



Christina Stacey <cstacey@portlandmaine.gov>

Fwd: Zoning Determination Request

12 messages

Ann Machado <amachado@portlandmaine.gov>
To: Christina Stacey <cstacey@portlandmaine.gov>

Fri, Nov 4, 2016 at 10:43 AM

Ann Machado
Zoning Administrator
Permitting and Inspections Department
City of Portland, Maine
(207) 874-8709

----- Forwarded message -----

From: **Tom Federle** <Tom@federlelawmaine.com>
Date: Thu, Nov 3, 2016 at 4:06 PM
Subject: Zoning Determination Request
To: Ann Machado <amachado@portlandmaine.gov>

Ann-

In July, property at 749 Congress street received site plan and subdivision approval to split into 2 lots to accommodate a townhouse subdivision on the back lot and a boutique hotel development on the front lot. The developer needs to close on the land next week. He intends to close on the construction financing in the next few weeks. Today the developer realized that the lender who would provide him with a Letter of Credit for site improvements does not intend to do that at the time of closing on the land but at the time of closing on the construction financing. Without the letter of credit, the developer cannot record the subdivision plat. If the developer does not record the plat, he will need other verification that his splitting the 749 Congress lot into 2 lots complies with zoning.

I think that the site plan and subdivision approval is determinative that the two lots comply with zoning so the question is whether subdivision approval was needed. There have not been any out parcels in the last 5 years or other divisions.

In short, I am inquiring about a zoning determination letter to stand in lieu of the subdivision plat for the limited purpose of demonstrating that the lot split is lawful. Prior to obtaining construction financing or beginning any work on the approved development, the developer would post a letter of credit for the performance guarantee and record the subdivision plat.

Not sure if you've ever run into this situation. If you see this as a possible approach, I will draft a zoning determination letter.

Thank you,

Tom Federle

FEDERLE LAW

254 Commercial Street
Portland, ME 04101
207.899.0155 (direct)

Tom@federlelawmaine.com
www.federlelawmaine.com

 **App. Ltr. Congress St. - 749 (PB) 7-12-16 copy.pdf**
2316K

Tom Federle <Tom@federlelawmaine.com>
To: Christina Stacey <cstacey@portlandmaine.gov>
Cc: Ann Machado <amachado@portlandmaine.gov>

Sun, Nov 6, 2016 at 1:53 PM

Christina-

I hope this finds you well. I tried sending this to you on Friday but had your address wrong—here it comes again.

I believe that Ann may have apprised you of the this Zoning Determination Letter request before she left today. You should be receiving a full size plan of the site in the question today too (this was delivered to your office on Friday). I am sorry that this urgent request is now falling in your lap and I would be happy to stop by city hall on Monday to discuss with you if that would be helpful. We are hoping for the Zoning Determination letter by Tuesday(!).

I think the fundamental question—whether splitting the lots in two as shown on the plans results in two compliant lots—is a pretty easy one since that conclusion was reached when the project received site plan and subdivision approval. Because the developer is proceeding with the lot split now but construction later, the lender is requiring an affirmative statement in the determination letter that **the lot split is OK without payment of the performance guarantee. The letter can go on to state that payment of the performance guarantee will be required prior to any construction work pursuant to the approved site plan (a requirement that already exists in the site plan approval).**

Please call or email if I can be of assistance or answer any questions. Otherwise, I will check in with you on Monday.

Thank you very much,

Tom Federle
FEDERLE LAW
254 Commercial Street
Portland, ME 04101
207.899.0155 (direct)

Tom@federlelawmaine.com
www.federlelawmaine.com

From: Tom Federle <Tom@federlelawmaine.com>
Date: Thursday, November 3, 2016 at 4:06 PM
To: Ann Machado <amachado@portlandmaine.gov>
Subject: Zoning Determination Request

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Thank you,

Tom Federle
FEDERLE LAW
254 Commercial Street
Portland, ME 04101
207.899.0155 (direct)

Tom@federlelawmaine.com
www.federlelawmaine.com

 **App. Ltr. Congress St. - 749 (PB) 7-12-16 copy.pdf**
2316K

Christina Stacey <cstacey@portlandmaine.gov>
To: Tom Federle <Tom@federlelawmaine.com>
Cc: Ann Machado <amachado@portlandmaine.gov>

Mon, Nov 7, 2016 at 2:11 PM

Dear Tom,

I will do my best to try to get you a letter tomorrow. I am attaching the invoice for the fee.

