

CONSENT AGREEMENT

The parties, the City of Portland (the "City") and Mellen-Sherman Corp. ("Owner") hereby enter into this Consent Agreement as follows:

WHEREAS, Owner owns a multi-unit residential property located at 62 Mellen Street in Portland, Maine, shown as CBL 048 E012001 on the City of Portland Tax Maps (the "Property");

WHEREAS, the City of Portland Fire Department inspected the Property on November 12, 2015 (the "First Inspection Date"), and again on November 26, 2016;

WHEREAS, Owner was notified of certain building fire and life safety code violations at the Property resulting from the inspections, which are further described in the notices of violation, attached as Exhibits A and B, respectively (collectively, the "Violations");¹

WHEREAS, Owner agreed to remedy the Violations;

WHEREAS, Owner still has not remedied the Violations relating to the Knox Box (Ex. A and B), the Fire Alarm System (Ex. A and B), and the unrated window (Ex. A) (collectively, the "Outstanding Violations");

WHEREAS, Owner has requested an extension to remedy the Outstanding Violations;

WHEREAS, the City is willing to grant the requested extension; and

WHEREAS, the parties wish to settle this matter between them, and provide a date by which Owner will have fully remedied all of the Violations at the Premises.

NOW THEREFORE, the parties agree to the following:

1. Owner represents that it has fully remedied all of the Violations, except for the Outstanding Violations.

¹ The parties agree that Owner is not required to install emergency exit lighting, as described in Exhibit B, at this time.

2. By no later than March 15, 2018, Owner shall have remedied the Outstanding Violations (the "Compliance Date").
3. All Violations shall be remedied in full compliance with the City of Portland Code of Ordinance and other applicable laws, and shall be remedied to the full satisfaction of the relevant City of Portland official.
4. Owner agrees to schedule reinspection of the Premises on or before the Compliance Date.
5. If Owner fails to comply with any provision of this Agreement within the timeframe provided, Owner shall pay to the City of Portland civil penalties in the amount \$85,400, which amounts to \$100 per day from the Inspection Date until the Compliance Date.
6. Owner further agrees to pay to the City additional civil penalties in the amount of \$100 per day beyond the Compliance Date that the Violations are not remedied.
7. The City may grant an extension of the deadlines in this Agreement in its sole discretion, if Owner requests the extension in advance and demonstrates good cause for the extension.

SEEN AND AGREED,

Date:

9/26/17

CITY OF PORTLAND

By:

Its:

Date:

MELLEN-SHERMAN CORP.

By:

Robert Moldaver
Its President

9/26/17

CITY OF PORTLAND
 FIRE PREVENTION BUREAU
 380 Congress Street, Portland, Maine 04101
 fireprevention@portlandmaine.gov
 (207) 874-8400

NOTICE OF VIOLATION AND ORDER TO CORRECT

December 6, 2016

Responsible Party 1: MELLEN-SHERMAN CORP 189 ST JOHN STREET PORTLAND, ME 04102		
Location 62 MELLEN ST	CBL 048 E012001	Inspection Date 11/26/2016
Inspector Edward Dexter, Jr.	Inspection Type FP Routine Inspection	Status Failed

The City of Portland Fire Department inspected this property, and found the fire and life safety code violations listed below, which you are hereby ordered to correct. You must complete the proposed date of completion column by proposing a reasonable timeframe to remedy each violation. This form must be received by the Fire Prevention Bureau no later than 12/30/2016. The Bureau reserves the right to reject or modify any proposed plan of action, and may require evidence of sufficient financial and technical capacity to complete the proposed plan. Please contact the Bureau with any questions.

YOUR FAILURE TO SUBMIT A PLAN OF ACTION BY THE DATE PROVIDED, OR TO CORRECT ANY VIOLATION WITHIN THE APPLICABLE TIME FRAME, MAY RESULT IN LEGAL ACTION AGAINST YOU, THE IMPOSITION OF CIVIL PENALTIES, AND THE PURSUIT OF OTHER LEGAL REMEDIES.

Violation	Proposed Date of Completion
NFPA 101- 7.9.1.1 EMERGENCY LIGHTING REQUIRED; Emergency lighting facilities for means of egress shall be provided in accordance with Section 7.9 for the following: (1) Buildings or structures where required in Chapters 11 through 43 (2) Underground and limited access structures as addressed in Section 11.7 (3) High-rise buildings as required by other sections of this code (4) Doors equipped with delayed-egress locks (5) Stair shaft and vestibule of smokeproof enclosures, for which of the following also apply: (a) The stair shaft and vestibule shall be permitted to include a standby generator that is installed for the smokeproof enclosure mechanical ventilation equipment (b) The standby generator shall be permitted to be used for the stair shaft and vestibule emergency lighting power supply (6) New access-controlled egress doors in accordance with 7.2.1.6.2 No emergency exit lighting	
NFPA 101- 7.5.1.1.1 SECOND EXIT REQUIRED; Where exits are not immediately accessible from an open floor area, continuous passageways, aisles, or corridors leading directly to every exit shall be maintained and shall be arranged to provide access for each occupant to no less than two exits by separate ways of travel, unless otherwise provided in 7.5.1.1.3 and 7.5.1.1.4. basement 14B	___/___/___
NFPA 101- 7.2.2.5.1.1 EXIT STAIRS NOT SEPARATED.; All inside stairs serving as an exit or exit component shall be enclosed in accordance with 7.1.3.2. open stairs	___/___/___

