

042 Deed 030-4007 2 12

# City of Portland Health Inspection Report

Establishment Name: Portland Business Center

License/Est. ID#: \_\_\_\_\_

Address: \_\_\_\_\_

City/State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Owner Name: \_\_\_\_\_

Purpose of Inspection: \_\_\_\_\_ Est. Type: \_\_\_\_\_

Telephone: \_\_\_\_\_ Risk Category: \_\_\_\_\_

No. of Risk Factor/Intervention Violations: \_\_\_\_\_ Date: \_\_\_\_\_

No. of Repeat Risk Factor/Intervention Violations: \_\_\_\_\_ Time In: \_\_\_\_\_

Score (optional): 100 Time Out: \_\_\_\_\_

## FOODBORNE ILLNESS RISK FACTORS AND PUBLIC HEALTH INTERVENTIONS

Circle designated compliance status (IN, OUT, N/O, N/A) for each numbered item Mark "X" in appropriate box for COS and/or R  
 IN= in compliance OUT=not in compliance N/O=not observed N/A=not applicable COS=corrected on-site during inspection R=repeat violation

Compliance Status	COS	R	Description
51	IN	OUT	<b>Supervision</b> PIC present, demonstrates knowledge, and performs duties
52	IN	OUT	<b>Employee Health</b> Management awareness; policy present
53	IN	OUT	Proper use of reporting, restriction & Exclusion
54	IN	OUT	<b>Good Hygienic Practices</b> Proper eating, tasting, drinking, or tobacco use
55	IN	OUT	No discharge from eyes, nose, and mouth
56	IN	OUT	<b>Preventing Contamination by Hands</b> Hands clean & properly washed
27	IN	OUT/N/A	N/O No bare hand contact with RTE foods or approved alternate method properly followed
58	IN	OUT	Adequate handwashing facilities supplied & accessible
59	IN	OUT	<b>Approved Source</b> Food obtained from approved source
510	IN	OUT	N/A Food received at proper temperature
511	IN	OUT	Food in good condition, safe, & unadulterated
112	IN	OUT/N/A	N/O Required records available: shellstock tags, parasite destruction
213	IN	OUT	<b>Protection from Contamination</b> N/A Food separated & protected
214	IN	OUT	N/A Food-contact surfaces: cleaned & sanitized
515	IN	OUT	Proper disposition of returned, previously served, reconditioned, & unsafe food

## GOOD RETAIL PRACTICES

Good Retail Practices are preventative measures to control the addition of pathogens, chemicals, and physical objects into foods. Mark "X" in box if numbered item is not in compliance Mark "X" in appropriate box for COS and/or R COS=corrected on-site during inspection R=repeat violation

Compliance Status	COS	R	Description
528			<b>Safe Food and Water</b> Pasteurized eggs used where required
529			Water & ice from approved source
30			Variance obtained for specialized processing
531			<b>Food Temperature Control</b> Proper cooling methods used; adequate equipment for temperature control
532			Plant food properly cooked for hot holding
533			Approved thawing methods used
134			Thermometers provided & accurate
135			<b>Food Identification</b> Food properly labeled; original container
436			<b>Prevention of Food Contamination</b> Insects, rodents, & animals not present
237			Contamination prevented during food preparation, storage & display
538			Personal cleanliness
139			Wiping cloths: properly used & stored
140			Washing fruits & vegetables

Person in Charge (Signature): [Signature] Date: 7/6/07

Health Inspector (Signature): [Signature] Follow-up: YES NO (circle one) Follow-up Date: 7/2/07



JOHN ELIAS BALDACC  
GOVERNOR

STATE OF MAINE  
Department of Public Safety  
Office of State Fire Marshal  
52 State House Station  
Augusta, ME 04333-0052

ANNE H. JORDAN  
COMMISSIONER  
JOHN C. DEAN  
STATE FIRE MARSHAL

December 20, 2007

To: Captain Greg Cass  
City of Portland Fire Department

RE: Comedy Connection/The Porthole/Harbor's Edge, 16 Custom House Wharf, Portland, ME

Captain Cass:

This letter is to confirm the status of the dance license application for The Comedy Connection/The Porthole/Harbor's Edge facility located at 16 Wharf Street in Portland.

As of December 20, 2007 our office has not received a Plan of Correction indicating an action plan for correcting various fire and life safety deficiencies noted in an inspection of the facility on October 18, 2007. The inspection of the facility was conducted for renewal of a State Dance License.

The Statement of Deficiencies requesting that a Plan of Correction be submitted was sent to the facility on October 26, 2007.

On December 7, 2007 a notice was sent to the facility from our office indicating that we have not yet received a Plan of Correction. Again, as mentioned above, as of December 20, 2007 our office has not received a response. Should the facility fail to send an approved Plan of Corrections to our office, our office will fail the inspection and place the facility on notice that continued operation (or future operation) of the facility could be placed in jeopardy.

Should you have any questions, please feel free to contact me.

