



General Building Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

Location/Address of Construction: Parkside Studios, 83 Sherman Skeet		
Total Square Footage of Proposed Structure 13,496	Square Footage of Lot 14,200	
Tax Assessor's Chart, Block & Lot Chart# 48 Block# D Lot# 13-15	Owner: Random Orbit, Inc. 70 Merrill Street Portland, ME 04101	Telephone: (207) 772-6005
Lessee/Buyer's Name (If Applicable)	Applicant name, address & telephone: David Lloyd Archetype, PA 48 Union Wharf Portland, ME 04101 (207)772-6022	cost Of Work \$ <u>325,000</u> Fee: \$ <u>2,916.00</u> C of O Fee: \$ <u>600.00</u>
Current Specific use: <u>School / City of Portland</u>	Total: 3,546.00	
Proposed Specific use: <u>Eight Residential Units with Artist Home Occupations</u>		
Project description: Conversion of existing school	<i>to 8 residential units</i>	
Specifications N/A Geotech Report N/A		
Contractor's name, address & telephone:		
Who should we contact when the permit is ready: <u>Peter Bass</u>		
Mailing address: Random Orbit, Inc. 70 Merrill Street Portland, ME 04101	Phone: <u>(207)772-6005</u>	

Please submit all of the information outlined in the Commercial Application Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at www.portlandmaine.gov, stop by the Building Inspections office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of applicant:

Date:

5/9/06

This is not a permit; you may not commence ANY work until the permit is issued.



CITY OF PORTLAND
BUILDING CODE CERTIFICATE
389 Congress St., Room 315
Portland, Maine 04101

TO: Inspector of Buildings City of Portland, Maine
Department of Planning & Urban Development
Division of Housing & Community Service

FROM: Archetype, P.A.

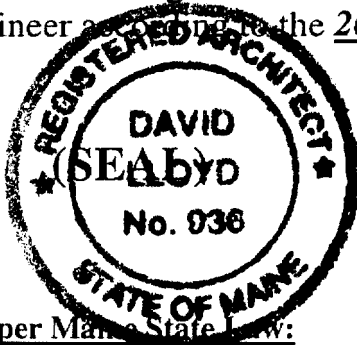
RE: Certificate of Design

DATE: 5/5/06

These plans and / or specifications covering construction work on:

88 Sherman Street

Have been designed and drawn up by the undersigned, a Maine registered Architect / Engineer according to the 2003 International Building Code and local amendments.



As per Maine State Law:

\$50,000.00 or more in new construction, repair expansion, addition, or modification for Building or Structures, shall be prepared by a registered design Professional.

Signature: 

Title: Architect

Firm: Archetype, P.A.

Address: 48 Union Wharf
Portland, ME 04101

FROM DESIGNER: Archetype, P.A.
 DATE: 5/5/06
 Job Name: Parkside Studios
 Address of Construction: 88 Sherman Street

2003 International Building Code

Construction project was designed according to the building code criteria listed below:

Building Code and Year IBC 2003 Use Group Classification(s) R-2

Type of Construction 3-B

Will the Structure have a Fire suppression system in Accordance with Section 903.3.1 of the 2003 IRC Yes

Is the Structure mixed use? No if yes, separated or non separated (see Section 302.3)

Supervisory alarm system? Yes Geotechnical/Soils report required? (See Section 1802.2) N/A

STRUCTURAL DESIGN CALCULATIONS

Submitted for all structural members
(106.1, 106.1.1)

DESIGN LOADS ON CONSTRUCTION DOCUMENTS
(1603)

Uniformly distributed floor live loads (1603.1.1, 1607)

Floor Area Use	Loads Shown

N/A

Wind loads (1603.1.4, 1609)

- Design option utilized (1609.1.1, 1609.6)
- Basic wind speed (1609.3)
- Building category and wind importance factor, I_w (Table 1604.5, 1609.5)
- Wind exposure category (1609.4)
- Internal pressure coefficient (ASCE 7)
- Component and cladding pressures (1609.1.1, 1609.6.2.2)
- Main force wind pressures (1609.7.1, 1609.6.2.1)

Earthquake design data (1603.1.5, 1614 - 1623)

- Design option utilized (1674.7)
- Seismic use group ("Category") (Table 1604.5, 1616.2)
- Spectral response coefficients, S_{DS} & S_{D1} (1615.1)
- Site class (1615.1.5)

- Live load reduction (1603.1.1, 1607.9, 1607.10)
- Roof live loads (1603.1.2, 1607.11)
- Roof snow loads (1603.1.3, 1608)
- Ground snow load, P_g (1608.2)
- If $P_g > 10$ psf, flat-roof snow load, P_f (1608.3)
- If $P_g > 10$ psf, snow exposure factor, C_e (Table 1608.3.1)
- If $P_g > 10$ psf, snow load importance factor, I_s (Table 1604.5)
- Roof thermal factor, C_t (Table 1608.3.2)
- Sloped roof snowload, P_s (1608.4)
- Seismic design category (1616.3)
- Basic seismic-force-resisting system (Table 1617.6.2)
- Response modification coefficient, R , and deflection amplification factor, C_d (Table 1617.6.2)
- Analysis procedure (1616.6, 1617.5)
- Design base shear (1677.4, 1617.5.1)
- Flood loads (1603.1.6, 1612)
- Flood hazard area (1612.3)
- Elevation of structure
- Other loads
- Concentrated loads (1607.4)
- Partition loads (1607.5)
- Impact loads (1607.8)
- Misc. loads (Table 1607.6, 1607.6.1, 1607.7, 1607.7.2, 1607.13, 1610, 1611, 2404)

Fax Transmission Cover Sheet

Date:

To: GAYLE

From: PETER BASS
RANDOM ORBIT LLC
70 Merrill St.
Portland, Me 04101
Telephone and Fax # (207)772-6005
E-mail pbass@maine.rr.com

RE:

You should receive 2 page(s), including ~~this cover sheet~~. If you do not receive all the pages please call (207)772-6005

Please call with
info.

Thanks
Peter BASS



CITY OF PORTLAND, MAINE
Department of Building Inspections

4/19 20 CE

Received from RANDOM ORBIT Inc.

Location of Work 83 SHERMAN ST

Cost of Construction \$ 525,000 8 COFO

Permit Fee \$ 2946 + 600/c/c/c

Building (11) Plumbing (15) Electrical (12) Site Plan (U2)

Other _____

CBL: _____

Check #: 0599

Total Collected \$ 3546

THIS IS NOT A PERMIT

No work is to be started until PERMIT CARD is actually posted upon the premises. Acceptance of fees is no guarantee that permit will be granted. PRESERVE THIS RECEIPT. In case permit cannot be granted the amount of the fee will be refunded upon return of the receipt less \$10.00 or 10% whichever is greater.

WHITE - Applicant's Copy
YELLOW - Office Copy
PINK - Permit Copy

BUILDING PERMIT INSPECTION PROCEDURES

Please call 874-8703 or 874-8693 to schedule your inspections as agreed upon

Permits expire in 6 months, if the project is not started or ceases for 6 months.

The Owner or their designee is required to notify the inspections office for the following inspections and provide adequate notice. Notice must be called in 48-72 hours in advance in order to schedule an inspection:

By initializing at each inspection time, you are agreeing that you understand the inspection procedure and additional fees from a "Stop Work Order" and "Stop Work Order Release" will be incurred if the procedure is not followed as stated below.

A Pre-construction Meeting will take place upon receipt of your building permit.

- | | |
|---------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Footing/Building Location Inspection; | Prior to pouring concrete |
| <input checked="" type="checkbox"/> Re-Bar Schedule Inspection: | Prior to pouring concrete |
| <input checked="" type="checkbox"/> Foundation Inspection: | Prior to placing ANY backfill |
| <input checked="" type="checkbox"/> Framing/Rough Plumbing/Electrical: | Prior to any insulating or drywalling |
| <input checked="" type="checkbox"/> Final/Certificate of Occupancy: | Prior to any occupancy of the structure or use. NOTE: There is a \$75.00 fee per inspection at this point. |

Certificate of Occupancy is not required for certain projects. Your inspector can advise you if your project requires a Certificate of Occupancy. All projects DO require a final inspection

If any of the inspections do not occur, the project cannot go on to the next phase, REGARDLESS OF THE NOTICE OR CIRCUMSTANCES.

CERIFICATE OF OCCUPANICES MUST BE ISSUED AND PAID FOR, BEFORE THE SPACE MAY BE OCCUPIED

<input checked="" type="checkbox"/> <u>Donna Martin Admin</u>	_____
Signature of Applicant/Designee	Date
<u>_____</u>	<u>06 07 06</u>
Signature of Inspections Official	Date

CBL: 48 h 013 Building Permit #: 06.0684

Applicant: Peter BACS - Random Orbit LLC

Date: 4/21/06

Address: 83 Sherman St

C-B-L: 48-D-13 & 15

CHECK-LIST AGAINST ZONING ORDINANCE

Date - Existing Bldg

#06-0684

Zone Location - R-6

Interior of corner lot - mellen st

Proposed Use/Work - to change the use from A School to 8 Condominiums for Studios

Sewage Disposal - City D.U. with home occupations for Studios for "visual Artist studio space"

Lot Street Frontage - All 8 DU show less than 25% for Artist Studio SPACE.

