to assess the total economic effect of any regulations on this nimble and evolving market but economic development issues should be taken into consideration with any policy recommendations.

VI. STAFF ANALYSIS AND RECOMMENDATION

At the previous HCDC meeting on September 30, 2015, staff had researched how other states and cities were approaching the regulation of short term rental units. As mentioned above, this is a new and quickly evolving issue that makes evaluating time tested best practices difficult to come by. Committee members asked staff to examine local and state laws to provide the Committee with a better understanding of what is allowed within current regulations as well as the potential for these to be applied within the existing governing structure of the City.

After additional research it appears that there are some provisions within state and local regulations that have the potential to be applied to STR's. Section 14-404(e)



Jeff Levine, AICP
Director Planning & Urban Development Department

of the City's zoning ordinance allows for the letting of up to two rooms within an existing dwelling unit. Section 14-404(e) is allowed in every major residential zone in the City. There is no mention of the length of stay as this provision was likely written prior to the wide spread use of STR's through online platforms. Reforms could be directed at this section depending on the goals of the City. At the state level private homes shall not be deemed or considered lodging places and thus subject to a license where not more than three rooms are let. The state also considers Guest Homes to be allowed but the definition lacks details on the specific applicable regulations. Guest Homes must be licensed by the state. However, the issuance of a state license does not provide exemption from other local laws, ordinances, or regulations.

There is also the potential for the newly created Housing Safety Office or the Inspections Division to play a role in the enforcement of any STR policy. However, given staff constraints within the Inspection Division and the timing for the new Housing Safety Office it would be difficult to implement significant reforms quickly. Depending on the direction of the City the Landlord Registration Form and process may be able to accommodate STR registration as well but other reforms and enforcement would likely be needed to enable a well-designed STR oversight system.

The housing definitions within the existing zoning code provides a variety of lodging types including hostels, bed & breakfasts, lodging houses, tourist homes, motels, hotels, and inns. Some of these definitions, such as tourist homes, are no longer allowed within the current zoning ordinance. Most other lodging types are limited to certain zones such as the B-2 and R-6 zones. The lodging types typically stipulate that proponents must register their use with the City and prove their compliance with the various requirements of each use, including parking. Associated parking requirements may make some of these difficult to comply with for the average urban STR. Of the existing definitions in use within the zoning ordinance, lodging houses, hostels, and bed & breakfasts most closely resemble the STR structure currently being used through sites like AirBnB. However, these require state licenses and most have nuances that would not fit the modern STR business model. For example, lodging houses have a minimum rental of one week or a month. Many STR's offer nightly or weekend stays. Hostels and Bed & Breakfasts require an owner or operator to live on-site. Bed & breakfasts require that breakfast be provided. In short, it would be difficult to revise the existing uses to accommodate for the still evolving STR market without significantly altering the intention behind regulations for these already existing uses.

Portland, Maine



Yes. Life's good here.

Jeff Levine, AICP

Director, Planning & Urban Development Department

Additional information related to lodging definitions and a zoning chart identifying where various lodging uses are allowed within the existing code are included in this package as Attachment A and Attachment B.

Attachment A: Housing Definitions

Lodging House

A house, building or portion thereof, containing two (2) or more rooming units and providing such units, with or without meals, to individuals on not less than a weekly or monthly basis for compensation. A lodging house, except for lodging houses located in the IR-2, IR-3, and I-B zones shall contain common areas for use by all residents, including a kitchen. A kitchen need not be available as part of the common areas where all meals are provided on a daily basis. No owner, operator, director, employee, shareholder, partner, corporate officer, or agent of a bed and breakfast facility, hostel, hotel, inn, lodging house, motel, or tourist home (as defined in the code) may, for direct or indirect economic remuneration, arrange for or provide any housing accommodations including but not limited to long term, short term, or overnight accommodations for an actual or potential guest, customer, or patron of the business at any off-premises site in the City, unless such a facility is authorized, under the applicable provisions of Portland's Land Use Code, to offer such accommodations as a bed and breakfast, hotel, inn, lodging house, motel, or tourist home.

Hostel

An overnight lodging facility for transient guests that provides sleeping rooms and common areas for cooking. A hostel shall not be used as an emergency shelter. No owner, operator, director, employee, shareholder, partner, corporate officer, or agent of a bed and breakfast facility, hostel, hotel, inn, lodging house, motel, or tourist home (as defined in the code) may, for direct or indirect economic remuneration, arrange for or provide any housing accommodations including but not limited to long term, short term, or overnight accommodations for an actual or potential guest, customer, or patron of the business at any off-premises site in the City, unless such a facility is authorized, under the applicable provisions of Portland's Land Use Code, to offer such accommodations as a bed and breakfast, hotel, inn, lodging house, motel, or tourist home.

Hostels typically require site plan and operations plan review demonstrating compliance with the following conditions:

- a) No more than 10 or 20 overnight transient guests (depending on the zone) shall be permitted in the facility at any one time.
- b) All applicable provisions of Article V of the ordinance shall be met.
- c) Parking shall be provided in compliance with Division 20.
- d) No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.
- e) The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty (60) day period.
- f) An owner, manager or operator shall live in the building as a permanent resident.

- g) The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the City.

Bed & Breakfasts

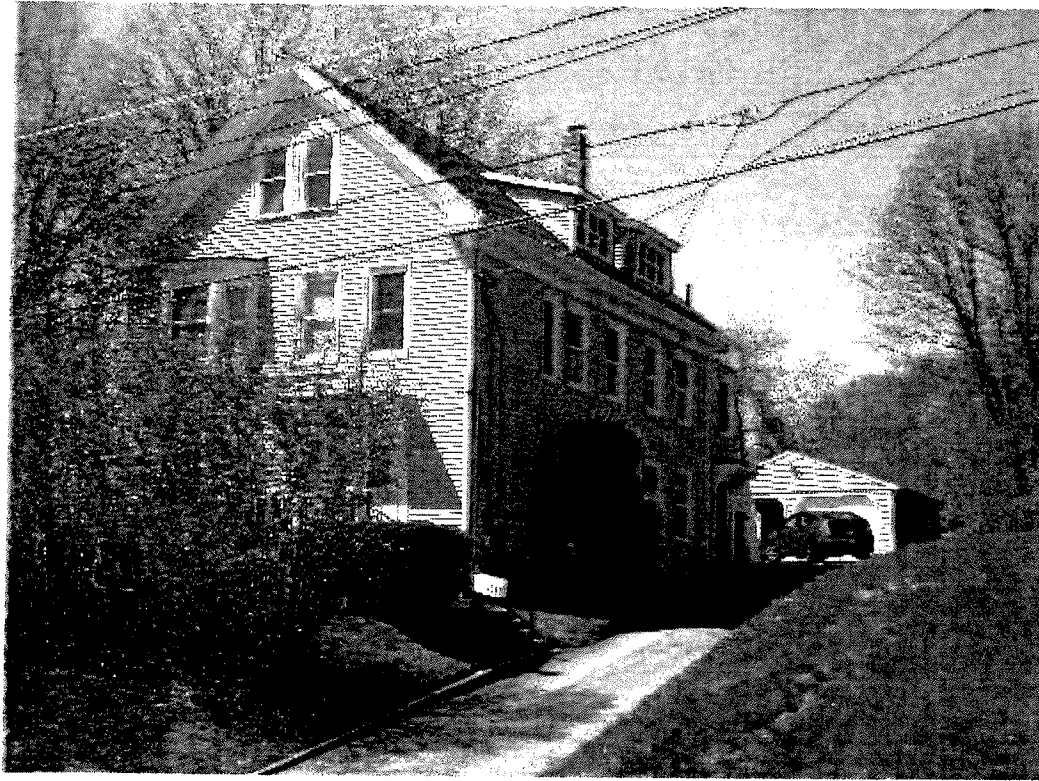
A building in which more than two (2) but not more than nine (9) guest rooms are used to provide or offer overnight accommodations for transient guests. An owner, manager, or operator shall live in the building as a permanent resident. No cooking facilities shall be permitted in any of the guest rooms. The only meal which may be offered is breakfast, which shall be offered only to overnight guests. No owner, operator, director, employee, shareholder, partner, corporate officer, or agent of a bed and breakfast facility, hostel, hotel, inn, lodging house, motel, or tourist home (as defined in the code) may, for direct or indirect economic remuneration, arrange for or provide any housing accommodations including but not limited to long term, short term, or overnight accommodations for an actual or potential guest, customer, or patron of the business at any off-premises site in the City, unless such a facility is authorized, under the applicable provisions of Portland's Land Use Code, to offer such accommodations as a bed and breakfast, hotel, inn, lodging house, motel, or tourist home.