Sincerely,

Mark J. Stevens, Jr.  
Fire Inspector I, CFI  
Maine State Fire Marshal's Office  
Inspections Division  
(207) 626-3880 (voice)  
(207) 287-6251 (fax)  
mark.j.stevens@maine.gov

cc: City of Portland Maine Planning and Development Department



STATE OF MAINE  
Department of Public Safety  
Office of State Fire Marshal  
52 State House Station  
Augusta, ME 04333-0052

JOHN ELIAS BALDACCIO  
GOVERNOR

ANNE H. JORDAN  
COMMISSIONER

JOHN C. DEAN  
STATE FIRE MARSHAL

December 7, 2007

Cogee Management & Entertainment, Inc.  
16 Custom House Wharf  
Portland, Maine 04101

RE: Comedy Connection/The Porthole/Harbor's Edge, 16 Custom House Wharf, Portland, ME

To Whom It May Concern:

A representative of this office conducted an inspection of your facility and a Statement of Deficiency was sent to you on October 26, 2007. You were requested to respond within 10 days with a Plan of Corrections indicating what action you proposed to take or anticipate in correcting the deficiencies. To date, we have not received your plan of Correction. We are enclosing a copy of your Statement of Deficiencies and urgently request that you inform us of your plans to make the corrections requested.

Your failure to respond with a Plan of Corrections could jeopardize the continued operation of your facility. Should you experience any problems in understanding the work that is required, please indicate so on your response to this Office.

We will plan to re-inspect your facility to insure the correction(s) have been completed and/or are in substantial compliance with our Code requirements.

Yours for better fire prevention,

*Nelson E. Collins*

Nelson E. Collins, Supervisor  
Office of State Fire Marshal  
Licensing & Inspections Unit  
Cc: Enclosure

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PREVENTION \* MITIGATION/ SUPPRESSION \* LAW ENFORCEMENT

(207) 626-3870 ADMINISTRATIVE/ INVESTIGATIONS  
(207) 626-3880 INSPECTIONS/ PLANS REVIEW  
OFFICES LOCATED AT: 45 COMMERCE DRIVE, STE. 1, AUGUSTA, MAINE 04330  
(207) 287-3659 TDD

(207) 287-6251 FAX



JOHN ELIAS BALDACC  
GOVERNOR

STATE OF MAINE  
Department of Public Safety  
Office of State Fire Marshal  
52 State House Station  
Augusta, ME 04333-0052

ANNE H. JORDAN  
COMMISSIONER

JOHN C. DEAN  
STATE FIRE MARSHAL

To: Capt. Greg Cass, Portland Fire Department  
Cc: Chris Hanson, City of Portland Planning & Development

RE: 30 day letter

Greg and Chris,

Attached is a copy of the "30 day letter" sent to Oliver at the Comedy Connection on December 7, 2007. The "30 day letter" is sent out by our office when 30 days have passed without a response to a Statement of Deficiencies by our office.

As requested I e-mailed a letter indicating the lack of response to our Statement of Deficiencies to both of you and wanted to send a copy of the "30 day letter" for your records.

Please contact me if you have additional questions. I will be on vacation until January 31<sup>st</sup> after today, but will check follow up on this matter as soon as I am back.

Happy Holidays,  
Mark



16 CUSTOM HOUSE WHARF, PORTLAND MAINE 04101  
207-831-3521 OLIVER 207-761-9686 FAX

October 28, 2008

Dear Ron,

Thank you for taking the time to come down to Portland on Thursday. It was nice to meet you and your Staff. I would also like to thank you helping me move forward in opening the Harbour's Edge Room. As we discussed last Thursday, I would put together a timeline for you, encompassing all upcoming renovations and updates with completion dates for Building A (Harbours Edge, Comedy Connection, Porthole Restaurant) Please refer to submitted life safety plans.

Timeline:

- 1.-By November 14th- Apply for construction permit city of Portland for 2nd means of Egress for upstairs office space.
- 2.-By December 5th - Apply for permit for renovations at the Porthole Restaurant, these renovations will include:  
Bathrooms, Life Safety Changes, Wiring, and General rehab of Kitchen Area
- 3.-Starting on January 5th- Start construction outlined in applied permits.
- 4.-Scheduled completion of all constructions will be March 6, 2009.
- 5.-Last Thursday we also discussed the sprinkler system for Building A. This will be installed no later than March of 2010.

Thank you again, if you have any questions please feel free to contact me.

Sincerely

Oliver H. Keithly III

**6-202.112**

**Living or Sleeping Quarters, Separation.**

Living or sleeping quarters located on the PREMISES of a FOOD ESTABLISHMENT such as those provided for lodging registration clerks or resident managers shall be separated from rooms and areas used for FOOD ESTABLISHMENT operations by complete partitioning and solid self-closing doors.

**6-3 NUMBERS AND CAPACITIES**

**6-301 Handwashing Facilities**

**6-301.10 Minimum Number.**

Handwashing facilities shall be provided as specified under §5-203.11.

**6-301.11 Handwashing Cleanser, Availability.**

Each handwashing lavatory or group of 2 adjacent lavatories shall be provided with a supply of hand cleaning liquid, powder, or bar soap.

