

FAX: (207) 874-8716

Inspections Dept.

City of Portland, 389 Congress St.

Portland, ME

Herbert A. Mathhorn

2 Preston Road

Lexington, MA 02420

13 October 2010

Phone/FAX (781) 862-6843

→ Attn: Suzanne Hunt, Room 315

Dear Ms. Hunt:

This is a summary of my remarks on the phone on 10/12/10.

I'm including a copy, dated Sept. 3, 1997, of Book 13326, Page 028 which notes the Portland City Council's action to continue the existence and public use of its dozen of informal roads, an action the state legislature had then required. Preston Road, Peckham Road is described therein as part of the Shelburne Farm Plan of Land found in Book 11, Page 99 (the printed list has a clerical error saying Page 97 where 99 is correct). Book 11, Page 99 defines

Herbert A. Mahiborg  
 9 Oaklawn Rd  
 Peaks Island ME  
 04108

FAX: (207) 874-8716

22 Sept 2010

Inspections Dept.  
 City of Portland  
 389 Congress St  
 Portland, ME

→ Attn: Suzanne Hunt, Room 315

Dear Ms Hunt:

Here are notes in clarification of pursuit of fence-related safety in the Peaks Island Area. They supplement my FAX to you of 21 Sept, 2010 containing the June 12, 1908 "Plan of Land" for the area as recorded in the Cumberland County Registry. I understand you will be passing along to a colleague the problem of Fence Code enforcement in the Peaks Island area. Please see that the same colleague gets these notes.

It is important to note that Real Estate law comes from the State of Maine. The Counties act as agents for the State in examining and recording real estate data. The City has almost no function in this undertaking.

In matters of public safety almost the opposite applies. The municipality has the primary role, with support,

as needed, coming from County and State.

At times safety concerns and real estate matters converge. The roles of State, County, and City need to be coordinated and well delineated and understood.

The Authority for acceptance and adoption of a sub-division of real estate rests with the State of Maine, not the City or County.

The State appoints agents, i.e., County, to examine proposed plans on its behalf, see that they meet State requirements, and register and record such plans as are consistent with State requirements.

The State's requirements of 1908 were reviewed by the then Register/Registrar of Cumberland, accepted as valid, and entered in Plan Book II, Page 99 with title "Plan of Land on Peaks Island, Maine . . . . .". That is the "Plan" found in my FAX to you of 21 Sept 2010.

That "Plan" is, therefore, in force, now.

The "Plan" as recorded shows a full survey of the subdivision, formerly known as the "Bellings Farm", with complete metes and bounds, orientations and areas, as well as roads, streets, paths and the like for foot, carriage, and motor vehicle use. The "Plan", having met State standards, must be honored by the City of Portland in its each and every respect.

22 Sept 2010

The City is duty bound, is obligated, to accept as valid every property line in the "Plan" no matter what it joins; including property lines along delineated travelled ways. This is irrespective of whether the City chooses to adopt and accept for its care any of those surveyed travelled ways. The property lines of roads must, most specifically, be honored as shown in the 1905 "Plan of Land."

The City of Portland has, of course, certain derivative rights, derived from the State, and it has certain obligations.

The City may, for example, assess the parcels of recorded divided real estate and collect taxes for the City's needs. As another example, it may, under certain conditions, introduce zoning requirements and/or setback of new construction from property lines.

The City also has the obligation to protect the safety of the public in all parts of the City.

Most specifically the City is obliged to enforce, with an even hand, its Fence Code throughout the City. This is a public safety consideration.

The property lines in this

Herbert A. Mahborn 22 Sept, 2010

particular Peaks Island part of the City of Portland are absolutely clear and found in Plan Book 4, Page 99 at the Cumberland County Registry.

The new fence at roadside of plot 7 on the "Plan" is a safety hazard within the meaning of the City's Fence Code. It is about six feet high. It is at a corner. The City can no more ignore that safety hazard than it can claim that it would be correct to ignore open burning of trash, without a specific permit, in this neighborhood.

I await the City's action.