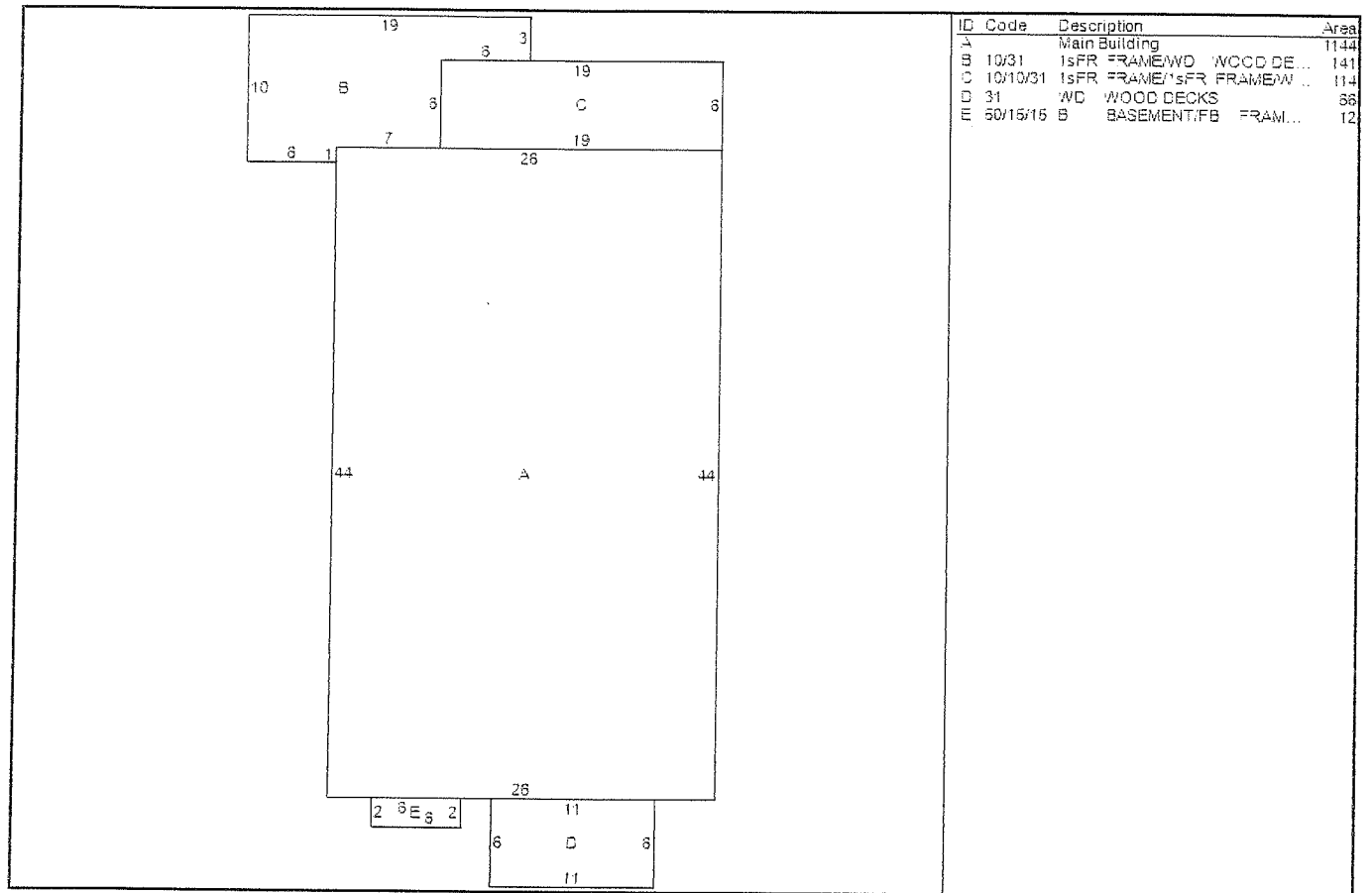
Transient Guest

Section 14-47 defines Transient guest as "A person who occupies a facility offering accommodations on an overnight basis for compensation and whose actual occupancy is limited to no more than fifteen (15) days out of any sixty-day period". Bed and breakfasts, hostels, hotels, motels, and tourist homes all are for transient guests. A lodging house allows the rental of rooming units on not less than a weekly or monthly basis.

Attachment B: Short Term Rental Zoning Chart

Zone	Section 14-404(e)	Lodging House	Hostel	B&B
R-1	Allowed	No	No	No
R-2	Allowed	No	No	No
R-3	Allowed	No	No	No
R-4	Allowed	No	No	No
R-5	Allowed	No	No	No
R-6	Allowed	Allowed	Allowed/Conditional Depending on Size	Allowed
R-6A	Allowed	Allowed	Allowed/Conditional Depending on Size	Allowed
R-7	Allowed	Allowed	Allowed/Conditional Depending on Size	Allowed
FH	No	No	No	No
B-1	No	Allowed	Allowed	Allowed
B-2	No	Allowed	Allowed	Allowed
B-3	No	Allowed	Allowed	Allowed
B-4	No	Allowed	No	No
B-5	No	Allowed	Allowed	No
B-6	No	No	No	No
B-7	No	Allowed	Allowed	Allowed





(SPACE ABOVE FOR RECORDING INFORMATION)

QUITCLAIM DEED

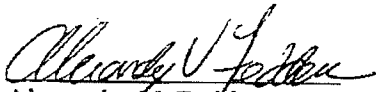
KNOWN ALL PERSONS BY THESE PRESENTS, that

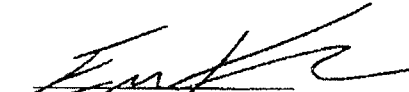
I, **Alexander V. Feddersen**, a single man, of 481 Danforth Street, Portland, ME, for nominal consideration paid, grant to **481, LLC**, a Maine Limited Liability Company, having an business address of 481 Danforth Street, Portland, Maine, with quitclaim covenants, the land and interest in land situated in Portland, Cumberland County, Maine described as follows:

See Exhibit A Attached Hereto and Incorporated Herein

Being the same premises conveyed to Cassandra D. Metcalf and Carl M. Hitchcock pursuant to a deed dated June 9, 2004 and recorded in the Cumberland County Registry of Deeds in Book 21395, Page 275. Also being the same premises conveyed to Alexander V. Feddersen by virtue of quitclaim deed of Cassandra D. Metcalf and Carl M. Hitchcock, recorded with the Cumberland County Registry of Deeds on 5/7/2013 in Book 30622, Page 284.

