

181 HIGH STREET LLC
6 West 20th Street, 5th Floor
New York, NY 10011

January 18, 2011

Gary Wood, Esq.
Corporation Counsel
City of Portland
389 Congress Street
Portland, Maine 04101

Re: Condition of The Gateway Garage

Dear Attorney Wood,

I am the Managing Member and Sole Principal of 181 High Street, LLC, the owner of The Gateway Garage. I realize that you have been communicating with our attorney, Dennis Keeler of Pierce Atwood and have requested certain information with respect to the condition of the Garage. As I have been working closely with Becker Engineers, I wanted to respond to you personally on this matter.

As you know, there was an incident at the Garage last summer where a brick fell of the façade. As a result of that incident, the City's building department did an inspection of the Garage and raised a number of questions. We hired Becker Engineers to work with us. By letter dated June 4, 2010, Todd Neal, Vice President of Becker Engineers, responded to each of the points raised by the City. While he disagreed with some of the conclusions raised by the City, (see June 4, 2010 letter attached) he and we agreed that something needed to be done to address the issues pertaining to the facade. Promptly after the June 4 letter, Becker Engineers designed a netting for the façade to prevent any further risk of falling bricks. We also engaged CCI Building and Waterproofing Contractors, under the direction of Becker Engineering to install the netting. That work has been completed. In the June 4 Becker Engineering letter, they also referenced a couple of areas where they noted that the welds had failed where the steel beam met the horizontal plates and suggested temporary shoring be installed. After completing their review, Becker Engineers noted upwards of 21 welds that they thought needed to be addressed.

While Becker Engineers were recommending temporary shoring, we engaged the contractors, under Becker Engineer's guidance, to re-weld each of the welds noted by Becker Engineering as needing work. That issue has now been addressed on a permanent basis.

In response to your most recent request, we engaged Becker Engineering to re-visit the site and update their review and conclusions. Attached is a letter from Todd Neal of Becker Engineering dated January 11, 2011 indicating that the netting is working as designed and that no new issues were identified in connection with the façade. He did, however, raise the following additional issues unrelated to the façade:

1. Corrosion and loose stairs in Stairway #1
2. Loose handrail in Stairway #2 *Still outstanding*
3. Prestressing strands in several overhead spalls - *Still outstanding*
4. A hole in an existing column; and *being fixed*
5. Exposed and deteriorating wiring feeding the roof lights.

While these items are unrelated to the original façade issues, we are taking immediate steps to address them. We have retained a contractor to address each of the 5 items listed above. We anticipate the work will be completed no later than the end of February

With respect to the façade, as noted in the January 11 letter from Becker Engineers, the netting is performing satisfactorily, such that no safety issue is presented. We will have Becker review the façade periodically, as suggested, to ensure that the netting continues to function as designed. While a permanent fix is optimal, the current situation is addressing public safety concerns. Having said that, we intend to meet with Becker Engineers in the next 75 days to analyze the façade and determine what must be done to stabilize the façade on a more permanent basis. Within the next 100 days, we will come up with a plan and timeline for addressing a more permanent solution. The timing for that longer term solution will be dependent upon the estimated cost of the work and the revenue stream from the Garage, but we anticipate that it will be in the 18-24 month range. Unfortunately, the previous Owners were not subjected to the current level of scrutiny and thereby allowed the Gateway Garage to fall into a dismal state of disrepair by the time I purchased the Garage in April 2008. I have spent close to SEVEN FIGURES renovating this asset even in the teeth of America's worst real estate recession since the Great Depression. Furthermore, I have not pocketed one dime of net revenue since whatever profit existed has been plowed back into the asset.

I have attached the January 11, 2011 letter from Todd Neal of Becker Engineers along with the June 4, 2010 letter. As evidenced by our enormous capital outlay to date, we take safety issues at the Garage very seriously. We are a very small company and we moved quickly to address the issues giving rise to the incident last summer spending countless hours telephonically with Todd Neal and our repair crew even though I was escorting my 82 year old mother to see her family overseas for the final time. Therefore, we intend to move quickly to address these new issues raised by Becker Engineers. In addition, we will work expeditiously toward preparing a schedule for a longer term solution, while insuring that the temporary measures continue to

address the current public safety issues.

