

# PORTLAND MAINE

*Strengthening a Remarkable City, Building a Community for Life* [www.portlandmaine.gov](http://www.portlandmaine.gov)

**Corporation Counsel**  
Gary C. Wood

**Associate Counsel**  
Elizabeth L. Boynton  
Donna M. Katsiaficas  
Penny Littell  
James R. Adolf

January 3, 2006

Gordon D. Simonds  
P.O. Box 891  
Portland, ME 04101

RE: 243-245 High St.  
**By Fax** and regular mail

3665  
3665

Dear Mr. Simonds:

I am following up my earlier telephone conversation to you of this date at approximately 3:00 pm. Also on the conference call were Captain Greg Cass of the Portland Fire Department and Michael Nugent of the City's Building Inspection Department. The purpose of the call was two-fold. First, the City notified you of its rejection of your "settlement offer" contained within your FAX to my office of January 3, 2006. In your FAX you offered to complete all the improvements noted by the Inspections and Fire Departments in their respective "Notice of Violations" to you dated December 23, 2005. In exchange you required the issuance of a Change of Use and a Certificate of Occupancy for a 16 Room Rooming House at 243-245 High Street. Your "offer" was rejected for several reasons some of which include:

- In your application for a Change of Use you failed to provide any information on the location of the legal units within the building at 243-245 High Street at the time Lt. Garroway of the Fire Department wrote to your predecessor in October 1990 and Lt. MgDougal's letter to you of March 2002. Without having sufficient information as to where the 6 legal units (and the additional 3 illegal units) were located within the 1<sup>st</sup> and 2<sup>nd</sup> floor, the City is unable to clearly identify what areas within the building are intended to be covered under the "change of use."<sup>1</sup>
- Your Change of Use application did not identify an additional dwelling unit found within the basement at the building upon the City's inspection.
- The "offer" did not include an agreement to install the necessary sprinkler system required for a rooming house of 16 units. This requirement is one of state and

<sup>1</sup> From our research it is clear that no rooming units were ever permitted on the third floor of the structure (where you are now renting out four rooms) and that at most, nine units were allowed on the 1<sup>st</sup> and 2<sup>nd</sup> floors combined. We know that there is a total of 12 units currently existing there.

municipal regulation. You have consistently refused to install this system citing that it is unnecessary and cost prohibitive.

- In order to obtain a Change of Use you must demonstrate the building's compliance with the NFPA. Since August the City has been working with you to achieve such compliance. Even of this date you have stated that you do not want to install a sprinkler system and that you need to obtain a quote from High-Tech Company for such an installation - this despite the fact that since the fall you have been complaining to the City that the cost of installing such a system is too high.

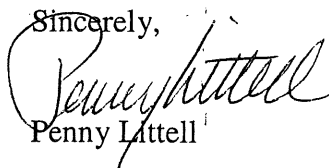
You have asked what needs to be done in order for you to obtain a Change of Use and Certificate of Occupancy for the High Street building. Here, in writing, is the list of items the City has been discussing with you over the course of the fall and early winter (and as late as December 19 when we met on site with you at the building):

1. A certified fire sprinkler system must be installed according to the requirements of the NFPA. This system must be submitted to the State fire Marshall's office as well, given the use of the building as a rooming house.
2. All of the other fire related items identified in Captain Cass's Notice of Violations to you dated December 23, 2005 must be completed no later than January 24, 2006.
3. The plumbing for the kitchen sink in the basement must be removed by January 24 and not reinstalled without the prior consent of the City.
4. The housing violations contained within Arthur Rowe's December 23, 2005 Notice of Violations must be corrected no later than January 24, 2006 and the building must be brought into compliance with the NFPA in order for the Building Inspections Department to sign off.
5. Finally, access to the building will need to be provided on January 24, 2006 in order to ensure that all these requirements have been met. As you know the Building must not have any additional housing, building or fire code violations at the time of inspection.

The City has been patient and has attempted to work with you since August to address the building and fire issues at the High Street property. You have failed to recognize the need and to act to install a sprinkler system. The City will deny your Change of Use application, require you to vacate the building on **January 24, 2006**, and will fire a lawsuit to force compliance if the above items have not been completed.

I understand that you will contact your sprinkler system installation service post haste in order to comply with the requested 21-day deadline contained herein. I look forward to hearing from you.