Witness my hand and seal this 4th day of June, 2013


Alexander V. Feddersen


Witness

Witness

STATE OF MAINE
Cumberland County, ss

June 4, 2013

Then personally appeared the above-named Alexander V. Feddersen, and acknowledged the foregoing to be their free act and deed, before me,


Erin Kalakowsky, Attorney at Law

BBD# 4995

EXHIBIT A

A certain lot or parcel of land together with the buildings thereon, situated on the northerly side of Danforth Street, in the City of Portland, County of Cumberland and State of Maine, and being No. 481—1/2 on said street and bounded and described as follows: Beginning at a stake in the northerly side line of Danforth Street at the southeasterly corner of land now or formerly belonging to the Estate of John B. Brown; thence in an easterly direction along said northerly side line of Danforth Street fifty (50) feet to a stake and point; thence at right angles to the northerly side line of Danforth Street, One Hundred Sixty-Eight (168) feet, more or less, to land now owned by the City of Portland; thence westerly by said land of City of Portland Two and 6 tenths feet (2.6) feet, more or less, to the land now or formerly of John B. Brown estate; thence in a southwesterly direction along said Brown land, sixty-five and eight tenths (65.8) feet, more or less, to a point; thence in a southerly direction along said Brown's easterly boundary line, One Hundred and Twenty-Eight and Five Tenths (128.5) feet to the northerly side line of Danforth Street and the point of beginning.

Received
Recorded Register of Deeds
Jun 12, 2013 12:07:41P
Cumberland County
Pamela E. Lovley

STATE OF MAINE
CUMBERLAND, ss.

SUPERIOR COURT
DOCKET NO. POR-SC-RE-2016-75

KENNETH THOMAS of Portland,

Plaintiff

v.

ALEX FEDDERSEN, of Portland,

And

481 LLC, a Maine Limited Liability

Defendants

AFFIDAVIT OF
PAUL S. BULGER

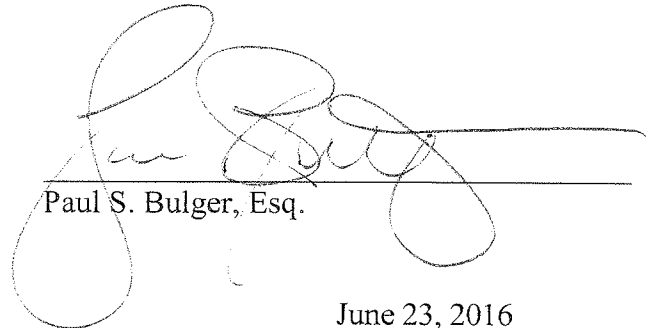
Now Comes Paul S. Bulger, who does depose and state as follows:

1. I am an attorney licensed to practice law in Maine.
2. Attached is a letter from the City of Portland Zoning Administrator, Anne Machado, in which she asserts that the AirBnB operating at 481 Danforth Street is an unlawful use; based upon an interpretation of the Portland Zoning Ordinance definition of "residential dwelling" and a prohibition against "transient guests" in the residential zone.
3. In response to Ms. Machado's letter, I tendered a letter requesting clarification on the City's Zoning policy and enforcement as it concerns the use of the AirBnB platform, a system for connecting renters with property owners who rent out space, rooms online.
4. The City's Housing committee deferred taking action on the issue of enforcement and regulation last Fall. Member David Brennerman stated that owner occupied buildings would likely not be prohibited.
5. Ms. Machado acknowledged that the City's Housing Committee is developing policy to regulate this use and that her office does not enforce against property owners in the absence of a Complaint.
6. I requested information on who had complained in this case.
7. Ms. Machado stated a complaint had not been filed, and that the enforcement action is based upon information discovered on Zillow in which a broker advertised the property.
8. The Applicant has not listed the property or advertised on Zillow.

9. On behalf of Ken Thomas, an interpretation appeal has been filed today, June 23, 2016 on recommendation of the Zoning Administrator. I have requested a stay of enforcement.

The foregoing statements by me are true and were made on information and belief I believe them to be true.

DATE: June 23, 2016

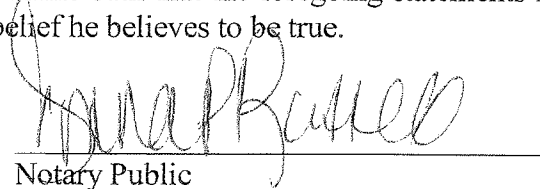


Paul S. Bulger, Esq.

STATE OF MAINE
CUMBERLAND, SS

June 23, 2016

Now Comes, Paul S. Bulger, under oath and make oath that the foregoing statements made by him are true, and were made on information and belief he believes to be true.



Notary Public

Printed Name:

My commission expires:

Donna P. Russell
Notary Public, Maine
Commission Expires: September 23, 2020

**Department of Permitting and Inspections**

Ann Machado, Zoning Administrator

May 25, 2016

Alexander V. Feddersen
481 LLC
481 Danforth Street
Portland, ME 04102

RE: 481 Danforth Street – 71-A-1 (the "Property") - R-4 Residential Zone - unauthorized rental to transient guests.

Dear Mr. Feddersen:

This office has recently received complaints that you are renting dwelling units at the above-referenced property to transient guests. This letter shall serve as notice that such rentals violate Portland's Land Use Code.

Our records reveal that 481 Danforth Street is located in the R-4 Residential Zone and that the legal use is a 3-unit multifamily dwelling. Under Portland's Land Use Code, in order to be permissible, residential dwellings must be used exclusively for residential occupancy by "families," rather than "transient guests." See § 14-47 of the Land Use Code defining "dwellings" and "multifamily dwellings". Under the Code, a "family" is defined as: "Not more than sixteen (16) individuals living together in a dwelling unit as a single nonprofit housekeeping unit. . .," while a "transient guest" is defined as: "A person who occupies a facility offering accommodations on an overnight basis for compensation and whose actual occupancy is limited to no more than fifteen (15) days out of any sixty-day period." (Section 14-47). Because the rental of residential dwelling units to someone for fewer than 15 days out of a sixty-day period constitutes a rental to "transient guests" rather than to a family, such rentals are not permitted in the R-4 zone (section 14-102).

