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Penny St. Louis Littell- Director of Planning and Urban Development Marge Schmuckal, Zoning Administrator

March 16, 2010

Thomas F. Jewell, Esq. Jewell & Boutin, P.A. Suite 1104 477 Congress Street Portland, ME 04101-3427

RE: 15-17 Hemlock Street – 065-A-17 – R-6 Residential Zone

Dear Attorney Jewell,

I am in receipt of your request for a determination letter concerning 15-17 Hemlock Street and whether the property meets the test and requirements of a functional division of land as outlined by the State Law Court under <u>Keith v. Saco River Corridor</u> Commission.

#### Preliminary Criteria:

- 1. Were the structures in existence prior to adoption of the Zoning Ordinance? The records indicate that #15 or the rear single family structure was built prior to or around 1900. #17 Hemlock with three families was built in 1922. The basis of the current Land Use Zoning Ordinance is June 5, 1957. Therefore both structures were in existence prior to the adoption of the current Zoning Ordinance. This criterion is being met.
- 2. From that time to the present, the buildings have been separately used and occupied. Yes. Documentation in our microfiche shows separate building permit activities for each address. This criterion is being met
- 3. Each structure is served by its own utilities and sewerage disposal systems. Information has been submitted for each structure showing separate bills and separate meter numbers for the utilities of water, electric and gas. The applicant has also stated that there are two separate waste lines, one for each building. The wastewater fee on each Portland Water District bill supports this. The third criterion is being met.

#### Further Tests:

1. The use reflects the "nature and purpose" of the use prevailing when the zoning legislation took effect. The use of the property has not changed since the Land Use Zoning Ordinance went into effect in 1957. The City's microfiche indicates that #15 Hemlock Street was a single family dwelling prior to 1957 and remains a single family dwelling. The City's microfiche also has evidence that

JEWELL & BOUTIN, P. A. Attorneys at Law

477 Congress Street Suite 1104 Portland, ME 04101-3427

Thomas F. Jewell Daniel W. Boutin

Email: tjewell@jewellandboutin.com Email: dboutin@jewellandboutin.com

Telephone: 207-774-6665 Fax: 207-774-1626

February 19, 2010

Marge Schmuckal, Zoning Administrator City of Portland 389 Congress Street Portland, ME 04101

R-6

Re:

15-17 Hemlock Street, Portland/65-A-17/Functional subdivision

Dear Marge:

Enclosed please find our check in the amount of \$150 for your review and determination of this request for a functional subdivision of the two buildings located at 15 and 17 Hemlock Street.

I write on behalf of my client, MJECO, LLC, the owner of the above property. The most recent deed is dated October 13, 2009 and recorded at the Cumberland County Registry of Deeds in Book 27319, Page 276, when MJECO, LLC obtained the property from Donald R. Aguilo and Holly A. Aguilo, a copy of which is attached. A copy of the Assessor's map and a recent survey showing the proposed new boundaries are also included.

The total lot size of 65-A-17 is 6,452 square feet according to the survey although the assessor shows the lots size as 5,679 square feet. The lot is located in the R-6 Zone. There is one dwelling unit at 15 Hemlock Street and three dwelling units at 17 Hemlock Street.

The buildings have been separately used and occupied since they were constructed. The single family building at 15 Hemlock Street was built about 1900 and the building with the three units at 17 Hemlock Street was built about 1922. All utilities are separate. I am submitting utility bills showing separate water, sewer, electric and gas service for the two buildings.

We submit that the proposed subdivision of 15-17 Hemlock Street into two lots would meet the requirements of a functional subdivision.

We look forward to your determination. Please let me know if you need any further information.

Respectfully submitte

Thomas F. Jewell, Esq.

Attorney for MJECO, LLC

Cc: MJECO, LLC (w/encs.)

FF3 2 2 2010

3/14/10 3:30pm Tom Jewell Stated That There are 2 waste lines and That The wint to District Bills reflect that

