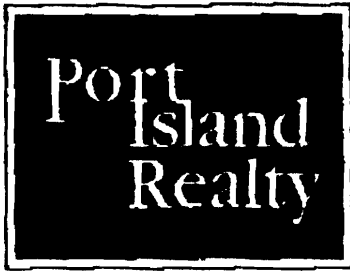


87 E 52 Chart Block Plot



Kirk Goodhue

14 WELCH STREET
PEAKS ISLAND, MAINE 04108

P.O. BOX 7341
PORTLAND, MAINE 04112

PHONE (207) 766-5966
FAX (207) 766-5968

To: Mayor
City Manager
City Legal Counsel

RE: 12 Sterling St
Peaks Island

From: Appropriate person

Re: Community Public Library Building
Peaks Island
Corner of Island Ave. and Sterling St.

87-E-52

I need your assistance with a Real Estate problem involving the community building on Peaks Island.

In 1979 or 1980, the City of Portland encountered a problem. A Community Building had been built for Peaks Island on the corner of Island Ave. and Sterling St. It was then discovered that the building did not only not meet the required setbacks but it actually encroached on abutting properties. The city approached those abutters affected to obtain easements and purchase land to make the Building conform. One of those abutters was Ruth McGonigle, an elderly women living in a well kept house she had called home for more than 30 years.

The building the City built went on to Ruth's land a distance of about 2' thus missing the 20' setback requirement by 22'. Ruth, luckily, was a lover of Peaks Island and the children and people of Peaks Island and certainly thought the building, which would house a library branch, was a grand addition to the Island. She wanted to help out so she agreed to sell the needed 22.5' strip. The city agreed to put up a fence on the line, plant a Spruce tree and even put up a clothes pole. The City did this and life went on with Ruth taking the same good care of her land up to the new fence. Her lawn was always trim, and her gardens flowered and all was well. (See accompanying plan for layout of area.)

Ruth, however, was told (or the implication was strong enough to allow her to believe) that the fence the City erected was on the boundary line and that the Spruce was hers. She forever acted in this fashion as did everyone else who was familiar with the property- both her home and the community building. There was no question - even to this day. Whether it's City Officials, librarians, relatives or friends, the fence was considered to be Ruth's line.

As it turns out, the fence is not the line as she was led to believe. This elderly woman was allowed to think that she had not actually sold land which comprises about one half of what everybody thinks is her yard. This older woman continued to take great care of the City's land all the while thinking it was hers. She was happy and content that she had helped the City- The Island. The City was happy because setback issue was resolved.