Are you able to provide a chain of title with copies of deeds for this property for the last five years? Your earlier e-mail to Ann says that "there have not been any out parcels in the last 5 years or other divisions," but I do not find any evidence that this was ever reviewed by the city as part of recent approvals -- I assume because they were seeking subdivision approval anyway.

Also, could you e-mail me a digital copy of the plat?

Thanks,
Chris

[Quoted text hidden]

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Chris Stacey - Zoning Specialist
Permitting & Inspections Department
City of Portland
389 Congress St.
Portland, ME 04101
(207) 874-8695
cstacey@portlandmaine.gov

 **rptInvoice.pdf**
14K

Tom Federle <Tom@federlelawmaine.com>
To: Christina Stacey <cstacey@portlandmaine.gov>
Cc: Ann Machado <amachado@portlandmaine.gov>

Mon, Nov 7, 2016 at 2:20 PM

Thank you Christina. I will send you a title abstract of any conveyances in the past five years, or lack thereof. I will have the invoice paid in the morning. Finally, I will follow immediately with a digital copy of the plat.

Best,

Tom Federle
FEDERLE LAW
254 Commercial Street
Portland, ME 04101
207.899.0155 (direct)

Tom@federlelawmaine.com

www.federlelawmaine.com

From: Christina Stacey <cstacey@portlandmaine.gov>
Date: Monday, November 7, 2016 at 3:11 PM
To: Tom Federle <Tom@federlelawmaine.com>
Cc: Ann Machado <amachado@portlandmaine.gov>
Subject: Re: FW: Zoning Determination Request

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Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

Christina Stacey <cstacey@portlandmaine.gov>
To: Tom Federle <Tom@federlelawmaine.com>
Cc: Ann Machado <amachado@portlandmaine.gov>

Mon, Nov 7, 2016 at 2:24 PM

Great, thank you. One last question of clarification. Your first e-mail indicates that the zoning letter does not need to address zoning bulk & dimensional requirements since these were already shown to be compliant as part of the site plan and subdivision approval. You want the letter to simply indicate that this is considered to be a single lot split not requiring subdivision approval, and therefore not requiring a performance guarantee until the subdivision plat is fully executed (I think the performance guarantee is needed before the plat will be signed by the planning board and not just before any work begins). Can you confirm that this is correct or not? I just want to make sure the letter covers everything you need.

[Quoted text hidden]

Tom Federle <Tom@federlelawmaine.com>
To: Christina Stacey <cstacey@portlandmaine.gov>
Cc: Ann Machado <amachado@portlandmaine.gov>

Mon, Nov 7, 2016 at 2:33 PM

Thank you. That is it.

Thomas B. Federle

Federle Law
254 Commercial Street
Portland, ME 04101
<http://www.federlelawmaine.com>

(207) 899-0155

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Christina Stacey <cstacey@portlandmaine.gov>
To: Anne Torregrossa <atorregrossa@portlandmaine.gov>

Mon, Nov 7, 2016 at 2:50 PM

Here are the e-mails regarding the subdivision question at 747-749 Congress St, and attached is the plat showing the division. Let me know what you think.

Thanks,
Chris

----- Forwarded message -----

From: **Tom Federle** <Tom@federlelawmaine.com>

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 **Plat.pdf**
527K

Anne Torregrossa <atorregrossa@portlandmaine.gov>

Mon, Nov 7, 2016 at 3:18 PM

To: Christina Stacey <cstacey@portlandmaine.gov>

would you mind sending me the title opinion?