An investigation has revealed that at least one of the units located at 481 Danforth Street has in fact been listed for rental on the "Airbnb" website on a short-term basis.

In light of the above, it is essential that you immediately stop any unauthorized use of 481 Danforth Street and bring the Property into compliance by ceasing operation as an unauthorized transient rental. **This letter shall serve as notice that if you fail to do so within 30 days of the date of this letter, this matter will be referred to the City's Corporation Counsel's office for enforcement action. Be advised that, under Section 1-15 of the City's Code of Ordinances and 30-A M.R.S. 4452, violations of the City's code are subject substantial civil penalties.**

You have the right to appeal this Notice of Violation. If you wish to exercise your right to appeal, you have thirty days from the date of this letter to do so. If you fail to appeal, my decision is binding. Please contact this office for the necessary paperwork if you decide to file an appeal.

Portland, Maine



Yes. Life's good here.

Department of Permitting and Inspections

Yours truly,

A handwritten signature in black ink, appearing to read "Ash", with a long, sweeping horizontal line extending to the right.

Ann B. Machado
Zoning Administrator
(207) 874-8709



Permitting and Inspections Department
Michael A. Russell, MS, Director

Ann Machado, Zoning Administrator

TO: Zoning Board of Appeal Chair and Members

FROM: Ann Machado, Zoning Administrator *AM*

SUBJECT: Interpretation Appeal for 481 Danforth Street, CBL 071-A-001

DATE: July 19, 2016

On April 20, 2016 I received an email from Tyler Norod, the Housing Planner in the Housing and Community Development Division regarding the use of the an apartment at 418 Danforth Street for a short term rental. Mr. Norod and I had previously worked together on a few properties that were being used for short term rentals and have been working with other City staff and management to coordinate an enforcement protocol for enforcing existing City ordinances which do not allow such rentals. After considering the facts relating to the short-term rental of this property, including not only that it was listed for short term rent on Airbnb but was also being listed for sale with short term rental of two units as an advertised and purportedly permissible use, I determined that action was necessary.

I mailed a letter to the property owner on May 25, 2016 notifying him that the short-term rental of the Property was in violation of the City's Code of Ordinances. The letter was addressed to Alexander V. Feddersen, 481, LLC, 481 Danforth Street, Portland (Exhibit A). In the letter, I stated that our office had "recently received complaints" about the renting of short term rentals at the property. The two letters and emails that I had sent previously to properties operating illegal short term rentals had been based on complaints from the public. When I wrote the letter for 481 Danforth Street, I was unaware that the illegal use of part of the property for short term rentals was discovered by Mr. Norod during the normal research that he does as part of his job rather than through a complaint from a member of the public. Although it was not brought to my attention by a complaint from the public, once I have been asked to address an illegal use of a property, I must address it. The City has always been and still remains authorized to enforce its Code, whether or not a specific complaint has been made.

The legal use of the property at 481 Danforth Street is three dwelling units as shown on the certificate of occupancy that was issued on 1/19/2016. (Exhibit B). Section 14-47



Permitting and Inspections Department
Michael A. Russell, MS, Director

defines a dwelling as: *A building or portion thereof used exclusively for residential occupancy, including single-family, two-family and multifamily dwellings, but not including hotels, lodging houses, sheltered care group homes or tourist homes*. Section 14-47 defines dwelling unit as: *One (1) or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling unit*. The Ordinance also defines family as: *Not more than sixteen (16) individuals living together in a dwelling unit as a single nonprofit housekeeping unit* (§ 14-47).

Attorney Bulger is correct in stating that § 14-47 does not define the term “residential.” The definition section of the ordinance (§ 14-47) does not define every word that is used within the ordinance. When a term is not specifically defined, we turn to zoning glossaries that are put out by various planning associations or a dictionary. In this case, I used A Glossary of Zoning, Development and Planning Terms published by the American Planning Association Planning Advisory Service which lists four different definitions of “residence” (Exhibit C). The fourth definition is similar to the definition of dwelling in the Portland City Code. The second definition of residence is: “A home, abode or place where an individual is actually living at a specific point in time”. The Third Edition of Webster’s II New College Dictionary (2005) defines *reside* as “To live in a place for a permanent or extended time”. Looking at these two definitions, and the City’s definition of dwelling, it is clear that a dwelling unit is to be used as a place where a person lives and not just visits for a short period of time.

The Ordinance defines *Transient Guest* as “A person who occupies a facility offering accommodations on an overnight basis for compensation and whose actual occupancy is limited to no more than fifteen (15) days out of any sixty-day period”. In § 14-47 of the Ordinance, the following uses specifically included the term transient guests in their definition: Bed and Breakfast, Hostel and Tourist Home. The term “more or less temporary occupancy of individuals” is used as part of the definition of hotel and inn. A motel is defined as “to be used principally by automobile transients for compensation. Motels include tourist courts, motor lodges or cabins”. All of these uses are for short term stays and not a permanent residence.

481 Danforth Street is located in the R-4 Residential Zone. Section 14-102 of the Ordinance lists the permitted uses allowed in the zone and Section 14-103 lists the Conditional Uses allowed in the zone (Exhibit D). Section 14-104, Prohibited Uses, states “Uses that are not expressly enumerated herein as either permitted or conditional uses are prohibited”. Neither § 14-102 or § 14-103 list any of the short term uses listed in the previous paragraph as a permitted or conditional use in the R-4 Residential Zone. Since



Permitting and Inspections Department
Michael A. Russell, MS, Director

they are not listed in either section they are not allowed in the zone. § 14-102(a) allows for “single-family detached dwellings” and “new construction of two-family dwellings”. § 14-103(b) allows for multiplex development of three or more dwelling units. The legal use of the property is three dwelling units. Moreover, and as outlined above, because rental to or occupation by transient guests does not meet the well-established definition of a “residential use,” that use is not, as Attorney Bulger contends, permitted by implication in R-4.

In his July 13, 2016 letter, Attorney Bulger “submits that for an owner occupied residence in the residential zone, a short term rental or guest stay is accessory to a residential use.” Section 14-102(b) does allow “Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses subject to the provisions of section 14-404 (accessory use) of this article” (Exhibit E). In the Zoning Administrator’s letter dated May 25, 2016, the violation related to a unit that was being rented on a short-term basis and was not being occupied by the owner. That is, the unit that was being rented on a short-term basis was not the owner’s residence but another unit within the building. Since the legal use of the building is three dwelling units, and a dwelling unit is a permitted use under § 14-102, as a permitted or principal use, it cannot also be considered as an accessory use to the owner occupied unit within the building. The dwelling units that are not owner occupied must be rented as dwelling units not as short term rentals.

For all of the above reasons, I feel that the Notice of Violation issued in this matter was entirely consistent with the City Code and should be upheld by the Board.



Department of Permitting and Inspections

Ann Machado, Zoning Administrator

May 25, 2016

Alexander V. Feddersen
481 LLC
481 Danforth Street
Portland, ME 04102

RE: 481 Danforth Street – 71-A-1 (the "Property") - R-4 Residential Zone - unauthorized rental to transient guests.