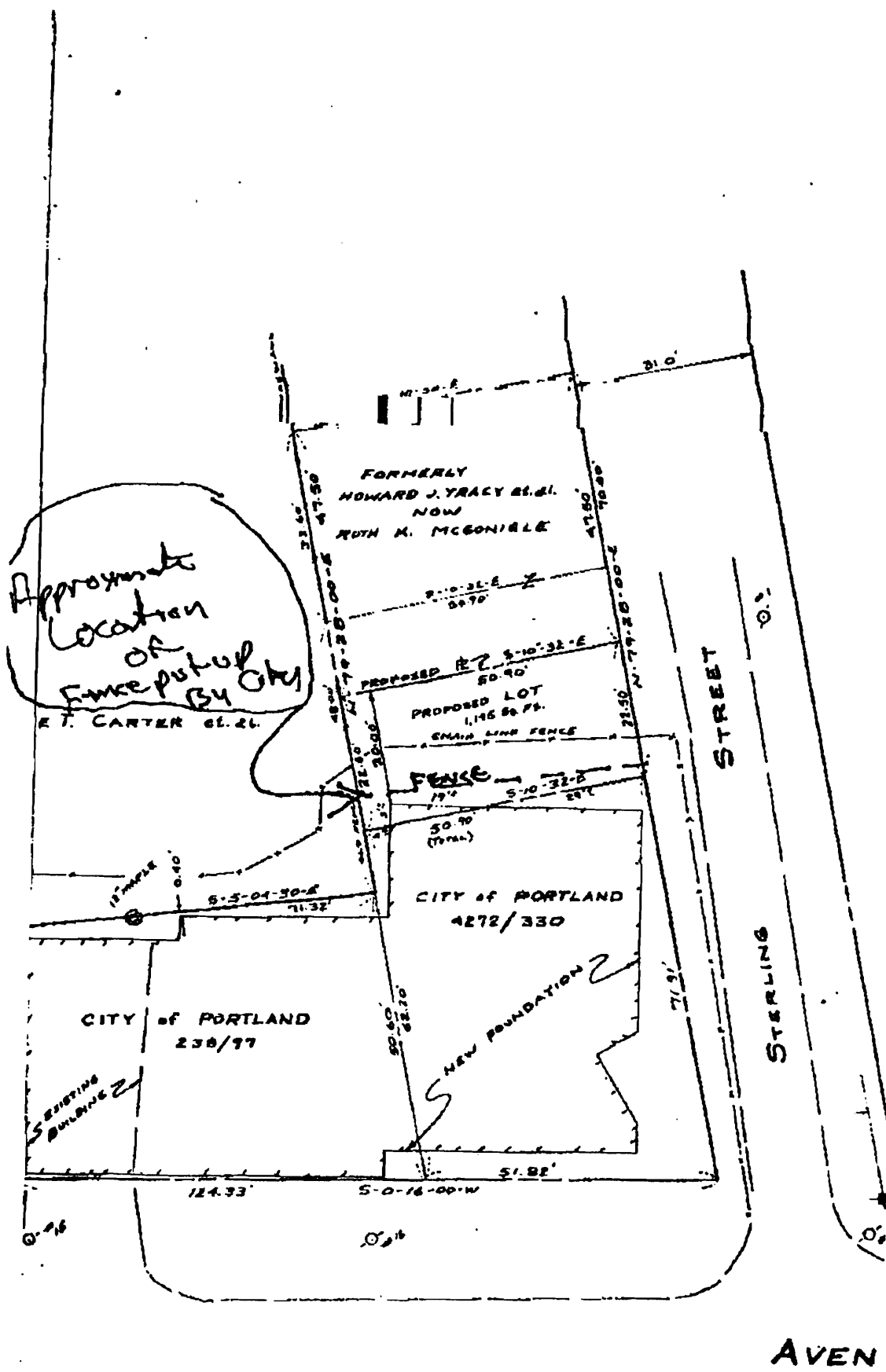
Ruth passed away last fall and she left her home to her daughter, Katherine Gail Alverson. Gail lives in North Carolina and simply can not afford to maintain a second home on Peaks Island (high property taxes contributing to the expense!). The process of marketing the home and procuring a willing Buyer has resulted in the discovery of the apparent confusion the City (officials of the city) allowed to occur. The home has half the yard it appears to have which has a significant - devastating - effect on the value and desirability of the home and has caused the willing Buyer's interest to erode.

There's little question Ruth would not have willingly agreed to what happened had she known or been properly advised. Neither would Ruth want to cause a problem.

In this light, it seems only proper that the City do what it should originally been done. It should grant an easement to the owners of this property giving them what Ruth, and everybody else, has always assumed she had- full and sole use of the property up to the fence - the fence erected by the City- the fence Ruth was told was the property line. This action will allow the Community Building to maintain it's setback requirements, allow Ruth's daughter to more effectively market her property, and allow the City to, once and for all, make a situation right for which it is responsible. It also represents a proper and moral way to handle the situation.

I would appreciate hearing your thoughts on this matter. I would also like to say that time is of the essence. It would be a real hardship on Ruth's heirs if they were to lose the chance to sell their property because of unnecessary delay.

Thanks for your prompt attention to this matter.