[Quoted text hidden]

--

Anne M. Torregrossa
Associate Corporation Counsel
City of Portland
389 Congress Street, Room 211
Portland, Maine 04101
(207)874-8426

Tom Federle <Tom@federlelawmaine.com>

Mon, Nov 7, 2016 at 5:15 PM

To: Christina Stacey <cstacey@portlandmaine.gov>

Christina-

Attached is a deed dated November, 2006 from JPH Properties, Inc. to Martin B. Dassa and Rochelle G. Dassa. It conveys the same property as that conveyed from Dassa and Dassa to the Rochelle G. Dassa Residuary Trust in August of 2011. That deed, similarly conveys the same property as that now being proposed for conveyance by the Rochelle G. Dassa Residuary Trust to Denovo, LLC (the back parcel) and 747 Congress, LLC (the front parcel). A search of the grantor index at the Cumberland County Registry of Deeds reveals that neither Martin and Rochelle Dassa nor the Dassa Residuary Trust made any divisions or out-conveyances of the parcel. I will follow with a current title commitment policy that demonstrates that the property being conveyed today is the same as the property contained in those two prior deeds. Because the land being conveyed has not been divided since at least 2006, no subdivision is being created at this time.

Please let me know if this satisfies your inquiry.

Best,

Tom Federle

FEDERLE LAW

254 Commercial Street

Portland, ME 04101

207.899.0155 (direct)

Tom@federlelawmaine.com

www.federlelawmaine.com

From: Kim Johnson <Kim@federlelawmaine.com>

Date: Monday, November 7, 2016 at 3:58 PM

To: Tom Federle <Tom@federlelawmaine.com>

Subject: RE: Zoning Determination Request

Attached is a copy of the deed to Martin and Rochelle Dassa (24573/113) and a copy of the Personal Representative's Deed to the Rochelle G. Dassa Residuary Trust (28907/208). There are no out-conveyances. I cannot print the grantor/grantee index. The title commitment, showing the same property description should suffice as evidence that the lot has not been divided since 2006.

Kimberly M. Johnson, Paralegal

FEDERLE LAW

254 Commercial Street, Ste. F

Portland, ME 04101

207.602.9663

kim@federlelawmaine.com

www.federlelawmaine.com

From: Tom Federle
Sent: Monday, November 07, 2016 2:23 PM
To: Kim Johnson <Kim@federlelawmaine.com>
Subject: FW: Zoning Determination Request

Can you run the title since it went into the Dassa trust and verify that there have been no outparcel in the last 5 years. Need deed into Dassa and or the trust and evidence of no out parcels—maybe record of the grantor index shown no grants by the owner—the trust and/or dassa

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2 attachments

 **JPH to Dassa Book 24573 Page 113.pdf**
 332K

 **PR Deed to Dassa Trust Book 28907 Page 208.pdf**
 382K

Christina Stacey <cstacey@portlandmaine.gov>
 To: Anne Torregrossa <atorregrossa@portlandmaine.gov>

Tue, Nov 8, 2016 at 7:30 AM

This is what he has sent so far.

----- Forwarded message -----


From: Tom Federle <Tom@federlelawmaine.com>
Date: Mon, Nov 7, 2016 at 5:15 PM
Subject: FW: Zoning Determination Request

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[Quoted text hidden]

2 attachments

JPH to Dassa Book 24573 Page 113.pdf

 332K

 **PR Deed to Dassa Trust Book 28907 Page 208.pdf**
382K

Anne Torregrossa <atorregrossa@portlandmaine.gov>
To: Christina Stacey <cstacey@portlandmaine.gov>

Tue, Nov 8, 2016 at 8:46 AM

Do you mind giving me a call when you have a minute?

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--

Anne M. Torregrossa
Associate Corporation Counsel
City of Portland
389 Congress Street, Room 211
Portland, Maine 04101
(207)874-8426

Christina Stacey <cstacey@portlandmaine.gov>
To: Anne Torregrossa <atorregrossa@portlandmaine.gov>

Tue, Nov 8, 2016 at 10:45 AM

Here is my attempt at a draft. I tried touching base with the Planning folks upstairs but no one seems to be around.

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 **Zoning Determination Letter 11-7-16.docx**
96K