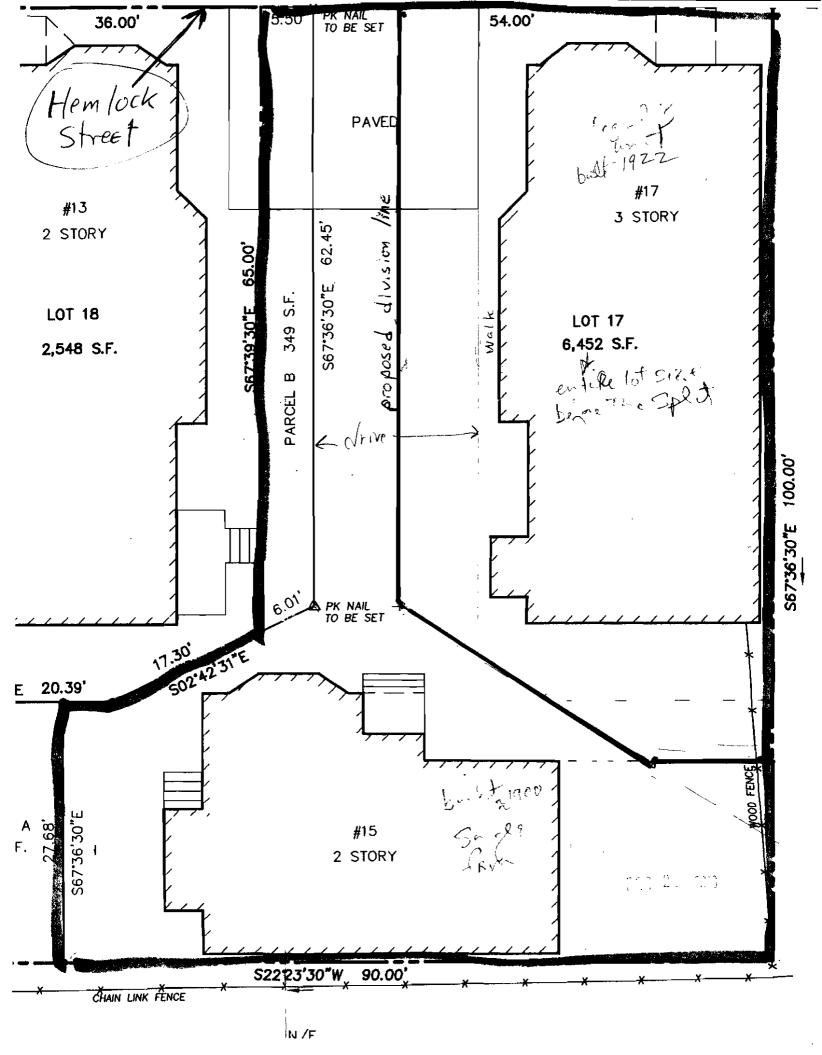
### APPLICATION TO APPROVE FUNCTIONAL DIVISION OF LAND

DECISION

R-6
Name and address of applicant:
Location of property under appeal: 154.17 Dem ock 81
Appearances
Names and addresses of witnesses (proponents, opponents and others):
Exhibits
·
Siggest Drive way easement Keith Criteria.
Keith Preliminary Criteria:
1. The structures were in existence prior to adoption of the Zoning Ordinance1957 YES 1900 \ 1922 NO
2. From that time to the present, they have been separately used and occupied.  YES Apparently NO
3. Each structure is served by its own utilities and sewage disposal systems.  YES
Keith Test:
1. The use reflects the "nature and purpose" of the use prevailing when the zoning legislation
See Keith v. Saco River Corridor Commission, 464 A.2d 150 (Me. 1983).

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3. The current use is use.	not different in kind, in its effect on the New Horkood  NO NO NO NO SIDENTIAL TO HAS DEED	he neighborhood, from the original
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Votes in favor #17 Hemlock Cmp-meter# und U-ret# 5 Portmany Water	Votes Opposed  AB964-01912 (3  160071-5001542-  Dict - Methr #A17	272 x 30 284 meter # K 30 284
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This data is	provided by the Asse	essor's Office a	nd is curr	ent as of	Sep. 8	, 2009	Fees	<del></del>	. 1	New		Scheduling
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Owner Name				Property	* -	RESIDENTIA	L Dist	#:  3	1/	Lannarti		Print Inv.
Name				Descripti	ion	65-A-17 HEMLOCK S	T 15-19		- V PWV	Inspecti		T THIC HIV.
Mailing Addre	<u></u>		4102	Census Tract	20.02	6452 SF			\ew	Site Pla	an	View Permit
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Dist	trict ST JOHN ST	<u> </u>	Historic l	District	No		Picture	Ske	tch_	Тах	<u>Map</u>	
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Yr Built	1900	House Style	OLD ST			the front buildi	ng is three	(3) dwelling	units.	The lega	al use of	<b>'</b>
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## **Original Receipt**

Received from	- rell of bouting that
Location of Work	12.17 Party K
Cost of Construction	\$ Building-Fee:
Permit Fee	\$ Site Fee:
	Certificate of Occupancy Fee:
	Total:/ブン
- · ·	nbing (I5) Electrical (I2) Site Plan (U2)
Other Other	· 17
CBL: (SH	· 17
Check #: / えつご	Total Collected s /
	CLINA Side
No work is	to be started until permit issued.
Fiedse Ree	p original receipt log your records.
Taken by:	p original receipt for your records.
WHITE - Applicant's Co YELLOW - Office Copy PINK - Permit Copy	py

Ascessor's Office = 389 Congress Street | Portland, Haine 04101 : Poom 115 ( 207) 874 8586

Land Use Type

Departments

City Council

E-Services

This page contains a detailed description of the Percei ID you selected, Press the New Sourch button at the bottom of the screen to submit a new query.