**6-301.12 Hand Drying Provision.**

Each handwashing lavatory or group of adjacent lavatories shall be provided with:

- (A) Individual, disposable towels;
- (B) A continuous towel system that supplies the user with a clean towel; or
- (C) A heated-air hand drying device.

**6-301.13 Handwashing Aids and Devices, Use Restrictions.**

A sink used for FOOD preparation or UTENSIL washing, or a service sink or curbed cleaning facility used for the disposal of mop water or similar wastes, may not be provided with the handwashing aids and devices required for a handwashing lavatory as specified under §§6-301.11 and 6-301.12 and ¶ 5-501.16(C).

**6-301.14 Handwashing Signage.**

A sign or poster that notifies FOOD EMPLOYEES to wash their hands shall be provided at all handwashing lavatories used by FOOD EMPLOYEES and shall be clearly visible to FOOD EMPLOYEES.

**6-301.20 Disposable Towels, Waste Receptacle.**

A handwashing lavatory or group of adjacent lavatories that is provided with disposable towels shall be provided with a waste receptacle as specified under ¶ 5-501.16(C).

**6-302.10 Minimum Number.**

Toilets and urinals shall be provided as specified under §5-203.12 and as follows.

- (A) All licensed FOOD Establishments which have more than 12 seats shall provide at least one customer restroom. *Note: This includes food establishments licensed by the Department of Agriculture.*
- (B) FOOD Establishments licensed by the Department of Human Services which serve liquor shall provide facilities according to the following chart (Fixture count based on total number of persons, not number of males or number of females):

(C)

# persons	Male			Female	
	# toilets	# urinals	# lavatories	# toilets	# lavatories
1-50	1	1	1	1	1
51-150	2	1	1	2	1
151-300	3	2	2	4	2
Over 300	Add 1 for each additional 200 persons	Add 1 for each additional 150 persons	Add 1 for each additional 300 persons	Add 1 for each additional 200 persons	Add 1 for each additional 300 persons

Com. Lic. =

women = 2 wc, 2 sink

no Floor drain

Port hole =

men = 1 wc, 2 urinals, 1 sink

no floor drain

women = 2 wc & 1 hand sink

men = 1 wc 2 urinals 1 hand sink

Maine Food Code 2001

Maine Dept of Health

City State License = Col Restaurant A ?  
 157 Comby  
 250 OUTSIDE

4th

**CONSENT AGREEMENT/COMPLIANCE ORDER**  
**Porthole/Comedy Connection**  
**86 Commercial Street**

This document constitutes an agreement between Oliver Keithly and the City of Portland, by and through its certified Code Enforcement Officer, Chris Hanson (hereafter referred to as "City") for purposes of enforcing and resolving violations of the NFPA 101 "Life Safety Code" and the IBC 2003 "Building Code" adopted by the City of Portland.

Keithly agrees as follows:

- 1) Cogee Entertainment has been approved by the City for 250 outside seats associated with License #587 for Porthole Restaurant and Comedy Connection, Order #298-07/08, per the City Council.
- 2) Keithly will submit a revised outside Life Safety Plan by a licensed design professional and a Life Safety Evaluation as required by Capt. Gregory Cass, Portland Fire Department, per NFPA 101.13.4.1.1 2006 ed. As adopted by the City.
- 3) Keithly will submit a Life Safety Plan to the State of Maine State Fire Marshall's Office. Keithly will address all deficiencies previously noted by that agency (dated December 4, 2007) and submit a plan of correction.
- 4) Keithly will obtain all necessary permits associated with proposed work on plans received by the City and revisions noted on the plan dated January 30, 2008 and received on March 21, 2008.
- 5) Keithly will submit a letter from a licensed engineer station the Pier will support live load with 250 plus people dancing.

Based on the above agreement, the Code Enforcement Officer for the City of Portland orders Oliver Keithly to comply with this agreement as outlined no later than July 3, 2008 for paragraphs 4 and 5, and no later than July 25, 2008 for paragraphs 2 and 3.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Oliver Keithly

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Dated: \_\_\_\_\_

\_\_\_\_\_  
Oliver Keithly



**From:** Oliver Keithly <oliver@mainecomedy.com>  
**To:** <gec@portlandmaine.gov>  
**Date:** 6/16/2008 12:17:27 AM  
**Subject:** Porthole

Hello Capt. Cass,

I just wanted to send you a quick email to up date you on the the 3 things we talked about on this past thur.

#1. x-cord in the kitchen for fan has been removed

#2 - The ceiling above the cooler is only 1 1/2 hr. (see wharf life safety plan for rating)

#3 - storage room is only 1 hr.

regarding #2 & #3 I spoke with David Leasure and he thought we talked about these in the Dec/ Jan walk thru. and we agreed to wait and see how all the zoning worked out because if the Porthole was stays open I had work in the kitchen to do and at that time. But also if we do move forward I'm going to but the sprinkler system in and that would change the rating. If you need this work done sooner let me know I sure I could knock (#2&#3) within 2 weeks, as always thanks for help . If you have any questions please call me at 831-3521.