I would be happy to discuss this further with you, either by phone or meeting, if you would find that helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "C.J. Follini". The signature is fluid and cursive, with the first name "C.J." and last name "Follini" clearly distinguishable.

C.J. Follini, Managing Member of
181 High Street, LLC

Dennis Keeler

From: Dennis Keeler
Sent: Monday, May 02, 2011 10:10 AM
To: 'Gary Wood'
Cc: 'CJ Follini'
Subject: Gateway Garage

Gary, please see attached letter from Todd Neal of Becker Engineering with respect to the Gateway Garage. As you can see, Becker believes that the Garage has the structural integrity to support the parking spaces for which it has been designed. Not surprisingly there continue to be some areas that need to be addressed. We are continuing to work with Becker to develop a program to address those areas. This is an on-going process, which has already begun and will be continuing. Please feel free to contact me if you have any questions.

Dennis



BEcker Gateway
Report.4_27_11 ...

Dennis C. Keeler
Pierce Atwood LLP
One Monument Square
Portland, Maine 04101
(207) 791-1331 direct
DKeeler@pierceatwood.com

Admitted in Maine and New Hampshire

Confidentiality Notice: This email was sent from the law firm Pierce Atwood LLP. It may contain information that is privileged and confidential. If you suspect that you were not intended to receive it, please delete it and notify us as soon as possible. Thank you.

*Copies to
Randy +
Timmy :
Let's Talk*

RECEIVED

MAY - 3 2011

Dept. of Building Inspections
City of Portland Maine



BECKER
STRUCTURAL ENGINEERS

April 27, 2011

Mr. CJ Follini
Managing Principal
Noyack Medical Partners
6 West 20th Street
New York, NY 10011

RE: Gateway Garage, Portland, Maine

Dear Mr. Follini,

At your request we are providing this letter with our opinion as to the capacity of the existing structure to support the design load of 650 vehicles. It is our understanding that this is the original vehicle capacity. It should be noted that our opinion is based solely on our limited visual observations, our understanding of the design loads, and our experience with similar structures. We have not completed any structural analysis on this existing structure.

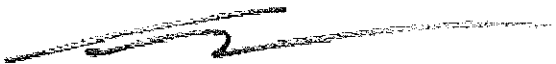
This structure was designed and constructed in the early 1980's most likely under the requirements of the 1977 BOCA Basic Building Code. The design live load for this structure was 50 pounds per square foot (psf). This load could be reduced for the design of the columns and beams however the slabs would have been designed for the full live load. The current 2009 International Building Code indicates the design load for this type of structure is 40 psf and similar to BOCA this load can be reduced for the design of the columns. The load for the beams and slabs can not be reduced. The use of live load reduction in parking garages is typically justified because actual automobile weight in a fully loaded parking garage will seldom exceed 25 to 30 psf.

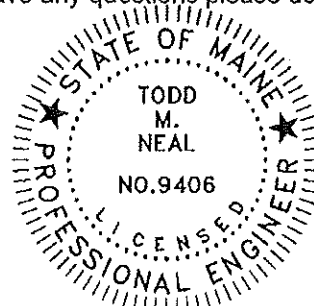
Based on these values it would appear that the existing garage was designed for approximately 20% more live load than the current code recommendation and significantly more than the actual live loads applied. If the building was designed per the code it is our opinion that the overall structure has reserve capacity under a fully loaded condition and can currently support the load of the original design capacity of 650 vehicles.

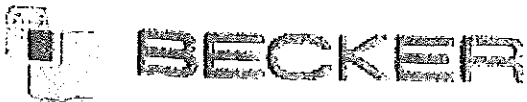
As we have noted in our previous letters and as you are aware this garage is not without structural concerns. We have noted isolated areas with exposed and damaged prestressing strands in the concrete slabs, holes in the webs of columns, and severely damaged non-gravity load bearing beams during our limited reviews. Based on our experience in garages with similar structural systems it is our opinion that this system has the limited ability to redistribute loads around isolated failures. However, this is not a sustainable long term strategy. If unresolved this corrosion will likely migrate to adjacent strands and may reduce the load carrying capacity of the deck over wider areas. With the improving weather we will continue to work with you and your contractor to develop repairs for the items referenced above.