Front Yard -

Rear Yard -

Side Yard -

Projections -

Width of Lot -

Height - NO CHANGE

Lot Area - 4,500 min - 14,210^{sq} per D.U. less PAVEMENT

Lot Coverage/ Impervious Surface -

Area per Family - 1,000^{sq} for each DU = 8,000^{sq} min - Showing 14,210^{sq}

Off-street Parking - 1 per D.U. per 14-332 - or 8 req. - 8 pkg Spaces shown

Loading Bays - N/A

Site Plan - ~~15-0000~~ #2006-0020 -> received Stamp approved

Shoreland Zoning/ Stream Protection - N/A

Flood Plains - Panel 13 - Zone C

Site plan on 5/31/06

From: Penny Littell
To: Marge Schmuckal
Date: 5/8/2006 1:01:44 PM
Subject: Fwd: Re: Random Orbit/Sacred Heart

let's talk

>>> "Barbara Vestal" <vestal@maine.rr.com> 5/8/2006 12:30:55 PM>>>
Hi Penny. I think I may understand your concerns now that I have read the staff report. But I don't think the City should be worried about the configuration of the basement studios being changed so that somebody would exceed 25%. The studios are a portion of the unit. By Section 2.4, the boundaries between units can be changed only with prior written consent of the City of Portland and amendment of the Declaration. I am reluctant to include Peter's chart because I think it might be confusing. However, I am happy to include in the Declaration a statement of the maximum square footage per unit which can be used for a home occupation (based on 25% of the total). The size of the studio portion of each unit is already shown on the subdivision submissions and will be shown on the condominium plan as well. Please see the attached excerpt and see if that works for you.

With regard to paying taxes, I really can't imagine how a residential unit could become tax exempt. I guess the issue might arise if it was no longer a residential condominium development. Please see the attached for language that will be added to 8.1 if it meets with your approval.

I think that addresses pre-hearing issues. Please let me know if these are satisfactory. Barbara

On 5/5/06, Barbara Vestal <vestal@maine.rr.com> wrote:

>

> Hi Penny. I am pretty sure we can address these, but would like to talk
> to you before I propose specific changes so that I am sure that I understand
> what the underlying concerns really are. Please call when you get a chance.
> 772-7426. I am here until 6:30 or so today and most of the day Monday.
> Tbanks. Barbara

>

>

> On 5/5/06, Penny Littell <PL@portlandmaine.gov> wrote:

>>

>> I saw your various emails re this project. Thanks for editing it to
>> account for some ambiguities. I met with Marge to discuss the
>> Declaration. Would it be possible to include the chart Peter Bass
>> delivered to Marge, which shows the "Square Foot Percentages of
>> Designated Studios," in the Declaration such that is that changes, the
>> zoning administrator would be notified?

>>

>> Also, the declaration needs to include some language referenced in the
>> P&S regarding the obligation of the developer and the ultimate buyers
>> to pay full property taxes, assessed on the property in the event any
>> portion becomes tax exempt.

>>

>> Otherwise I think we can work out the fine tuning of the language
>> following the PB meeting.

>>

From: Marge Schmuckal
To: Jean Fraser
Date: 5/4/2006 4:18:30 PM
Subject: Re: 83 Sherman Street (Reuse of Sacred Heart School)

It is not different. What is different is that he is trying to get pre-approval BEFORE there is a tenant and before there is an actual known home occupation. We usually require separate permits for a change of use to allow home occupations. There is a specific format of what they need to submit to us prior to issuing the permit. He is trying to do a vanilla shell for any home occupation. I am trying to be sure he meets the specific requirements of the ordinance without violating the ordinance.

He wants it general - I want it specific.

Marge

>>> Jean Fraser 5/4/2006 4:06:16 PM >>>

Does it make any difference that these are not tenants. Peter is arguing (to me) that anyone in a single family home can work in a any part of it without informing the city....why is it different for condos. I have not engaged in any discussion and am passing on all comments.

See Peters e-mail as just forwarded.

Jean

>>> Marge Schmuckal 5/4/2006 2:54:04 PM >>>

Jean,

He is showing us a specific use for home occupations in the basement. He is not showing any specific area in any of the units. If a tenant wants to use an area in their unit other than the basement, then that tenant would need to fill out a home occupation application showing where their home occupation will be located and how that tenant can meet the rest of 14-410, the home occupation guidelines.

The Zoning Ordinance is very prescriptive in its requirements. I can only check for compliance with specifics given to me. I can not use a general "wide brush" technique for approvals.

Marge

>>> Jean Fraser 5/4/2006 2:39:37 PM >>>

Marge and Penny,

Peter Bass just stopped by to give me the corrected boundary survey and I asked him about the artists studios % ...he is certain that the artists studios as shown are (all but one) below the 25% and feels the occupants should be able to use the rest of the % in their residential area.

So basically he is unhappy at restricting the home occupation to the artists studios as that unnecessarily limits the area for the artists to use and in most cases limits it to a level below that allowed in the zoning.

I said I felt it was something he needed to take up with you and with his lawyer as I was only concerned that the condo docs were consistent with the zoning and that the artist studios were controlled in terms of use.

So you will no doubt hear from him
Jean

>>> Marge Schmuckal 5/3/2006 2:18:32 PM >>>

Jean,

It was my understanding that the home occupations were only to be in the basement. I did not review any space within the principal unit. The home occupation ordinance only allows 25%, but not more than 500 square feet of area for a home occupation. What was submitted met those requirements. I did check the math. The math worked for the proposal of the basement area only as being the area of the home occupation.

I hope this helps you,

Marge

>>> Jean Fraser 5/3/2006 1:06:51 PM >>>

Marge,

We tried to catch you for a discussion with Penny, as she has found (in reviewing the condominium documents) that in those they have referred to allowing the artist studio (home occupation) use in the basement, in the residential unit and the documents also say it is allowed in both.

In looking at your comments of 4.21.06 it is not clear whether you are assuming that the home occupation will just be in the basement or whether you are happy with it also being in the residential unit as well as in the basement.

Also, could you verify the limited percentage of home occupation and whether the basement artist studios are at the maximum or whether the zoning would allow additional home occupation in the residential unit.

Penny and I are just trying to make the situation is clear for the Board and also we need to craft a condition; Penny is also in contact with the person who drafted the condominium documents to ensure there is consistency within the documents and also between the documents and the zoning requirements.

Please contact Penny if this isn't clear...

Thanks

Jean

(PS I am drafting the Hearing Report now for consideration by the Board on May 9th so urgent...)

CC: Penny Littell ; Sarah Hopkins

From: Marge Schmuckal
To: Jean Fraser
Date: 5/4/2006 2:54:04 PM
Subject: Re: 83 Sherman Street (Reuse of Sacred Heart School)

Jean,

He is showing us a specific use for home occupations in the basement. He is not showing any specific area in any of the units. If a tenant wants to use an area in their unit other than the basement, then that tenant would need to fill out a home occupation application showing where their home occupation will be located and how that tenant can meet the rest of **14-410**, the home occupation guidelines.

The Zoning Ordinance is very prescriptive in its requirements. I can only check for compliance with specifics given to me. I can not use a general "wide brush" technique for approvals.

Marge

>>> Jean Fraser 5/4/2006 2:39:37 PM >>>
Marge and Penny,

Peter Bass just stopped by to give me the corrected boundary survey and I asked him about the artists studios % ...he is certain that the artists studios as shown are (all but one) below the **25%** and feels the occupants should be able to use the rest of the % in their residential area.

So basically he's unhappy at restricting the home occupation to the artists studios as that unnecessarily limits the area for the artists to use and in most cases limits it to a level below that allowed in the zoning.

I said I felt it was something he needed to take up with you and with his lawyer as I was only concerned that the condo docs were consistent with the zoning and that the artist studios were controlled in terms of use.

So you will no doubt hear from him
Jean

>>> Marge Schmuckal 5/3/2006 2:18:32 PM >>>
Jean,

It was my understanding that the home occupations were only to be in the basement. I did not review any space within the principal unit. The home occupation ordinance only allows **25%**, but not more than 500 square feet of area for a home occupation. What was submitted met those requirements. I did check the math. The math worked for the proposal of the basement area only as being the area of the home occupation.

I hope this helps you,

Marge

>>> Jean Fraser 5/3/2006 1:06:51 PM >>>
Marge,

We tried to catch you for a discussion with Penny, as she has found (in reviewing the condominium documents) that in those they have referred to allowing the artist studio (home occupation) use in the basement, in the residential unit and the documents also say it is allowed in both.

In looking at your comments of **4.21.06** it is not clear whether you are assuming that the home occupation will just be in the basement or whether you are happy with it also being in the residential unit as well as in the basement.

Also, could you verify the limited percentage of home occupation and whether the basement artist studios are at the maximum or whether the zoning would allow additional home occupation in the residential unit.

Penny and i are just trying to make the situation is clear for the Board and also we need to craft a condition; Penny is also in contact with the person who drafted the condominium documents to ensure there is consistency within the documents and also between the documents and the zoning requirements.

Please contact Penny if this isn't clear....

Thanks

Jean

(PS I am drafting the Hearing Report now for consideration by the Board on May 9th so urgent..)

CC: Penny Littell ; Sarah Hopkins

From: Marge Schmuckal
To: Jean Fraser
Date: 5/3/2006 2:18:33 PM
Subject: Re: 83 Sherman Street (Reuse of Sacred Heart School)

Jean,

It was my understanding that the home occupations were only to be in the basement. I did not review any space within the principal unit. The home occupation ordinance only allows 25%, but not more than 500 square feet of area for a home occupation. What was submitted met those requirements. I did check the math. The math worked for the proposal of the basement area only as being the area of the home occupation.

