

Strengthening a Remarkable City, Building a Community for Life

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Office of the City Clerk

Linda C. Cohen, MMC, City Clerk

May 2, 2008

Mr. Robert Larkin
C/O James T. Nicholas
2 Cottage Road
South Portland, ME 04106

36-I-001

RE: Robert Larkin d/b/a Bubba's Sulky Lounge, 92 Portland Street

Dear Mr. Larkin:

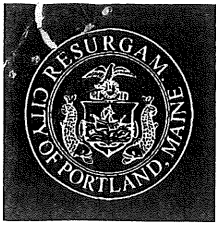
I have enclosed the City's administrative renewal for the Class XI Restaurant/Lounge With Liquor License for Robert Larkin d/b/a Bubba's Sulky Lounge at 92 Portland Street in Portland.

Please note that this administrative renewal does not include the space in addition to this structure that was built and was being used without an occupancy permit from the City or site plan approval. Use of that space for service or consumption of alcohol without site plan approval or an occupancy permit is a violation of State Liquor Laws and City Ordinances. I understand you are well aware of these violations and what you have to do to comply with City laws.

Sincerely,

Alexandra J. P. Murphy
Business License Administrator

Cc: Jeff Austin
Joe Gray
Linda Cohen
Fred Lamontagne
Tim Burton
Gary Wood
Penny Littell
Alex Jaegerman
✓ Jeannie Bourke
Andrews Campbell, Esq.



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Corporation Counsel
Gary C. Wood

Associate Counsel
Elizabeth L. Boynton
Penny Littell
James R. Adolf
Mary E. Costigan

May 6, 2008

Andrews Campbell, Esq.
45 Kalers Corner Road
Waldoboro, ME 04572-6000

Re: Bubba's Sulky Lounge/ 92 Portland Street

Dear Mr. Campbell:

Please know that over the last two weeks I have attempted to contact you by telephone, only to receive an answering machine message. I did not leave a message. To follow up on the status of Bubba's Sulky Lounge, the following outlines the progress (or lack thereof) that has been made at the 92 Portland Street property.

Progress

a. Fire Inspection

As you know from being present, the fire inspector visited this property on no less than **six** occasions to conduct a routine inspection of the property. There was much difficulty in your client's ability to demonstrate the emergency lighting was functional. When the system was capable of being tested, it needed repair. That repair was undertaken and the fire department has signed off on the structure not including the back "addition" which continues to be posted against use or occupancy of any kind.

b. Food Service Inspection

Likewise of food inspection was undertaken. This, too, proved anything but routine. Bubba admitted on the initial inspection that he did not serve food. The kitchen located within the building was dusty and not code compliant. It obviously had not been used in quite some time. After the inspections department repeatedly explained the need for some level of food service, your client produced a hot dog machine and represented that he would be selling hot dogs to patrons. Based on these representations and an observation of the hot dog service, the food license was signed off on. There is an

explicit condition of the food service license that the kitchen portion of the establishment is not to be used unless it passes further inspection.

c. Site Plan Inspection

This property received conditional site plan approval for a storage addition on the rear of the existing establishment from the City in February 2005. Several conditions of approval have not yet been completed. The following is the present status of each condition:

- done*
1. the installation of a stormwater treatment facility to handle the stormwater from the parking lot and the site. **Not yet done. The City has approved the installation of a downstream defender as opposed the to original treatment unit. The downstream defender has not been installed.**
 2. clarification of the existing condition of the parking lot and the proposed parking scheme which was required to meet City standards for parking lot layout. **A meeting was held on the stripping of the parking lot. At that meeting Mr. Leasure represented that a large number of the parking spaces were being rented out to adjacent property owners. This is not allowed as those spaces are required for parking for the patrons of Bubba's Sulky Lounge. The stripping of the lot is purported to occur after the downstream defender is installed. We do not have a date as to when this will take place.**
 3. a lighting plan, with photometrics, which met the City's lighting standards. **No lighting plan has been submitted. Mr. Leasure has represented that bubba's intends on using existing lights mounted on CMP poles. No photometric plan has been submitted so staff has not been able to determine compliance with the City's lighting standards.**
 4. a sewer capacity letter from the City's Public Works Department. **This has been received and is complete.**
- done*

In 2007 the City discovered that the addition on the rear of the building was not only being occupied without having received a Certificate of Occupancy (which would not have been issued in light of the fact that essential site plan issues had not been addressed), but it was being used as an extension of the restaurant/bar establishment known as Bubba's. This area was supposed to be used as storage. Even as storage the use was not given a certificate of occupancy because the site plan standards had not been completed. The City posted the space against occupancy of any kind until a Certificate of Occupancy is issued. **This posting is still in effect and the space cannot be occupied.**

In addition to observing the addition being used in violation of City Code, it was also observed that a "bottle storage room" was added to the front of the building without having received necessary permits. **A revised site plan must be submitted showing this addition and a building permit must be submitted for this addition.**

d. Change of Use Application

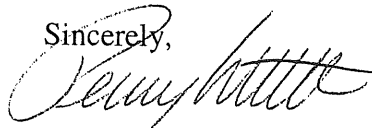
At the present time, Bubba's has requested approval to change the use of the rear addition from storage to "function room." The City will take no action on your change of use application until you have complied with the approved site plan.

e. Liquor License

In my letter to you of February 1, 2008 I indicated that bringing the site into compliance by May 1 was a necessary precursor to obtaining the liquor and special entertainment license for Bubba's. The City has determined to issue the liquor license for the previously approved portion of the building. However, no use of the rear addition or the bottle room may occur until the site plan issues noted above are addressed. Any unauthorized use of those two areas for the service of alcohol will be considered a violation of your state liquor license, as well as a violation of City Code.

If the site plan requirements are not addressed in the near term, you will be subject to an 80K Land Sue action. As a result, let me know when the site plan issues will be professionally addressed and rectified.

Sincerely,



Penny Littell
Associate Corporation Counsel

Cc: Alexandra Murphy, License Administrator
Barbara Barhydt, Planner ✓
Jon Rioux, Inspections
Captain Greg Cass, Fire Dept.