Approximate Location of Exception by City

FORMERLY
HOWARD J. TRACY & S.
NOW
RUTH M. MCGONIGLE

PROPOSED LOT
1,195 SQ. FT.
SMALL LINK FENCE

FENCE

CITY OF PORTLAND
4272/330

CITY OF PORTLAND
238/99

NEW FOUNDATION

STERLING STREET

STERLING

AVENUE

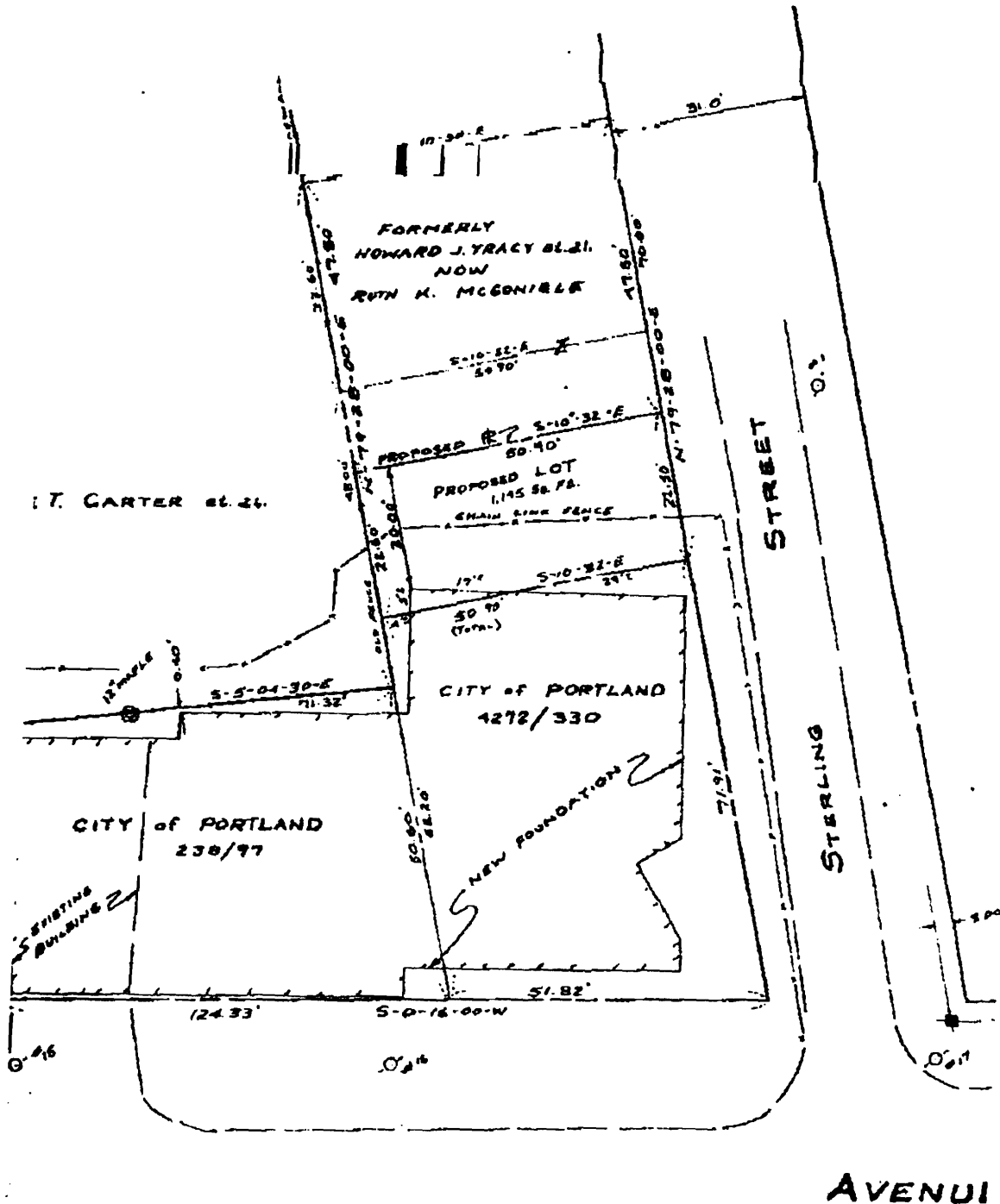
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0-46

AVENUE

OWEN HASKELL, INC.

Civil Engineer — Land Surveyor

8 Broadway, South Portland, Maine 04106

Telephone 207 799-5694

March 6, 1980

DESCRIPTION OF EASEMENT TO BE CONVEYED TO RUTH K. MCGONIGLE

A certain lot or parcel of land situated on the Northerly side of Sterling Street on Peak's Island in the City of Portland, County of Cumberland, and State of Maine bounded and described as follows:

Beginning at the intersection of the Northerly sideline of said Sterling Street and the Easterly line of land conveyed to the City of Portland by William F. LaRose by deed dated July 31, 1978 and recorded in the Cumberland County Registry of Deeds in Book 4272, page 330; said point of beginning being distant 71.91 feet on a bearing of N79°-28'-E as measured along the Northerly sideline of said Sterling Street from the Easterly sideline of Island Avenue;

Thence, from said point of beginning, N10°-32'-W along said City of Portland land, 29 feet more or less to the face of the Peak's Island Community Building;