I hope this helps you,

Marge

>>> Jean Fraser 5/3/2006 1:06:51 PM >>>
Marge,

We tried to catch you for a discussion with Penny, as she has found (in reviewing the condominium documents) that in those they have referred to allowing the artist studio (home occupation) use in the basement, in the residential unit and the documents also say it is allowed in both.

In looking at your comments of 4.21.06 it is not clear whether you are assuming that the home occupation will just be in the basement or whether you are happy with it also being in the residential unit as well as in the basement.

Also, could you verify the limited percentage of home occupation and whether the basement artist studios are at the maximum or whether the zoning would allow additional home occupation in the residential unit.

Penny and I are just trying to make the situation is clear for the Board and also we need to craft a condition; Penny is also in contact with the person who drafted the condominium documents to ensure there is consistency within the documents and also between the documents and the zoning requirements.

Please contact Penny if this isn't clear....

Thanks

Jean

(PS I am drafting the Hearing Report now for consideration by the Board on May 9th so urgent...)

CC: Penny Littell

**CITY OF PORTLAND, MAINE
DEVELOPMENT REVIEW APPLICATION
PLANNING DEPARTMENT PROCESSING FORM
Zoning Copy**

2006-0020

Application I. D. Number

1/27/2006

Application Date

Parkside Studios

Project Name/Description

Random Orbit, LLC

Applicant

70 Merrill St, Portland, ME 04101

Applicant's Mailing Address

83 - 83 Sherman St, Portland, Maine

Address of Proposed Site

048 D013001

Assessor's Reference: Chart-Block-Lot

Consultant/Agent

Applicant Ph: (207) 772-6005 Applicant Fax: (207) 772-6005

Applicant or Agent Daytime Telephone, Fax

Proposed Development (check all that apply): New Building Building Addition Change Of Use Residential Office Retail
 Manufacturing Warehouse/Distribution Parking Lot Other (specify) _____

13,200 s.f.

Proposed Buildingsquare Feet or # of Units

Acreage of Site

R6

Zoning

Check Review Required:

- | | | | |
|------------------------------------------------------------|-----------------------------------------------------------|------------------------------------------------|--------------------------------------------------|
| <input type="checkbox"/> Site Plan
(major/minor) | <input type="checkbox"/> Subdivision
#of lots <u>8</u> | <input type="checkbox"/> PAD Review | <input type="checkbox"/> 14-403 Streets Review |
| <input type="checkbox"/> Flood Hazard | <input type="checkbox"/> Shoreland | <input type="checkbox"/> Historic Preservation | <input type="checkbox"/> DEP Local Certification |
| <input type="checkbox"/> Zoning Conditional
Use (ZBNPB) | <input type="checkbox"/> Zoning Variance | <input type="checkbox"/> Other _____ | |

Fees Paid: Site Pla \$1,200.00 Subdivision _____ Engineer Review _____ Date 1/31/2006

Zoning Approval Status:

Reviewer Margie S. - Insp.

- Approved Approved w/Conditions
See Attached Denied

Approval Date _____ Approval Expiration _____ Extension to _____ Additional Sheets
Attached

Condition Compliance _____
signature date

Performance Guarantee Required* Not Required

* No building permit may be issued until a performance guarantee has been submitted as indicated below

- | | | | |
|-------------------------------------------------------------|----------------------|----------------------------------------------------------------------------------------------------------|-----------------------|
| <input type="checkbox"/> performance Guarantee Accepted | _____ date | _____ amount | _____ expiration date |
| <input type="checkbox"/> Inspection Fee Paid | _____ date | _____ amount | |
| <input type="checkbox"/> Building Permit Issue | _____ date | | |
| <input type="checkbox"/> Performance Guarantee Reduced | _____ date | _____ remaining balance | _____ signature |
| <input type="checkbox"/> Temporary Certificate of Occupancy | _____ date | <input type="checkbox"/> Conditions (See Attached)
<input type="checkbox"/> Conditions (See Attached) | _____ expiration date |
| <input type="checkbox"/> Final Inspection | _____ date | _____ signature | |
| <input type="checkbox"/> Certificate Of Occupancy | _____ date | | |
| <input type="checkbox"/> Performance Guarantee Released | _____ date | _____ signature | |
| <input type="checkbox"/> Defect Guarantee Submitted | _____ submitted date | _____ amount | _____ expiration date |
| <input type="checkbox"/> Defect Guarantee Released | _____ date | _____ signature | |



From: Marge Schmuckal
To: Jean Fraser
Date: 4/21/2006 12:15:22 PM
Subject: 83 Sherman St - Parkside Studio condominiums

Jean,

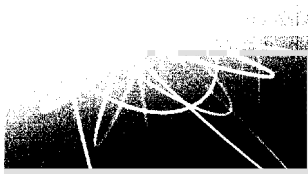
I have reviewed the plans, including the more recent submittals by Peter Bass. This project to convert the Sacred Heart School into 8 residential condominium dwelling units each with visual artist studio space for home occupations, is located within a **R-6** residential zone. All requirements of the **R-6** zone are being met including, but not limited to, lot size per dwelling unit and parking requirements.

I have also reviewed the information concerning the proposed home occupations for visual artist studio spaces. The proposed language to be placed in the condominium documentation is very good and will help control the size and use and other home occupation impacts. It will help to control exterior signage too.

This project is meeting the requirements of the **R-6** zone.

Marge Schmuckal
Zoning Administrator

CC: internet: pbass@maine.rr.com



70 MERRILL STREET
PORTLAND, ME 04101
207-772-6005

Marge,

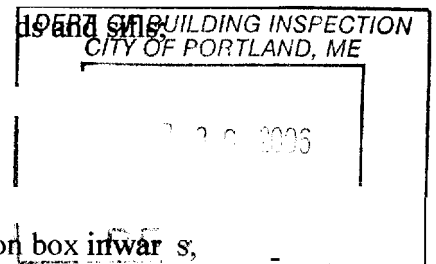
As we discussed each unit has a designated studio space in the basement that is defined by the condo docs as part of the unit. Each designated work space is below 25% of the total square footage to meet home occupation requirements. The condo docs reference the home occupation regs, specifically restate many parts including that no more than 25% of total space may be used for home occupation. I believe that I have satisfied all the conditions we have discussed. Because this is such a unique project the planning board would like to be assured of your approval.

Excerpts from condo docs-highlights underlined:

Section 2.2. Units. This Declaration creates eight (8) Condominium Units ("Units") on the Land out of a maximum of eight (8) Units that may be created. For each Unit, the identification number and approximate dimensions are shown on the Plans.

Each Unit includes the following items:

- A. All interior spaces and partitions (excepting those portions thereof which are structural or load-bearing) and interior doors wholly within the Unit;
- B. Finish flooring, floor coverings, carpeting and the like, and finish wall and ceiling coverings (including wallboard, plaster, paint, wallpaper, and any other materials constituting any part of the finished surfaces thereof);



where the feed wire enters the Unit's circuit breaker distribution box inwar s,

F. A Studio Portion of the Unit which is located on the ground floor as shown on the Plan and is not necessarily contiguous with the remainder of the Unit.

Notwithstanding subsection C above, no Owner shall alter the exterior appearance of windows and doors providing access to the Common Elements, Limited Common Elements or exterior of the Building, including without limitation any grills on the doors and windows and the window sashes.

Section 7.1. Use Restriction: Residential with Visual Artist Studio Home Occupation.

The Declarant shall own in fee simple each Unit to which legal title is not conveyed or otherwise transferred to another person. The Declarant retains the right to enter into leases with any persons for the occupancy of any of the Units owned by the Declarant.

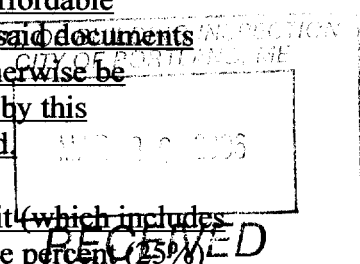
Each Unit is restricted to single-family residential use, except that (i) the Declarant may use the Property in the exercise of ~~Special Declarant Rights and~~ (ii) a Unit Owner may also use the Unit, as a home occupation, for visual artist studio space which is incidental and secondary to the use of the dwelling for residential purposes so long as in compliance with all of the provisions hereof.

Each Unit shall be subject to the Rules and Regulations and Bylaws of the Association, in addition to this Declaration, all as amended from time to time. In interpreting and applying this Declaration, the Bylaws and the Rules and Regulations, while it is generally intended that the quiet enjoyment rights of the other Unit owners in the building will take precedence over any high external-impact home occupation of a Unit owner, Unit owners also need to recognize that due to the nature of the allowed uses, there may be some more noise and external impacts than in an exclusively residential building without home occupations. Even if otherwise allowed by zoning and/or land use ordinances, no Unit owner may apply for or receive a change of use -permit or other permit to change from residential dwelling with an artist studio home occupation, as specifically allowed herein, to a different home occupation or to a commercial or retail use.

A. The permitted "home occupation" is a secondary and incidental use of a dwelling unit, conducted entirely within the dwelling unit by one (1) or more persons residing in the dwelling unit. The external activity levels and impacts shall be so limited as to be compatible with the residential character of the neighborhood.

