

Portland, Maine



Yes. Life's good here.

Jeff Levine, AICP

Director, Planning & Urban Development Department

Thomas B. Federle  
Federle Mahoney  
254 Commercial Street  
Portland, ME 04101

24 Hampshire St - 28-0-008  
160 Newbury St - 28-0-103  
118 Congress St June 20, 2014 16-D-002

**Re: Request for Determination Regarding Replacement of Housing Units**

Dear Mr. Federle:

In response to your letter of June 16, 2014, requesting a determination as to whether the development of new units by ReBeCo's partnership will satisfy its obligation under the City's Housing Preservation and Replacement ordinance. Specifically, ReBeCo has a Letter of Credit to the City of Portland for \$385,200. Of that amount, \$382,200 is being held for the demolition of six units on Hampshire and Newbury Streets in June 2013. You are requesting a determination as to whether, upon completion and occupancy, six of the 12 units to be constructed at 118 Congress Street may satisfy the requirements of Section 14-483.

ReBeCo LLC owned the three units demolished at 24 Hampshire Street. The other three units, at 160 Newbury Street, were owned by 160 Newbury Street, LLC. However, the Letter of Credit for all six units was in the name of ReBoCo, LLC, and you have stated that ReBeCo LLC and 160 Newbury Street are owned by the same interests.

Your documentation, once executed, will adequately show that ReBeCo has a 100% interest in Munjoy East Investment, LLC, which in turn has a 50% interest in 118 Condominiums LLC. Therefore, it is consistent with the letter and intent of Section 14-483 that ReBeCo should receive credit for 50% of the units to be constructed at 118 Congress Street.

The Housing Replacement Ordinance lists as one of its purposes "[t]o promote and facilitate an adequate supply of housing, particularly affordable housing for all economic groups." You are correct, however, in your statement that "the Ordinance attaches no affordability metrics or requirements to the replacement obligation." The units appear to meet all requirements in terms of location, timing and size as outlined Section 14-483.

Based on the information you have provided and additional research we have done in the office, six of the 12 units at 118 Congress Street can serve as replacement units for the six units demolished in June 2013, subject to the following conditions:

1. Certificates of Occupancy must be granted for all 12 units at 118 Congress Street before the full Letter of Credit will be returned. If your client wishes, we can reduce the Letter of Credit for the value of one unit for every two units that receive a Certificate of Occupancy;
2. Receipt of an executed version of the 118 Condominiums LLC company agreement substantively the same as the draft provided to me with your letter on June 16, 2014;
3. Receipt of an executed version of the Munjoy East Investment LLC company agreement substantively the same as the draft provided to me with your letter on June 16, 2014;
4. The existence of no other agreement between ReBeCo and other investors in the 118 Congress Street project that might diminish the 50% equity investment in the project prior to issuance of Certificates of Occupancy for all 12 units.

I appreciate the time you have spent documenting this case and the thoughtful way you have responded to the slightly unusual circumstances surrounding this particular situation. In particular, I have found it to be a helpful case study as to how we will interpret 14-483 in future cases where multiple investors are involved in a housing replacement project.

Sincerely,



Jeff Levine, AICP

cc: Mark Rees, Portland City Manager  
Danielle West-Chuhta, Portland Corporation Counsel  
Michael Brennan, Mayor  
Kevin Donoghue, District 1 Councilor  
Mary Davis, Housing and Community Development Director  
Alex Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Marge Schmuckal, Zoning Administrator

Enc. (5)

Letter from T. Federle dated June 16, 2014  
Letter from T. Federle dated November 11, 2013  
Draft LLC Agreement for 118 Condominiums LLC  
Draft LLC Agreement for Munjoy East Investment LLC  
Letter of Credit from ReBeCo