I trust this letter addressed your concerns at this time. If you have any questions please do not hesitate to contact us.

Sincerely,
BECKER STRUCTURAL ENGINEERS, Inc.


Todd M. Neal, P.E.
Vice President





January 10, 2011:

Mr. CJ Follini
Managing Principal
Noyack Medical Partners
6 West 20th Street New York, NY 10011

RE: Gateway Garage, Portland, Maine

Dear Mr. Follini:

not my request

As requested I visited the Gateway Garage on January 7, 2011 to review the existing façade and temporary repairs installed during the previous summer. I visually reviewed all of the perimeter steel from the interior of the garage and the exterior façade from the street for the purpose of updating my June 4th letter (attached) in which I responded to the concerns of City of Portland's Danielle West-Chuhta and Tammy Munson. My letter stated that while several of the concerns posed no immediate structural risk, there was a need for temporary protection including netting and steel shoring of the façade which is to remain until permanent repairs are completed. The temporary protection was installed expeditiously by CCI Building and Waterproofing Contractors under Permit # 10-0817 (see attached above).

During this visit I did not see any new issues with the façade and the temporary repairs appear to be functioning adequately. Based on my review, I believe these temporary façade repairs have stabilized the originally noted condition for the present. I recommend that the temporary repairs and façade be reviewed routinely until a permanent repair is completed.

6 months before
While our review was limited in scope, primarily to the façade issues, I noted additional deterioration that is new since our last visit. This deterioration is concerning and requires immediate attention. These observations were noted as we made our way through the garage to examine the perimeter façade elements.

Of the items noted during the visit the most critical is the condition of Stair #1; we only walked through the runs from the first level down to grade. There has been significant deterioration in this portion of the stair since we were last in this garage. There are sections of steel pans that are loose and nosings that are severely corroded. It is our opinion that this stair should be closed until the extent of the damage can be determined and repairs made. The garage should be able remain open with this stair temporarily closed for repairs. We also noted a location in Stair #2 where the hand rail is loose and only attached to the wall by 2 of the original 4 connections. This item should be repaired concurrently as you move more people through this stair.

?
How are we making sure
We also noted several locations where the overhead spalls have exposed prestressing strands. In several locations these strands have corroded through and no longer have any load carrying capacity. It has been our experience in similar garages that the deck system has the ability to bridge these isolated failure locations. However, if unaddressed this corrosion will likely migrate to adjacent strands and will make the repairs much more difficult and costly.

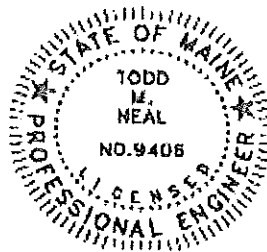
Another item we notice during this visit was a hole in an existing column. The corrosion at this location has eaten through the web of the column. This condition should be repaired to ensure that it does not become detrimental to the column. Further we noted exposed and deteriorated live wiring and conduit feeding the roof lights. These items do not have an impact on the structural capacity of the garage but do represent a safety concern for the garage patrons. We recommend that these items be repaired immediately.

Based on our time in the garage we do not believe that there is a risk for building failure however there exists a risk for isolated component failures in the items detailed above. We believe that it is important that you address the issues in Stair #1 and the exposed/deteriorated wiring immediately.

I trust this letter addressed your concerns at this time. If you have any questions please do not hesitate to contact us.

Sincerely,

BECKER STRUCTURAL
ENGINEERS, Inc.



Todd M. Neal, P.E.
Vice President

BECKER

structural engineers, inc.

June 4, 2010

181 High Street LLC
Attn: Michael Urbanski
6th West 20th Street
5th Floor
New York, NY 10011

RE: Gateway Garage, Portland, ME

Jack Burgess, P.E. and I spent most of the day Thursday, June 3 at the Gateway Garage reviewing the existing structure. Time was limited so we unable to review every piece of this structure. We spent much of our time reviewing the façade starting at the existing failure and working are way around the entire perimeter of the 3rd level. Based on this limited review it is our opinion that the structure as a whole is stable and not in imminent danger of a failure. There are certainly structural items within the garage that need to be addressed that do not currently decrease the stability or capacity of the structure as a whole. It is our opinion that the individual items that we noted during our limited review and the items noted by the City do not compromise the overall structural stability of the garage.

