



**Planning and Development Department  
Zoning Board of Appeals  
Practical Difficulty Variance Application**

**Applicant Information:**

Name Patrick DeLong

Business Name 85 Gray Street

Address Portland, ME 04101

Telephone (207) 749-4098 Fax \_\_\_\_\_

**Applicant's Right, Title or Interest in Subject Property:**

Owner  
(e.g. owner, purchaser, etc.):

Current Zoning Designation: R-6

**Existing Use of Property:**

Residence + rental unit

**Subject Property Information:**

Property Address 85 Gray Street, Portland

057 0034  
Assessor's Reference (Chart-Block-Lot)

**Property Owner (if different):**

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

Practical Difficulty Variance from Section 14 - 139(d)(2)  
139(d)(3)  
139(c)

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Dept. of Building Inspections  
City of Portland Maine

**NOTE: If site plan approval is required, attach preliminary or final site plan.**

The undersigned hereby makes application for a Practical Difficulty Variance as above described, and certified that all information herein supplied by his/her is true and correct to the best of his/her knowledge and belief.

Patrick DeLong  
Signature of Applicant

10 - 28 - 10  
Date

Notwithstanding the provisions of subsections 14-473(c)(1) and (2) of this section, the Board of Appeals may grant a variance from the dimensional standards of this article when strict application of the provisions of the ordinance would create a practical difficulty, as defined herein, and when all the following conditions are found to exist:

1. The need for the variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood:

The 2<sup>nd</sup> floor deck has been there for many years & is used as the egress for 2<sup>nd</sup> & 3<sup>rd</sup> floors of the structure

2. The granting of the variance will not have an unreasonably detrimental effect on either the use or fair market value of the abutting properties:

It should have no effect at all on the abutting properties (replacement/upgrading of existing deck)

3. The Practical Difficulty is not the result of action taken by the applicant or a prior owner:

For a legal 2 unit residence there must be a 2<sup>nd</sup> means of egress to the 2<sup>nd</sup> & 3<sup>rd</sup> floors. Removal of the deck takes away that egress.

4. No other feasible alternative is available to the applicant, except a variance:

Without significant reconstruction of the building there is no reasonable alternative.

5. The granting of a variance will not have an unreasonably adverse effect on the natural environment.

Because this deck ~~already~~ exists & is not causing any harm, there should be no impact at all if it is replaced/rebuilt at the same size/dimension. Appearance will be improved.

6. Strict application of the dimensional standards of the ordinance to the subject property will preclude a use which is permitted in the zone in which the property is located:

Without the 2<sup>nd</sup> & 3<sup>rd</sup> floor egress I am unable to use this property as a 2 unit residence, all of the surrounding properties are multi unit residences.

7. Strict application of the dimensional standards of the ordinance to the subject property will result in significant economic injury to the applicant:

Removal (without replacement of a comparable deck) will reduce the value of the property. The cost of an alternative would also result in significant economic hardship

8. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. Section 435, nor within a shoreland of flood hazard zone as defined in this article:

Not within shoreland area or flood zone

On August 31, 2010, I purchased a multi-unit residential building at 85 Gray Street in Portland. My plan for this property is to use one unit as my primary residence and to lease the second unit. At the time of purchase both units were rented, but the first floor tenant has since vacated the premises and I have begun repairs and remodeling of the unit.

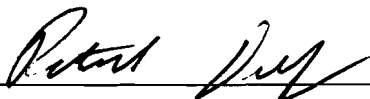
In order to purchase the property I took out a mortgage loan, as well as a 203K loan. I borrowed an additional amount in order to have sufficient funds to complete the most critical repairs needed and make affordable improvements. The private home inspector I hired at the time of purchase, and the one who completed the inspection for the mortgage lender, recommended repairs that included the repair/replacement of the 2<sup>nd</sup> floor deck at the rear of the building, as well as the stairs leading to the deck. I have no intention of enlarging the deck, but want to replace the deck and stairs for both safety and aesthetic reasons. It is important to note that the deck and stairs are the second means of egress for the second floor apartment and the third floor bedrooms.

This deck and the stairs are at the rear of the building and were clearly constructed many years ago. The first floor tenant, who had been in residence for 14 years prior to my purchase of the property, advised me that the deck had been in place for as long as he had resided at 85 Gray Street. It is unknown to me when it was actually constructed.

