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April 30, 2014

By Hand Delivery

Helen Brefia
Chief Executive Officer
Greater Portland YMCA
70 Forest Avenue
Portland, Maine 04101

Re: Retaining wall at rear of Sherman Street property

Dear Helen:

This letter is to follow up on our telephone conversation of a couple weeks ago regarding the status of the retaining wall at the rear of the YMCA property at 26 Sherman Street in Portland. As I believe you are aware, I represent Stephen Whittier/East End Corp. East End Corp is the owner of the property that abuts the rear of the YMCA Sherman Street parcel.

I have reviewed the documents you provided to Mr. Whittier (a 1998 Owen Haskell survey and the 1968 deed into YMCA). I also have conducted my own examination of the title to both the YMCA parcel and the East End parcel. Although the 1968 deed and the 1998 survey both indicate that the YMCA property line ends at the face of the retaining wall, my further investigation casts doubt on whether the true property line, in fact, ends at the face of the wall.

The YMCA parcel and the East End parcel both derive from the same parent property, which was subdivided in 1871 by agreement between the Deering heirs and the Preble heirs, as shown on a series of subdivision plans. The plan creating the YMCA parcel and the East End parcel is known as "Plan F" and is recorded in the Cumberland County Registry of Deeds in Plan Book 3, Page 21. This plan shows the YMCA parcel as being Lot 14 and the East End parcel as being Lots 8 and 9 on the plan.

The YMCA and East End lots, along with lots 6, 7, 10, 11, 12, and 18, were conveyed to Edward E. Preble by a deed dated August 16, 1870 and recorded in the Registry at Book 384, Page 92 as part of the subdivision agreement between Preble and Deering. This deed described the lots only by reference to Plan F. Each of the lots is shown on the plan as containing 5,000 square feet, with dimensions of 50 feet by 100 feet.

The YMCA parcel was first conveyed out from the larger collection of Preble's lots by a deed to Samuel H. Doten and Ansel R. Doten dated November 24, 1876 and recorded in the Registry in Book 433, Page 520. In that deed the lot is described as being fifty feet wide along Sherman Street, and extending 100 feet back from the street. The lot also is described by reference to Lot 14 on Plan F, which as noted above shows the dimensions as being 50 feet by 100 feet. There is no mention of a wall in this deed, nor is any wall depicted on Plan F.

The East End parcel was first conveyed out from the larger collection of Preble's lots on the same day as the YMCA parcel, by a deed to Elizabeth Doten recorded in the Registry in Book 436, Page 444. In that deed the East End parcel is described as being fifty feet wide along Cumberland Street, and extending 100 feet back from the street. As with the YMCA parcel, there is no mention of any wall in the deed description, nor is a wall depicted on Plan F.

Nowhere in the East End chain of title is there any reference to the wall as forming the boundary of the lot or as being included within the boundaries of the lot. The first reference to the wall in the deed descriptions of the YMCA parcel is in a deed from Samuel and Ansel Doten to Lizzie W. Lovejoy dated December 6, 1887 and recorded in the Registry at Book 541, Page 323. In this deed, the description of the YMCA parcel runs from Sherman Street "one hundred (100) feet more or less to the bottom of the stone wall erected by the said grantors."

It is significant that the first owners of the YMCA parcel (other than the original subdivider) were the people who constructed the wall, and that the wall was not constructed by the owners of the East End parcel. Because the wall was constructed *after* the lot was created and first conveyed, the wall does not create the boundary of the lot and instead the distance from Sherman Street controls in determining the actual original rear boundary of the lot as first conveyed. Looking at the 1998 survey shows that the front of the wall facing Sherman Street is 97 feet from Sherman Street, rather than the full 100 feet as called for in the original deed and as shown on the plan creating the lot. As such, the original rear boundary encompassed the area that now includes the wall.

The fact that the Dotens were in error as to the location of the wall does not result in the wall becoming merged with the East End parcel, because the East End parcel already had been created and conveyed out to a third party. Instead, the wall itself either was retained by the Dotens (unlikely) or the Dotens intended to convey the entire lot granted to them by Preble, in which case the wall passed with the title to the YMCA lot, despite the erroneous references to the property running only to the "face" of the wall as noted in later deeds.

Regardless of whether the full 100 feet (including the wall) passed with the title to the YMCA lot or whether the wall instead remained owned by the Dotens (and now their heirs and successors), the wall appears to have been constructed north of the East End parcel and is not now a part of the lot owned by East End.

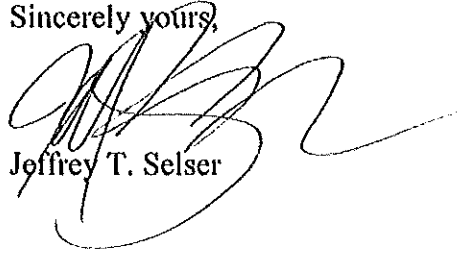
In light of the foregoing, I believe more dialogue is needed between the YMCA and East End regarding repair and maintenance of the retaining wall. After you and your advisors have

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had a chance to review this information, please give me or Steve Whittier a call to arrange a time to continue our discussions.

Thank you for your attention to this matter. We look forward to speaking again soon.

Sincerely yours,

A handwritten signature in black ink, appearing to be 'JTS', written over the typed name Jeffrey T. Selser.

Jeffrey T. Selser

JTS/ms

cc: Stephen Whittier
Hildy Ginsberg