Dear Mr. Feddersen:

This office has recently received complaints that you are renting dwelling units at the above-referenced property to transient guests. This letter shall serve as notice that such rentals violate Portland's Land Use Code.

Our records reveal that 481 Danforth Street is located in the R-4 Residential Zone and that the legal use is a 3-unit multifamily dwelling. Under Portland's Land Use Code, in order to be permissible, residential dwellings must be used exclusively for residential occupancy by "families," rather than "transient guests." See § 14-47 of the Land Use Code defining "dwellings" and "multifamily dwellings". Under the Code, a "family" is defined as: "Not more than sixteen (16) individuals living together in a dwelling unit as a single nonprofit housekeeping unit. . .," while a "transient guest" is defined as: "A person who occupies a facility offering accommodations on an overnight basis for compensation and whose actual occupancy is limited to no more than fifteen (15) days out of any sixty-day period." (Section 14-47). Because the rental of residential dwelling units to someone for fewer than 15 days out of a sixty-day period constitutes a rental to "transient guests" rather than to a family, such rentals are not permitted in the R-4 zone (section 14-102).

An investigation has revealed that at least one of the units located at 481 Danforth Street has in fact been listed for rental on the "Airbnb" website on a short-term basis.

In light of the above, it is essential that you immediately stop any unauthorized use of 481 Danforth Street and bring the Property into compliance by ceasing operation as an unauthorized transient rental. **This letter shall serve as notice that if you fail to do so within 30 days of the date of this letter, this matter will be referred to the City's Corporation Counsel's office for enforcement action. Be advised that, under Section 1-15 of the City's Code of Ordinances and 30-A M.R.S. 4452, violations of the City's code are subject substantial civil penalties.**

You have the right to appeal this Notice of Violation. If you wish to exercise your right to appeal, you have thirty days from the date of this letter to do so. If you fail to appeal, my decision is binding. Please contact this office for the necessary paperwork if you decide to file an appeal.

Portland, Maine



Yes. Life's good here.

Department of Permitting and Inspections

Yours truly,

A handwritten signature in black ink, appearing to read "Abh", with a long, sweeping horizontal line extending to the right.

Ann B. Machado
Zoning Administrator
(207) 874-8709



Certificate of Occupancy

CITY OF PORTLAND, MAINE

Department of Planning and Urban Development
Building Inspections Division



Location: 481 DANFORTH ST

CBL: 071 A001001

Issued To: 481 LLC

Issued Date: 01/19/2016

This is to certify that the building, premises, or part thereof, at the above location, built-altered-changed as to use under Building Permit No. 201301769 has had a final inspection, has been found to conform substantially to the requirements of the Building Code and the Land Use Code of the City of Portland, and is hereby approved for occupancy or use, limited or otherwise, as indicated below.

PORTION OF BUILDING OR PREMISES

Entire

APPROVED OCCUPANCY ZONING

Three legal dwelling units

APPROVED OCCUPANCY BUILDING

Residential Apartments - 3 dwelling units

No sprinkler system

Use Group R-2

Type 5B Existing

MUBEC/IBC 2009/Housing Code

LIMITING CONDITIONS:

Approved: /S/ Doug Morin

Inspector


Inspection Division Director

Notice: This certificate identifies the legal use of the building or premises, and ought to be transferred from owner to owner upon the sale of the property.

A Glossary of

Zoning, Development and Planning Terms

Exhibit C

Edited by Michael Davidson and Fay Dolnick

50th
Anniversary



American Planning Association

Planning Advisory Service
Report Number 491/492

repair shops, or repair of musical instruments. (*Blacksburg, Va.*)

■ **replacement** (See also *teardown*) Construction on an existing street in an existing neighborhood in which the existing house on the lot is torn down and replaced by a new house. (*Lexington, Mass.*)

■ **replacement value** The current construction cost for replacement of an existing building, structure, or portion thereof, including accessory facilities and other parts of an established use. (*Santa Clara County, Calif.*)

■ **request for proposal (RFP)** Usually issued by a public agency and disseminated to consulting or development firms, a good RFP contains a description of: the project or program (what is supposed to be accomplished and for whom); what services are required; the amount budgeted to accomplish the work; the type of contract (e.g., fixed price or time-and-expense); qualifications required (unless using the two-part RFQ/RFP process); evaluation criteria; what to do to submit the RFP properly. APA recommends a two-part process in which agencies first issue a request for qualifications (RFQ) (see below) and then solicit proposals. (*PAS Report No. 443, Selecting and Retaining a Planning Consultant*)

■ **request for qualifications (RFQ)** A statement of qualifications prepared by a consultant and submitted to a community seeking assistance in a project. The RFQ should ideally contain contact information; a description of the form of the organization (e.g., is it a partnership or corporation); resumes of key personnel; a statement of qualifications (e.g., a narrative describing work done on similar projects); availability (e.g., notable time constraints or other commitments); a list of projects completed by the firm; and references. (*PAS Report No. 443, Selecting and Retaining a Planning Consultant*)

■ **research and development** A business that engages in research, or research and development, of innovative ideas in technology-intensive fields. Examples

include research and development of computer software, information systems, communication systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes may be associated with this use. (*Blacksburg, Va.*)

■ **research and development centers** Research, development, and testing laboratories that do not involve the mass manufacture, fabrication, processing, or sale of products. Such uses shall not violate any odor, dust, smoke, gas, noise, radiation, vibration, or similar pollution standard as specified herein. (*Jefferson County, Colo.*)

A structure or complex of structures designed or used primarily for research development functions related to industry and similar fields of endeavor. (*Cranberry Township, Pa.*)

■ **research laboratory** (1) An administrative, engineering, scientific research, design, or experimentation facility; (2) Includes research on such things as electronic components, optical equipment, etc., but not research requiring the use of animal husbandry (including dogs, poultry, or monkeys), heavy equipment (such as construction equipment); and (3) Shall be free of dust, smoke, fumes, odors, or unusual vibrations or noise. The waste from such facilities shall meet the requirements of the appropriate health authority. (*Pima County, Ariz.*)

A structure or group of structures used primarily for applied and developmental research, where product testing is an integral part of the operation and goods or products may be manufactured as necessary for testing, evaluation, and test marketing. (*Londonderry, N.H.*)

■ **reservation of site** The withholding of land, in a subdivision plan, for later purchase for public purposes such as schools or parks. (*Handbook for Planning Commissioners in Missouri*)

■ **reservoir** Any impoundment of surface waters designed to provide drinking water to the public. (*York, Va.*)

■ **residence** (See also *dwelling definitions*) A place where a person resides; particularly a house. (*Grand Forks, N.D.*)

A home, abode, or place where an individual is actually living at a specific point in time. (*Siskiyou County, Calif.*)

The general term implying place of human habitation and embracing both residential and apartment residential district classifications. (*Columbus, Ohio*)