Sincerely,

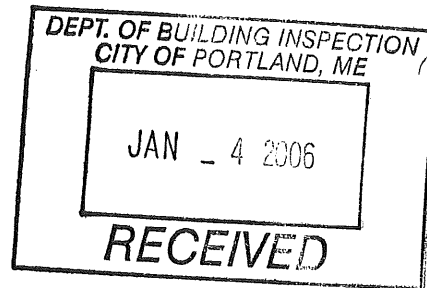


Penny Littell

Cc: Greg Cass, Captain, Fire Department

Michael Nugent, Div Dir Building Inspections  
Marge Schmuckal, Zoning Administrator

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Gordon Simonds  
P.O. Box 891  
Portland, Maine 04104  
(207)450-0660  
fax - (941)-351-9333

January 5, 2006

Penny Littel, Esq.  
Associate Counsel  
City of Portland  
389 Congress Street  
Portland, Maine 04101

Re: 243-245 High Street

Dear Penny:

I have had an opportunity to review your letter of January 3, 2006. It is my understanding that you have specifically outlined in paragraphs 1 through 5 on page 2, the items which I must accomplish in order to receive a Certificate of Occupancy in accordance with the Change of Use Application I have filed for this building. Permit me a few comments.

1. I do not believe there is a process for certifying a fire sprinkler system. I will have a sprinkler system installed that meets the requirements of NFPA. Captain Cass has specified to me a 13-R system. I will engage a licensed sprinkler contractor immediately and will have him proceed with all due haste. I am concerned that the process of obtaining state and municipal approval of his design and permission to connect to the municipal water main will require more time than is allowed. However, any delay will not be occasioned by my actions. If this process meets with delays beyond my control, the City will grant reasonable extensions and not deny the Application.

2. We are in accord and I believe items 1 through 4 of Captain Cass's December 23, 2005 Notice have been satisfied. Please let me know if I am in error.

3. This will be accomplished.

4. I have no problem correcting the deficiencies found in Mr. Rowe's December 23, 2005 Notice and that will be accomplished by January 24, 2006. I assume and would ask you to confirm that once I have accomplished this, the building will be in compliance with NFPA and

*Helon  
Criterion  
money  
fire escape*

*Cass*

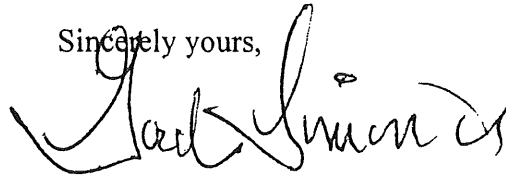
the Building Inspections Department will sign off, provided I have not created any new violations subsequent to the December 23, 2005 inspection report.

5. I agree.

I hope this letter succinctly sets forth terms that are acceptable to you and the municipal departments you represent. I need to be assured that if I accomplish the above defined tasks, this building will be granted a Certificate of Occupancy as a 16 room lodging house. Please acknowledge the City's agreement by signing a copy of this letter.

I appreciate your assistance and consideration.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Gordon Simonds". The signature is fluid and cursive, with a large initial "G".

Gordon Simonds

Seen and Agreed to:

---

Penny Littel, Esq.  
Associate Council  
City of Portland

Gordon D. Simonds  
P. O. Box 891  
Portland, Maine 04104

Telephone (207) 450-0660

Fax: 941-351-9333

VIA FAX (207)874-8497

January 2, 2006

Ms. Penny Littel, Esq.  
Associate Corporation Counsel  
City of Portland  
389 Congress Street – Room 211  
Portland, Maine 04101

Re: 243-245 High Street (the "Property")

Dear Penny:

This letter contains my proposed resolution of all items relating to the property.

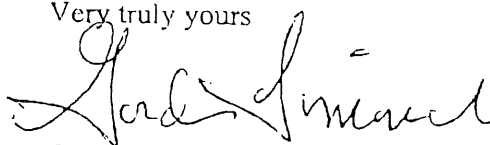
Since I am **agreeing to do all items** requested by both the Building Inspection Department and the Fire Inspection Department, it would seem to me that there should be nothing to prevent the resolution this matter without a hearing followed by the issuance of a C of O for the Property as a 16 Room Rooming House.