B. ~~One~~ or more Unit Owners and/or Tenants may establish a home occupation as a visual artist in their residential Unit so long as that home occupation meets all of the requirements of this Declaration of Condominium, the Rules and Regulations, the zoning ordinance of the City of Portland, Portland Subdivision Regulations, and all other codes and regulations of the City of Portland, and is otherwise allowed by the Affordable Housing Covenants. The most restrictive requirements of any of the ~~aforsaid documents~~ aforsaid documents shall control, thus if, for example, a particular home occupation would otherwise be permitted by the City of Portland but is not allowed in this Condominium by this Declaration of Condominium or the Rules and Regulations, it is prohibited.

C. The home occupation shall be carried on wholly within the Unit (which includes the Studio Portion of the Unit), and shall not occupy more than twenty-five percent (25%) of the total floor area of such Unit (including in the calculation of total floor area the Studio Portion of the Unit). Storage of materials related to the home occupation shall count as part



of these occupancy limitations, but shall not constitute a dominant part of such occupancy. Storage of materials or products in any accessory structure upon the Property is prohibited.

D. Unit Owners and/or Tenants who conduct a home occupation within a Unit shall not employ or engage any person outside the immediate family in the home occupation; no non-family employees who do not reside in the Unit are allowed to work within the Unit in furtherance of the home occupation.

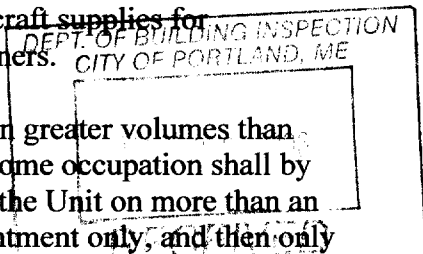
E. There shall be no exterior indication of the home occupation or any other variation or deviation from the residential character of the neighborhood; specifically, there shall be no exterior display, no display of goods visible from the outside, ~~no exterior sign~~ concerning the home occupation, and no exterior storage of materials related to the home occupation. ~~The only exterior sign~~ on the Property shall be one sign marking the entrance to the residential condominium, as approved by the Planning Board, to be maintained by the Association; that sign shall not identify home occupations conducted upon the Property. However, within the lobby of the Building, consistent with policies to be established by the Board, a small Building directory and mailbox labels may contain the names of home occupations conducted within individual Units for mail delivery and general informational purposes.

F. Activities conducted as part of the home occupation shall not create a nuisance, nor shall they generate unreasonable offensive noise, vibration, smoke, dust, other particulate matter, odors, heat, humidity, glare, electrical disturbance, or other unreasonable external effects. Noise generated by a home occupation shall be kept at a low volume, particularly between 10:00 p.m. and 8:00 a.m.; work noise generated shall not exceed normal residential living noises at the boundaries of the Unit. All individuals generating work noise shall utilize reasonable noise attenuation practices to minimize the perception of sound at the Unit boundaries at all times during the use. Reasonable noise attenuation measures may include, but are not limited to, insulation, keeping windows closed, use of air conditioners, keeping electronic amplification at low levels, etc.

G. No Unit Owner, Tenant or Resident, as part of the home occupation, may use or store upon the Condominium premises or transport to the Condominium premises hazardous, toxic, dangerous, radioactive, noxious or unhealthful materials, substances, objects, gases and/or wastes, or any chemical or substance which is prohibited, limited or regulated by any federal, state, county, regional, local or other governmental authority or which may pose a hazard to or be injurious to the health or safety of the occupants of individual units, the Building, or the neighborhood in which the Property is located. No gasoline or other explosive or inflammable material may be kept in any Unit, with the exception of small amounts of paints, solvents and other art and ~~craft supplies for~~ individual use, which shall be stored in appropriate closed containers.

H. No traffic may be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood. No home occupation shall by its conduct generate a need for parking by individuals coming to the Unit on more than an occasional basis; visits to the home occupation shall be by appointment only, and then only on an occasional basis.

I. The home occupation shall be limited to the following uses: studio of any person who is regularly engaged in the two- and/or three-dimensional visual arts, including



but not limited to those engaged in drawing, printmaking, painting, sculpting, fabric arts, weaving, lapidary work, ceramics, pottery, jewelry making, photography, film, video, illustration, traditional and non-traditional crafts, and similar visual arts which have low external impacts; provided, however, that all such uses are further restricted by Section 7.1 (J), immediately below. Materials can be traditional or digital media. Works should be one of a kind or limited production, based on the artist's original ideas. Performance artists, such as musicians and dancers, are specifically excluded from the definition of permitted "visual arts."

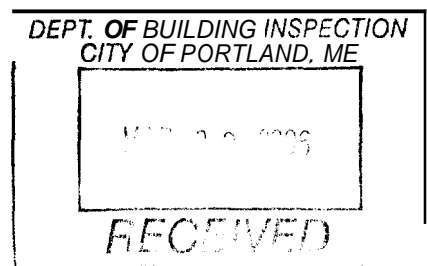
J. Due to a risk of significant adverse external impacts, any use as a studio for a visual art that might otherwise be allowed pursuant to Section 7.1(I), immediately above, is nonetheless prohibited if it would involve industrial or quasi-industrial production or manufacturing; production which involves the frequent use of fiberglass, polyester resin, epoxy, or other toxic, noxious or hazardous materials; welding, woodworking as the primary medium; or on-site film processing using toxic or hazardous materials.

Square Foot Percentages of Designated Studios:

Unit	Total SqFt	Studio Sq Ft	Percentage
1	1038	249	23.98% ✓
2	972	187	19.23% ✓
3	1017	229	22.5% ✓
4	1015	230	22.6% ✓
5	1031	242	23.47% ✓
6	972	187	19.23% ✓
7	1010	222	21.9% ✓
8	1013	228	22.5% ✓

less than 25%
As permitted under
1A-410

$unit\ #1 = 789 + 249 = 1038$ ^{total}
 $unit\ #2 = 785 + 187 = 972$
 $unit\ #3 = 788 + 229 = 1017$
 $unit\ #4 = 785 + 230 = 1015$
 $unit\ #5 = 789 + 242 = 1031$
 $unit\ #6 = 785 + 187 = 972$
 $unit\ #7 = 788 + 222 = 1010$
 $unit\ #8 = 785 + 228 = 1013$





PETER BASS

70 MERRILL STREET
PORTLAND, ME 04101
207-772-6005

pbass@maine.rr.com

Parkside Studios Condominium
Site Plan/Subdivision Application
Random Orbit, Inc.

Table of Contents

1. Application
2. Developer's Written Statement
3. Portland Water District Capacity Letter
4. Portland Public Works Sewer Capacity Letter
5. Stormwater Analysis
6. Financial Capacity Letter- TDBanknorth
7. Purchase and Sale Agreement-City Of Portland

City of Portland Site Plan Application

If you or the property owner owe real estate taxes, personal property taxes or user charges on any property within the City of Portland, payment arrangements must be made before permit applications can be received by the Inspections Division.

Address of Proposed Development: 83 SHERMAN ST.		Zone: R-6
Total Square Footage of Proposed Structure: EXISTING : 13,200 SF		Square Footage of Lot: 14,252 SF
Tax Assessor's Chart, Block & Lot: Chart# 48 Block# D Lot# 1315	Property owner's mailing address: CITY OF PORTLAND	Telephone #:
Archetype WARE ST PORTLAND 772-6022	70 MERRILL ST PORTLAND, ME T-772-6005 F-772-6005	Project name: PARKSIDE STUDIOS

Proposed Development (check all that apply)

New Building
 Building Addition
 Change of Use
 Residential
 Office
 Retail
 Manufacturing
 Warehouse/Distribution
 Parking lot
 & Subdivision (\$500.00) + amount of lots 8 (\$25.00 per lot) \$ 900. + major site plan fee if applicable
 Site Location of Development (\$3,000.00)
 (except for residential projects which shall be \$200.00 per lot _____)
 Traffic Movement (\$1,000.00)
 Stormwater Quality (\$250.00)
 Section 14-403 Review (\$400.00+ \$25.00 per lot)
 Other _____

Major Development (more than 10,000 sq. ft.)