I purchased this property under the assumption that the property was in conformance with all zoning laws in the City of Portland and was surprised to find that this deck did not conform. Requiring me to tear down the deck and relocate the stairs used as a second floor egress to the interior of the building would create an economic hardship for me. In that case I would be unable to afford all of the needed repairs to the structure and would lose interior living space on both the first and second floors, resulting in a decrease in the rental value of these units, further compounding the economic hardship to me.

I have enclosed my contractor's plan for the replacement of the existing deck and stairs. Please note that there is no change in the dimensions. I am also enclosing photographs of the existing deck and stairs, as well as photos of all sides of the structure.

I have reviewed all of the conditions under which the granting of a variance from the dimensional standards would be reasonable and feel that those conditions exist in this case. I appreciate your consideration.



10 - 28 - 10

FENCE

40'

5' Alley

26' 6"

16'

Basement Access

4'

8'

4'

22'

1st Floor doors

2nd Floor door

4'

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Dept. of Building Inspections  
City of Portland Maine

38-

2' 6"

14'

Driveway

26' 6"

2' 6"

3'

10' 8"

9-

87 Gray St Driveway

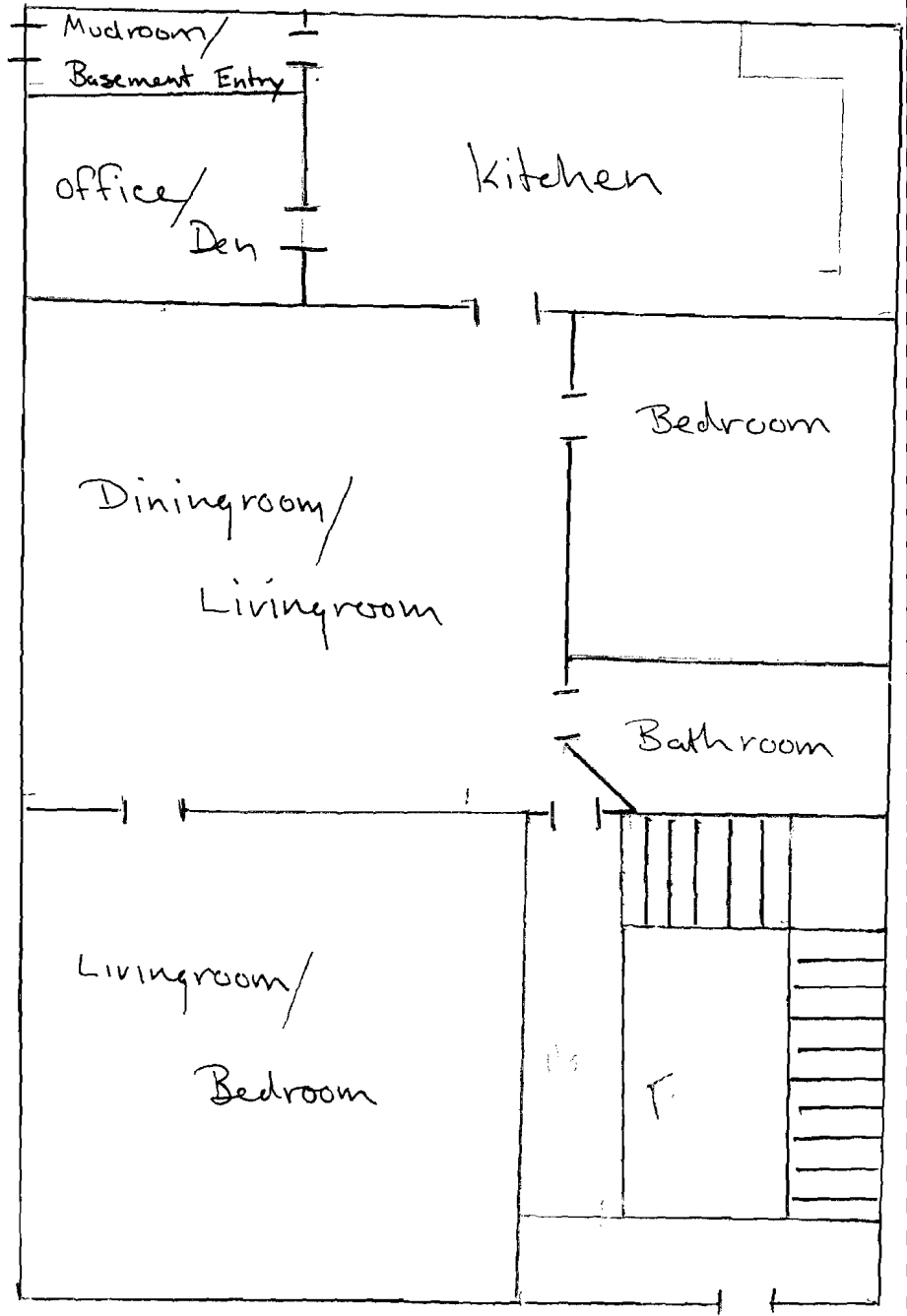
40'

sidewalk

Gray St.