A structure or part of a structure containing dwelling units or rooming units, including single-family or two-family houses, multiple dwellings, boarding or rooming houses, or apartments. Residences do not include: such transient accommodations as transient hotels, motels, tourist cabins, or trailer courts; dormitories, fraternity or sorority houses; in a mixed-use structure, that part of the structure used for any nonresidential uses, except accessory to residential uses; recreational vehicles. (*Londonderry, N.H.*)

■ **resident** One who lives and usually works in the vicinity; not a visitor or transient. (*Whatcom County, Wash.*)

■ **residential** Land designated in the city or county general plan and zoning ordinance for buildings consisting only of dwelling units. May be improved, vacant, or unimproved. (*California Planning Roundtable*)

■ **residential burn** (See also *open burning*) Open burning performed with the approval of the fire chief at the site of a one- or two-family dwelling unit for the purpose of disposing of natural vegetation generated at that location. (*Hilton Head Island, N.C.*)

■ **residential care facility** (See *elderly housing, residential care facility*)

■ **residential complex** A residential development with 15 or more dwelling units situated on the same tax parcel. (*Columbus, Ohio*)

■ **residential concierge services** The operation of an establishment that provides pick-up and delivery service, personal services such as laundry and dry cleaning drop off and pick up, packaging

***Editor's note**--Ord. No. 535-84, adopted May 7, 1984, repealed former Div. 5, §§ 14-101--14-104, and enacted a new Div. 6, §§ 14-101--14-106. The result of this action was that this Art. III contained no division designated 5. The editor has, therefore, in agreement with the city, retained the division designation 5. Formerly §§ 14-101--14-104 were derived from Code 1968, § 602.5.A--D; Ord. No. 499-74, § 2, adopted Aug. 19, 1974; and Ord. No. 91-83, §§ 1, 2, adopted Aug. 3, 1983.

Sec. 14-101. Purpose.

The purpose of the R-4 residential zone is:

- (a) To preserve the unique character of the Western Promenade area of the city by controlling residential conversions and by allowing the continued mix of single-family, two-family, and low-rise multifamily dwellings and other compatible development at medium densities.

(Ord. No. 535-84, 5-7-84)

Sec. 14-102. Permitted uses.

The following uses are permitted in the R-4 residential zone:

(a) *Residential:*

1. Single-family detached dwellings;
2. New construction of two-family dwellings;
3. Reserved;
4. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff;
5. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District;
6. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:

- a. More than half of the roof area of each unit

shall be double pitched Class C rated shingled roof with a minimum pitch of 3/12.

- b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.
- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.

- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

(b) *Other:*

- 1. Cemeteries;
- 2. Parks, and other active and passive noncommercial recreation spaces;
- 3. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
- 4. Home occupations subject to the provisions of section 14-410 (home occupation) of this article;
- 5. Municipal uses, excluding those specifically set forth in section 14-103 of this division.
- 6. Special needs independent living units, provided that a building housing special needs independent living units shall not house other types of residential or other permitted uses. The owner of a special needs independent living unit building shall file in the Cumberland County Registry of Deeds a statement under oath that the building is a special needs independent living unit building and that any future change of use to a permitted residential use shall require a change in use review by the City of Portland and a decrease in the number of units in the building in accordance with the Portland City Code, chapter 14. The owner shall file proof of such recording with the building inspections division prior to the issuance of any certificates of occupancy for the new uses.
- 7. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 535-84, 5-7-84; Ord. No. 264-84, § 1, 12-17-84; Ord. No. 67-87, § 2,

11-2-87; Ord. No. 82-88, § 1, 7-19-88; Ord. No. 86A-89, § 4, 8-21-89; Ord. No. 33-91, § 5, 1-23-91; Ord. No. 33A-91, § 2, 4-17-91)

***Editor's note--**Ord. No. 82-88, § 1, adopted July 19, 1988, amended § 14-102 by adding subsection (b)5 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 82-88.

Sec. 14-103. Conditional uses.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(a) Residential:

1. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines;
 - b. There shall be no open outside stairways or fire escapes above the ground floor;
 - c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and

buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of a sheltered care group home permit.

2. Alteration of an existing structure to accommodate one (1) or more dwelling units provided that:
 - a. No additional dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;
 - b. No open outside stairways or fire escapes above the ground floor shall be or have been constructed in the immediately preceding five (5) years;
 - c. The alteration will not result in a total cubic volume increase of more than ten (10) percent within the immediately preceding five (5) years;
 - d. A lower level dwelling unit shall have a minimum of one-half of its floor-to-ceiling height above the average adjoining ground level;
 - e. No existing dwelling unit shall be decreased to less than one thousand (1,000) square feet of floor area;
 - f. Three thousand (3,000) square feet of land area per dwelling unit shall be required;
 - g. The project shall be subject to article V (site plan) of this chapter for site plan review and approval.
 - h. Parking shall be provided as required in division 20 of this article.
3. Multiplex development with three (3) or more horizontally or vertically attached, or a series of

such attached dwelling units and the construction of at least one (1) building, provided that:

- a. No open outside stairways or fire escapes above the ground floor shall be constructed;
- b. No habitable space in a dwelling unit shall be below grade, except basements that are a part of and below aboveground units.
- c. Three thousand (3,000) square feet of land area per dwelling unit shall be required for the first three (3) dwelling units with a requirement of six thousand (6,000) square feet of land area per dwelling unit for additional dwelling units;
- d. No dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;

The project shall be subject to article V (site plan) of this chapter for Planning Board site plan review and approval.

- (b) *Institutional*: Any of the following conditional uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:

1. Elementary, middle, and secondary school (except as otherwise provided in section 14-276.10);
2. Places of assembly;

Such uses shall be subject to the following conditions and standards in addition to the provisions of section 14-474:

- a. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing

site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas: and

- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and
- c. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative; and
- d. Article V (site plan) sections 14-522 and 14-523 notwithstanding, in the case of places of assembly the proposed use shall be subject to the requirements of article V (site plan) of this chapter; and
- e. Community halls:
 - i. The structure was in existence as of January 4, 2010;
 - ii. The structure was built for institutional or other non-residential uses;
 - iii. The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes; and
 - iv. A parking management plan is submitted for review and approval by the planning board; and
- f. Private club or fraternal organizations: any such establishment serving alcoholic beverages or in possession of a license for serving alcoholic beverages shall be located on a large lot, as specified in the minimum lot size provisions of this section.

(c) *Other:*

1. Off-street parking of passenger cars as provided in section 14-344 (board of appeals may authorize parking in certain residential zones) of this article;
2. Utility substations, including sewage and water pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, and nursery schools and kindergartens, subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care use, home babysitting use, nursery school, or kindergarten or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under

article V of this chapter.