Violation	Proposed Date of Completion
PORTLAND FIRE DEPARTMENT CHAPTER 10 FIRE ALARM INSPECTION STICKER REQUIRED; Provide annual fire alarm inspection sticker at the annunciator. This sticker must be provided by a licensed master fire alarm company. A list of licensed master fire alarm companies can be found at: www.portlandmaine.gov/fireprevention . Needs inspection sticker	___ / ___ / ___
PORTLAND CHAPTER 10 CODE SECTION 12 KNOX BOX REQUIRED; Knox boxes are required for all buildings with fire alarm or suppression systems. Front door	___ / ___ / ___
NFPA 101- 31.3.4.5.1 SMOKE ALARMS REQUIRED; In buildings other than those equipped through out with an existing, complete automatic smoke detection system, smoke alarms shall be installed in accordance with 9.6.2.10, as modified by 31.3.4.5.2, outside every sleeping area in the immediate vicinity of the bedrooms and on all levels of the dwelling unit, including basements. Basement stairs, 1st floor	IMMEDIATELY install temporary alarms where required. Your signature below indicates that temporary alarms have already been installed.
NFPA 70 MISSING COVER ON PANEL; Refer to NFPA 70, National Electrical Code, on requirements of missing cover on electrical panel. Open electrical panel in basement	___ / ___ / ___

VIOLATOR CERTIFICATION

I agree to remedy the violations listed within the timeframes provided. If I require additional time to comply, I understand that I must contact the Fire Prevention Bureau prior to the deadline to request an extension, which is entirely within the Bureau's discretion to grant or deny.

I further understand that it is my responsibility to schedule a reinspection of my property once the violations have been remedied to do so. My failure to schedule a reinspection shall be deemed an admission that the violations have not been remedied.

If I fail to comply with this agreement, I understand that I am liable for penalties pursuant to the City of Portland Code of Ordinances §§ 1-15 and 10-25, and 30-A M.R.S. § 4452 and may be subject to further legal action.

Date

Responsible Party

Date

Responsible Party

SEEN AND AGREED

Date

Fire Prevention Bureau

**CITY OF PORTLAND
PORTLAND FIRE DEPARTMENT**

380 Congress Street
Portland, Maine 04101

Inspection Violations

Owner/Manager MELLEN-SHERMAN CORP		Inspector Daniel Dyer	Inspection Date 11/12/2015
Location 62 MELLEN ST	CBL 048 E012001	Status Failed	Inspection Type Fire Company-FP Routine Inspec

Code	Int/Ext	Floor	Unit No.	Area	Compliance Date
------	---------	-------	----------	------	-----------------

1) 69.20

Violation: PORTLAND FIRE DEPARTMENT CHAPTER 10 SECTION 12 KNOX BOX REQUIRED; KNOX BOXES ARE REQUIRED FOR ALL BUILDINGS WITH FIRE ALARM OR SUPPRESSION SYSTEMS.

Notes:

2) 73.30

Violation: NFPA 101-31.3.4.1.1 FIRE ALARM SYSTEM REQUIRED; Apartment buildings four or more stories in height or with more than 11 dwelling units, other than those meeting the requirements of 31.3.4.1.2, shall be provided with a fire alarm system in accordance with Section 9.6, except as modified by 31.3.4.2 through 31.3.4.6.

Notes: SYSTEM NEEDS TO BE MONITORED AND INSPECTED.

3) 80.48

Violation: NFPA 101- TABLE 8.3.4.2 UNRATED WINDOWS ARE NOT PERMITTED IN EXIT STAIRS; FIRE WINDOW ASSEMBLIES ARE NOT PERMITTED IN VERTICAL SHAFTS (INCLUDING STAIRWAYS, EXITS, AND REFUSE CHUTES).

Notes: REAR STAIRWELL

4) 80.82

Violation: NFPA 101- 7.2.2.5.1.1 EXIT STAIRS NOT SEPARATED.; ALL INSIDE STAIRS SERVING AS AN EXIT OR EXIT COMPONENT SHALL BE ENCLOSED IN ACCORDANCE WITH 7.1.3.2.

Notes:

5) 55.30

Violation: NFPA 101- 31.2.4.1 TWO EXITS REQUIRED ABOVE FIRST FLOOR; EVERY DWELLING UNIT SHALL HAVE ACCESS TO NOT LESS THAN TWO SEPARATE EXITS REMOTELY LOCATED FROM EACH OTHER AS REQUIRED BY 7.5.1.

Notes:

Comments: Did not enter living units. Tenant from unit 1 stated that he had the required detectors in his unit.