

STATE OF MAINE

SUPERIOR COURT
CUMBERLAND, ss.

Civil Action
Docket No. AP-18-61

MARCIA CLEVELAND and
DANIEL PAUL,
Plaintiffs,

v.

CITY OF PORTLAND and
ZONING BOARD OF APPEALS
Defendants.

:
:
:
:
:
:
:
:
:
:
:
:
:
:
:
:
:

MOTION PURSUANT
TO RULE 80B(i)

PLAINTIFFS Hereby move for an order pursuant to Rule 80B(i) establishing the course of proceedings in this matter. This Motion is based on the following:

- 1. Plaintiffs joined an independent claim for relief, Count IV in their 80B Complaint.
- 2. Count IV seeks relief pursuant to the Maine Summary Judgement Act, 14 M.R.S. §5953 and the federal Civil Rights Act, 42. U.S.C. §1983.

3. The primary reason for asserting this Count is to assure that this Court has the power to issue declaratory judgments and the injunctive relief requested.

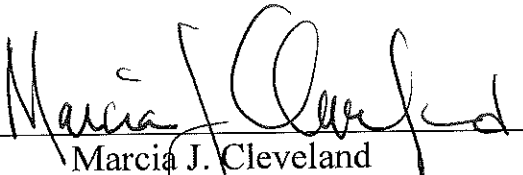
4. The primary concern that prompted Count IV is Owners' fear that their building will be left in a legal limbo where it cannot be sold or improved because the NOV is not resolved in the City of Portland's records. (See, ¶12 of the complaint)

5. It is very likely that a decision on the appeal from the Zoning Board of Appeals decision will resolve this matter and no further proceedings will in fact be required.

6. Owners have not yet had a chance to ask Corporation Counsel's whether they oppose this motion.

WHEREFORE, Owners respectfully request that this court establish a briefing schedule in the 80B appeal in accordance with the rule and schedule a status conference with the parties no more than 10 days after decision on the appeal from the ZBA decision.

Dated: December 20, 2018



Marcia J. Cleveland
6 Houlton Street
Portland, ME 04102