Oliver

**CC:** <mainelegal@aol.com>

Dear Mr. Keithly:

This letter is in follow-up to the City's review of your operations on Custom House Wharf. This review was initiated following contact from the State Fire Marshall's Office and subsequent discussions with the State Bureau of Liquor Enforcement.

On Friday, October 26, 2007 the City placed a posting against occupancy one of your leased spaces on Custom House Wharf, namely that space formerly occupied by Boone's Restaurant. The week before you were verbally informed by the City's Fire Department representative, Greg Cass, that no further functions or activities should be booked for that space unless all appropriate permits have been obtained. This continues to be the case.

The City briefly met with you on Friday afternoon and informed you that there are a good number of outstanding issues which you must address before you may be permitted to use the referenced space. There is a threshold issue of whether you will be able to use the space as presently proposed.

This letter is an initial attempt by the City to outline various issues you must resolve for the City and the several applications you must submit. To the extent we are able, staff will work with you toward achieving a fully permitted space on Custom House Wharf.

#### Zoning Submissions

As you know the Waterfront Central Zone controls allowable uses on Custom House Wharf. The former Boone's Restaurant space, over which you presumably hold a lease, has not been in operation for two years or more. You are proposing to use the facility formerly occupied by Boone's as a Banquet Facility. You are advertising this space on the internet as a banquet facility as opposed to a restaurant. You indicated to staff that functions in the space will be catered by the Porthole Restaurant. Event organizers may also bring in outside caterers. This activity appears to constitute a change of use and an application for the same must be filed with, and approved by, the City. To date, we have no such application. I attach a change of use application hereto as Attachment 1 for your review and submission. In addition, please provide the City with the following information:

1. Your lease agreement with the owners of the property, with a diagram of the space formerly occupied by Boone's Restaurant.
2. Documentation of when Boone's Restaurant ceased its operation.
3. A detailed explanation of the proposed use of that space.
4. A detailed diagram of the space formerly occupied by Boone's Restaurant and before and after recent renovations.
5. Explain how the new use meets the requirements of the WCZ.
6. Describe the uses on the upper floors of what was formerly Boone's Restaurant and who has control over that space.
7. Provide the City with a detailed diagram of any internal or external seating you propose for this space and provide an explanation of why you believe such seating should be approved. This is especially true for outside seating in his area.

The Fire Department has identified several significant Life Safety issues it discovered on the pier and within your leased space that raises concerns about the safety of the building space as well as the pier upon which it sits. While the City understands that you do not own the building and you are a lessee, it does not have a copy of your lease in order to identify who has responsibility over what issues.

1. Please provide a copy of your lease of the areas presently situated on Custom house Wharf so that we are better able to understand the space over which you have control, the person with rights and responsibilities for ongoing maintenance and repair of various building and infrastructure matters.
2. The City will need a full Life Safety Analysis (which must include internal and external seating proposals; 1<sup>st</sup> and 2<sup>nd</sup> floor levels of the buildings, etc.; a convergence point analysis) from a licensed professional which the City can then review and approve. The Life Safety analysis must encompass the entire pier and all buildings thereon in order for the City to effectively determine compliance with the various regulations governing occupancy load, means of egress, etc. While the City appreciates some areas are not within your control, they are within the control of your landlord and must be provided to the City prior to the issuance of further permits.
3. Provide a full set of construction plans for all fire protection systems, both existing and proposed.
4. Provide copies of any applications or other information submitted to the Maine State Fire Marshall for your uses on the pier.

Only after we obtain this full analysis will the City be able to permit further uses on the pier. Your professional should be cautioned that at present no outside seating on the pier has been approved. The information available to the City is that outside seating was sought in 2000 through a contract zone but the rezoning to allow for this extended use was never approved. Correspondence at that time, in fact, cautioned that no outside seating was permitted and none had been grandfathered.

On a final note, although the City has tried in this initial letter to be exhaustive regarding the issues that must be addressed, once the information/submissions have been reviewed by the City additional items of concern may come to light and may need additional work. Nonetheless, it was important to “get the ball moving” on this above items.

Thank you for your time and attention to this matter. We look forward to legitimizing the activities on Custom House Wharf to the extent they are permitted by zoning and all applicable land use and other codes and regulations.

Sincerley,

Penny Littell

Cc: Pat Finnegan

### Building Inspections

Past work has been done on a portion of the pier in the vicinity of the former Boone's Restaurant. In follow-up to that work an engineering report from TRC Engineering indicates that no occupancy of the former Boone's Restaurant space should be allowed without additional work being done to the "open pier outside the building." The City will need to better understand the state of the existing pier infrastructure prior to allowing any occupancy of this space.

1. Please provide, or have your landlord provide, a Statement of Special Inspection from a licensed engineer which details the work done within the last two years to the pier infrastructure (with accompanying construction documents) and the present condition of the pier servicing your leased premises (i.e the Porthole Restaurant, the Comedy Connection and the proposed Banquet facility and the other uses presently located above these uses).
2. Provide a cost figure for the overall interior construction which has taken place inside the space formerly occupied by Boone' Restaurant since you became lessee.
3. A full inspection of the building will need to be scheduled with both Building Inspections and Fire to determine compliance with codes.