The Items I am agreeing to which have been specified by the Building Inspection Department are set forth in their most recent and only inspection report dated December 23, 2005 faxed herewith (along with my response of December 28, 2005. It would seem logical that there are no other outstanding items needed for resolution with the Building Inspection Department.

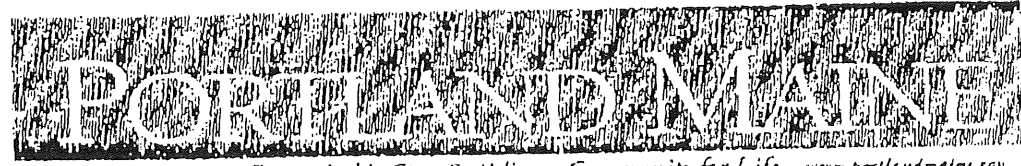
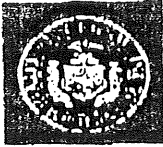
The Items I am agreeing to which have been specified by the Fire Inspection Department are set forth in their most recent and only inspection report dated December 23, 2005 faxed herewith (along with my response of December 28, 2005. It would seem logical that there are no other outstanding items needed for resolution with the Building Inspection Department.

Please telephone me on Tuesday, January 3, 2006 and let me know if this is acceptable. I will be in transit to Maine on Wednesday, January 4, 2006 and would like to avoid the trip if we have reached an agreement. I will submit for your review a letter of agreement stating exactly what this letter states if this agreeable.

Very truly yours



Gordon D. Simonds



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*City Urban Director of Planning and Development  
Michael J. Nugent- Inspections Division Director*

December 23, 2005

SIMONDS GORDON D TRUSTEE  
PO BOX 891  
PORTLAND , ME 04104

CBL: 036 G006001  
Located at 243 HIGH ST

Certified Mail 70033110000260621109

Dear SIMONDS GORDON D TRUSTEE ,

An evaluation of the above-referenced property on 12/19/2005 shows that the structure fails to comply with Chapter 6, Article V. of the Code of Ordinances of the City of Portland, The Housing Code. Attached is a list of the violations.

This is a notice of violation pursuant to Section 6-118 of the Code. All referenced violations shall be corrected within 30 days of the date of this notice. A re-inspection of the premises will occur on 01/18/2006 at which time compliance will be required. Failure to comply will result in this office referring the matter to the City of Portland Corporation Counsel for legal action and possible civil penalties, as provided for in Section 1-15 of the Code.

This constitutes an appealable decision pursuant to Section 6-127 of the Code.

Please feel free to contact me if you wish to discuss the matter or have any questions.

Please be advised that the Portland City Council has amended the Building regulations to include a \$75.00 re-inspection fee. This violation will automatically cause a re-inspection at no charge. If there are any subsequent inspections, however, the \$75.00 fee will be assessed for each inspection.

Sincerely,

Arthur Rowe @ (207) 874-8697  
Building Inspector

**CITY OF PORTLAND  
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT**

389 Congress Street  
Portland, Maine 04101

**Inspection Violations**

<b>Owner/Manager</b> SIMONDS GORDON D TRUSTEE		<b>Inspector</b> Arthur Rowe	<b>Inspection Date</b> 12/19/2005
<b>Location</b> 243 HIGH ST	<b>CBL</b> 036 G005001	<b>Status</b> Ro-Inspect 30 Days	<b>Inspection Type</b> Housing-Housing Inspection

Code	In/Ext	Floor	Unit No.	Area	Compliance Date
1) 6-108.3	Exterior	2		Kitchen	
<b>Violation:</b> Exterior windows, doors and skylights					
<b>Notes:</b> Missing window sash in common Kitchen					
2) 6-108.4	Interior	All		Various locations	
<b>Violation:</b> Stairways, stairwells, stairs, porches.					
<b>Notes:</b> Missing ballisters in stairways					
3) 6-116.2	Exterior		3-R	Living Room	
<b>Violation:</b> Egress					
<b>Notes:</b> Inoperative window, only window in unit. Means of Egress					
4) 6-113.5	Interior		3-R	Living Room	
<b>Violation:</b> Maintenance of lighting fixtures					
<b>Notes:</b> Use of "Zip Cords" for wall light not permitted					
5) 6-116.2	Exterior		3-LR	Living Room	
<b>Violation:</b> Egress					
<b>Notes:</b> Inoperative window, only window in unit. Means of Egress					
6) 6-116.2	Interior		3-LR	Living Room	
<b>Violation:</b> Egress					
<b>Notes:</b> Egress window blocked by TV					
7) 6-108.3	Exterior		3-LF	Living Room	
<b>Violation:</b> Exterior windows, doors and skylights					
<b>Notes:</b> Broken window glass, in operative window. Means of Egress					
8) 6-108.2	Interior	3		Bathroom	
<b>Violation:</b> Interior floors, walls, ceilings and doors					
<b>Notes:</b> Damaged walls					
9) 6-116.3	Exterior			Various locations	
<b>Violation:</b> Egress Obstructions					
<b>Notes:</b> Right hand fire escape appears to be structurally unsound					
10) 6-116.3	Exterior			Various locations	
<b>Violation:</b> Egress Obstructions					
<b>Notes:</b> Left hand fire escape does not continue to ground level					



