

Smith Elliott Smith & Garmey, P.A.

ATTORNEYS AT LAW

199 MAIN STREET - P.O. BOX 1179

SACO, MAINE 04072

TEL. 207-282-1527

FAX 207-283-4412

RANDALL E. SMITH*
CHARLES W. SMITH, JR.
TERRENCE D. GARMEY*
PETER W. SCHROETER*
RICHARD P. ROMEO
ROBERT H. FURBISH
WILLIAM S. KANY
JOHN H. O'NEIL, JR.
HARRY B. CENTER, II
DAVID S. ABRAMSON
DANIEL F. DRISCOLL*
DEBORAH SHELLES CAMERON
LARISSA S. PRATT*
SETH D. HARROW

CHARLES W. SMITH
(1915-1983)

ROGER S. ELLIOTT
OF COUNSEL

SANFORD
207-324-1560

PORTLAND
207-774-3199

KENNEBUNK
207-985-4464

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PRACTICE IN ME,
MA* AND IA*

November 19, 1997

City of Portland Board of Appeals
c/o City of Portland Building Inspections
389 Congress Street, Room 315
Portland, ME 04101

**RE: Application for Proposed Functional Division of Property Located at 20-22
Dow Street in Portland, Maine**

Dear Members of Portland Board of Appeals:

This office represents Probate Services, Inc., a Maine corporation with a principal place of business in Bridgton, Maine. Probate Services, Inc. has placed under contract certain property located at 20-22 Dow Street which is on the corner of Dow Street and Horton Place in Portland, Maine. A copy of the contract is attached to this letter as Exhibit A.

The property at 20-22 Dow Street is improved by two three-unit apartment buildings which are essentially identical. Both buildings pre-date Portland zoning. The configuration of the lot and the location of the two buildings on the lot as shown on the mortgage inspection plan is attached hereto as Exhibit B.

Probate Services, Inc. proposes to functionally divide the subject property by drawing a line between the two buildings running in an easterly direction away from Dow Street. At the rear of the buildings there is a porch on the northerly building which projects into the space between the two three-story structures. If that projection can be removed without affecting the structural integrity of the porch or the stairways on that porch then that will be removed to facilitate the installation of a straight dividing line. If the porch projection cannot be removed without affecting the structural integrity then the proposed dividing line will run easterly from Dow Street between the two buildings and will then jog in a southerly direction and then easterly again around the porch projection between the porch and the concrete block patio behind the southerly building.

It is the position of Probate Services, Inc. that the functional division of this property into two lots with each improved with a three-story structure satisfies the criteria of Keith v. Saco River Corridor Commission, 464 A.2d 150 (Me. 1983). First, the structures both pre-date

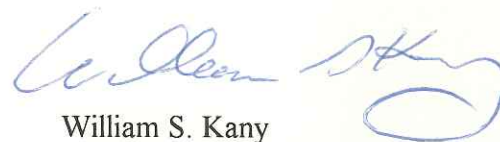
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zoning. Second, both structures have always been served by separate utilities including separate water and sewer hook-ups, separate electrical services and the like. There is no record evidence of these buildings ever being connected and they have always been occupied separately either by a prior owner or by the tenants in the separate units in the buildings.

It is the general premise of "functional division" that the principals of zoning will not be offended by the separate legal ownership of that which is currently under unified ownership. It is the position of Probate Services, Inc. that selling these buildings separately will in no way increase the legally already non-conforming status of the improvements on the subject lot.

We have also attached a photograph of the buildings in question. I look forward to providing you with any additional information you may request at the time of the hearing related to this application for approval of a functional division.

Sincerely,



William S. Kany
Attorney for Probate Services, Inc.

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