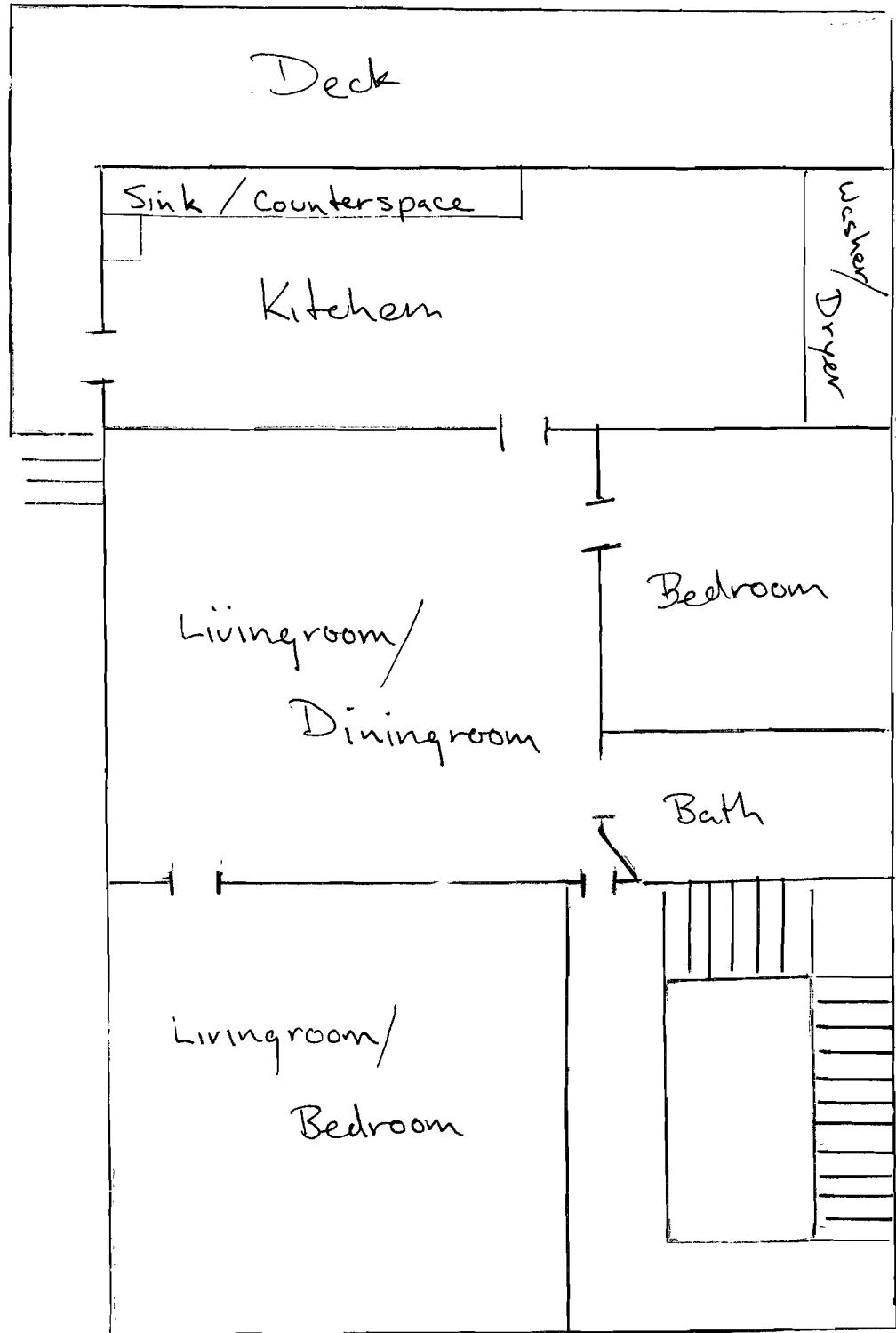
85 Gray St

# 1st Floor



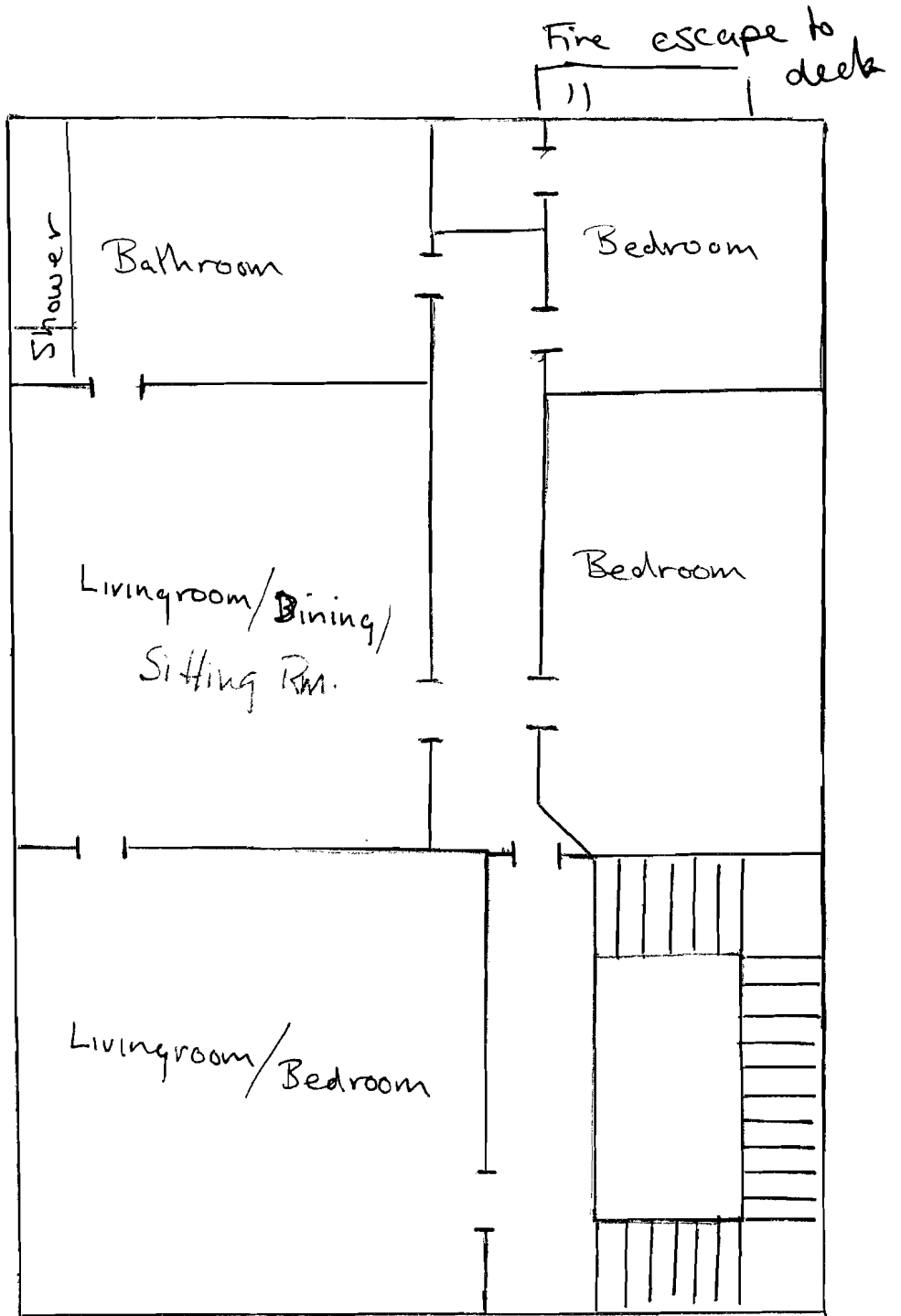