Thence Northeasterly along the face of said Community Building 17 feet more or less to a corner of said building;

Thence Westerly along the face of said Community Building 3 feet more or less to the Easterly line of said City of Portland land;

Thence N10°-32'-W along the Easterly line of said City of Portland land 4 feet more or less to land of Jane T. Carter, et.al.;

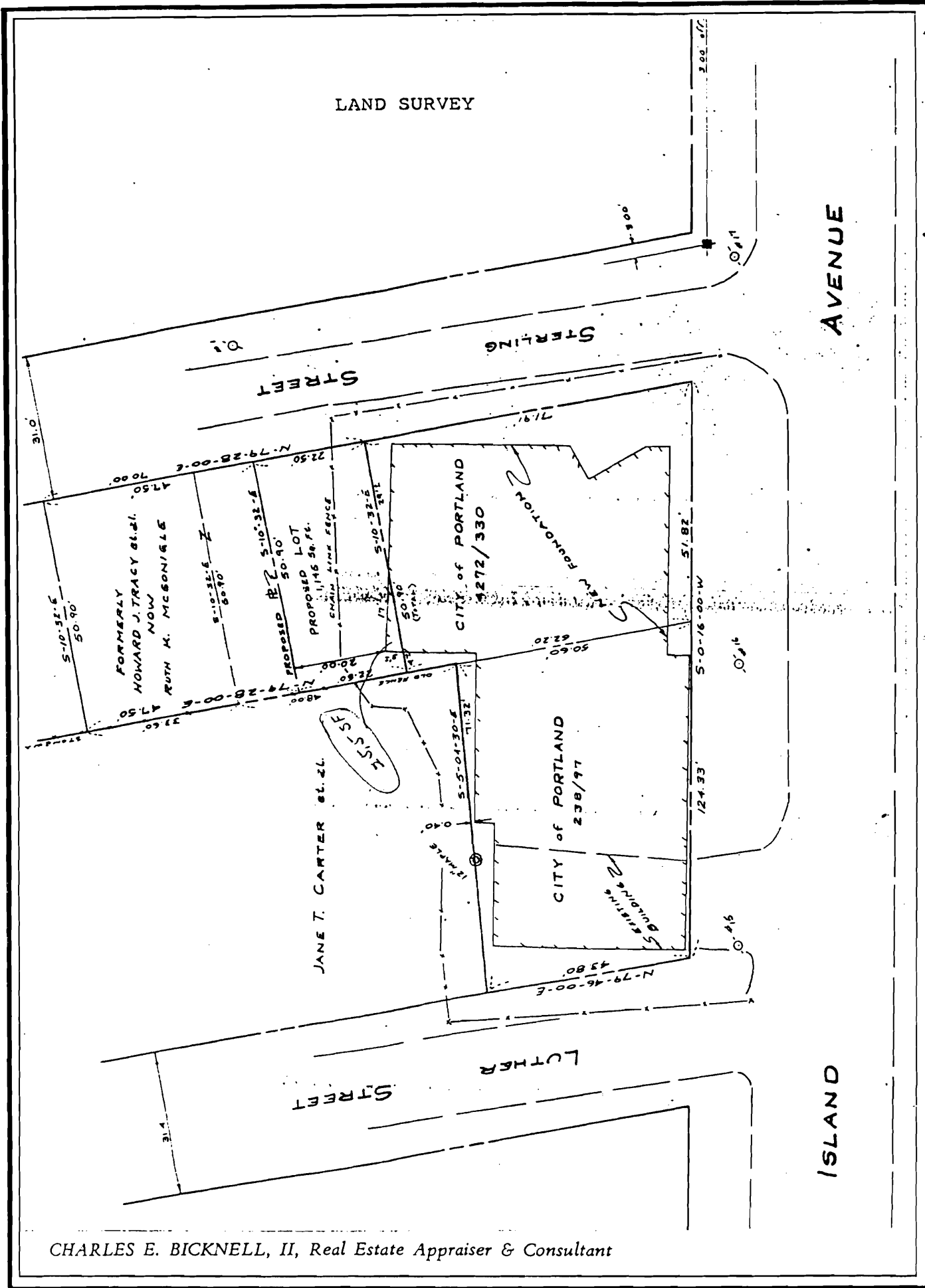
Thence N79°-28'-E along said Carter et.al. land 22.50 feet to a point;

Thence S10°-32'-E across land of the grantor 50.90 feet to the Northerly sideline of said Sterling Street;

Thence S79°-28'-W along the Northerly sideline of said Sterling Street 22.50 feet to the point of beginning;

All bearings are magnetic in the year 1979.

