STATE OF MAINE DISTRICT COURT

CUMBERLAND, ss. CIVIL ACTION

 DOCKET NO. VI-16-

**CITY OF PORTLAND**, a body politic and )

Corporate, located in the County of )

Cumberland and State of Maine, )

 )

 Plaintiff )

 ) **CONSENT DECREE**

v. ) **AND COURT ORDER**

 )  **(M.R. CIV. P. 80K)**

**ALEXANDER V. FEDDERSEN** )

 )

Defendant )

This is a municipal ordinance enforcement action by the City of Portland against the owner and operator of property and improvements thereon located at 481 Danforth Street in Portland, Maine, brought pursuant to M.R. Civ. P. 80K. Having reached agreement on all outstanding issues in this matter, the Parties hereby consent to the entry of judgment as follows:

1. WHEREAS, Plaintiff, the City of Portland (“the City”), is a municipal corporation under the laws of the State of Maine.
2. WHEREAS, Defendant owns property located at 481 Danforth Street in Portland’s R-4 Residential Zone (the “Property”). The current use of the Property is as a 3-unit multifamily dwelling, which, following the grant of a \_\_\_\_\_\_\_\_\_ on January 11, 2016, constitutes a lawfully nonconforming use in the R-4 Zone.
3. WHEREAS, Both parties consent to the filing of this Consent Decree and issuance of this Order and waive any requirements of service of process, formal citation, and any other jurisdictional issues; it being the intent of the parties to fully vest this Court with jurisdiction over the matters contained herein. This Decree and Order is for the purposes of resolving and settling violations of the City of Portland’s Code of Ordinances (“the Code”) with regard to the Property.
4. WHEREAS, Defendant acknowledges that from at least April \_\_\_, 2016 through the date of this Order, he has been renting two of the three single-family dwelling units to “transient guests” as that term is defined in Chapter 14 of the City of Portland Code of Ordinances on a short-term basis.
5. WHEREAS, Defendant acknowledges that short-term rental to transient guests is not a permitted use in the City’s R-4 zone and violates Sections 14-103 & 104 for which he is subject to fines under Section 1-15 of the City of Portland Code of Ordinances.
6. WHEREAS, in an effort to bring the Property into compliance with the City’s Code of Ordinances, Defendant has a filed an application with the City of Portland to renovate the Property such that it meets the definition of a “hostel” under the City Code and also has a filed an application to rezone the Property to Portland’s B-2b zone, a zone in which hostels are a permitted use.
7. WHEREAS, it is expected that the Portland City Council will soon undertake a comprehensive review of short-term rentals within the City, the extent to which it wishes to permit short-term rentals within the City and, if permitted, establish clear regulatory and safety standards for such rentals; and
8. WHEREAS, the parties wish to resolve this matter;

NOW, THEREFORE, IT IS HEREBY STIPULATED BY THE PARTIES AND ORDERED BY THE COURT THAT:

1. Judgment is granted to Plaintiff, City of Portland.
2. In recognition of his violation of Portland’s Code of Ordinances, Defendant shall pay to the City a fine in the amount of $5,000.00 within 30 days of the date of this Order.
3. The City will forgo further enforcement action and stay the accrual of fines until such time as Defendant’s pending site plan and zoning amendment applications have been granted and all appeals exhausted or until January 1, 2017, whichever is sooner.
4. The Defendant hereby agrees to pay the Plaintiff’s reasonable attorney’s fees and costs to prosecute any action required to be filed as a result of non-compliance with this Consent Decree.
5. In the event the Defendant shall fail to comply with any requirement imposed in the preceding numbered paragraphs of this Consent Decree within the stated deadline(s) for performance, in addition to the payment of the entire civil penalty imposed by this Consent Decree, statutory penalties shall accrue at a rate of $500 per day for each separately stated or enumerated violation in the notice of violation dated May \_\_\_\_\_\_, 2016, pursuant to 30-A M.R.S. § 4452, following the date of such non-compliance, until such time as the Defendant shall comply with said Consent Decree to the satisfaction of the responsible City of Portland official(s), and/or complete his payment of the sums owed to the City of Portland pursuant to this Consent Decree or by operation of law;
6. The Defendant, Alexander Feddersen, hereby represents, acknowledges, and understands that he was provided ample opportunity to consult with counsel and review this Consent Judgment; and
7. The Clerk shall enter this Consent Decree on the Docket by reference, pursuant to M.R. Civ. P. 79(a).

**SEEN AND AGREED TO:**

Dated: \_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 City of Portland

 By: Danielle West-Chuhta.

 Corporation Counsel

Dated: \_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Alexander Feddersen

Dated: \_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Paul Bulger, Esq.

 Counsel for Defendant, Alexander Feddersen

**SO ORDERED,**

Dated: \_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Judge, Maine District Court