Under 50,000 sq. ft. (\$500.00)
 50,000 - 100,000 sq. ft. (\$1,000.00)
 Parking Lots over 100 spaces (\$1,000.00)
 100,000 - 200,000 sq. ft. (\$2,000.00)
 200,000 - 300,000 sq. ft. (\$3,000.00)
 Over 300,000 sq. ft. (\$5,000.00)
 After-the-fact Review (\$1,000.00 + applicable application fee)

- Please see next page -

Minor Site Plan Review

Less than 10,000 sq. ft. (\$400.00)

After-the-fact Review (\$1,000.00 + applicable application fee)

Plan Amendments

Planning Staff Review (\$250.00)

Planning Board Review (\$500.00)

Who billing will be sent to: (Company, Contact Person, Address, Phone #)

PETER BASS
RANDOM ORBIT, Inc
70 MERRILL ST
PORTLAND, ME 04101
772-6005

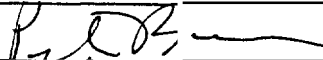
Submittals shall include (9) separate folded packets of the following:

- a. copy of application
- b. cover letter stating the nature of the project
- c. site plan containing the information found in the attached sample plans checklist
- d. 1 set of 11 x 17 plans

Amendment to Plans: Amendment applications should include 6 separate packets of the above (a, b, & c)
ALL PLANS MUST BE FOLDED NEATLY AND IN PACKET FORM

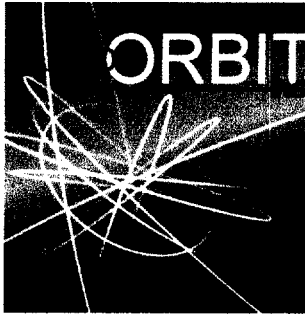
Section 14-522 of the Zoning Ordinance outlines the process which is available on our web site: portlandmaine.gov

Signature of applicant:



Date:

1/27/06



PETER BASS

70 MERRILL STREET
PORTLAND, ME 04101
207-772-6005

pbass@maine.rr.com

Parkside Studios Condominium

Developer's Written Statement

Background

When the Sacred Heart School, owned by the City, became surplus property, Aaron Shapiro of the City of Portland's Housing and Neighborhood Services Department recognized the intrinsic value of the building for affordable housing. Working with the Council's Housing Committee and the Parkside Neighborhood Association it was decided that the best use for the building would be affordable artist live/work condominiums. This decision was based on the understanding of the value that is returned to the community by artists and how difficult it is to find stable and affordable studio space in Portland. The Housing Committee put out a Request for Proposals requiring ownership of the units by artists, and affordability to 80% of Median Income, both in perpetuity. Random Orbit, Inc. was chosen as the applicant that best met the goals of the City and had the experience and capacity to successfully complete the project. In advance of final approval by the Housing Committee, it was requested of Random Orbit to develop in detail an ownership and buyer financing model that would enable these goals. The goals are met with the use of three deed restrictions: limiting an owner's equity gain to increases in the HUD income tables for metropolitan Portland, limiting resale to a low to moderate income buyer, and limiting sales to qualified artists. When the Housing Committee was satisfied, the sale of the property was sent to the full Council for approval and execution of a Purchase and Sale Agreement.

During the development of these models it became clear that for the concept to succeed, a public/private partnership between Random Orbit and the City should continue throughout the development process, and that the City's involvement would continue beyond that. This project introduces limited equity condominium ownership to Portland, a concept that has few, if any, examples in Maine. To achieve the City's goals and to be sure that all details of this unique ownership model are in line with those goals, it was agreed that a continuing working relationship between the developer and The Housing and Neighborhood Services Department was imperative. The Housing and Neighborhood Services Department will have the ongoing responsibility to qualify buyers of the condominiums for income appropriateness. They will also hold soft second mortgages guaranteeing them the legal clout to be sure that all deeded requirements and restrictions **are** in compliance at resale.

Random Orbit shares the City's goals of retaining the historical integrity of the building while having a community presence that reflects the unique activity that is

conducted within the building. Little will be done to the exterior of the building itself, other than replacing the majority of the windows. This will be done with input from Deb Andrews. Random Orbit will conduct a local design/build competition to choose an artist/craftsman to install a privacy fence to enclose the new sculpture garden at the rear of the building. We will also construct an area designated as a site for temporary art installations that could be used by owners of the building or outside organizations like Portland's Public Art Committee. The site will be improved by creating a private "sculpture garden" at the rear of the building. This will be accomplished by removing over 15% of the site's total impervious paving and adding landscaping and a rain garden area, all of which will "pre-treat" the run-off before it enters the existing on-site catch basin.

This is a very exciting project with many new and exciting concepts from ownership to cutting edge site improvements. Random Orbit believes that it will be a unique and positive addition to the Parkside neighborhood and can serve as a model for future public/private partnerships for infill and creative reuse developments.

Proposed Use For Property

The existing school building will be converted into 8 residential condominiums with artist-home occupation. All interior and site improvements satisfy the existing R-6 requirements. Condominium documents will reference Home Occupation in the Land Use Code to limit uses to those allowable and will further limit uses to those appropriate in an artist live/work environment. Parking will be supplied at 1 space per unit as required by Division 20 Section 14-332-(a)-2 of the Land Use Code.

Site Land Area

Total Land Area:	14,252sf
Ground Coverage of existing building:	4,400sq.ft +/-
Total Floor Area on 3 floors:	13,200sq.ft. +/-

Solid Waste

This development will generate mostly typical household waste. My experience in developing artist studios and live/work condos is that little extra waste is generated from the artist work component. A dumpster will be located on site to handle all solid waste requirements.

Availability of Utilities

Utilities will be available through existing services to the building. There is a 2" water service from a 6" main in Sherman Street. There is a 6 inch waste pipe connected to a 24" combined sewer in Mellen Street. These will be sufficient to service the new residential use, which will have lower impact than the original school use. Please see accompanying capacity letters.

Stormwater Management

Please see attached stormwater management description by Stephen Tibbetts PE.

Construction Plan

This is an uncomplicated reuse renovation that will have two components. Renovations to the building will be mostly interior plus window replacement. Site work and landscaping will consist mostly of transforming the rear of the building into the

sculpture garden. Work on both components will be simultaneous and should take no more than 2-3 months. Hopefully work will begin in late spring of 2006.

Financial Capacity

Please see attached letter from TDBanknorth

Interest in Property

Please see attached Purchase and Sale Agreement between Random Orbit, Inc. and The City of Portland.

Waiver Request

Random Orbit requests that the requirement to plant 2 trees per unit be waived. This is a fully built, mature urban environment with little room for more trees. In lieu of trees, Random Orbit will be adding other architectural/landscape features to the site that will reflect the unique use of the building. There will be an outdoor sculpture site at the Southwest corner of the building. A design/build competition will be conducted by the developer to install a unique and artistic privacy fence for the proposed garden in the rear. The foundation berms will be re-landscaped.

Other

Snow Removal: Snow will be stored on both sides of the dumpster on the North property line and at the Southeast corner of the property on Sherman Street.

Exterior lighting: No additional exterior lighting is proposed.



CUSTOMER SERVICE
OFFICE HOURS
8:30 A.M. - 4:30 P.M.

Portland Water District
FROM SEBAGO LAKE TO CASCO BAY

January 19, 2006

Peter Bass
Random Orbit Inc.
70 Merrill St.
Portland, Me. 04101

Re: 83 Sherman St.-Portland

Peter:

This letter is to confirm there should be an adequate supply of clean and healthful water to serve the needs of the proposed building reconfiguration at 83 Sherman St. in Portland. Checking District records, I find there is a 6" CI water main on the south side of Sherman St. as well as a water hydrant located within 150' of the property.

Current records the property has a 2" service installed in 1927. Please be aware no water connections can be taken off the service inside the building before the meter and the backflow device.

The current data from the nearest hydrant indicates there should be adequate capacity of water to serve the needs of your proposed project.

Hydrant Location: Mellen St. @ Sherman St.
Hydrant # 262
Static pressure = 85 PSI
Flow = 1116 GPM
Last Tested = 8/21/1991

If the District can be of further assistance in this matter, please let us know.

Sincerely,
Portland Water District

Jim Pandiscio
Means Coordinator



PORTLAND MAINE

Strengthening a Remarkable City. Building a Community for Life • www.portlandmaine.gov

Public Works Department
Michael J. Bobinsky, Director

24 January 2006

Peter Bass,
Random Orbit Inc.,
70 Merrill St,
Portland, Maine 04101.

**RE: The Capacity to Handle an Anticipated Wastewater Flow,
From the Proposed Conversion of an Existing School to Eight One Bedroom Condominiums at 83
Sherman St, Portland, Maine.**

Dear Mr. Bass:

The existing twenty-four inch vitrified clay combined sewer, located in Mellen Street has adequate capacity to **transport**, while The Portland Water District sewage treatment facilities, located off Marginal Way, have adequate capacity to **treat** the anticipated wastewater flows of **1,440 GPD**, from your proposed conversions.

Anticipated Wastewater Flows from the Proposed School Conversions:

8 Proposed One Bedroom Condominiums @ 180 GPD/Condominium	= 1,440 GPD
Total Proposed Increase in Wastewater Flows for this Project	= 1,440 GPD

The City combined sewer overflow (C.S.O.) abatement consent agreement, with the U.S.E.P.A. and the Maine D.E.P., requires C.S.O. abatement, as well as storm water mitigation, in order to offset any increase in sanitary flows, from all projects.

If The City can be of further assistance, please call 874-8846.

Sincerely,
CITY OF PORTLAND

Charles M. Moore
Engineering Technician

CMM

cc: Sarah Hopkins, Planner, Department of Planning, and Urban Development, City of Portland
Eric Labelle, P.E., City Engineer, City of Portland
Bradley A. Roland, P.E., Environmental Projects Engineer, City of Portland
Stephen K. Harris, Assistant Engineer, City of Portland
Jane Ward, Administrative Assistant, City of Portland
Desk tile

Stephen W. Tibbetts, PE

Consulting Professional Civil Engineer

15 Oak Ridge Road • Brunswick, Maine • 04011 • 207-725-2667 • stibbettspe@suscom-maine.net

Stormwater Analysis **Parkside Studios** **83 Sherman Street, Portland, Maine**

EXISTING CONDITION;

The existing site located at 83 Sherman Street in Portland is 14,253 square feet in area. The current land use is summarized below:

Impervious Area:	Brick Building	4,444 sqft	
	<u>Pavement</u>	<u>8,289 saft</u>	
	Total Impervious =	12,733 sqft	(89.3%)
Pervious Area:	Plantings along sides of building:	1,520 sqft	

Runoff from the roof of the building currently enters a series of roof drains that empty into the City of Portland's combined sewer/stormwater system. The small landscaped areas along the Mellen Street side of the building drain across the sidewalk and on to Mellen Street. The landscaped area along the front of the building on Sherman Street drains across the sidewalk and on to Sherman Street.

