



Planning & Urban Development Department

*Jeff Levine, AICP, Director**Marge Schmuckal, Zoning Administrator*

August 15, 2014

Scott E. Herrick, Esq.
c/o Drummond & Drummond
One Monument Way
Portland, ME 04101

RE: 15-17 Merrill Street, Portland, Maine; 14-F-9, 11 & 13 (the "Premises") – R-6 Zone
REVISED

Dear Attorney Herrick,

I am in receipt of your request for a determination letter concerning the Premises. I hereby certify with respect to the above-referenced property owned by Cumberland Merrill Apartments, LLC and described on the attached **Exhibit A**:

1. The applicable zoning code affecting the Premises is as follows:
Land Use Zoning Ordinance of the City of Portland revised through July 16, 2014.
2. The Premises are located in the following zoning district under the Land Use Zoning Ordinance: R-6 Residential Zone, and the last recognized legal use of the Premises as a four (4) residential apartment building is a permitted use thereunder. Because there were no actual building permits in the Inspection Services microfiche, and the basis date of the current Land Use Ordinance is June 5, 1957, the legal use was determined by using the Assessor's pre-1957 Records and the 1955 City Directory. Both sources as shown previously indicate the use of the building to be four (4) dwelling units. In an effort to support this evidence, I reviewed other documentation records from the Assessor's office.
 - a. 1970-1972 Assessor's records: four (4) dwelling units and specifically states that the 3rd floor was vacant.
 - b. 1973-1979 Assessor's record: The 5/76 inspection date showed four (4) dwelling units. There is a note on the card that the 3rd floor was unlivable and could not be utilized as apartments – no plumbing, would need extensive work to be able to be inhabited as apartment. The same Assessor's card was used for several years. The above statement was crossed out and a note was added that in 1979 the Premises was remodeled and the use of the building was then revised to six (6) dwelling units. There were no required building permits found in the Inspection Services microfiche to legalize the change of use from four (4) to six (6) dwelling units. I did review the copies of the City Directory dated 1902, 1927, 1944 and 1945. However, the Assessor's record were more explanatory of the use and how the building was inspected.
 - c. The legal use of the Premises is based upon the analysis of the Assessor's records and the lack of required permits in the Inspection Services records.



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3. It has now come to my attention that there is one unresolved violation concerning the use of the building. It is currently a nonconforming six (6) residential unit building that must either be legalized through available processes of the City or the illegal residential units should be removed. Based upon our recent conversations with you, it appears that the Premises should be able to be legalized using the "Legalization of Nonconforming Dwelling Units" (section 14-391) application. I am not aware of any other unresolved violations with respect to any other City ordinances, or building, environmental, or energy codes

NONE

UNRESOLVED VIOLATIONS EXIST AS STATED ABOVE

4. The following permits and approvals, as applicable to the Premises, have been obtained:
- a. [Not on File] Certificate of Occupancy
 - b. [N/A] Conditional Use Approval
 - c. [N/A] Site Plan Approvals
 - d. [N/A] Subdivision Approval
 - e. [Not on File] Building Permit
 - f. [N/A] Condominium Conversion
 - g. [] Copies of 1955 City Directory & Pre- 1957 Assessor's records along with Assessor's record dating from 1970-1972 and 1973-1979

You have the right to appeal my determination concerning this matter. If you wish to exercise your right to appeal, you have thirty (30) days from the date of this letter in which to appeal. If you should fail to do so, my decision is binding and not subject to appeal. Please contact this office for the necessary paperwork that is required to file an appeal.

Sincerely,


Marge Schmuckal
Zoning Administrator
City of Portland, Maine