

## LETTER OF OPPOSITION

City of Portland  
Zoning Administration – Room 315  
389 Congress Street  
Portland, Maine 04101

October 12, 2017

*In the Matter of **38 Portland Street** (application to legalize one existing non-conforming dwelling unit)*

To Whom It May Concern:

I own and reside at 28 Hanover Street.

Based on the available record, I am presently opposed to the legalization request for the above mentioned property.

I was unaware that the dwelling unit in question was non-conforming. It has been inhabited, perhaps since the current owner's purchase of the building in April 2012, by Edgar Gatto, who had an affiliation with the evangelical church next-door run by the applicants, Mr. and Mrs. Perkins.

Mr. Gatto permanently re-located out-of-state in late summer 2017 and the entire building was put up for sale roughly concurrently with his departure. Current real estate listings indicate a sale of the property is pending.

With the imminent sale of 38 Portland Street, it is not clear what will happen next. The “Good News Bargains” consignment shop run by Mr. Gatto out of the street level of 38 Portland Street was a very small operation that probably generated little income (its hours were usually limited to portions of weekdays only). It appeared to be an arm of the church run by the applicants for the benefit of the church although this may not be correct (whose financial responsibility it was remains unknown to me) and it is not even clear what lease arrangements for the store or the dwelling, if any, existed between Mr. Gatto and the applicants/church (some kind of barter agreement may have operated among them).

The concern is that for some time the church property (formerly the “Lost Coin Cafe”) and 38 Portland Street were effectively managed as one property. Mr. Gatto (whose precise relationship with the church was not clear – he probably was an active church member but he also served as the on-site caretaker/property manager for both buildings) was a neighborhood fixture and asset.

Mr. Gatto living above his shop and next door to the church to which he was connected seemed to work well for everyone including the neighborhood. He would often keep a close and friendly watch on the goings-on around him, report criminal activity, and he effectively coordinated with his nearby neighbors on Hanover Street to address the often disheveled exterior areas of the church property (no one else in the church community appeared to have much interest in this upkeep responsibility other than Mr. Gatto although he occasionally would enlist the help of church members for some larger tasks like putting up holiday decorations).

The possibility of a new owner makes myself and my neighbors wonder whether the present building is too small to be effectively bifurcated between a retail shop below and a dwelling unit above. In the event the occupants of each are different parties, neither side may find the arrangement at all satisfactory. The retail level is likely too small to attract a robust commercial tenant without having access to the storage and office space on the second story and/or basement. Alternatively, a good residential tenant may be put off by having a regular retail presence underneath them, without having some kind of assurances of what activities and hours such a business might have over time. In short, the neighborhood is at risk of having a substandard occupant of each level with animosity perhaps between them being generated over time to no one's benefit.

There is certainly precedent for owner-occupants of businesses in Bayside – in the 19<sup>th</sup> century, that was probably the norm around here. Even now, for example, the owner-operators of local restaurants Isa Bistro and Schulte & Herr live above their establishments. The distinguishing feature from 38 Portland Street, however, is that those two businesses have structures that can fully and robustly (and legally) accommodate both the first-floor business use and the upper-story residential occupancy. That is not so clear in the 38 Portland Street context and we have no way of knowing if the pending buyer is considering an owner-occupancy arrangement of any kind which would be ideal.

The current owners could have addressed the illegal dwelling unit when they applied for new signage permits soon after taking possession of 38 Portland Street, but for whatever reason, did not do so at that time. Now it appears likely they wish to resolve it so that the party to whom they are selling does not have to undertake this legalization petition post-closing.

West Bayside is a great neighborhood and functionally is not a stand-alone neighborhood at all, but simply a part of Portland's downtown district. The central post office building on Forest Avenue, the Public Market parking structure (and other surface parking) as well as 55 Portland Street (which serves as a City Hall annex of sorts for various municipal functions) to name a few locations, all connect the area with a constant stream of downtown users. However, due to the heavy concentration of social services like Preble Street (thrice-daily homeless food service operation/resource center/health clinic) and the Oxford Street Shelter, West Bayside residents and property-owners have to be extra vigilant about neglect and blight. Often the challenges generated by those who depend on vital social services provided in the neighborhood are used as an excuse by some owners and residents to turn a blind eye to the routine chores of responsible property maintenance and cooperation among their urban neighbors.

I am certainly willing to consider removing my opposition in the event the applicant is able, at a Zoning Board of Appeals public hearing, to provide satisfactory responses to the above-noted concerns and how a future owner may take account of them as well.

Thank you in advance for your attention to this matter.

Sincerely,

George J. Rheault

cc: Stephen E. Hirshon & Colette Y. Bouchard, 18 Hanover Street