We spent a significant amount of our day looking at the façade of this structure which consist of a brick veneer and CMU back-up and capped by precast concrete cap. The wall is supported by a steel beam embedded in the slab and a steel plate that is attached to the bottom flange of the beam. This plate cantilevers out to support the brick façade and was the item that fell from the structure last week. Based on our review we do have some concerns about the long term stability of the façade system. During our review we removed loose pieces of mortar, brick, precast and CMU. We also noted several areas where we were concerned about the connection of the plate to the steel beam. Based on our limited review of the structure it would be impossible for us to predict or speculate on whether or not more plates are going to fail in the near future. We do believe that it would be prudent to install some temporary protection, especially at the areas directly above walking and driving areas, as soon as possible. This will offer protection to pedestrians and parkers as we work to develop repair details and continue our review of the façade. Based on our discussions with the Owners we will work with the contractor to install netting at the areas of highest risk as a temporary measure until permanent repairs can be installed.

Below are our specific responses to the City's concerns:

1. At various locations on the exterior masonry facade, bricks have become loose and dislodged. This is a serious concern because the majority of the building abuts the public way.

As noted above we believe that the areas that have the highest risk should be protected. We should also continue the process of reviewing the façade and removing all the loose material.

2. The majority of the exterior steel beams have severe corroding. This is not just surface rust. There are some locations on the interior that are corroding as well. They are mostly located closest to the openings to the outside.

There is corrosion occurring between the bottom of the beams and the plate which is causing the wave appearance in the plate. Corrosion causes the steel to expand and this expansion is pushing the plate away from the beam in between the welded connections. During our review we noted a couple of areas where the welds had failed and we recommend that temporary shoring be installed at these locations. We will note any additional areas as we continue our review.

BECKER

structural engineers, inc.

3. Several exterior steel beams have a "curve" effect similar to a wave. This would suggest structural failure.

The wave effect is from the steel plate not the beam as a result of corrosion. In this case a lack of the wave would be more indicative of a failure. See comments above.

4. Some of the precast concrete slab making up the inside floors have stress cracks.

The deck of this garage consists of a thin (2 1/4") prestressed plank (seen from below) and a cast in place concrete composite topping with a total thickness of approximately 5 1/2". It is not uncommon for these planks to have cracks and these types of cracks can be seen in the two other similar structures in the City. It is likely that these cracks occurred during erection or while they were placing the CIP topping slab. In the composite system it is the prestressing steel in the precast slabs that is taking the tension force and it is our opinion that in general these cracks do not affect the capacity of the composite slab. We will review all existing cracks and confirm this.

5. There are several large pieces of concrete (ranging from approximately 6" - 24" at various depths) that have become dislodged from the precast concrete slabs.

Any loose overhead concrete should be removed immediately. Similar to the discussion in our response to item 4 this can be done without significantly reducing the capacity of the composite slabs.

6. The precast concrete slabs appear to be 1"-2" lower than the abutting slab at various locations which suggest structural failure.

As noted previously the precast slabs are very thin and are not at full capacity until the composite topping is cured. It is not uncommon to see differential deflections in individual precast/prestressed units. If this was a failure there would be a corresponding depression in the top slab at this location. In the locations we reviewed this was not the case.

7. One of the steel beams on the High Street side appeared to be twisted but it was difficult to verify this and could have appeared that way from the angle I was standing at.

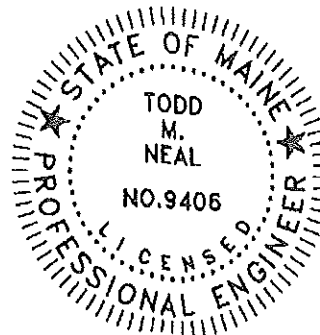
We did not see any beams that appeared to be twisted at this time. As we continue our review we will be make note of any twisted steel beams.