**CITY OF PORTLAND**  
**DEPARTMENT OF PLANNING & URBAN DEVELOPMENT**  
 389 Congress Street  
 Portland, Maine 04101

**Inspection Violations**

<b>Owner/Manager</b> SIMONDS GORDON D TRUSTEE		<b>Inspector</b> Arthur Rowe	<b>Inspection Date</b> 12/19/2005
<b>Location</b> 243 HIGH ST	<b>CBL</b> 038 G006001	<b>Status</b> Re-inspect 30 Days	<b>Inspection Type</b> Housing-Housing Inspection

11) 6-116.3 Exterior Various locations  
**Violation:** Egress Obstructions  
**Notes:** Loose treads and handrails

12) 8-116.5 Interior Various locations  
**Violation:** Fire Protection  
**Notes:** Fire Alarm System is not functional, needs to be repaired in 5 days

13) 6-116.2 Exterior 3-RF Living Room  
**Violation:** Egress  
**Notes:** Inoperative window, Means of Egress.

**Comments:** Fire Alarm System must be FUNCTIONAL with-in 5 days

CITY OF PORTLAND

Fire Department

380 Congress Street  
Portland, Maine 04101

Fire Inspection Violations

Business	Location 243 HIGH ST	Number 67220-0-0	Inspection Type FP Routine Inspection
Owner/Manager SIMONDS GORDON D TRUSTEE	CBL 036 G006001	Inspector GREGORY E CASS Shift: 999 Unit: C4	

Code	Type	Location	Inspection Date	Target Compliance	Actual Compliance
1	10-1-5-21	GENERAL REQUIREMENTS	FIRE DOOR TO BASEMENT	8/18/05	9/19/05
2	26.2.2	1/2 hour fire rated stairwells; Com	INCLUDE DOORS WITH SELF CLOSURES	8/18/05	9/19/05
3	NFPA 101	MEANS OF ESCAPE REQUIREMENTS	ALL FLOORS	8/18/05	9/19/05
4	NFPA 101	System design/installation to meet	FIRE ALARM SYSTEM TO MEET CODE	8/18/05	9/19/05
5	NFPA101	boiler protection required	BASEMENT	8/18/05	9/19/05
6		Improper wiring, not code	ALL WIREING TO COMPLY WITH NFAP 70. NUMEROUS VIOLATIONS	8/18/05	9/19/05
7	NFPA 101	No exit shall pass through a nonres	ALL VERTICAL OPENINGS TO BE PROTECTED	8/18/05	9/19/05

met w/ legal & Mike Nugent 10-20-05  
 vac. class, & a busy work sched. kept me from  
 returning on the 19<sup>th</sup>. No plan of correction  
 on file. Legal says try to reinspect & send  
 to her. GC.

Nov 11 05 05:

Gordon Simonds

9413879999

9413879999

Gordon D. Simonds  
P. O. Box 891  
Portland, Maine 04104

Telephone (207) 450-0660

VIA FAX (207) 74-8497

Fax: 941-351-9333

November 11, 2005

Ms. Penny Little, Esq.  
Associate Corporation Counsel  
City of Portland  
389 Congress Street - Room 211  
Portland, Maine 04101

Dear Penny:

Re: 243-245 High Street (the "Property")

In accordance with our telephone conversation on Thursday, November 10, 2005, this letter will set forth the changes which have been made to the Property, and those which will be made as well as those items which I believe have been incorrectly requested. After you have had the opportunity to review this material, I would like a meeting to be set up to be attended by you and me, and representatives of the Building Inspection and Fire Inspection Departments.