### Food Service

In response to an application for an expanded food service license to expand the Porthole's ability to service the space formerly occupied by Boone's Restaurant, which was filed on July 16, 2007, City staff a conducted an inspection of the Porthole. Please note the City has not approved the expanded FSA. A number of violations were discovered during that inspection. Attached is a list of those violation. See Attachment

1. Provide the City with a plan of action detailing how the code violations discovered are to be addressed and the time frame within which they will be remedied.
2. No kitchen presently exists in the former Boone's Restaurant space. There is no equipment to keep cold food cold and hot food hot in that space.

In addition, statement were made by you to the City that the Porthole will be catering events occurring at the proposed banquet facility. The Porthole does not have a catering license. Attached as Attachment 3 is a catering license application you will need to file with the City for such services.

Further, the City understands that the State has not signed off on a liquor license for this additional space (or for any other license, such as entertainment).

1. Provide the City with copies of all licenses submitted to the State for the space formerly occupied by Boone's restaurant.

### Fire Issues

Greg Cass  
Jeanie Bourke  
Chris Hanson  
Marge Schmuckal  
Gary Wood  
Suzanne Hunt

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In a brief

2 January 2008

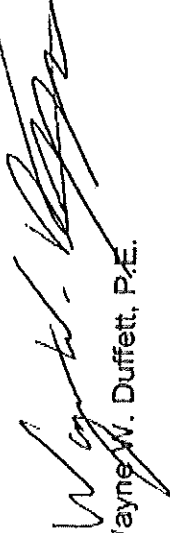
Mr. Ken Macgowan  
18 Custom House Wharf  
Portland, ME 04101

Re: Exterior Decks

Dear Ken:

This letter is to clarify my position on use of the east side exterior decks from bent 13 to bent 40 adjacent to Harbor's Edge, the Comedy Connection, and the Porthole Restaurant. This deck is presently adequate for normal ingress and egress from these businesses provided the entire area is kept free of snow load. This area does have a few poor piles that need to be addressed as part of normal maintenance prior to next summer.

Very truly yours,  
TEC ASSOCIATES

  
Wayne W. Duffett, P.E.

**From:** Penny Littell  
**To:** Chris Hanson  
**Date:** 6/6/2008 1:56:38 PM  
**Subject:** Custom House deck

Wayne Duffett confirmed no work needs to be done on Bents 12-15. The following piles need to be addressed and have not been completed:

Bents/ Number

17	2
19	1
23	2
33	1
35	1
36	1

Gilberts 8-12 = permit pending

Load capacity as is equals 100 psf of restaurant loading.

FYI

Jeanie Bourke  
Inspection Services Division Director

City of Portland  
Planning & Development Dept./ Inspections Division  
389 Congress St. Rm 315  
Portland, ME 04101  
[jimb@portlandmaine.gov](mailto:jimb@portlandmaine.gov)  
(207)874-8715

>>> Alexandra MURPHY 04/07 9:10 AM >>>  
FYI...

Oliver Keithly dropped off the renewal application on Friday (the 4th) with payment of \$2445 (Class XI Restaurant/Lounge \$1975, Entertainment With Dance \$450, Renewal App fee \$20). Printed on the renewal application was **OUTSIDE SEATING** . I mentioned to him that that would not be applicable for the renewed license. He looked me in the eye and asked why?(!) I told him because of the letters from the engineers and attorneys stating the safety issue. He said, "Well, there will be a legal battle, then." and left angrily.

I understand he and Ken MacGowen will be at the Council meeting tonight regarding the public hearing on the demolition of 86 Commercial Street.



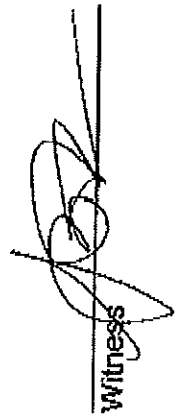
2:00 10:00 → 1:00  
employees  
Comp. hrs - out.

**Acknowledgement and Agreement**

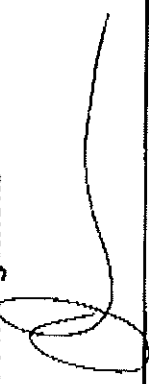
I, Oliver Keithly, owner of Cogee Management, acknowledge the City of Portland is permitting the opening of the Comedy Connection on the evening of December 31, 2007 (New Year's Eve). This is a temporary occupancy of the space and is being permitted only upon the following conditions:

1. The use of the space known as the Comedy Connection is for Monday, December 31, 2007, only, and shall thereafter remain closed until the posting has been lifted by the Portland Building Inspections Department and the Fire Department. This posting shall be lifted upon the satisfaction completion of the installation of Life Safety measures in accordance with an approved Life Safety Plan. *MTG @ 12/28/07 G.L. O.K. SFM O.K. CS HOK*
2. David Leasure shall provide to the City, no later than December 28, 2007, a proposed plan to address occupancy load within the Comedy Connection for the evening of December 31, 2007. The City shall review the same and shall consult with the State Fire Marshall's Office. The City Fire Dept will make the final call as to occupancy load for Comedy Connection.
3. A licensed electrician shall review the wiring system within the Comedy Connection \* and the entire upstairs area and provide an analysis to the City Building Inspections Department. The electrician shall disconnect any service to the second floor.
4. Cogee Management shall post a fire watch for second floor for entire operating hours on New Year's Eve. the Fire Watch shall conduct himself in accordance with Fire Watch Rules provided by the Portland Fire Department. Cogee Management shall provide the name of individual to Fire Dept.
5. There shall be no use of the upstairs area on New Year's Eve. This includes no use of lights, electrical
6. A fire door shall be installed between the Porthole and Comedy Connection, — *NOT DONE*
7. All un-vented fuel fire heaters throughout facility shall be removed.

