

D. Right, Title, or Interest

Please find attached:

- Deed in Book 33456 and Page 304, Dated September 19, 2016 confirming Diving Rock LLC's ownership of 155 Washington Avenue.
- Deed in Book 34423 and Page 221, Dated October 26, 2017 confirming Diving Rock LLC's ownership of 149 Washington Avenue.
- Letter from Attorney Tom Jewell of Jewell & Bulger, P.A. outlining the Applicant's rights to make improvements to East Cove Street.



**WARRANTY DEED
(Maine Statutory Short Form)**

KNOW ALL PERSONS BY THESE PRESENTS, that, **Akasha 155, LLC** a Maine limited liability company, with a place of business in Portland, County of Cumberland and the State of Maine, for consideration paid, hereby GRANTS to **Diving Rock, LLC**, a Maine limited liability company, whose mailing address is 15 Howard Street Portland, Maine 04101 with **WARRANTY COVENANTS**, the land with any buildings thereon situated in Portland, County of Cumberland, and State of Maine, described as follows:

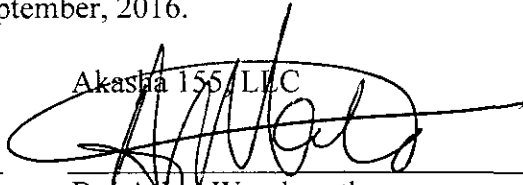
See Attached Exhibit A

Meaning and intending to convey a portion of the premises conveyed to Akasha 155, LLC by deed from Wendy Morse Baldwin dated March 11, 2015, recorded in the Cumberland County Registry of Deeds in Book 32168, Page 262.

In Witness Whereof, Akasha155, LLC has caused this instrument to be signed and sealed by its duly authorized officer this 19 day of September, 2016.

MAINE REAL ESTATE TAX PAID


Witness

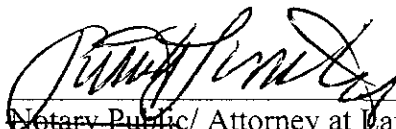
Akasha 155, LLC

By: Asher Woodworth
Its: Manager

STATE OF MAINE
COUNTY OF Cumberland

September 19, 2016

Then personally appeared before me the above named Asher Woodworth, Manager of Akasha 155, LLC and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said limited liability corporation.

Before me,


Notary Public/ Attorney at Law
Printed Name:
My Comm. Exp:

**PATRICK D. THORNTON
MAINE ATTORNEY AT LAW**

EXHIBIT A

A certain lot or parcel of land located on the east bounds of Washington Ave. and the south bounds of East Cove Street in the City of Portland, Cumberland County and the State of Maine and being more particularly as follows.

Beginning at a 5/8" rebar set with cap on the east bounds of Washington Ave. being N24°-36'-14"W one hundred seventy four and forty five hundredths 174.45' feet from the intersection point of the north bounds of Walnut Street and the east bounds of Washington Ave.

Thence N24°-36'-14"W sixty nine and nine hundredths 69.09' feet along the east bounds of Washington Ave. to a 5/8' rebar set with cap at the intersection point of the south bounds of East Cove Street and the east bounds of Washington Ave.

Thence N65°-23'-43"E eighty and zero hundredths 80.00' feet along the south bounds of East Cove Street to a point.

Thence N58°-18'-31"E forty two and zero hundredths 42.00' feet along the south bounds of East Cove Street to a 5/8" rebar set with cap at the northwest corner of land of Austin and Buss described in Book 21521 Page 18

Thence S31°-41'-29"E seventy four and thirteen hundredths 74.13' feet along the west bounds of land of Austin and Buss to a point on the north bounds of land of Phillip Rando described in Book 15029 Page 300.

Thence S58°-45'-14"W four and sixty six hundredths 4.66' feet along the north bounds of land of Rando to a point at the northwest corner of land of Rando.

Thence S65°-23'-46"W one hundred twenty six and twenty one hundredths 126.21' feet along the north bounds of remaining land of grantor to the point of beginning.

Containing 8,851 Square Feet or 0.20 Acres and being a portion of land Akasha 166 LLC described in Book 32168 Page 262.

Also including all interest in the unaccepted street known as East Cove Street.

Received
Recorded Register of Deeds
Sep 20, 2016 01:47:11P
Cumberland County
Nancy A. Lane

WARRANTY DEED

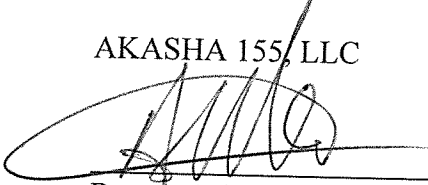
(Maine Statutory Short Form)

KNOW ALL PERSONS BY THESE PRESENTS, that AKASHA 155, LLC, of Portland, Maine, for consideration paid, grants to DIVING ROCK, LLC, whose mailing address is 100 Commercial Street, Portland, County of Cumberland and State of Maine, with warranty covenants, a certain lot or parcel of land, with any buildings thereon, situated at 149 Washington Avenue, City of Portland, County of Cumberland and State of Maine, as more fully described in Exhibit A attached hereto:

Meaning and intending to convey a portion of the premises conveyed to Grantor by deed dated March 11, 2015, from Wendy Morse Baldwin recorded in the Cumberland County Registry of Deeds Book 32168, Page 262, on March 31, 2015.

Witness our signatures this 26th day of October, 2017.