LAND SURVEY



CHARLES E. BICKNELL, II, Real Estate Appraiser & Consultant

DEFINITIONS

The Appraisal Process

A written estimate and opinion of value of a described property, as of a specific date.

Highest, Best And Most Profitable Use

That legal use that will bring the greatest net return to the property, expressed in terms of money and /or amenities.

Market Value

The Society Of Real Estate Appraisers in, "Real Estate Appraisal Principles and Terminology" has as its definition: "The price which a property will bring in a competitive market under all conditions requisite to a fair sale, which would result from negotiations between a buyer and a seller, each acting prudently with knowledge and without undue stimulus"

Effective Age

The age of a structure as indicated by its apparent condition. If a building has been maintained better than average its effective age is less than its actual age; if there has been inadequate maintenance, it is greater.

Severance Damage

In the case of a partial taking, it is the damage to the part not taken which arises by reason of the taking and/or the construction of the public improvement in the manner proposed.

Easement

The Possession of one of the rights of ownership in the property of another by one who is not the owner of the fee.

Land Value

Land value is determined by searching of public records and consultation with real estate oriented professionals to locate recent sales of unimproved land similar to the subject. These sales are inspected and the price confirmed by the appraiser. Adjustments to the price are made for time, location, size, topography, utility and various other aspects of comparability to arrive at the indicated value of the raw land.

To the land value is added the contributory value of all lot improvements to arrive at the value of the land as improved.

Cost Approach

This is an estimate of the reproduction or replacement cost new of the improvement less increments of physical depreciation, functional obsolescence and economic obsolescence.

There are three methods commonly used to determine the reproduction or the replacement cost.

The quantity survey or engineering method is the comprehensive method, which employs a highly detailed technique and is usually too expensive to be generally used in the ordinary appraisal.

The unit in place method is based on unit costs for the

DEFINITIONS - cont.

various sections of the building, i.e. walls, floors, roof, foundation etc., and are applied to the dimensions of the structure under appraisement.

The most commonly used is the square foot or cubic foot method. These costs are applied to the dimensions of the improvement to estimate the cost new.

To the depreciated cost is added the value of the lot as improved to estimate the indicated value of the property by the cost approach.

The various costs are obtained by consultation with local contractors, artisans and building supply dealers, and also by inspecting and costing out new construction to assist the appraiser in arriving at his cost estimate.

Physical Depreciation-Incurable is the wearing out of the bone structure by wear and tear due to age, use and the action of the elements.

Physical Depreciation-Curable are items which are broken or in disrepair and are economically feasible to repair or replace at the time of the appraisal.

Physical Depreciation-Deferred Curable is the diminution or partial wearing out of components of the building i.e. the boiler, roof covering etc. but at the time of the appraisal they have not deteriorated to a point that it is economically not feasible to replace them.

Functional Obsolescence-Incurable may be due to poor planning, inadequacy or superadequacy due to size, style or other causes. If the correction of the fault will not increase the value of the property by the cost to cure, it is termed incurable, the other measure is capitalization of rent loss.

Functional Obsolescence-Curable is due to change of style in components, new and more efficient components and modernization are some of the elements. The cost to cure is the measure of this type of depreciation.

Economic Obsolescence is due to causes outside the boundaries of the property such as downgrading of the neighborhood, police powers, changes of property use, or changes in services.

Market Approach is the determination of value by going into the market place, locating sales of similar properties, inspecting them, confirming sale price, and adjusting for time, location, size, quality, condition, utility and other points of comparability to arrive at an indicated value of the subject.

Income Approach is a process whereby the indicated value is found by capitalization of the net income. The gross rent of the property is based on economic rent rather than actual. Typical expenses and reserves are deducted from the gross rent. Interest on the land is then deducted to arrive at the net income attributable to the building, which is capitalized to arrive at an estimate of value for the building. To this is added the value of the land, giving an indicated value of the property. The type of property and character of the income are guides to the appraiser in his selection of the capitalization rate.