Cogee Management understands that the temporary occupancy of the Comedy Connection, with the above conditions and restrictions in place, does not permit ongoing or continuous use of the Comedy Connection beyond December 31, 2007. The above is implemented only to allow New Year's Eve activities in this space and the conditions are imposed as a temporary fire prevention method .

  
Witness

Seen and agreed to:  
Cogee Management



By: **Oliver Keithly**, Its: President

*Elect. feed  
together  
o.k.*

*CS*

**From:** "Gary Wood" <GARY@portlandmaine.gov>  
**To:** "Fred LaMontagne" <FJL@portlandmaine.gov>, "Gregory Cass" <GEC@portlandmaine.gov>, "Penny Littell" <PL@portlandmaine.gov>, <ssh@portlandmaine.gov>  
**Date:** 12/27/2007 4:29:20 PM  
**Subject:** Re: Commedy Connection

I need to talk with Penny before we sign on to this idea. It's my understanding that they still have a lot of work to produce including an architect's plan that will probably not be done until next month sometime. If we let them open they will have little incentive to get that work done. I will get back to you.

>>> Gregory Cass 12/27/2007 4:20:41 PM >>>  
 Quick follow up and a question.

A life safety plan / occupant load plan has been submitted There are some minor revisions needed for aisle access which will be addressed tomorrow at noon during a meeting at the club. I believe we will then be allowed to temporarily reopen the club. Hence the question All paper work to date is stating the night of the 31st only I know they will push to be open for the entire weekend. Is everyone ok with this if the agreement signed by Oliver is amended???? NO 12/28  
 Nelson Collins has agreed verbally to the temporary reopening.

Thanks  
 Greg

*Gary Wood will work  
 discuss  
 HAN, J=*

I, Oliver Keithly, owner of Cogee Management, acknowledge the City of Portland is permitting the opening of the Comedy Connection on the evening of December 31, 2007 (New Year's Eve). This is a temporary occupancy of the space and is being permitted only upon the following conditions:

1. The use of the space known as the Comedy Connection is for Monday, December 31, 2007, only, and shall thereafter remain closed until the posting has been lifted by the Portland Building Inspections Department and the Fire Department. This posting shall be lifted upon the satisfaction completion of the installation of Life Safety measures in accordance with an approved Life Safety Plan.
2. David Leasure shall provide to the City, no later than December 28, 2007, a proposed plan to address occupancy load within the Comedy Connection for the evening of December 31, 2007. The City shall review the same and shall consult with the State Fire Marshall's Office. The City Fire Dept will make the final call as to occupancy load for Comedy Connection.
3. A licensed electrician shall review the wiring system within the Comedy Connection and the entire upstairs area and provide an analysis to the City Building Inspections Department. The electrician shall disconnect any service to the second floor.
4. Cogee Management shall post a fire watch for second floor for entire operating hours on New Year's Eve. the Fire Watch shall conduct himself in accordance with Fire Watch Rules provided by the Portland Fire Department. Cogee Management shall provide the name of individual to Fire Dept.
5. There shall be no use of the upstairs area on New Year's Eve. This includes no use of lights, electrical
6. A fire door shall be installed between the Porthole and Comedy Connection.
7. All un-vented fuel fire heaters throughout facility shall be removed.

Cogee Management understands that the temporary occupancy of the Comedy Connection, with the above conditions and restrictions in place, does not permit ongoing or continuous use of the Comedy Connection beyond December 31, 2007. The above is implemented only to allow New Year's Eve activities in this space and the conditions are imposed as a temporary fire prevention method .

Seen and agreed to:

\_\_\_\_\_  
Cogee Management

By: \_\_\_\_\_  
Olvier Keithley  
Its: President

15 December 2007

Ms. Penney Littell  
Corporation Counsel  
City of Portland  
389 Congress Street  
Portland, ME 04101

Re: Custom House Wharf

Dear Ms. Littell:

I have made observations of Custom House Wharf during low tides last night and this morning to determine if certain areas of the timber structure were adequate for the present uses.

On the west side, Harbor Fish is supported by bents 1-26. I observed 15 piles randomly located throughout this section that I believe should be replaced in the near future. The random placement of these piles, however, does not materially affect the capacity of the wharf and Harbor Fish remains safe for occupancy.