#### Current Owner Information:

Services

Property Location Applications Owner Information FOUR FAMILY 15 HEMLOCK ST MJECO LLC 89 PINE ST # 2 PORTLAND MF 04102 27319/276

0.148

065 A017001

Doing Business Book and Page Маря

CBL

Logal Description

Teer Bullt Style/Structure Type

Sedroome Full Baths

Total Room

Basement

Yeer Built

Square Feet

Attic

65-A-17 HEMLOCK ST 15-19 5679 56

Tax Relief

Tax Roll

Current Assessed Valuation: Q&A

TAX ACCT NO.

LAND VALUE BUILDING VALUE MET TAXABLE - REAL ESTATE \$358,100.00 TAX AMOUNT

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or e-mailed.

Building Information:

Card 1 of 2

BOOLGCO, with

OWNER OF RECORD AS OF APRIL 2009
AGUILD DONALD R &
HOLLY A AGUILD JTS
15 HENLOCK ST
PORTLAND ME 04102 10602

\$69,200,00 \$288,900.00

\$6,352.70

1

View Sketch View Map View Picture

17

FULL. 3762

1900

View Mag

OLD STYLE

FULL FINSH

Card 2 of 2

Style/Structure Type OLD STYLE # Storles 1,5 Full Baths Total Room Attic NONE FULL Source Feet 1584

View Sketch



View Picture

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front Blag is a legal

more rout Blag is a legal

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#### Sales Information:

Sele Date	Type	Price	Book/Pag
10/13/2009	LAND + BUILDING	\$218,000.00	27319/276
6/1/2003	LAND + BUILDING	\$320,000,00	19488/117
4/13/1999	LAND + BUILDING	\$184,100.00	14679/1
12/1/1998	LAND + BUILDING	\$D.00	14378/284



2/10/2010

#### WARRANTY DEED

Maine Statutory Short Form

KNOW ALL MEN BY THESE PRESENTS, That Donald R. Aguilo and Holly A. Aguilo of Lyman, Maine, for consideration paid, grant(s) to MJECO LLC whose mailing address is 89 Pine Street # ~ #2, Portland, Maine 04102, with WARRANTY COVENANTS, the real property situated in Portland, County of Cumberland and State of Malne more particularly described in Exhibit A attached hereto and incorporated herein by reference.

WITNESS, my/our hand(s) and seal(s) this 13th day of October, 2009.

State of Maine County of Cumberland, ss.

October 13, 2009

Personally appeared before me the above named Donald R. Aguilo and Holly A. Aguilo and acknowledged the foregoing instrument to be his/her/their free act and deed.

Notary Public/Attorney at Law

WENTWORTH rker 12, 2013

My Correct.

63324 Bk:27319 Pg: 277

Doc‡‡

#### **EXHIBIT A** (DEED)

A certain lot or parcel of land, together with the buildings thereon, situated on the easterly side of Hemlock Street in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

Beginning at a 5/8" iron rod set at the southwest corner of land now or formerly of John D. McCullum recorded in the Cumberland County Registry of Deeds in Book 9346, Page 24, on the easterly side of Hemlock Street, all as shown on "Standard Boundary Survey on Hemlock Street, Portland, Maine made for Catherine A. Nodine August 17, 1998 by Owen Haskell, Inc.;

Thence S 67° 36' 30" E by said land now or formerly of McCullum 100.00 feet to the land now or formerly of George M. Hutchins;

Thence S 22° 23' 30" W by said land now or formerly of Hutchins 74.70 feet to a 5/8" iron rod set;

Thence N 67° 36' 30" W a distance of 27.68 feet to a 5/8" iron rod set;

Thence N 22° 38' 30" E a distance of 5.09 feet to a 5/8" iron rod set;

Thence N 02° 42' 31" W a distance of 23.31 feet to a pk nail set;

Thence N 67° 36' 30" W a distance of 62.45 feet to Hemlock Street to a pk nail set;