- c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
- d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
- e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;
 - ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
 - iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
 - v. The minimum lot size for a day care facility, home babysitting service, nursery school, or kindergarten located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;

- vi. *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
 - vii. The maximum number of children in a day care facility, home babysitting service, nursery school, or kindergarten located in a residential or existing accessory structure shall be twenty-four (24); and
 - viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.
4. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
- a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
 - c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 - d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for

conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and

- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

5. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 535-84, 5-7-84; Ord. No. 264-84, § 2, 12-17-84; Ord. No. 76-85, § 5, 7-1-85; Ord. No. 67-87, § 3, 11-2-87; Ord. No. 82-88, §§ 2, 3, 7-19-88; Ord. No. 235-91, § 7, 2-4-91; Ord. No. 118-93, § 7, 10-18-93; Ord. No. 133-96, § 4, 11-18-96; Ord. No. 154-96, § 7, 12-16-96; Ord. No. 222-99, §4, 3-01-99; Ord. No. 29-09/10, 8-3-09 emergency passage; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 240-09/10, 6-21-10; Ord. No. 9 10/11, 8-2-10; Ord. No. 138-09/10, 1-20-10; Ord. No. 149-10/11, 3-7-11; Ord. No. 33-11/12, 1-18-12)

***Editor's note--**Ord. No. 82-88, §§ 2, 3, adopted July 19, 1988, amended this section by amending subsection 14-103(a) and by deleting subsection (b)3, municipal use. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 82-88.

Sec. 14-104. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.
(Ord. No. 535-84, 5-7-84)

Sec. 14-105. Dimensional requirements.

In addition to the provisions of division 25 of this article (space and bulk regulations and exceptions), lots in the R-4 zone shall meet the following requirements:

(a) *Minimum lot size:*

1. Residential: Six thousand (6,000) square feet except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article.
2. Multiplex: Nine thousand (9,000) square feet.
3. School: Thirty thousand (30,000) square feet.
4. Places of assembly:

Large	30,000 sq. ft.
Medium	15,000 sq. ft.
Small	7,500 sq. ft.

5. Municipal use: Six thousand (6,000) square feet.
6. All other uses: Six thousand (6,000) square feet.

Provided that for uses specified in section 14-105(a)3 through 5 above, no minimum lot area shall be required in the following cases:

- a. Uses existing on June 1, 1983;
- b. Expansion onto land abutting the lot on which the principal use is located;

requirement of curbing under this section, if it determines that an acceptable alternative drainage plan will be provided. Prior to the issuance of a building permit for erection of a building on a lot abutting any portion of a street which is unimproved or improved but not permanently paved, the following shall occur: (1) A plan of the street improvements required by this section shall be submitted to the public works authority; and (2) upon determination by the public works authority that the plan meets the street improvement requirements established by this subsection, a performance guarantee and inspection fee for said improvements shall be submitted to the city as set forth in section 14-501. Also as set forth in section 14-501, a one-year defect bond shall be tendered to the city prior to release of the performance guarantee required hereby. The provisions of this subsection (b) shall not apply to the erection of any single-family dwelling on any lot where the owner of the lot establishes that he or she was the owner of that same lot on November 19, 1984, and at all times thereafter, and states his or her intention under oath to make the structure his or her personal residence.

I *Exceptions.* The requirements of this section shall not apply to the following city streets upon their construction by the public works authority to such standards as are determined by the authority to be the most feasible:

1. Dingley Court;

2. Morgan Court.

(Code 1968, § 602.18.B; Ord. No. 193-84, § 1, 11-19-84; Ord. No. 178-87, 11-2-87; Ord. No. 372-89, 3-20-89; Ord. No. 273-90, 3-19-90)

Sec. 14-404. Accessory use.

The term "accessory use" shall include only the following:

- (a) A subordinate use of land or building which is customarily incidental to the main building or to the principal use of the land and which is located on the same lot with the principal building or use. No "garage sale," "lawn sale," "attic sale," "rummage sale," or other similar casual sale of tangible personal property which is advertised by any means whatsoever whereby the public at large is or can be made aware of such sale, shall be deemed to be "customarily incidental" if such sale occurs after sales have been conducted on the same premises for six (6) or more days previously during the calendar year.

Except where the principal use consists of the sale of alcoholic beverages for consumption on premises or where the principal structure is an airline terminal, pinball machines or amusement devices shall not be considered to be accessory uses whenever there are more than a total of two (2) such machines or devices on the premises.

- (b) Off-street parking when serving conforming uses located in any zone.
- (c) Home occupations as defined in section 14-47 and section 14-410.
- (d) Signs as defined in division 22 of this article.
- (e) The letting of rooms within an existing dwelling unit in any residential zone, provided that:
 - 1. There shall be no more than two (2) persons occupying such room or rooms;
 - 2. There shall be not more than two (2) rooms per dwelling unit occupied for such use; and
 - 3. There shall be no increase in the bathroom and/or kitchen facilities in the dwelling, and no such facility shall have been constructed in the immediately preceding two (2) years.

(Code 1968, § 602.18.C; Ord. No. 574-81, 4-6-81; Ord. No. 66-87, § 1, 11-2-87; Ord. No. 240-09/10, 6-21-10)

Sec. 14-405. Business entrances.

In any business zone which abuts a residence zone in such a manner that the dividing line between the zones is one hundred (100) feet or less from the main business street of such business zone, no building of nonconforming use in such residence zone shall be built and no such existing building shall be altered so as to have its front or any entrance door or any part thereof used for a nonconforming use in such residence zone facing upon any other street than the main business street unless such entrance is at a distance greater than sixty (60) feet from the nearest residence zone.

(Code 1968, § 602.18.D)

Sec. 14-406. Garages.

No building in any zone shall be erected, altered or used as a



Christina Stacey <cstacey@portlandmaine.gov>

Kenneth Thompson lease

Paul Bulger <pbulger@jewellandbulger.com>
To: Christina Stacey <cstacey@portlandmaine.gov>

Mon, Jul 18, 2016 at 1:03 PM

Christina:

Attached is a copy of the lease for 481 Danforth Street.

Please note that ownership of the property is the subject matter of litigation in the Superior Court (Business Court Division, Justice Horton). The partners are scheduled for mediation of the dispute in August at which time I expect the issue to be resolved in the applicant's favor. The applicant is a partner in the redevelopment of the property and he has resided at 481 Danforth since May, 2013.

Paul S. Bulger, Esq.

Jewell & Bulger, P.A.

477 Congress Street, Suite 1104

Portland, Maine 04101

207-774-6665

Fax: 207-774-1626

From: Christina Stacey [mailto:cstacey@portlandmaine.gov]

Sent: Monday, July 18, 2016 10:03 AM

To: Paul Bulger <pbulger@jewellandbulger.com>

Subject: Re: Kenneth Thompson lease

[Quoted text hidden]



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1. Parties The parties to this agreement are the Landlord:

Name: Alexander Feddersen

Address: 481 Danforth St

City/State/Zip: Portland, ME 04102 phone# 505-235-9268

The tenant: Name: Kenneth Thomas

Address: 481 Danforth St

City/State/Zip: Portland, ME phone# 508-277-6742

2. Property Landlord rents to Tenant a dwelling located at:

Address: 481 Danforth St

City/State/Zip: Portland, ME 04102

3. The term of this lease shall be commencing on: 1st (day) of 8th (month) 2015 (year) until 31st (day) of 12th (month) 2016 (year). This lease shall automatically self-extend under the same terms and conditions as the initial lease and shall continue in full force and effect from month- to -month unless and until otherwise terminated.