On the west side, Sea Bags is supported by bents 27-31. I observed 16 piles in this section that I believe should be replaced immediately. Twelve of these piles are concentrated in bents 27 and 28 with each 8-pile bent requiring six new piles. This concentration of poor piles is inadequate for the present loading. Use of this area should cease until repairs are made. The present use of this area is office, kitchen, and storage area for Sea Bags. The remaining area is the Sea Bags production floor, which remains safe for occupancy. I met and spoke with Ms. Beth Shissler, owner of Sea Bags, and she has agreed to remove items stored in this area and physically barricade it from use until bents 27 and 28 are repaired. It is my recommendation that Sea Bags be allowed to continue occupancy of its production floor area. I made no further inspection on the west side.

On the east side, repairs to bents 28-30 under the Comedy Connection are in progress. The contractor performing the work is the Fore River Dock and Dredge Company of South Portland and they are qualified for this task. On completion, I will inspect the work for conformity with the plans and provide a report to you. No work is ongoing at bents 13-25 under the former Boones Restaurant and that area remains closed to the public.

Ms. Penny Littell

-2-

15 December 2007

On the east side, Gilberts Chowder House is supported by bents 1-12. All piles under the building are acceptable and adequate for the loads imposed. Piles and pile caps under the exterior dining area require work and the exterior dining area should not be occupied until repairs are made. This area is presently not in use.

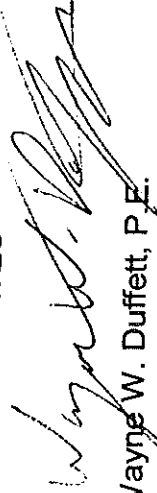
On the east side, the Porthole Restaurant is supported by bents 31-39. I observed 7 piles randomly located throughout this section that I believe should be replaced in the near future. The random placement of these piles, however, does not materially affect the capacity of the wharf and the Porthole Restaurant remains safe for occupancy.

On the east side, bents 13-39 provide exterior access to the former Boones Restaurant, the Comedy Connection, and the Porthole Restaurant. These areas will require upgrading prior to next summer but presently are adequate as a means of exit from these businesses. Mr. Macgowan will remove all snow from this area after each storm to minimize loading and maintain it as a clear path of exit. I made no further inspection on the east side.

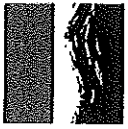
After discussing these findings with Mr. Macgowan, it is his intention to complete repairs to bents 28-30 under the Comedy Connection first, repair bents 27 and 28 under Sea Bags second, complete repairs to bents 13-25 under Boones Restaurant third, and make repairs under Harbor Fish and the balance of repairs under Sea Bags and the Porthole Restaurant last. I concur with this schedule on the condition that it is carried out as one continuous mobilization of the contractor and completed without delay. My continued involvement requires that Mr. Macgowan engage us to conduct a thorough inspection of the wharf and annual inspections thereafter, which he has agreed to do.

Please call me with any questions or concerns.

Very truly yours,  
TEC ASSOCIATES

  
Wayne W. Duffett, P.E.

cc: Kenneth Macgowan



# Appledore Marine Engineering Inc.

600 State Street, Suite E  
Portsmouth, NH 03801  
tel 603.766.1870  
fax 603.766.4599  
amei@appledoremachine.com  
www.appledoremachine.com

December 14, 2007

Atty. Penny Littell  
Corporate Counsel  
City of Portland  
389 Congress Street  
Portland, Maine 04101

Re: Custom House Wharf, Portland, Maine  
**Site Investigation and Preliminary Assessment**  
Appledore Project No. 5058

Dear Ms. Littell:

This letter summarizes the initial site investigation and preliminary assessment of the Custom House Wharf conducted by engineers from Appledore Marine Engineering, Inc (AMEI).

The Custom House Wharf is located along the northern end of Commercial Street in Portland, Maine. The facility is an approximate 625' long marginal wharf consisting of the Custom House Wharf Street and pile supported wharf structures on either side of the street (see Figure 1). The majority of the wharf structures consists of an older vintage timber construction; however, the last 125-feet of the facility is a more recent concrete and steel construction.

A letter issued by TEC Associates on December 5, 2007 indicated that the portion of the timber wharf supporting the Comedy Connection building is "...not fit for occupation by the public..." and recommended that the remainder of the wharf be examined. As a result, the City currently has an order prohibiting occupancy of the Comedy Connection building and requested that AMEI complete an initial assessment of the Custom House Wharf.

An above water assessment team from AMEI met on site with City of Portland personnel on December 12, 2007 to conduct an initial above water inspection of portions of the wharves. The inspection was conducted at low tide with dry suits in order to gain access below the wharves and was limited to observations of gross structural defects of wharf components above low water.

This inspection substantiated the findings of TEC Associates regarding the portion of the wharf supporting the Comedy Connection. The inspection also observed that significant other portions of the timber wharves may be in a similar condition with widespread structural deficiencies. The deficiencies observed include severe fungal and marine borer deterioration and overstressed (failed) structural elements (See Photos). While there is evidence of some recent repairs (additional pile caps, posting of piles), these repairs are sporadic and may not be adequate. Therefore, it is our professional opinion that significant portions of the Custom House timber wharves are in critical condition with very advanced deterioration, overstressing and failure of primary structural components.