85 Gray St

# 2nd Floor

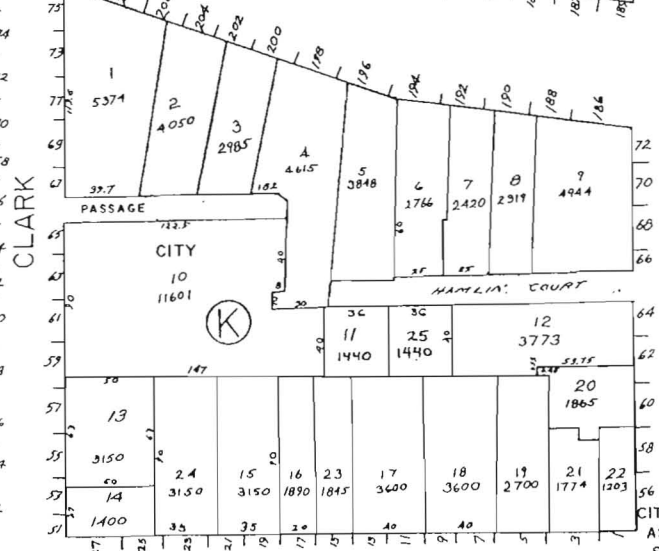
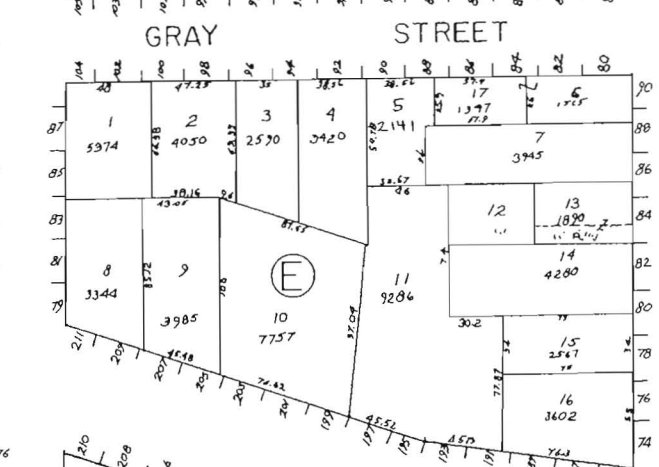