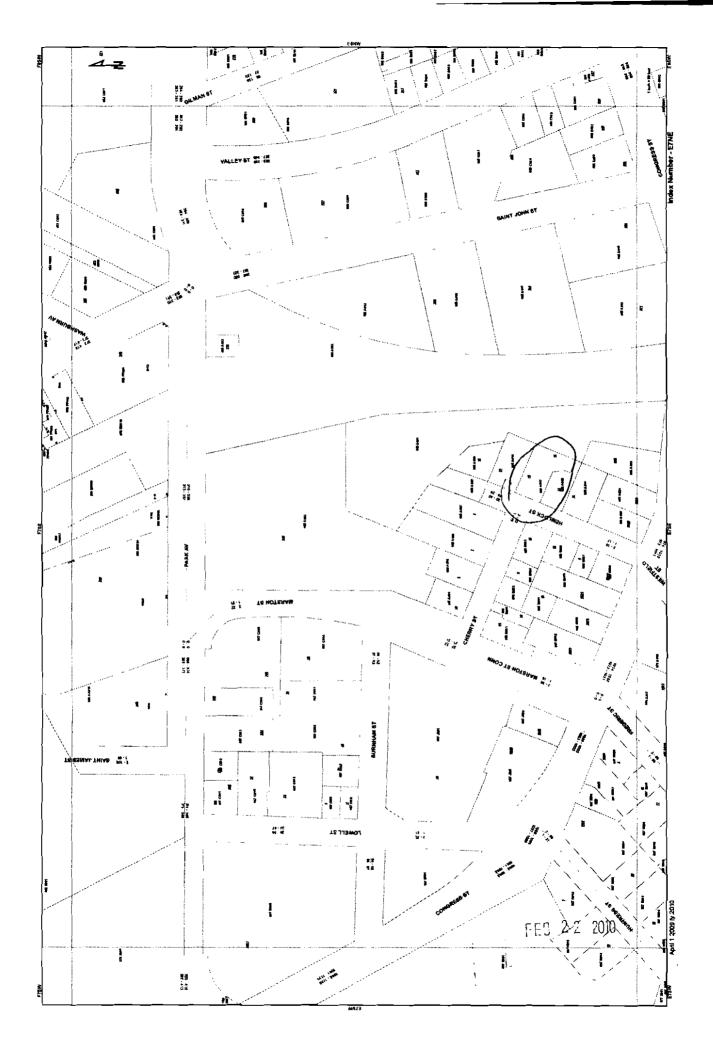
Thence N 22° 23' 30" E by Hemlock Street 48.50 feet to the point of beginning.

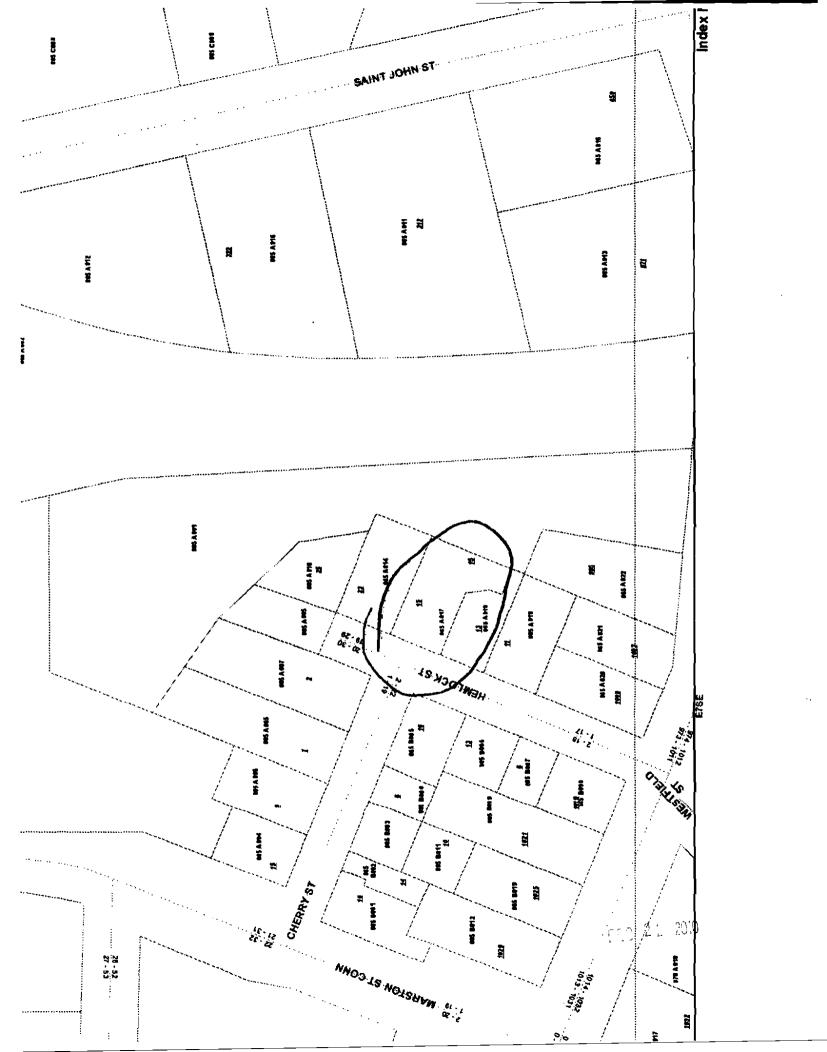
Said parcel contains 5,679 square feet and is shown on the above referenced plan. All bearings are railroad true.