Custom House Wharf  
Site Investigation and Preliminary Assessment  
Appledore Project No. 5058

It is our professional opinion that the timber marginal wharves along the north and south sides of Custom House Wharf Street are in an advanced state of deterioration that has significantly compromised their structural capacity and that a catastrophic collapse is possible. It is our recommendation that all loading be restricted until qualified structural engineers complete detailed above water and below water structural inspections and evaluations, and that the City should take immediate action to ensure public safety at these facilities.

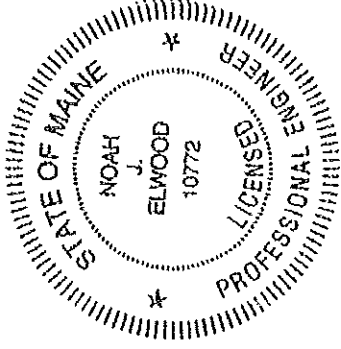
If you have any questions or require additional information, please do not hesitate to contact me.

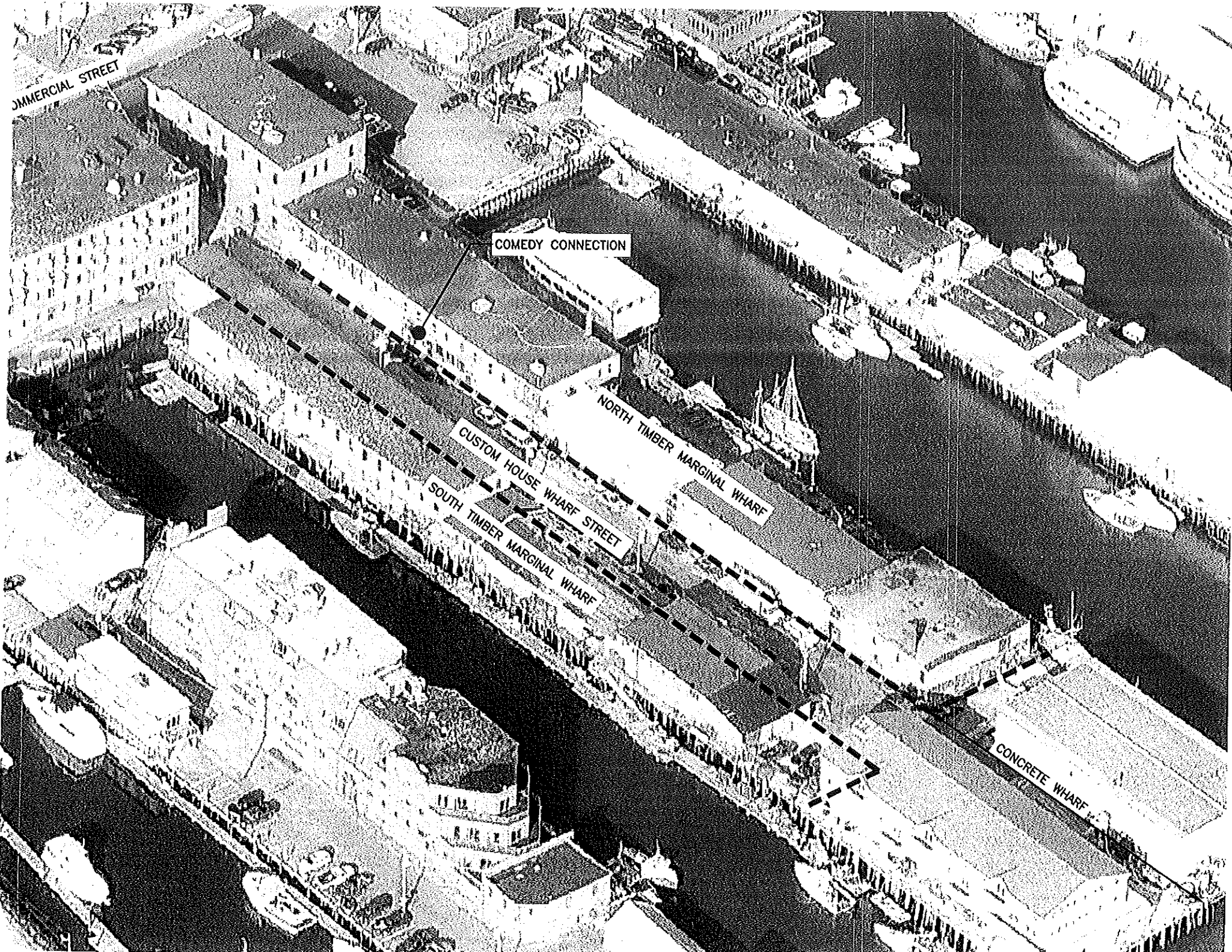
Regards,



Noah J. Elwood, P.E.  
Vice President

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COMMERCIAL STREET

COMEDY CONNECTION

CUSTOM HOUSE WHARF STREET

NORTH TIMBER MARGINAL WHARF

SOUTH TIMBER MARGINAL WHARF

CONCRETE WHARF