The parking area and the paved area at the rear of the building, along with the small landscaped area on the parking lot side of the building, drain towards the back of the building, where runoff then flows parallel to the rear of the building until it enters the existing catch basin located on the northeast corner of the building. This catch basin drains to the 24 inch vitreous clay combined sewer/water line in Mellen Street.

FUTURE CONDITION:

After the site is developed, as proposed by Random Orbit, LLC and shown on Figure 1, the land use will be as follows:

. Impervious Area:	Brick Building	4,444 sqft	
	Parking Area	4,177 sqft	
	<u>New Pavers in sarden areas:</u>	<u>1,919 saft</u>	
	Total impervious area:	10,540	(74%)
Pervious Area:	Plantings along sides of building:	1,520 sqft	
	<u>New landscaped areas:</u>	<u>2,193 saft</u>	
	Total pervious area:	3,713 sqft	

The proposed redevelopment of this site will result in a reduction of impervious surfaces of 15.3%. Therefore, runoff from the parking area and area landscaped garden area at the rear of the building will be lower than existing conditions. No on-site detention facilities are therefore required.

The proposed landscaping at the rear of the building (Refer to Sheets L1 and L2 for the project) will also provide some stormwater pre-treatment as runoff travels through the vegetation and the proposed rain trench before it enters the existing catch basin at the corner of the property. The landscaped area/rain garden around the catch basin will provide further treatment of the runoff before it enters the City's stormwater system.



Maine

One Portland Square
P.O. Box 9540
Portland, ME 04112-9540
T: 207 761-8500
Toll Free: 800 761-3666

August 4, 2005

Portland City Housing Committee

To Whom It May Concern:

TD Banknorth, N.A. (the "bank") considers Random Orbit LLC (the "borrower") to have the financial capability to **finance and complete the proposed residential condominium project**. This conclusion is **based on a preliminary review of the borrower's financial status and experience** managing these projects.

The bank **has** financed two similar projects (one significantly larger) **in the last five years** for the borrower. **Both projects were successfully completed.**

Should you **have** any questions, please do not hesitate to call **me** at (207) 761-8577.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. C. Geci'.

Benjamin C. Geci
Vice President
Commercial Lending
TD Banknorth, N.A.

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT for the purchase and sale of real estate made as of the ____ day of _____, 2006 by and between the **CITY OF PORTLAND**, a body politic and corporate located at 389 Congress Street, Portland, Maine (hereinafter referred to as "**CITY**"), and **RANDOM ORBIT, INC.**, with a mailing address of 70 Merrill Street, Portland, Maine 04101 (hereinafter referred to as "**BUYER**").

~~WITNESSETH:~~

WHEREAS, CITY is the owner of real estate located at 83 Sherman Street, Portland, Maine, known as the former Sacred Heart School, as further described in deed recorded in the Cumberland County Registry of Deeds in Book 14677, Page 8 (hereinafter the Property); and

WHEREAS, BUYER desires to acquire the Property to renovate it into a condominium development with eight limited equity, live/work condominium units for sale to qualified low- and/or moderate-income artists; and

WHEREAS, CITY agreed by vote of the Portland City Council on January 18, 2006 to sell the Property to **BUYER**;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, **CITY** and **BUYER** agree to be legally bound as follows:

1. **SALE.**

CITY agrees to sell the Property to **BUYER**, and **BUYER** agrees to purchase the Property in accordance with the provisions hereof. **BUYER** agrees to accept the Property as is, where is, with no warranties as to its condition by **CITY** whatsoever.

2. **CONSIDERATION.**

The purchase price for the Property shall be One Hundred Fifty Thousand Dollars (\$1 50,000.00).

3. **TITLE.**

Title to the Property shall be conveyed by Quitclaim Deed, without covenant, and shall be free of **CITY** liens and encumbrances except, to the extent there are easements and encumbrances of record in the Registry of Deeds, those which do not adversely affect the use of the Property for its intended purpose.

4. **POSSESSION.**

Full possession of the Property will be given at the transfer of title.

5. **REMAINING ITEMS.**

BUYER agrees to take possession of any items remaining within the Property at the time of transfer of title. **CITY** agrees not to place any additional items within the Property between the date hereof and transfer of title.

6. **RISK OF LOSS.**

The risk of loss or damage to the Property by fire or otherwise, until transfer of title hereunder, is assumed by **CITY**. The Property is to be delivered in substantially the same condition as of the date of this Agreement.

7. **CLOSING.**

The closing shall be held at Portland City Hall at a time mutually agreeable to the parties, within thirty days after the conditions precedent outlined in Paragraph 8(b) have been satisfied, but in any event no later than eight (8) months after the date of approval of this Agreement by the Portland City Council. ,

8. **CONDITIONS WHICH WILL SURVIVE CLOSING.**

- a. **BUYER** shall obtain all necessary federal, State and City approvals and permits for the renovation work on the Property and its conversion to a condominium development with eight condominium units.
- b. At the time of conveyance from the **CITY** to **BUYER**, the parties shall execute a Declaration of Affordable Housing Covenants Under 33 M.R.S.A. Section 121-126 (hereafter "Declaration") in the form attached hereto as Attachment A (including Exhibits A-E), as it may be further amended prior to execution by mutual agreement of the parties.
- c. The deed shall contain a covenant that the Property must be used for an eight-unit limited equity, live/work condominium development in accordance with the

Declaration of Affordable Housing Covenants, and that any proposed change in use of the property must be approved by **CITY**.

- d. Following renovation, **BUYER** shall convey each unit to a Qualified Artist purchaser (as further defined in the Declaration) at fair market value; however, at the time of the initial conveyance of each unit. **BUYER** is hereby required to and shall immediately rebate to the **CITY** the difference between the fair market value contract sales price and the affordable price cap for each unit as established in Exhibit C of the Declaration. **BUYER** may, if it so opts, sell each unit subject to a limited warranty certificate which reduces the time period during which a unit owner may bring an action for breach of warranty from six years to two years (as allowed by statute) so long as the terms of the limited warranty certificate are disclosed to the unit purchaser prior to entering into a purchase and sale agreement and acceptance of the limited warranty certificate is part of the consideration for the transaction.
- e. **BUYER** shall execute a covenant that shall run with the land that shall allow **CITY** or its successors and assigns, as contract beneficiaries, to enforce the conditions of this Purchase and Sale Agreement in the event of a breach of the conditions stated herein.
- f. **BUYER**, its successors and assigns shall be responsible for paying full property taxes, both real estate and personal property taxes, assessed on the Property; however, in the event that any portion of the Property shall become tax exempt, **BUYER**, for itself, its successors and assigns agrees pursuant to Paragraph 5(d) of the Declaration, that it will pay to the **CITY** sum in lieu of taxes equal to the amount that would have been payable to the City as taxes assessed on said property for so long as the building and property remain exempt from property taxes.

9. **CONDITIONS PRECEDENT TO BUYER'S OBLIGATION TO CLOSE.**

The obligation of **BUYER** to close is subject to the following conditions:

- a. The deed from the **CITY** shall convey good and marketable title in accordance with the Standards of Title adopted by the Maine Bar Association, free and clear of all encumbrances except covenants, conditions, easements and restrictions of record which do not materially and adversely affect the intended use of the Property; and
- b. **BUYER** obtaining confirmation that the live/work space as proposed is allowed on the site as a home occupation, and **BUYER** obtaining site plan and subdivision approval from the City of Portland.

In the event that any one or more of the foregoing conditions are not met to **BUYER'S** satisfaction, **BUYER** shall have the option of terminating this Purchase and Sale Agreement by

written notice to **CITY** and in that event, no party shall have any further obligation to the other hereunder.

10. PRORATIONS.

The following items, where applicable, shall be prorated as of the date of closing: fuel oil. **CITY** shall be responsible for metered utilities until the date of closing.

11. ACCESS TO THE PROPERTY.

CITY shall allow **BUYER** reasonable access to the Property between the date of execution of this Agreement and the date of closing to allow **BUYER** to conduct such surveys, assessments, inspections and other investigations as are reasonably necessary to complete applications for governmental approvals, including but not limited to subdivision and site plan approval.

12. BINDING EFFECT.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.

13. ENTIRE AGREEMENT.

This Agreement represents the entire and complete Agreement and understanding between the parties and supersedes any prior Agreement or understanding, written or oral, between the parties with respect to the acquisition or exchange of the Property.

14. HEADINGS AND CAPTIONS.

The headings and captions appearing herein are for the convenience of reference only and shall not in any way affect the substantive provisions hereof.

15. GOVERNING LAW.

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maine.

16. NOTICE.

Any notice required or permitted under this Agreement shall be deemed sufficient if mailed with first class postage affixed or delivered in person to:

FOR THE CITY: City of Portland
ATTN: CITY MANAGER
389 Congress Street
Portland, ME 04101

With a copy to:

Lee Urban, Director Planning and Development
City of Portland
389 Congress Street
Portland ME 04101

FOR THE BUYER:

Random Orbit, Inc.
70 Merrill Street
Portland, ME 04101

With a copy to:

Barbara A. Vestal, Esq.
Chester & Vestal, PA
107 Congress Street
Portland, ME 04101

IN WITNESS WHEREOF. the parties have hereunto set their hands and seals on the day and year first above written.