4. The rent shall be \$ 8,334 / month payable on the 1st day of every month, in advance, so long as this lease is in force.

5. The following appliances and furniture: Stove, refrigerator, dishwasher, and washer and dryer are included in the rental of these premises.

6. Security Deposit: Upon the execution of this Agreement, Tenant shall deposit with Landlord the sum of Eight thousand, three hundred and thirty four Dollars (\$ 8,334) Receipt of which is hereby acknowledged by the Landlord, as security for any damage caused to the Premises during the term of the lease. In accordance with ALM GL ch. 186, § 15B, such deposit received by the Landlord shall be held in a separate, interest-bearing account in a bank, located within the Commonwealth under such terms as will place such deposit beyond the claim of creditors of the Landlord. Such deposit shall be returned to the Tenant, with interest at the rate of five per cent per year or other such lesser amount of interest as has been received from the bank where the deposit has been held, and less any set off for damages to the Premises upon the termination of this Agreement.

7. Occupants The Tenant shall not permit the dwelling to be occupied for longer than a temporary visit by anyone except the individuals listed below and except any children born to or adopted by such individuals during the term of this lease; however the landlord reserves the right to terminate this lease if the additional occupants would render the dwelling overcrowded under the State Sanitary Code.

8. Notices All notices shall be in writing and shall be given to the Tenant at the dwelling; all rents and all notices, which shall be in writing, shall be given to the Landlord at:

_____481 Danforth St (subject to change)

(name of landlord or landlord's representative) (address) (phone) In case of emergency, Tenant shall contact the following person:

_____Alexander Feddersen___505-235-9268_____

9. Utilities Utilities shall be paid by the party indicated on the following chart: (Please place checkmark under the person who will pay for the utility.) LANDLORD TENANT MUNICIPALITY Electricity

_____Tenant_____ Gas

_____Tenant_____ Heat*

_____Tenant_____ Garbage Collection

_____Tenant_____ Trash Removal

_____Tenant_____ Hot Water

_____Landlord_____ Cable

_____Landlord_____ Sewer/Water

• The Landlord must provide the facilities for the provision of heat and hot water.

TENANT AGREES

7. Use of Property Tenant shall use the property for residential purposes only. Tenant agrees not to engage in or permit any household members, relatives, guests, invitees or agents to engage in any unlawful use of the dwelling unit, common areas or grounds. 8. Notice of Absence from Unit Tenant shall notify the landlord in writing if the dwelling unit will be left unoccupied by at least one adult household member for a period of longer than 30 days, and shall advise Landlord how to contact Tenant during such period. 9. Tenant's Duty to Maintain Premises The Tenant shall maintain the premises in a clean and neat condition and at all times comply with an occupant's obligations under Article II of the Massachusetts State Sanitary Code. 10. Waste of Utilities Tenant shall make every reasonable effort to conserve the use of utilities supplied and paid for by the Landlord and shall not waste the same. 11. Damage Tenant shall use all appliances, fixtures and equipment in a safe manner and only for the purposes for which they are intended and shall not litter, destroy, deface, damage or remove any part of the dwelling unit, common areas or grounds. Tenant shall pay amounts due for repairs for property damage, reasonable wear and tear excepted, caused by the intentional or negligent conduct of Tenant, a member of the Tenant's household, relatives, invitees, guests or agents upon receipt of a bill from Landlord. The written bill shall include items of damage, the corrective action taken and the cost thereof. 12. Alterations No substantial alterations, addition or improvement shall be made by Tenant in or to the dwelling unit without the permission of Landlord in writing. Such consent shall not be unreasonably withheld, but may include the Tenant's agreeing to restore the dwelling unit to its prior condition before moving out. 13. Locks Tenant shall not change, alter, replace or add new locks without written consent of Landlord. Any locks so permitted to be installed shall become property of the

Landlord and shall not be removed by Tenant. The Tenant shall promptly give a duplicate key to any such changed, altered, replaced or new lock to Landlord. 14. Noise Tenant agrees not to allow on his/her premises any excessive noise or other activity which disturbs the peace and quiet of other tenants in the building. Landlord agrees to prevent other tenants and other persons in the building or common areas from similarly disturbing Tenant's peace and quiet. 15. Subleasing Tenant shall not assign this agreement or sublet the dwelling unit without the written consent of Landlord. Such consent shall not be withheld without good reason. This paragraph shall not prevent Tenant from having guests for reasonably short periods of time.

16. Termination Upon termination of this agreement, Tenant shall vacate the premises, remove all personal property belonging to him/her and leave the premises as clean as she/he found them, normal wear and tear and damage by unavoidable casualty excepted, and return all keys to Landlord immediately upon vacating. The Tenant agrees that any personal property left in or about the premises after the Tenant has vacated shall be considered abandoned property, and the Landlord may sell or otherwise dispose of same without liability to the Tenant. 17. Permission for Landlord to Enter Unit Tenant agrees to allow landlord or its agents to enter the dwelling upon reasonable advance notice in order to inspect the premises, to exterminate for pests, to make repairs or to show the premises to prospective tenants, purchasers, mortgagers or their agents. The Tenant will not be unreasonable in denying entry. Landlord may also enter the premises without prior consent if it appears to have been abandoned by the Tenant or in case of emergency, and as otherwise permitted by law or court order.

LANDLORD AGREES

18. Maintenance of Dwelling The Landlord agrees to maintain the premises in a structurally sound condition and to otherwise comply with an Owner's obligations under Article II of the Massachusetts State Sanitary Code. Substantial violations of the State Sanitary Code shall constitute grounds for abatement of rent. 19. Destruction of Premises If the premises are rendered uninhabitable by fire, flood or other natural disaster during the term of this agreement, this agreement shall be thereupon terminated. 20. Notification of Termination Landlord shall not terminate this lease except for serious or repeated breach of tenant's obligations hereunder. In cases of nonpayment of rent, Landlord may terminate the tenancy by a 14-day written notice to vacate. In all other cases, Landlord may terminate the tenancy by a 30-day written notice to vacate. Notwithstanding the foregoing, the Landlord may immediately terminate this Lease for any act or conduct of the Tenant, household member or guest which entitles the Landlord to evict or enjoin the Tenant under Massachusetts General Laws, Chapter 139, Section 19.

ADDITIONAL PROVISIONS

21. If any, they are attached, initialed and dated by both parties, and are a part of this lease.

ATTACHMENTS

22. Tenant agrees to obey the Rules and Regulations which are attached to this lease and made a part thereof, which Landlord reserves the right to amend or supplement at any time.

CHANGES

23. No changes or additions to this lease shall be made except by written agreement between Landlord and Tenant. This lease and any attachments represent the entire agreement between Landlord and Tenant. 24. WHEREFORE, We, the undersigned, agree to this Lease, by signing two copies (one to be kept by Tenant and one by Landlord).

LANDLORDS TENANTS

Alexander Pedersen _____ (signature) _____ (signature)

signature) 8/1/15 _____ (date of signature) _____ (date of

[Signature] _____ (signature) _____ (signature)

signature) 8/1/15 _____ (date of signature) _____ (date of

- Tenant is encouraged to carry renters insurance on personal belongings