I would appreciate fifteen days notice from you by telephone of this meeting so that I may obtain a reasonable air fare from Florida to Portland, and I would also appreciate the scheduling of this meeting at a time not during a "Holiday Period" - again for the same reason.

WHAT HAS BEEN DONE IN THE PROPERTY

1. Sixteen 1 and 1/2 Hour Fire rated doors have been installed in each room exiting into the hallways in the Property;
2. Two 1 and 1/2 hour fire rated doors have been installed on the first floor of the Property at the top of the stairways from the left side of the Property;
3. One 1 and 1/2 hour fire rated door has been installed on the first floor so as to separate the right side of the Property from the left side of the Property;
4. On the second floor a wall has been built between the left side of the Property and the right side of the Property in the stairwell. This wall has 5/8 inch drywall on each side of the studs; and
5. On the third floor of the Property a 1 and 1/2 hour fire rated door has been installed so as to separate the right side of the Property from the left side of the Property on that floor.

## EXHIBIT A – MEANS OF EGRESS

**1. Six Rooms on the first floor** – The first floor is less than 1,800 square feet. There are six dwelling rooms on the first floor. There are **four exterior doors on the first floor** which are accessible from common areas (halls) to each room on the first floor. These doors are the two front doors, facing High Street (West side of Property); the rear sliding glass door facing the east side of the Property; and the side door on the north side of the kitchen. Of course these doors are accessible to all occupants of the second and third floors once they reach the first floor.

**Thus each first floor occupant has four ways out of the Property!**

**2. Six Rooms on the second floor** – The second floor is less than 1,700 square feet. There are six dwelling rooms on the second floor. There are **four interior stairways from the second floor to the first floor**. Each second floor room has access to each of these stairways. Two of these stairways are on the north side of the Property. The bottom of the front north stairway is at the High Street side of the Property. The bottom of the rear north stairway is toward the rear of the Property in the kitchen. The other two stairways are on the south side of the Property. The bottom of the front south stairway is at the High Street side of the Property. The bottom of the rear south stairway is toward the rear of the building in common hall adjacent to the kitchen.

**Thus each second floor occupant has sixteen ways out of the Property!**

**3. Four rooms on the third floor** – The third floor is less than 1,000 square feet. There are four dwelling rooms on the third floor. There are **two interior stairways from the third floor to the second floor**. Each third floor occupant has access to each of these interior stairways. There are also **two exterior fire escapes from the third floor to the ground**. Each third floor room has direct access to one fire escape

**Thus each third floor occupant has thirty three ways out of the Property!**

**Gordon D. Simonds**  
**P. O. Box 891**  
**Portland, Maine 04104**

Telephone (207) 450-0660

Fax: 941-351-9333

December 5, 2005

VIA FAX (207)874-8497

Ms. Penny Littel, Esq.  
Associate Corporation Counsel  
City of Portland  
389 Congress Street – Room 211  
Portland, Maine 04101

Re: 243-245 High Street (the "Property")

Dear Penny:

As you will remember, I originally faxed you on November 11, 2005. Thereafter, I telephoned your office at least five separate times over the ensuing several days to confirm your receipt of the fax and to try to set a date for the requested meeting.

My calls were not taken. After about ten days, your secretary called to tell me that you would be out for the rest of that week and that you had been unable to reach the Fire Inspectors.

Then on December 1, at 4:10 PM, last Friday, you telephoned and left a message which stated that there could be a meeting after yet another inspection by the Building Inspection Department (their third in the last three months) and the Fire Inspection Department to determine if the items which I stated had been done were actually done.

Perhaps you have forgotten that I have previously asked the Building Inspection Department to tell me why it denied my application for the Property to be approved as a 16 room lodging house. . . with no answer. That is one of the reasons that I have requested this meeting. It certainly is not an unreasonable request that I NOW be told what their two previous inspections showed which justified why this denial was made. I also asked what I could do to satisfy the Building Inspection Department to get its approval of my application and I expect that this would be detailed at this meeting.