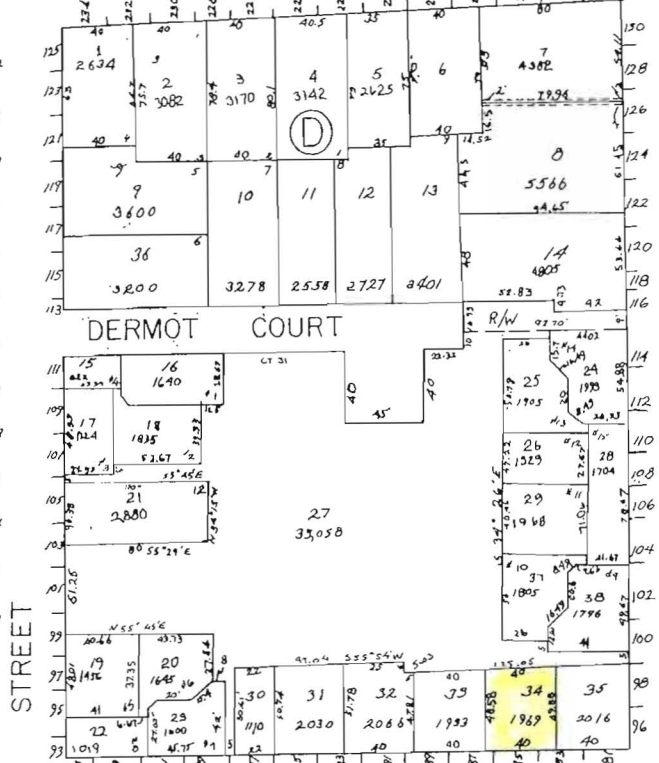
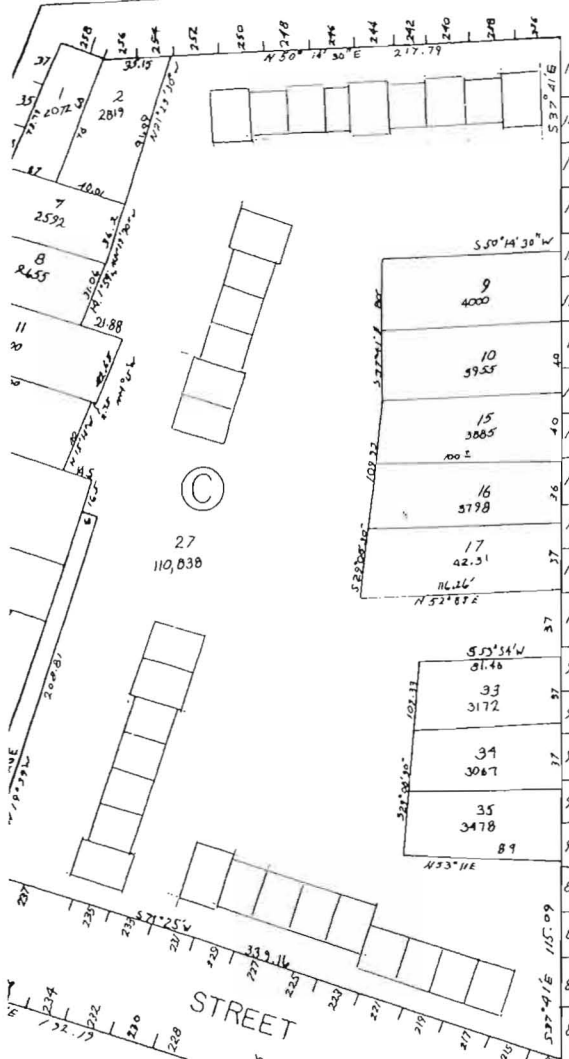