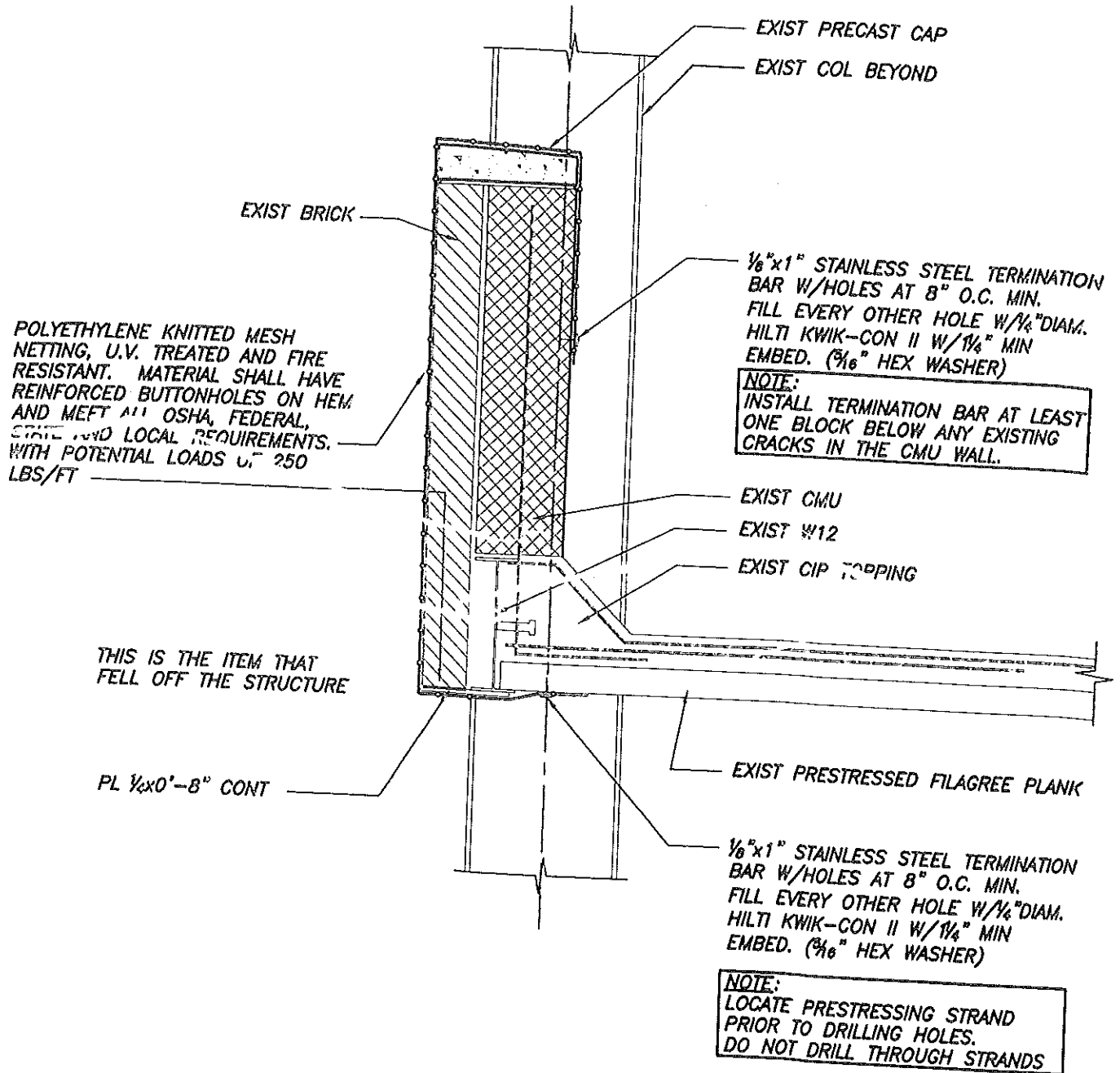
I trust that this addresses the City's concerns at this time if you have any comments or questions please do not hesitate to contact me.

Sincerely,

BECKER STRUCTURAL ENGINEERS, Inc.