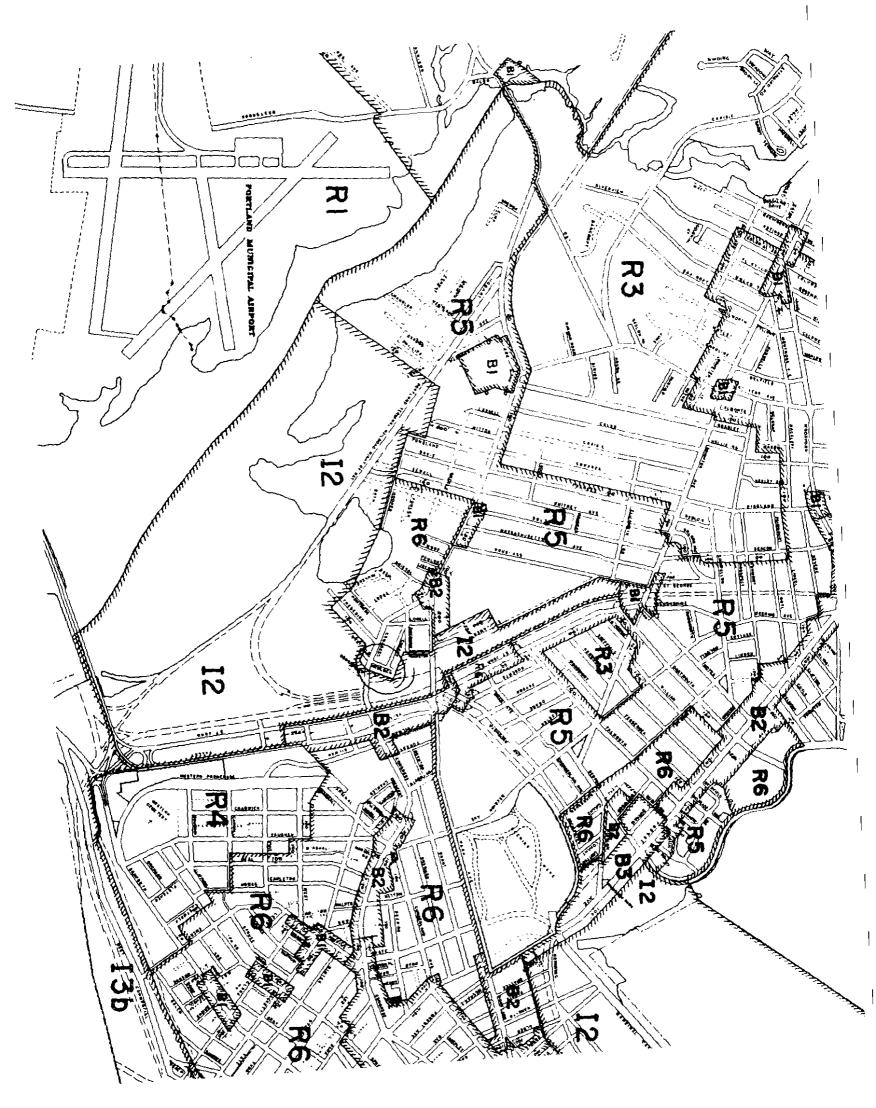
Meaning and intending to convey and hereby conveying the same premises described in a deed to Donald R. Aguilo and Holly A. Aguilo from Michael Stevens and Bonneva A. Stevens dated May 2, 2003 and recorded in said Registry of Deeds in Book 19488, Page 117.

> Recei ved Recorded Resister of Deeds Oct 13,2009 02:45:17P Cumberland Counts Pasela E. Loyles