AKASHA 155, LLC



Witness

By: Asher Woodworth
Its: Manager

STATE OF MAINE
COUNTY OF CUMBERLAND

October 26, 2017

Then personally appeared the above named Asher Woodworth, in his capacity of manager of AKASHA 155, LLC, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of AKASHA 155, LLC.

Before me,


Notary Public/Attorney at Law

LINDA MAYO
Notary Public, Maine
My Commission Expires May 25, 2017

MAINE REAL ESTATE TAX PAID

SEAL

Exhibit A

A certain lot or parcel of land located on the east bounds of Washington Avenue in the City of Portland, Cumberland County and the State of Maine and being more particularly bounded and described as follows:

Beginning at a 5/8" rebar set with cap on the east bounds of Washington Avenue, being N24°-36'-14"W one hundred forty one feet (141') from the intersection point of the north bounds of Walnut Street and the east bounds of Washington Avenue.

- 1) Thence N24°-36'-14"W thirty three and forty five hundredths (33.45) feet along the east bounds of Washington Avenue to a 5/8" rebar set with cap at the southerly corner of land of Diving Rock, LLC, as described in a deed recorded in the Cumberland County Registry of Deeds in Book 33456, Page 304;
- 2) Thence N65°-23'-46"E one hundred twenty six and twenty one hundredths (126.21) feet along said land of Diving Rock, LLC to a point;
- 3) Thence S28°-30'-11"E thirty three and fifty three hundredths (33.53) feet along land now or formerly of Phillip Rando, as described in a deed recorded in said registry in Book 15029, Page 300 to a point;
- 4) Thence S65°-23'-46"W one hundred twenty eight and forty nine hundredths (128.49) feet along land of grantor to the point of beginning.

Being a portion of land Akasha 155, LLC described in Book 32168, Page 262. Reference is made to a "Boundary Survey with Existing Conditions" by R. W. Eaton Associates dated March 31, 2014 and March 4, 2016.

The above described parcel completely subsumes an easement described in said registry in Book 33456, Page 306. It is the intention of the parties that this conveyance shall extinguish said easement, as both the dominant and servient parcels will be owned by grantee.

Received
Recorded Register of Deeds
Oct 30, 2017 01:19:28P
Cumberland County
Nancy A. Lane

JEWELL & BULGER, P.A.

Attorneys at Law

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December 13, 2017

City of Portland
Planning Department
389 Congress Street
Portland, ME

Re: 155 Washington Avenue project for Diving Rock, LLC

Dear Sirs and Madams:

Our office has been requested by the Applicant to review the status of East Cove Street, abutting the locus of the proposed development.

The first record of East Cove Street that we could find is Plan of Land of Baxter, circa 1866, recorded at the Cumberland County Registry of Deeds at Plan Book 2, Page 54, attached. East Cove is not named in that Plan, but it is laid out, connecting Poplar Street to Washington Avenue. Later the name of Poplar Street was changed to Sheridan Street.

East Cove Street is not listed in City Council Order #84, recorded at the Registry of Deeds in Book 13326, Page 247. Similarly, no unnamed street matching the description of East Cove was listed in that Council Order. Poplar Street was listed, however, the Council Order provided the wrong reference to the recorded plan and has deemed to be of no effect. This situation was addressed by the City when the neighboring Munjoy Heights condominium project was developed by Jonathan Culley. Our office represented Mr. Culley concerning that project. We had Bill Clark, late of Public Services, review the matter of paper streets in this vicinity in 2013, and he agreed with our assessment that due to the failure of the 1997 Council Order to properly identify East Cove Street that the public rights had terminated.

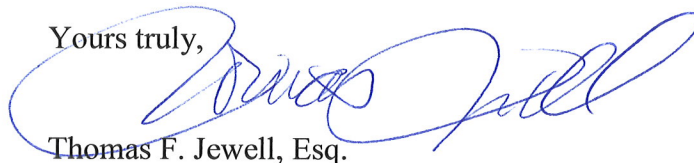
As to the fee title in East Cove Street, pursuant to Title 33 MRS Sec. 469-A, there is a presumption that the sub-divider conveyed all of its interest in the "proposed, unaccepted way" to the abutters. The only exceptions to this result are when the fee interest in the street was expressly reserved by the sub-divider, or the sub-divider subsequently filed a notice to preserve its claim of title to the street. Our title examination has found no reservation of rights or subsequently filed claim of title by the sub-divider, therefore the Applicant holds title to the middle of the abutting portion of East Cove Street.

Even though public rights to the paper street are no longer valid, as an abutter, the Applicant continues to enjoy private rights to use East Cove Street. The Applicant has a private right of way to utilize all of East Cove Street as an owner of a lot include within the bounds of the original 1866 subdivision plan recorded by Plan Book 2, Page 54. This right is set forth in Title 33 MRS Sec. 3033, et seq, which sets forth the requirements for extinguishing the private rights of way. In the neighboring Munjoy Heights project, such a proceeding was employed to eliminate the private rights of way in the eastern end of East Cove Street and in northern portion of Sheridan Street. That proceeding did not affect the private rights of way in the rest of East Cove Street. That Notice to terminate private rights of way was recorded in Book 32118, Page 145, CCRD.

In conclusion, the Applicant has full private rights to use East Cove Street for all purposes that would be included within a public way, including rights of improvement and for ingress and egress.

Please let me know if you need further information in this regard.

Yours truly,

A handwritten signature in blue ink, appearing to read "Thomas F. Jewell", written over a circular blue ink scribble.

Thomas F. Jewell, Esq.

TFJ/t