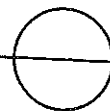
Todd M. Neal, P.E.
Vice President



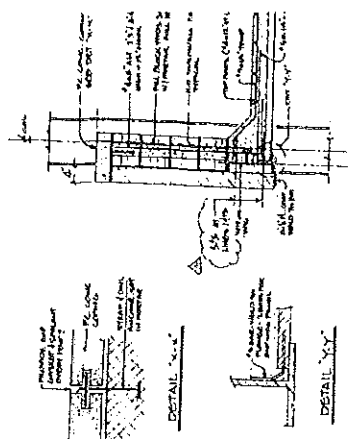


NETTING DETAIL

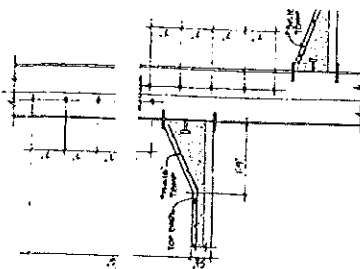
1"=1'-0"



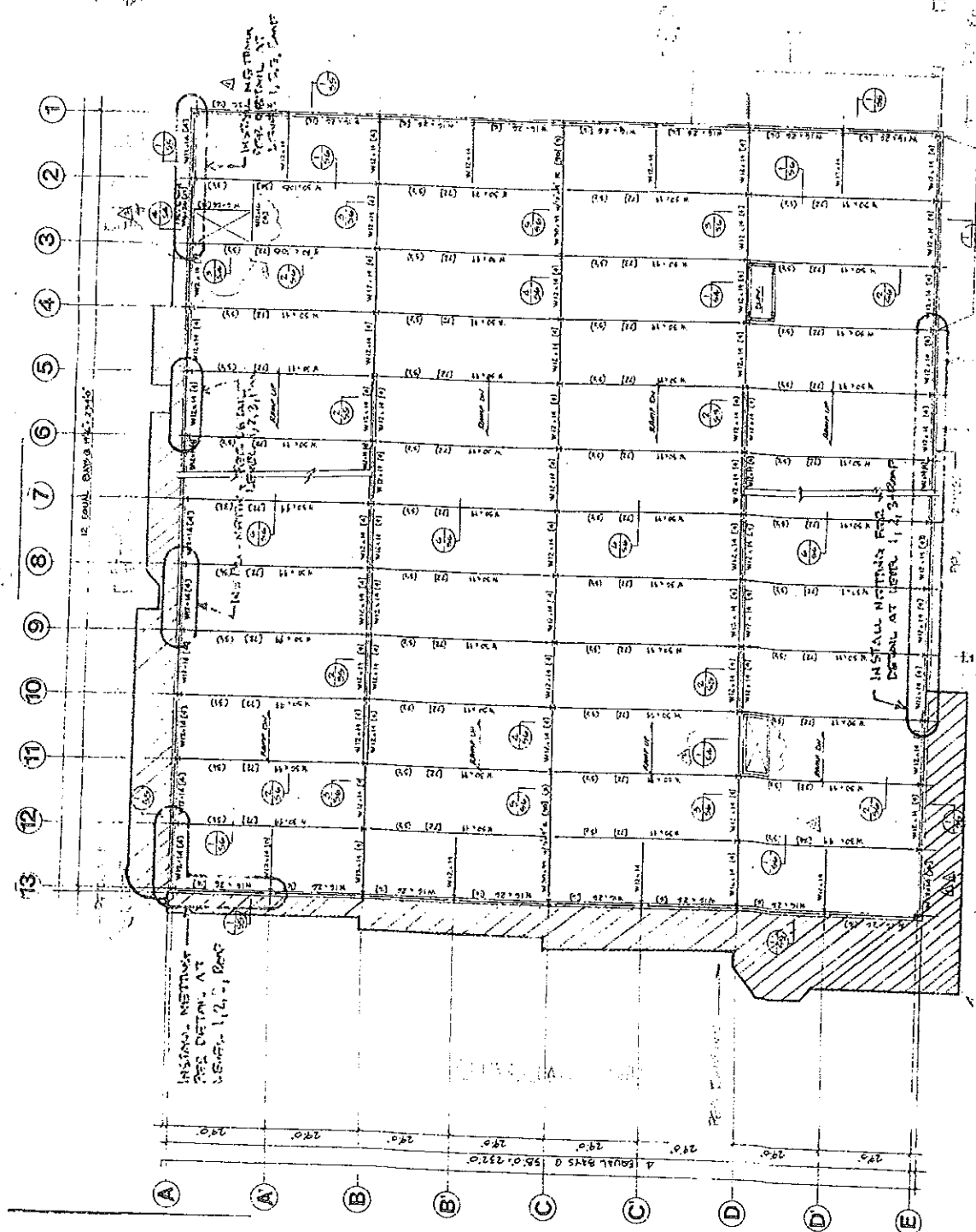
TP-2



SECTION _____



SECTION 201





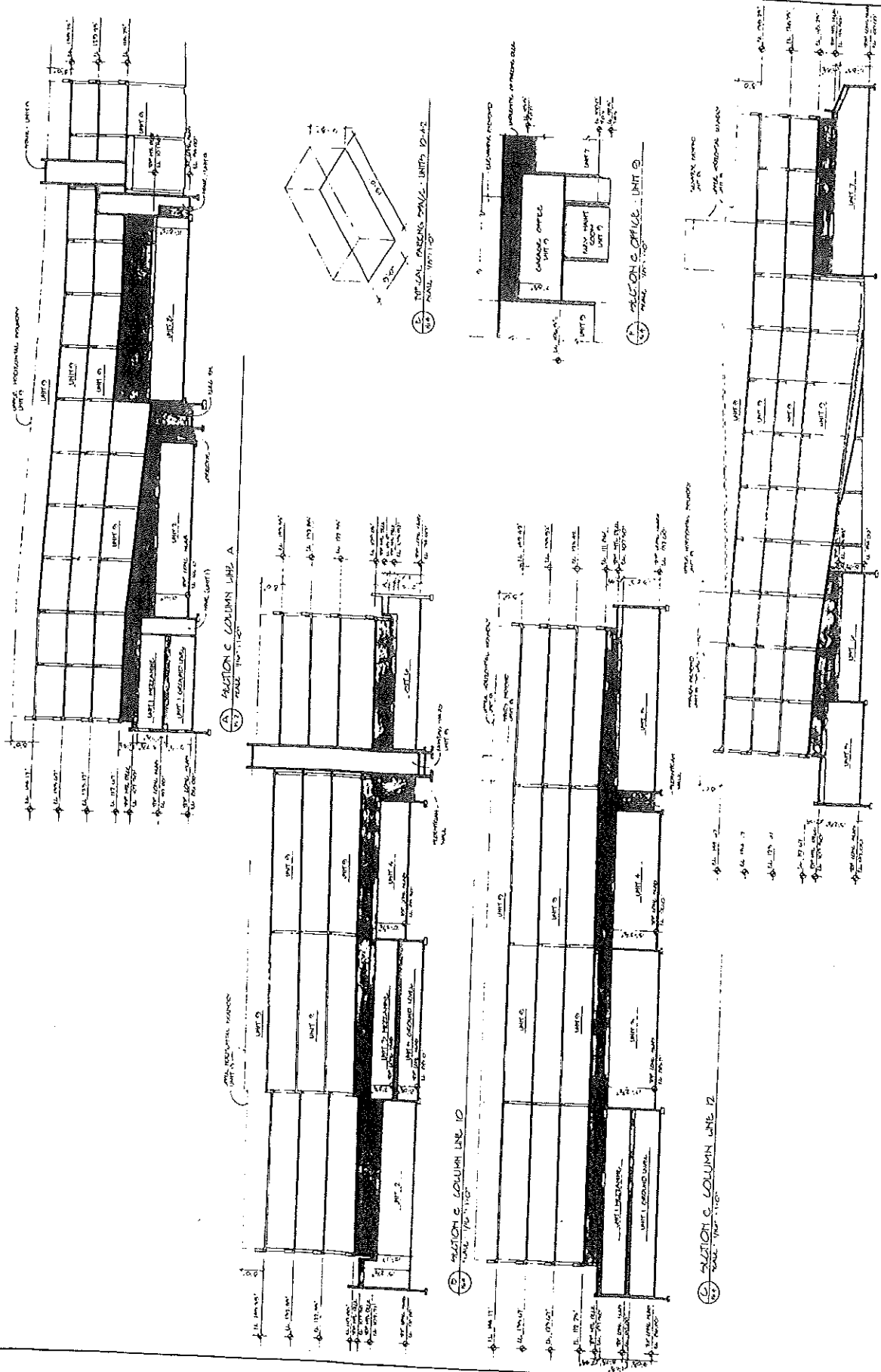
SCALE: AS SHOWN
DATE: 10/11/02 (N)
REVISIONS:



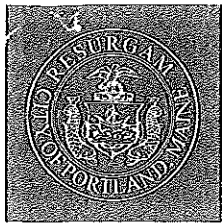
THE GATEWAY A CONDOMINIUM
HIGH ST., CLACKBURN AVE., AND ROBERT ST., PORTLAND, ME
GARAGE ASSOCIATES OF PORTLAND
113 CONGRESS ST., PORTLAND, ME

413 CONGRESS ST., PORTLAND, ME
HIGH ST., CLIFTON AVE., AND FOREST AVE., PORTLAND, ME

TERRELL
ARCHITECTS
5 WILSON STREET, BOX 555
POCAHONTS, WYOMING 82401
202-774-6015



State of Maine, Cumberland Co.
 Superior Court of Justice
 at Bangor, Maine, February 4, 1947.
 Present: Hon. J. W. McLaughlin, Chief Justice.
 Plaintiff: The State of Maine.
 Defendant: James E. Thompson, Jr.
 ANNA J. THOMPSON, Plaintiff.
 4 of 4



Strengthening a Remarkable City, Building a Community for Life

www.portlandmaine.gov

Corporation Counsel
Gary C. Wood

Associate Counsel
Mary E. Costigan
Danielle P. West-Chuhta
Ann M. Freeman

37-2-6

March 23, 2011

Mr. CJ Follini
181 High Street LLC
6 West 20th Street, 5th Floor
New York, NY 10011

Dear Mr. Follini:

The City has reviewed your submission to it regarding the Gateway Garage. Unfortunately, the visual inspection performed by Becker Engineers on January 11th and Becker's January report do not answer the specific question that I posed: is this structure safe for its intended use at full capacity or otherwise? Neither does the information sent to us by your attorney, Dennis Keeler, on March 11, 2011 provide the answer to this question.

1. The Becker report has actually reinforced the City's concerns regarding the structural integrity of the Gateway Garage. The statement in the next to last paragraph that "we do not believe that there is a risk for building failure..." falls far short of an affirmative answer to our question.

In addition, specific risks identified in that report add to our safety concerns. For example,

"We also noted several locations where the overhead spalls have exposed prestressing strands. In several locations these strands have corroded through and no longer have any load carrying capacity. It has been our experience in similar garages that the deck system has the ability to bridge these isolated failure locations. However, if unaddressed, this corrosion will likely migrate to adjacent strands and will make the repairs much more difficult and costly."

Attorney Keeler's e-mail on March 11, 2011, with its attached Gateway Garage Improvement Scope and Budget, do not address structural issues either. They are designed to protect deterioration in the elevator shaft, improve elevator performance, and provide ADA compliance only.

Within 30 days (April 25, 2011) the City is therefore requiring an analysis of the structural integrity of the garage at full carrying capacity and otherwise (NOT simply the façade of the structure).

2. To the extent significant structural issues are uncovered, an approved Plan of Correction will be required **within 10 business days thereafter**. Please be advised, however, the City reserves its right to take immediate action to ensure the safety and wellbeing of the patrons of this garage if the same becomes necessary.

3. We have considered your request that a Plan of Action for the façade, only, be submitted within 100 days. This is unacceptable for two reasons:

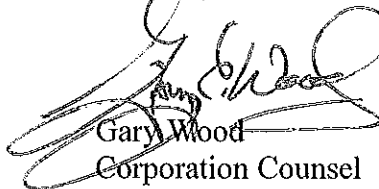
A. There is no mention of the structural integrity of the entire structure and not just the façade; and,

B. 100 days for submission is too long given that this problem was identified last summer and you were put on notice of the need for a full plan for permanent correction throughout the garage at that time.

A temporary building permit was issued to you then on the condition that "a plan of correction addressing permanent repairs to the building must be submitted within 60 days of the issuance of this permit". A Plan of Correction for the façade must be submitted by **April 25, 2011**.

4. The façade has been temporarily addressed by, among other things, netting affixed to the exterior of the building. The façade must be fully and finally addressed no later than **June 20, 2011** which is eight (8) weeks after April 25th.

Sincerely,



Gary Wood
Corporation Counsel

cc: Pat Finnigan
Penny St. Louis
Tammy Munson
Dennis Keeler, Esq.