CITY OF PORTLAND

⁴
Sonia Bean
WITNESS

By: *Joseph E. Gray, Jr.*
Joseph E. Gray, Jr.
Its City Manager

RANDOM ORBIT, INC.

[Signature]
WITNESS

By: *[Signature]*
Printed name: PETER BASS
Its: President

ATTACHMENT A

**Declaration of Affordable Housing Covenants
Under 33 M.R.S.A. Sec. 121-126**

This Declaration of Affordable Housing Covenants (the “Declaration”) is entered into by and between the City **of Portland**, a public body corporate and politic with its principal place of business at 389 Congress Street, Portland, Maine, 04101 (“City”) and **Random Orbit, Inc.**, a Maine corporation, (“ Developer”) with a mailing address of 70 Merrill Street, Portland, Maine 04101.

WITNESSETH

WHEREAS, the Developer acknowledges that City is selling Developer the Sacred Heart School property, as further described in a deed from the Roman Catholic Bishop of Portland to the City of Portland, recorded in the Cumberland County Registry of Deeds in Book 14677, Page 8 (the Property), for the purpose of rehabilitation and reuse for an eight (8) unit artist live/work limited equity condominium development (the “Development”); and

WHEREAS, the Developer acknowledges that City is a Qualified Holder as defined in 33 M.R.S.A. Section **121**, and that Developer’s purchase, renovation and conveyance of the units in the Development under such conditions as are imposed herein are in furtherance of City’s public trust to increase affordable housing opportunities for low- and moderate-income households ; and

WHEREAS, in consideration of conveyance of said Property to Developer, Developer, on behalf of itself, its successors and assigns, is willing to enter into this Declaration of Affordable Housing Covenants for the purpose of maintaining the Property as affordable housing;

NOW, THEREFORE, in consideration of conveyance of the Property to Developer as described above, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer, for itself, its successors and assigns, covenants and agrees as follows:

1. The covenants and restrictions of the Developer set forth herein are intended to be and shall be considered covenants which run with the real estate described in **Exhibit A** attached hereto and shall bind **all** subsequent owners of the real estate described in **Exhibit A** attached hereto, including but not limited to owners of individual condominium units, except to the extent provided herein.

2. The covenants of the Developer set forth herein are enforceable by City as a Qualified Holder whether or not the Developer is or remains owner of the Property, except to the extent provided herein.

3. The covenants of the Developer set forth herein shall survive a sale, transfer, or other disposition of the Development by the Developer, foreclosure or transfer of title in lieu of foreclosure, including the sale of individual condominium units, except to the extent provided herein, but shall cease to apply to the Development in the event of involuntary noncompliance caused by fire or other substantial destruction, seizure, requisition or other event that prevents City from enforcing the Developer's covenants contained herein.

4. This Declaration of Affordable Housing Covenants is intended to be an "affordable housing covenant" as such term is defined in 33 M.R.S.A. Section 121(1) and the City of Portland is the Qualified Holder as defined therein. The Declaration is unlimited in duration except as provided in 33 M.R.S.A. Section 122(3)(B).

5. The Developer hereby covenants and represents to City as follows:

a. The Development shall be located on the real estate described in Exhibit A attached hereto and shall consist of the facilities described in **Exhibit B** attached hereto.

b. In an effort to ensure that the condominium units (the "Units") remain affordable to low- or moderate-income households, they shall at all times be conveyed only in accordance herewith; any attempted transfer by conveyance of any Unit to a household which is not certified by the City of Portland to be a low- or moderate-income household shall be void, and shall constitute a default under this Agreement, entitling the City of Portland, its successors or assigns to exercise all remedies hereunder against the entity and/or person attempting to make the improper conveyance. The Developer shall convey each Unit for fair market value, but on the initial sale of each Unit Developer shall rebate to the City all amounts by which the contract sales price exceeds the Affordable Price Cap for each Unit as listed on **Exhibit C**, attached hereto, and all sales by Developer shall be to Qualified Buyers as that term is defined herein. In the case of the conveyance of any Unit in the Property by a transferor other than Developer, the maximum Owner's Equity retained by the transferor from such conveyance shall not exceed the amount calculated in accordance with **Exhibit D**, with the excess amount to be remitted to the City as a recapture amount.

1. The Developer acknowledges and represents to City that the Development will consist of eight (8) artist live/work limited equity condominium units. Developer, its successors and assigns, will sell only to households which contain at least one individual who is Qualified As An Artist, as further defined below, and which are certified by the City as a Qualified Artist purchaser, as further defined below;

- ii. The City will certify a prospective purchaser to be a Qualified Artist if s/he is a Qualified **As An Artist** by the Qualification Committee as further detailed in **Exhibit E** and s/he is **part** of a low- or moderate-income household. For purposes of this Declaration, “ low- or moderate-income household” means a household whose income is between fifty-one percent (51%) and eighty percent (80%) of the area median family income in Portland Maine **MSA**, adjusted for household size, and also includes households whose incomes are below 51% of said median income. This shall be determined by the City of Portland in accordance with the median family income most recently published by the US. Department of Housing and Urban Development for the Portland Maine **SMA**, adjusted for family size. The City may also impose such additional asset limits at it deems appropriate. Prior to any transfer, the City of Portland shall make the determination of whether each proposed buyer has been “Qualified **As An Artist**” by the Qualification Committee and meets the applicable financial eligibility criteria, and, if appropriate, shall issue an affidavit, in recordable form, verifying that the proposed transferee meets the criteria to be a Qualified Artist purchaser hereunder.
 - iii. A unit occupied by a Unit Owner who, at time of purchase of a Unit was certified by the City as a Qualified Artist purchaser shall continue to be treated as a Qualified Artist even if the owner’s income subsequently exceeds eighty percent (80%) of the area median income, adjusted for family size as defined above.
 - iv. [Reserved for additional provisions about death of Qualified Artist/surviving joint tenants, mortgage foreclosure, etc. mutually acceptable to City and Developer.]
 - c. Developer shall not make any change in the nature, size, number or location of the units in the Development or the amount of commercial or non-residential space, if any, from that which is described in Exhibit B.
 - d. Developer, its successors and assigns shall be responsible for paying full property taxes, both real estate and personal property taxes, assessed on the Development. In the event that any portion of the Property or the Development shall become tax exempt, the then owner of the Property or condominium unit that has become tax exempt shall pay to the City a sum equal to the amount that would have been payable to the City as taxes assessed on said property. Nothing herein shall be deemed to waive the owner’s ability to pursue an abatement of taxes as prescribed by Maine law, based upon the valuation of the property.
-

- e. Developer shall not submit the Property to a Declaration of Condominium without the consent of the City, which shall not be unreasonably withheld after the City's review of the condominium documents. Any amendments to the Declaration of Condominium and any deed restrictions must also be reviewed and approved by the City.
- f. Developer shall secure a Certificate of Occupancy for all eight (8) units of the Property within one (1) year of conveyance of the Property.
- g. Upon City's request, Developer shall allow City access to review Developer's financial records concerning the Property.

6. The City agrees to promptly make the determination of whether each prospective purchaser is a Qualified Artist purchaser upon submission to it of a signed contract for the sale of real estate affecting one of the Units and such information as City may require in form acceptable to City, including without limitation certification of Qualified As An Artist status, and income **and** asset information from the prospective purchaser. Developer, its successors and assigns shall use forms acceptable to City to allow the City to determine whether a prospective purchaser meets the applicable income limits. Such forms may contain clauses wherein each prospective purchaser certifies as to the accuracy of statements made relating to income and assets and agrees that family income and other eligibility requirements shall be deemed substantial and material obligations of purchase and sale agreement, that the prospective purchaser will comply with all requests for information with respect thereto from the Developer or City, and that failure to provide accurate information or refusal to comply with a request for information shall be deemed grounds for determining that the prospective purchaser is not a Qualified Artist purchaser.

7. City hereby consents to Developer's grant of one or more assignable mortgages covering the Property, provided that any mortgage is given to an institutional lender such as, but not limited to, a bank (including savings and loan association or insured credit union) or a mortgage banking company, the policies and procedures of which institutional lenders are subject to direct governmental supervision. **All** mortgages under this section shall provide for written notice to City of any default and an opportunity for City to cure the default.

8. Developer, its successors and assigns shall not convey the Property, or any portion thereof, except as provided herein, without the prior written consent of City. Such consent shall be recorded at the Cumberland County Registry of Deeds. **A** certification of Qualified Artist purchaser shall be deemed to be a consent by the City to transfer the Property, or a portion thereof, to said Qualified Artist. Any transfer of the Property, or any portion thereof, by Developer, its successors or assigns, without an accompanying recorded consent from City shall be void, invalid, of no force or effect.

9. Developer covenants and agrees to take such action as City deems necessary to comply with the covenants herein or to correct or cure any failure of the Developer to comply with the covenants herein.

10. In the event the Developer fails to comply with the covenants set forth herein, and fails to cure such non-compliance within any applicable cure period, City shall be able to, maintain an action in law or in equity against the Developer to recover damages incurred by City from such failure, and to require the Developer (through injunctive relief or specific performance) to comply with the provisions and covenants set forth herein and to immediately cure any failure to comply with the covenants set forth herein by the Developer.