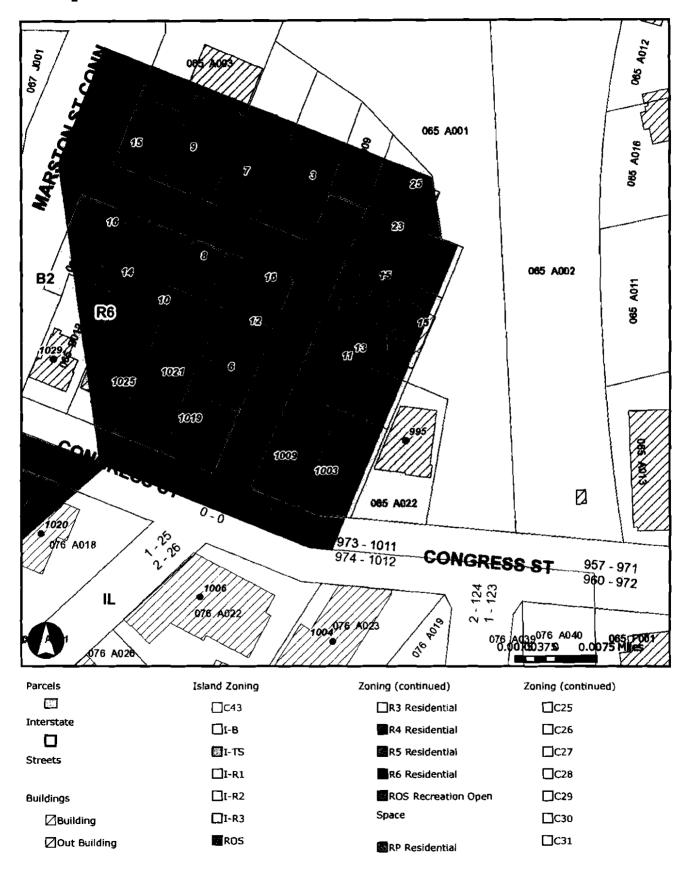
Reviewed and Approved: _	Da	BU-	







## Map









10/29/09 Read cycle: 19 Page 001 of 003 Billing date: **Customer Meter Summary** Read Prior Number Meter **Prior Meter** Total Meter Read Date of Days Reading Reading **KWH** Number Date AB96401912 10/28/09 10/14/09 14 54767 54592 175 Account Summary Prior balance \$0.00 Payments received through 10/29/09 \$0.00+ Balance forward \$0.00 **New charges** Electricity Delivery: \$35.71+ Central Maine Power (see detail below) Electricity Supply: Standard Offer Service \$15.62+ Total new charges \$51.33 Current Account Balance: **\$5**1.33 Please pay before 11/25/09

#### Central Majne Power Delivery Service Account Detail

Prior balance for Central Maine Power delivery \$0.00 \$0.00+ Payments received Balance forward \$0.00 Current delivery charges Delivery Charges; Residential **Delivery Service:** 175 KWH \$12.71+ 100 KWH@ \$8.36 -Up to Over 100 KWH@ .058017 Establish service charge \$23.00+ Total current delivery charges \$35,71 Central Maine Power account balance \$35.71

Messages about your Central Maine Power delivery account

We're upgrading substations and adding new equipment to help us respond to outages quickly and to reduce the size and duration of some outages.

Please see back page for important information

	10/09	Your electricity usage (in kilowatt hours)
Daily	13	
Monthly	175	

Please return this stub with payment to CMP. If applicable, supply payments are forwarded to the appropriate energy provider. Do not send cash or coins, and do not return with staples or paper clips. Refer to back to fill in information for mail address changes or to learn about our paperless eBill service.



Your CMP account number: 441-038-4185-020

Mandaladhadhadhadhhadaladadhdaladald

Central Maine Power Co. PO Box 1084 Augusta ME 04332-1084 Please pay this amount

\$51.33 before 11/25/09 so you can avoid late charges

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MJECO LLC 89 PINE ST UNIT 2 PORTLAND ME 04102-3719

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Please write amount paid:

FER 2.2 2010

Thank you!

Please do not write below this line







Billing date: 10/29/09 Read cycle: 19 Page 001 of 003 **Customer Meter Summary** Total Prior Number Meter Read Meter Prior Meter Reading Number Read Date Reading **KWH** Date of Days 76324 75916 AB96642436 10/28/09 10/14/09 14 408 **Account Summary** Prior balance \$0.00 Payments received through 10/29/09 \$0.00+ Balance forward \$0.00 New charges Electricity Delivery: Central Maine Power (see detail below) \$49.23+ Electricity Supply: Standard Offer Service \$36.41+ Total new charges \$85.64 **Current Account Balance:** \$85.64 Please pay before 11/25/09

#### Central Maine Power Delivery Service Account Detail

Prior balance for Central Maine Payments received	Power delivery		<b>\$0</b> .00+	\$0.00
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Current delivery charges				
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Up to	100 KWH @	\$8.36		
Över	100 KWH @	.058017		
Establish service charge	<del>-</del>		\$23.00+	
Total current delivery charges				\$49.23
Central Maine Power account be	alance			\$49.23

Messages about your Central Maine Power delivery account

We're upgrading substations and adding new equipment to help us respond to outages quickly and to reduce the size and duration of some outages.

Please see back page for important information

	10/09	Your electricity usage (in kilowatt hours)
Daily	29	
Monthly	408	

Please return this stub with payment to CMP. If applicable, supply payments are forwarded to the appropriate energy provider. Do not send cash or coins, and do not return with staples or paper clips. Refer to back to fill in information for mail address changes or to learn about our paperless eBill service.



Your CMP account number: 441-038-4152-020

MandaladhadhadhullUmbaladadhaladadh

Central Maine Power Co. PO Box 1084 Augusta ME 04332-1084 Please pay this amount

\$85.64

before 11/25/09 so you can avoid late charges

04885 D

MJ ECO LLC 89 PINE ST UNIT 2 PORTLAND ME 04102-3719

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FEB 2.2 2010

Please write amount paid:

Thank you!