SUBJECT PHOTOGRAPHS



145/1

Looking Northeasterly At The Subject



145/2

Looking Northwesterly At The Subject

CHARLES E. BICKNELL, II, Real Estate Appraiser & Consultant

WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS, THAT Casco Bay Health Center, a corporation organized and existing under Title 13-B of the Maine Revised Statutes, doing business on Peaks Island, Portland, Cumberland County, Maine ("Grantor") in consideration of One Dollar and other valuable consideration paid by the City of Portland, a body politic and corporate located in Cumberland County, Maine, with a mailing address of 389 Congress St., Portland, Maine 04101 ("Grantee") the receipt of which is hereby acknowledged, does hereby give, grant, bargain, sell and convey unto the said Grantee, its successors and assigns forever, with warranty covenants, two certain lots or parcels of land on Peaks Island, Portland, Cumberland County, Maine, bounded and described as set forth in Schedule A attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, the said Casco Bay Health Center has caused this instrument to be executed by Fay Garman, its duly authorized President, this 23 day of November, 1992.

WITNESS:

Susan Hickey

CASCO BAY HEALTH CENTER

By: Fay Garman
Fay Garman,
Its President

STATE OF MAINE
COUNTY OF CUMBERLAND, SS.

November 23, 1992

Then personally appeared the above named Fay Garman, President of Casco Bay Health Center and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said Casco Bay Health Center.

Before me,

Donna M. Katsialikas
Notary Public/Attorney-at-Law
Print Name: Donna M. Katsialikas
My commission expires: _____

EXHIBIT A

Two certain lots or parcels of land located on Peaks Island, Portland, Cumberland County, Maine, and bounded and described as follows:

PARCEL ONE

Beginning at a 5/8" iron rebar set and marked with identification cap #1038 as of February 28, 1992, the date of the survey of this first described parcel by John W. Swan (R.L.S. #1038) of Owen Haskell, Inc. (such a monument hereinafter being referred to as a '5/8" iron rebar set') located on the northerly sideline of Sterling Street, which 5/8" iron rebar set is two hundred forty feet (240'), more or less, easterly along said northerly sideline of Sterling Street from the easterly sideline of Island Avenue;

Thence northerly fifty feet (50') along a line perpendicular to said Sterling Street, to a 5/8" iron rebar;

Thence easterly and parallel to said northerly sideline of Sterling Street twenty-three feet (23') to another 5/8" iron rebar;

Thence southerly fifty feet (50') along a line perpendicular to Sterling Street, to a 5/8" iron rebar on the northerly sideline of Sterling Street;

Thence westerly twenty-three feet (23') along said Sterling Street to a 5/8" iron rebar at the point of beginning of this parcel.

Reference is made to a plan entitled "Standard Boundary Survey for Leatrice Hasson, Sterling Street, Peaks Island, Portland, Me." made by Owen Haskell, Inc., dated February 28, 1992, to be recorded in the Cumberland County Registry of Deeds.

Meaning and intending to describe the property released by a Release Deed from Leatrice J. Hasson to Casco Bay Health Center dated June 30, 1992, recorded in Book 10148, Page 255. For the source of title of Casco Bay Health Center, reference is made to the second parcel described in the deed from Bruce W. Kenney to Casco Bay Health Center dated October 7, 1985 and recorded in the Cumberland County Registry of Deeds in Book 6925, Page 152. An informational reference is made to the deed from Casco Bay Health Center to Leatrice J. Hasson dated June 30, 1992 and recorded in said registry in Book 10148, Page 260.

PARCEL TWO

Beginning at a point on the northerly side of said Sterling Street, at the southeasterly corner of a lot of land formerly owned by Mark and Wallace Emery, and also formerly of one Deane, which corner is also the southeasterly corner of Parcel One described above;

thence northerly by the easterly line of said Parcel One fifty feet (50') to a point;

thence easterly by the land formerly of the Sterling heirs fifty-seven feet (57') to a point;

thence southerly by land now or formerly of James A. Wiley fifty feet (50') to the northerly sideline of said Sterling Street;

thence westerly by said northerly sideline fifty-seven feet (57') to the point of beginning of Parcel Two.

Meaning and intending to describe the first parcel described in the deed from Bruce W. Kenney to Casco Bay Health Center dated October 7, 1985 and recorded in the Cumberland County Registry of Deeds in Book 6925, Page 152.

Meaning and intending to convey and hereby conveying any other real property on Peaks Island now of said Casco Bay Health Center, if any.