So, my position is as follows:

1. Meeting on Wednesday, December 21, 2005 at 10:00M AM
2. Agenda for meeting:
  - A. Detailed written explanation by Building Inspection Department stating reasons why Application for Change of Use of Property denied with substantiating statutory authority for each reason;

- B. Detailed written explanation by Fire Inspection Department stating reasons that sprinkler systems required;
- C. Detailed written explanation by Fire Inspection Department stating other items that it will require and reasons substantiating requirements.
- D. I will of course respond to each reason submitted with appropriate rationale and law.

3. It would really be very helpful and time saving if the items specified in A-C above could be supplied in advance so that my responses could be organized, clear, and received by you prior to the meeting.

4. After various departments have specified what they want, and I have responded, I suggest that you, and I and one Representative of each Department go to the Property so that you can see that I have done what I said has been done.

I hope that you understand that I really want to reach agreement with both Departments as to what will be required under the law. I believe that I have gone a long way in complying with various requests which have already been made. But, given the prior bad results, I hope that you can understand my reluctance to give the Building Inspection Department yet another chance to do what they should have done on their prior two inspections.

So, let me hear from you as soon as possible . . . on the cell phone. I will be in NYC for funeral of old friend tomorrow ad Wednesday, but please call me.

Very truly yours

A handwritten signature in black ink that reads "Gordon D. Simonds". The signature is written in a cursive, flowing style with a large initial "G".

Gordon D. Simonds

Gordon D. Simonds  
P. O. Box 891  
Portland, Maine 04104

Telephone (207) 450-0660

Fax: 941-351-9333

VIA FAX (207)874-8497

November 11, 2005

Ms. Penny Littel, Esq.  
Associate Corporation Counsel  
City of Portland  
389 Congress Street – Room 211  
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#### WHAT HAS BEEN DONE IN THE PROPERTY

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2. Two 1 and ½ hour fire rated doors have been installed on the first floor of the Property at the top of the stairways from the first floor to the basement;
3. One 1 and ½ hour fire rated door has been installed on the first floor so as to separate the right side of the Property from the left side of the Property;
4. On the second floor a wall has been built between the left side of the Property and the right side of the Property in the stairwell. This wall has 5/8 inch drywall on each side of the studs; and
5. On the third floor of the Property a 1 and ½ hour fire rated door has been installed so as to separate the right side of the Property from the left side of the Property on that floor.

WHAT WILL BE DONE IN THE PROPERTY

1. A central station fire alarm system will be installed by Coastal Security Company. Fire Captain Gregg Cass has reviewed and approved the specifications for this system. It will be installed in early December;
2. A sprinkler will be installed over the oil burner;
3. The kitchen in the basement will be removed and or disabled and all of the space in the basement will be utilized only for storage;
4. The stairways in the front of the property between the first and second floor will be enclosed with ½ hour fire protection on the first floor; and
5. A licensed electrician will fix whatever wiring violations exist in the basement

WHAT HAS BEEN REQUESTED WHICH I DO NOT BELIEVE IS REQUIRED

1. A sprinkler system of any kind;
2. Remote stairways;
3. Complete enclosure of all stairways

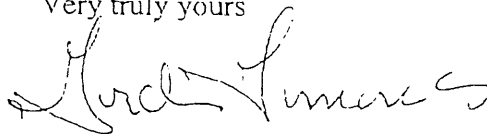
Please find out from the appropriate parties what materials qualify as a ½ hour fire rated barrier, ie., what door material will do as well as the requisite drywall thicknesses. I cannot find this explanation or else I would not ask.

I welcome the opportunity for a fair discussion and hope that we can arrive at a fair interpretation of the law.

I believe that the issue of "egress" should be completely satisfied and have attached as EXHIBIT A an explanation of the egress available to the occupants of each floor.

Thanking you in advance for your cooperation in this matter, I am

Very truly yours



Gordon D. Simonds



## EXHIBIT A – MEANS OF EGRESS

1. Six Rooms on the first floor – The first floor is less than 1,800 square feet. There are six dwelling rooms on the first floor. There are **four exterior doors on the first floor** which are accessible from common areas (halls) to each room on the first floor. These doors are the two front doors, facing High Street (West side of Property); the rear sliding glass door facing the east side of the Property; and the side door on the north side of the kitchen. Of course these doors are accessible to all occupants of the second and third floors once they reach the first floor.

*Thus each first floor occupant has four ways out of the Property !*

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*Thus each second floor occupant has sixteen ways out of the Property !*

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*Thus each third floor occupant has thirty three ways out of the Property!*