Please do not write below this line

Fuel Assistance, the Neighbor Helping Neighbor Fund may be able to help you. Call your local Fuel Assistance Office for additional information. You can obtain a copy of our

existing rate schedules by

rates will also be mailed to

visiting our website at www.unitil.com. A summary of

you in December.

AMOUNT DUE

AMOUNT PAID

5100071-5050822

\$156.56

Paid online Norway - E pay 80051000710050508220000156567 12-2-09

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MAME AND/OR ADDRESS CHANGES, PLEASE CHECK THIS BOX AND NOTE CHANGES ABOVE. FOLD ALONG DOTTED LINE DETACH AND RETURN THIS PART WITH PAYMENT

V7SA



PLEASE SEE REVERSE SIDE

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TO AVOID INTEREST CHARGES OF .9490% PER MONTH, REFECTIVE 1/01/09 PAYMENT MUST BE RECEIVED BY 3 PM ON 12/07/09.

QUESTIONS ABOUT YOUR BILL?

REMIT PAYMENT TO:

UNITIL P.O. Box 981010 Boston, MA 02298-1010 Telephones:

1-866-933-3821 24 Hours a day S Unitil

WWW.UNITIL.COM

IM20091110.TXT-1564-000001731



Fuel Assistance, the Neighbor Helping Neighbor Fund may be able to help you. Call your local Fuel Assistance Office for additional information.

You can obtain a copy of our existing rate schedules by

visiting our wabsite at www.unitil.com. A summary of rates will also be mailed to

you in December.

5100071-5001542

\$82.47

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UNITIL ME PO BOX 981010 BOSTON MA 02298-1010

NAME AND/OR ADDRESS CHANGES, PLEASE CHECK THIS BOX AND NOTE CHANGES ABOVE. FOLD ALONG DOTTED LINE DETACH AND RETURN THIS PART WITH PAYMENT

NSA



PLEASE SEE REVERSE SIDE IF PAYING BY CREDIT CARD

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				EERA				43.04 CCF	×	\$.01998	. 86	
				ERC				43.04 CCF	×	\$.02509	1.00	
				TOTAL CUI	RRENT GA C	HARGES						\$24.5
APPROXIMATE			<b>5.75</b>	CURRENT (	CHARGES LY CHARGES	GAS SUPPLI	er svc	SERVICE	PERIOD	10/14/09-	10/31/09	
	12/06/09	~ ~~~	DING:	COST O		AI COSI		43.04 CCF	×	\$.76487	32.92	
				CURRENT (	CHARGES	GAS SUPPLI	er svc	SERVICE	PERIOD	11/01/09-	11/06/09	
April 30, 2	lov 1, 2009 010, winte	r ret	40	COST OF	rgas Revent G5 C	HARGES		11.96 CCF	×	\$1.04766	12.53	\$45.45
	effect and ent of you			OTHER								
	from \$0.7			TURN ON/	PAR TV						\$12.50	
	therm.Thi			TOTAL OT							412.50	\$12.50
pu												4
If you rece	ived an ap	plica	tion	1								
from your F	uel Assist	ance		TOTAL AME	OUNT DUE							\$82.47
office, ple				ļ								
return it a				ĺ						0 0	0010	
If you are	not eligib	le Io	E						1	FED 22	ZUIU	

TO AVOID INTEREST CHARGES OF .9490% PER MONTH, EFFECTIVE 1/01/09 PAYMENT MUST BE RECEIVED BY 3 PM ON 12/07/09.

QUESTIONS ABOUT YOUR BILL?

REMIT PAYMENT TO: UNITIL P.O. Box 981010 Boston, MA 02298-1010

TELEPHONES:

1-866-933-3821 24 Hours a day

WWW.UNITIL.COM

IM20091112.TXT-1826-000000546

203023-01

Service Address

::15 HEMLOCK ST PORTLAND

Page 1 of

# Portland Water District

Send Correspondence to: Address: 225 Douglass St. P.O. Box 3553 Portland, ME 04104-3553

Office Hours: 8:30 a.m. - 4:30 p.m. Monday through Friday Phone: 207.761.8310

Web Site and E-Mail: www.pwd.org customerservice@pwd.or

	WATER CHARGES	WASTEWATER CHARGES	TOTAL
PREVIOUS BALANCE			\$0.00
BALANCE FORWARD CURRENT CHARGES			\$0.00
Consumption Charge	\$8.95	\$25.98	\$34.93
Activation Fee	\$14.00	\$0.00	\$14.00
Total Current Charges	\$22.95	<b>\$25.98</b>	\$48.93
TOTAL AMOUNT DUE			\$48.93

\* WASTEWATER RATES ARE SET BY THE CITY OF PORTLAND

## YOUR 13 MONTH CONSUMPTION SUMMARY (Hundred Cubic Feet)

Month Water Water Days

Hundred Cubic Feet = 748 Gallons

**Customer Meter Summary:** 

METER TYPE: P = Primary

S = Submeter

**R** = Reverse Submeter

**f** = Fireline

A17134719 P 01/20/10 01/08/10 02/05/10 154 150 4

#### Notes

Fats, oils, and grease poured down the kitchen sink can clog your sewer pipes and cause back ups into homes, streets, and streams. Read the enclosed flier for easy tips on how you can avoid this messy problem.