85 Gray St

# 3rd Floor



SPRING STREET



SHEET 45-C

STREET

BRACKETT

SHEET 44-C







(the space above is reserved for recording information)

**WARRANTY DEED**  
**Maine Statutory Short Form**

**KNOW ALL MEN BY THESE PRESENTS**, That **Louise N. Porter**, also known as **Louise Nelson Porter**, of Bradenton, County of Manatee and State of Florida, for consideration paid, grant to **Patrick Delong** having a mailing address of 497 Westbrook Street, #204D, South Portland, Maine 04106, with **WARRANTY COVENANTS**, the land in Portland, in the County of Cumberland and State of Maine, described as follows:

A certain lot or parcel of land, with the buildings thereon, situated between Brackett and Clark Streets, on the northerly side of Gray Street, in said Portland, bounded and described as follows:

**Beginning** at a point on the northerly side of Gray Street, distant westerly from Brackett Street forty (40) feet;

Thence, westerly by Gray Street forty (40) feet;

Thence, northerly parallel with said Brackett Street forty-eight and eighty-five hundredths (48.85) feet to a point;

Thence, easterly parallel with Spring Street forty (40) feet;

Thence, southerly parallel with said Brackett Street forty-nine and eighty-eight hundredths (49.88) feet, to the **point of beginning**.

Containing one thousand nine hundred seventy-four and six tenths (1,974.6) square feet.

Also a right to use in common with others the passageway in the rear of the above described premises; together with the right which may attach to the premises to have the gutter on the buildings hereby conveyed extend over the lot adjoining on the east side and subject to whatever rights the owner of the lot adjoining on the west side may have for the gutter of his buildings to extend over the lot hereby conveyed.

Being the same premises conveyed to Louise N. Porter, also known as Louise Nelson Porter, pursuant to a deed from Frank R. Wood and Orville A. Willey to J. Freeman Porter and Louise Nelson Porter, dated March 31, 1981, and recorded in Cumberland Registry of Deeds in Book 4759, Page 64. J. Freeman Porter died October 1, 2008 leaving Louise N. Porter sole surviving joint tenant.

MAINE REAL ESTATE TAX PAID

WITNESS my hand this 30<sup>th</sup> day of August, 2010.

SIGNED, SEALED AND DELIVERED  
IN PRESENCE OF:

*Victoria H. Sullivan*  
Victoria H. Sullivan

*Louise Nelson Porter*  
Louise N. Porter, also known as  
Louise Nelson Porter

STATE OF FLORIDA  
*Ala tee*, ss.

August 30, 2010

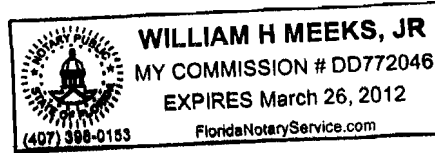
Personally appeared the above named **Louise N. Porter, also known as Louise Nelson Porter**, and acknowledged the foregoing instrument to be her free act and deed.

Before me, *William Meeks*  
William Meeks, Attorney-At-Law

After recording return to:

Patrick Delong  
85 Gray Street  
Portland, ME 04102

z/res4646/deed/mjk



Received  
Recorded Register of Deeds  
Sep 02, 2010 10:16:08A  
Cumberland County  
Pamela E. Lovley