11. Developer shall indemnify and hold City and its agents harmless from and against any and all claims, demands, liability, loss, cost or expense (including, but not limited to attorney's fees and other costs of litigation) which may be incurred by City arising out of or in any way related to the Developer's breach of any of its obligations under this Declaration as a result of such breach. The obligations survive the termination or expiration of this Declaration as necessary to effect its provisions. However, Developer shall have no enforcement responsibility nor shall Developer indemnify and hold City and its agents harmless from and against any and all claims arising out of or in any way related to the breach of any obligations by any party other than the Developer, specifically, the Developer shall not be not responsible for a breach of the conditions contained herein by assigns of Developer, including but not limited to individual owners of condominium Units and the condominium owners' association.

12. This Declaration may be amended or modified in whole or in **part** only by written agreement of Developer and City clearly expressing the intent to modify this Declaration.

13. The validity of any clause, **part** or provision of this Declaration shall not effect the validity of the remaining portions of thereof.

14. This Declaration shall be binding upon Developer's respective heirs, personal representatives, executors, administrators, successors and assigns and shall inure to the benefit of and be enforceable by City, its successors, transferees **and** assigns.

15. This Declaration is created pursuant to, and shall be construed in accordance with and governed by the laws of the State of Maine, including but not limited to 33 M.R.S.A. § 121 et. seq.

IN WITNESS WHEREOF, this Declaration has been duly executed by the Developer and City effective this _____ day of the month of _____, 200_.

CITY OF PORTLAND

Witness _____

Joseph E. Gray, Jr.
Its City Manager

RANDOM ORBIT, INC.

Witness _____

By: _____

Peter Bass
Its President

STATE OF MAINE
CUMBERLAND, ss.

_____, 200_

Personally appeared the above named Joseph E. Gray, Jr., City Manager to the City of Portland, and gave oath to the foregoing and acknowledged before me the foregoing to be his

free act and deed in **his** said capacity **and** the free act and deed of said City of Portland.

Notary Public/Attorney-at-Law

Print Name

STATE OF MAINE
CUMBERLAND, ss.

_____, 200_

Personally appeared the above named Peter L. Bass, President of Random Orbit, **Inc.**, and acknowledged the foregoing instrument to be his free act and deed **and** the free act and deed of **said** corporation.

Before me,

Notary Public/Attorney-at-Law

Print Name

EXHIBIT A

Legal Description, 83 Sherman Street, Portland, Maine

A certain lot or parcel of land with the buildings thereon situated in Portland, County of Cumberland and State of Maine, and located and bounded as follows, viz:

Beginning on the corner made by the intersection of the northerly sideline of Sherman Street and the easterly side line of Mellen Street; thence running easterly by said Sherman Street One Hundred Fifty feet (150') to a point; thence running northerly in a line parallel with Mellen Street One Hundred Feet (100') to a point; thence running westerly in a line parallel with Sherman Street One Hundred Fifty feet (150') to Mellen Street; thence southerly on Mellen Street One Hundred Fifty (100') to the point of beginning. Being lots nine (9), ten (10) and eleven (11) in **Block K** as described in the "Plan of Division Between Deering and Preble Estates" as recorded in the Cumberland County Registry of Deeds in Plan Book 3 at Page 37.

Reference is hereby made to the following deeds recorded in the Cumberland County Registry of Deeds whereby the Roman Catholic Bishop of Portland took title to the subject premises:

1. Ulric X. Griffin to the Roman Catholic Bishop of Portland dated **April 24, 1907**, Book 803, Page 344;
2. Mary Gorman Hackett to the Roman Catholic Bishop of Portland dated October 5, 1923, Book 1149, Page 296.
3. St. Elizabeth's Roman Catholic Asylum to the Roman Catholic Bishop of Portland dated June 30, 1994, Book 11512, Page 254.

Being the same premises conveyed to the City of Portland by deed of the Roman Catholic Bishop of Portland dated December 3, 1996 and recorded in said Registry in Book 14677, Page 8.

EXHIBIT B

Description of facilities to be constructed on the site

The existing structure shall be renovated into an eight-unit, limited equity condominium development with eight residential live/work dwelling units with associated common elements. Common elements shall include a planted rain garden, outdoor green space/sculpture garden, outdoor art site, thirteen parking spaces, a dumpster, furnace and building systems/utility space, a common library, a common laundry area, and limited common element storage spaces.

[Note: Common element items subject to revision if required as part of the subdivision/site plan review process.]

EXHIBIT C

Affordable Price Cap for each Unit

The following apply to initial sales by the Developer to a Qualified Artist purchaser. Resales by Qualified Artists are subject to the maximum Owner Equity provisions outlined in Exhibit D, including the recapture provisions.

[To be finalized prior to closing between Developer and City of Portland, with amount to be between \$125,000 and \$140,000]

Unit 1	\$xxx,xxx
Unit 2	\$xxx,xxx
Unit 3	\$xxx,xxx
Unit 4	\$xxx,xxx
Unit 5	\$xxx,xxx
Unit 6	\$xxx,xxx
Unit 7	\$xxx,xxx
Unit 8	\$xxx,xxx

2

EXHIBIT D

Formula for Maximum Owner's Equity to be Credited to Seller Upon Sale

The maximum Owner's Equity which a seller other than the Declarant may retain upon sale equals:

(1) the increase in the Affordable Price Cap amount for the unit being sold between the date of purchase and the date of sale if indexed to the change in the HUD moderate-income figures for Metropolitan Cumberland County Maine for a two-person household for each full year that has elapsed from the initial date of this Owner's purchase to this Owner's date of sale; PLUS

(2) the principal reduction in the first mortgage between the date of purchase and the date of sale, as measured by the original principal amount less the mortgage payoff as shown on the HUD settlement statement.

The Owner's Equity shall equal either the maximum Owner's Equity as calculated immediately above OR an amount equal to the contract sales price less the first mortgage payoff and less the fixed portion of the second mortgage payoff, whichever is less. The seller's closing costs and seller's other expenses of sale shall be paid out of the Owner's Equity amount; the net amount, after deduction of seller's closing costs and seller's other expenses of sale from Owner's Equity, shall be paid to seller at closing. Seller's closing costs and seller's other expenses of sale include but are not limited to: seller's portion of the real estate transfer tax; seller-paid points or closing costs; amounts owed by seller for real estate taxes, fuel and utilities; seller's attorney's fees; seller's recording fees; seller's portion of any real estate broker's commission; seller's title clearing costs such as for tax liens and judgments, and any other amounts properly shown as seller's costs on the HUD settlement statement.

Any proceeds of sale in excess, of the maximum Owner's Equity plus the first mortgage payoff plus the fixed portion of the second mortgage payoff shall be paid to the City of Portland as a recapture fee.

For purposes of subsequent sales, the Affordable Price Cap amount calculated pursuant to (1) above as of this Owner's date of sale shall become the new owner's Affordable Price Cap amount as of the new owner's date of purchase.

EXHIBIT E

Criteria for Artist Qualification

Sacred Heart Live/Work Condominiums will be available for purchase by qualified visual artists. The visual arts include, but are not limited to, the following two and three-dimensional disciplines: painting, drawing, printmaking, photography, film, video, illustration, sculpture, and traditional and non-traditional crafts. Materials can be traditional or digital media. Works should be one of a kind or limited production, based on the artist's original ideas. Eligibility of artists will be based on a professional commitment to creating art that is a part of their identity. This includes established and dedicated emerging artists. At least one household member must be eligible.

Successful applicants should be engaged in his/her artwork on a regular and ongoing basis and demonstrate experience in some combination of the following categories:

1. Formal education, apprenticeship, or self-training.
2. Teaching of the arts.
3. Dedication to presenting work to the public through exhibitions, showings and other means appropriate to the work.
4. Recognition from the public or peers through awards or critical acclaim in the media.
5. Remuneration for work in the form of sales, commissions, fees, grants and awards.
6. Engagement with the greater community through art.

The Qualification Committee as defined below will determine whether prospective buyers are "Qualified As An Artist" for purposes of this development. Each applicant should submit the following supporting material for review by the Selection Committee; 20 slides, photographs or digital images of work completed in the past five (5) years; CV describing education, showings and awards; letters of recommendation from colleagues, teachers or others; reviews or articles.

The Qualification Committee will initially consist of the Developer, a representative of the Maine **Arts** Commission, and a representative of the Portland Public *Arts* Committee. For resales of units, the Qualification Committee will consist of the Condominium Board of Directors and a representative from at least one of the established arts organizations of the initial Committee.

The determination to be made by the Qualification Committee is whether a candidate to purchase a live/work condominium meets the criteria to be deemed "Qualified **As** An Artist" for purposes of this development. If there is more than one candidate, it is **not** the responsibility of the committee to recommend one candidate over the other. Each candidate is to be assessed on his or her own merits to determine whether s/he meets the requirements stated above. Under no circumstances is the content or quality of the work a consideration for eligibility. If there is more than one candidate, it will be left to the discretion of the Unit Owner to determine to which candidate who is "Qualified As An Artist" the Unit Owner will sell. NOTE: Candidates who are "Qualified **As** An Artist" must also be certified by the City of Portland as meeting its income and related financial criteria to be a Qualified Artist Purchaser.