Refer to back for customer information, to apply for direct payment, or to make mailing address changes.

Remit Total Payments to:



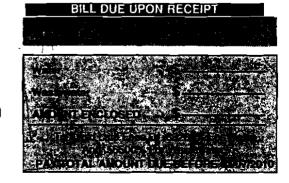
Portland Water District PO Box 6800 Lewiston ME 04243-6800

Manhabibalallallallallallallalladlaalla

TES 2.2 2010

MJECO LLC MICHAEL BRUENJES 89 PINE ST PORTLAND, ME 04102

Illiandata (Illianda Indolesia Salamilla)



**Total Amount Due:** 

\$48.93

143454-04

Service Address

17 HEMLOCK ST PORTLAND

## **Portland** Water District

Send Correspondence to:

Address: 225 Douglass St. P.O. Box 3553 Portland, ME 04104-355

Office Hours: 8:30 a.m. - 4:30 p.m. Monday through Friday Phone: 207.761.8310

Web Site and E-Mail? www.pwd.org customerservice@pwd.o

YOUR

(Hundred Cubic Feet)

	WATER CHARGES W	ASTEWATER CHARGES	TOTAL
PREVIOUS BALANCE			\$512.46
Payment - Thank You			\$512.46 CR
BALANCE FORWARD			\$0.00
CURRENT CHARGES			
Consumption Charge	\$44.23	\$145.16	\$189.39
Total Current Charges	\$44.23	\$145.16	\$189. <u>39</u>
TOTAL AMOUNT DUE			\$189.39

#### WASTEWATER RATES ARE SET BY THE CITY OF PORTLAND -**DIRECT PAYMENT-DO NOT PAY**

#### **Customer Meter Summary:** 13 MONTH CONSUMPTION SUMMARY

METER TYPE: P = Primary

S = Submeter

R = Reverse Submeter

F = Fireline

A17068725 01/19/10 12/18/09 02/05/10 632 19

Month	Water	Waste Water	Days
100	Men yal		
01/10	28	28	32_
12/09	21	21	28
11/09	02	2	5
	<u> </u>		

Hundred Cubic Feet = 748 Gallons

#### Notes

Fats, oils, and grease poured down the kitchen sink can clog your sewer pipes and cause back ups into homes, streets, and streams. Read the enclosed flier for easy tips on how you can avoid this messy problem.

Refer to back for customer information, to apply for direct payment, or to make mailing address changes. Remit Total Payments to:



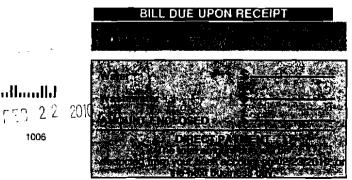
Portland Water District PO Box 6800 Lewiston ME 04243-6800

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1006

MJECO LLC MICHAEL BRUENJES 89 PINE ST PORTLAND, ME 04102

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Total Amount Due:

\$189.39



10602

This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

#### **Current Owner Information:**

#### 

Tax Relief 5679 5
Acres 0.148
Tax Roll

TAX ACCT NO.

Q&A

#### Current Assessed Valuation:

## \$69,200.00

## \$289,900.00

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OWNER OF RECORD AS OF APRIL 2009
AGUILD DONALD R &
HOLLY A AGUILD JTS
15 HEMLOCK ST
PORTLAND ME 04102

browse facts and links a-z

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or e-mailed.

**Building Information:** 

 Year Built
 1922

 Skyle/Structure Type
 OLD STYLE

 # Stories
 2

 Bedrooms
 7

 Full Baths
 3

 Total Rooms
 17

 Attic
 FULL FINSH

 Besement
 FULL

 Square Feet
 3762

Yeu Sketch Yeu Map Yeu Picture



# Card 1 of 2 Year Built 1900 Style/Structure Type OLD STYLE # Stories 1.5 Bedrooms 3 Full Baths 2 Total Rooms 7 Attic NONE Basement FULL Square Feet 1584

Yes Shelch <u>View Hop</u> Vjew Picture



#### Sales Information:

Sels Date	Туре	Price	Book/Page
10/13/2009	LAND + BUILDING	\$218,000.00	27319/276
6/1/2003	LAND + BUILDING	\$320,000.00	19488/117
4/13/1999	LAND + BUILDING	\$184,100.00	14679/1
12/1/1998	LAND + BUILDING	\$0.00	14378/284