Sincerely yours,  
Herbert A. Mahborn  
Herbert A. Mahborn

Street Vacation Project

*Book Page*

Windsorb Avenue	Ray Gardens #2	13	95
Pine Grove Avenue	Ray Gardens #2	12	98
Hunter Street	Riverton Home Sites	18	11
Ingalls Street	Riverton Home Sites	18	11
Flem Street	Riverton Home Sites	18	15
Randis Street	Riverton Home Sites	18	11
Grove Street	Riverton Home Sites	18	11
Plewood Road	Riverton Park Housing Development		
Staring Street, Peaks Island	Robert F. Stollings	11	101
Becker Road, Peaks Island	Robert F. Stollings	11	101
Castonial Street Rear, Peaks Island	Robert F. Stollings	11	101
Lodgewood Street, Peaks Island	Robert F. Stollings	11	101
Barnard Road Ext.	Robert Neppel/Barnard Road Eastern	144	3
Brimmer Street, Peaks Island	R. Stollings	8	101
O Street, Peaks Island	Sam Troll	4	80
R Street, Peaks Island	Sam Troll	4	80
Unnamed I, Peaks Island	Sam Troll	4	80
G Street, Peaks Island	Sam Troll	4	80
Osborn Avenue, Cushings Island	Birney St. F. Theater	33	21
Olsen Avenue, Cushings Island	Birney W. Theater	32	10
Ocean Spray Road, Peaks Island	Stollings Farm	11	97
Woodland Road, Peaks Island	Stollings Farm	11	97
Tolson Road, Peaks Island	Stollings Farm	11	97
<del>Cushing Road, Peaks Island</del>	<del>Stollings Farm</del>	<del>11</del>	<del>97</del>
Ecke Path, Peaks Island	Stollings Farm	11	97
Britidens Road, Peaks Island	Stollings Farm	11	97
Redaway Road, Peaks Island	Stollings Farm	11	97
Dalyson Road, Peaks Island	Stollings Farm	11	97
Walden Place, Peaks Island	Stollings Farm	11	97
Drayton Place, Peaks Island	Stollings Farm	11	97
Jasper Road, Peaks Island	Stollings Farm	11	97
Cypress Road, Peaks Island	Stollings Farm	11	97
Culham Road, Peaks Island	Stollings Farm	11	97
Benson Road, Peaks Island	Stollings Farm	11	97
High Farm Road, Peaks Island	Stollings Farm	11	97
Woodward Path, Peaks Island	Stollings Farm	11	97
St. James Street	Smith & Stern Property	112	81
Scoutmaster Road, Peaks Island	Rushglen	78	39
Spring Cove Avenue, Cushings Island	Stanley Macomber Jr.	59	82
Mont Street	Sterner Terrace	11	85
Hewitt Street	Sterner Terrace	11	85
Shatt Street	Stead Street/Seward Avenuel Plat	183	51
City Point Road, Peaks Island	Stella C. McAlway	8	121
Brewster Street	The Holmsteads	14	70
Shut Street	The Holmsteads	14	70
Fisher Street	The Holmsteads	14	70
Perryville Avenue	The Holmsteads	14	70
Olsen Avenue, Cushings Island	The Island Company	62	66
Blaine Road, Cushings Island	The Island Company	63	66
Madison Street	The Pines-Section B	16	41
Ballist Street	The Pines-Section B	16	41
Barnwood	The Pines-Section B	16	41
Virginia Street	The Pines-Section B	16	41
Kentucky Avenue	The Pines-Section B	16	41
Collins Avenue	The Pines-Section B	16	41
Madison Street	The Pines-Section C Revised	17	6
Main Avenue	The Pines-Section C Revised	17	6
Penn Avenue	The Pines-Section C Revised	17	6
Juney Avenue	The Pines-Section C Revised	17	6
Vernant Avenue	The Pines-Section C Revised	17	6

Vacate	
Continue	
Continue/Vacate	Vacate from Grove to Fields and beyond
Vacate	
Continue/Vacate	Vacate from Riverside to Temple
Continue/Vacate	Vacate everything beyond second house
Continue	
Vacate	No record of Plan; all existing property owned by Portland Housing Authority
Continue	
Continue	
Continue	
Continue	Extends East through Richard Grant, Book 182 Page 2
Continue	
Continue	
Continue	Foot Path from School to house and across private property to Elizabeth Street.
Continue	
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Continue	Runs into Woodbury Farm
Continue	
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Continue	
Continue/Vacate	Vacate portion after Berwick Rd towards Tolman Rd and connecting to Seaside Ave.
Continue	
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Continue	Capann Brooklet
Vacate	
Continue/Vacate	Plan is attached to deed to BR26 PM in Registry.
Continue	
Continue/Vacate	Continue from University to Millum Brook. Vacate from Millum Brook to Railroad Tracks
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*Motion & Adoption  
October 2010*

*A Suzanne Hunt Room 315*

*Lumberland County  
Registry*

*BR 13326 Pg 028*

*13/97  
12/97  
11/97  
14/97*

FAX: (207) 874-8716

0 Oaklawn Road  
Parker Island ME

Inspections Dept  
City of Portland  
389 Congress St  
Portland, ME

04108

21 Sept 2010

Att's: Supreme Court, Room 315

Dear Mr Kent:

What follows, on two sheets, is the "Plan of Land" for this area as copied from P-Plan Book 11, Page 99 at the Cumberland County Registry where, I think, John O'Brien is still the senior official.

All of the deeds in this area originate from this plan. Deeds along Oaklawn Road specifically cite Oaklawn Road as "reversed", i.e., not deeded.

My lot is labeled "Inglebrook". The Lefois Greg Frantz lot is #7 which borders both sides of Oaklawn Road.

The owner of Lot 11 had a survey done in 2000 which is consistent with the record. My own survey, in 2007, is also consistent with the record.

I hope this helps you making effective the fence sale.

Sincerely yours,  
Herbert H. Melhorn

PLAN OF LAND  
PEAKS ISLAND, MAINE  
formerly known as the  
Skillings Farm  
Belonging to  
Hans of Denmark  
Scale, 80 feet to 1 inch  
PORTLAND HARBOR

H. A. MEHLHORN  
90 OAKLAWN ROAD  
PEAKS ISLAND, ME 04108

PLAN BOOK 11  
Page 99  
Jan 12, 1928

PL  
K. J. D.  
June 1

