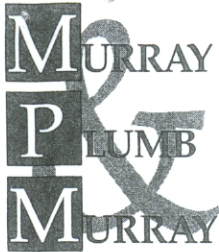


Barbara

December 22, 2009



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**By Hand Delivery**

Gary Wood, Esq.  
Corporation Counsel  
City of Portland  
389 Congress Street  
Portland, Maine 04101

RE: *Agreement Between Sadri Shir, and Nawad Shir and Portland Masjid and Islamic Center and City of Portland*

Dear Gary:

Please find enclosed the *Agreement Between Sadri Shir, and Nawad Shir and Portland Masjid and Islamic Center and City of Portland*. The Agreement has been signed by Sadri Shir.

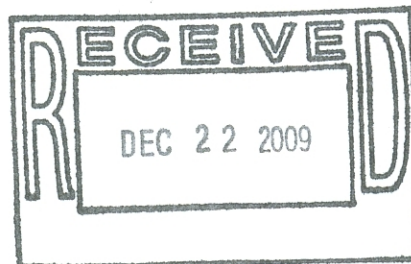
I would appreciate it if you could execute the Agreement on behalf of the City and return a fully executed copy to me.

Thank you for your attention.

Sincerely,

John B. Shumadine  
jshumadine@mpmlaw.com

JBS/mfm  
Enclosures  
cc: Sadri Shir



hand delivered @ 2:40 pm

**AGREEMENT BETWEEN SADRI SHIR, AND NAWAD SHIR  
AND  
PORTLAND MASJID AND ISLAMIC CENTER  
AND CITY OF PORTLAND**

This Agreement made this 24<sup>th</sup> day of December, 2009, by and between Sadri Shir and Nawad Shir (hereinafter **OWNERS**) and Portland Masjid and Islamic Center (hereinafter **USERS**) and the City of Portland (hereinafter **CITY**):

**W I T N E S S E T H :**

**WHEREAS, OWNERS, USERS** and the **CITY** desire to resolve a disagreement about the **CITY**'s site plan ordinance requirements and the current conditions on the **OWNERS** and **USERS** lot located at 978 Washington Avenue, Portland, Maine; and,

**WHEREAS, the CITY** has offered to delay the enforcement of site plan ordinance requirements in relation to this property in return for the **OWNERS** and **USERS** agreement to restore the property to the condition that existed prior to the unapproved alterations made by the **OWNERS** and **USERS**.

**NOW THEREFORE**, be it agreed as follows:


1. The **CITY** will not file a lawsuit in State Court related to the condition of the property and the alleged violations of the **CITY**'s site plan ordinances until after the federal lawsuit between the property **OWNERS** and **USERS** and the **CITY** is concluded (see Shir, et al v. City of Portland, 2:09-CV-370-P-S) so long as the **OWNERS** and **USERS** restore the property to the condition shown in the aerial photograph attached hereto as Attachment 1 by having the following work done on the property:
  - a. All pavement in the parking area shall be removed;
  - b. The ditch dug by the **OWNER** and **USER**'s at the back of the property shall be filled in with a material and in such a manner that it no longer acts to carry water off of the property;
  - c. All gravel that was brought onto the property shall be removed;

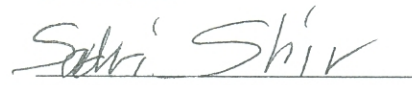
- d. The property shall be re-graded to a flat contour such that water does not sheet or flow off of it onto abutting residential properties;
  - e. Except for that area on the property shown in Attachment 1 as a graveled section, the property shall be loamed, seeded and mulched, including the surface area over the ditch described in subparagraph (b) above.
2. Restoration of the site to the condition shown in Attachment 1 does not constitute compliance with the City's site plan requirements or other ordinance requirements for the purpose of allowing the use of the property as a place of assembly. The **PARTIES** further agree that this Agreement does not preclude any Party from raising any argument (whether based upon grandfathering, legal nonconformity, or otherwise) relating to those requirements during any later administrative or judicial proceeding.
  3. The **OWNER** and **USERS** shall provide the **CITY** with a completed restoration plan on or before January 4, 2010.
  4. The **OWNER** and **USERS** shall provide the **CITY** with a signed contract with a reputable contractor on or before January 11, 2010. The contract shall be accompanied by a performance guarantee satisfactory to the **CITY**.
  5. The above described restoration shall be completed on or before January 25, 2010. The **CITY** agrees to consider a request by the **OWNER** and **USERS** for additional time past January 25, 2010, due to unforeseen circumstances beyond their control (e.g. weather) which prevent the completion of the above described restoration. Such extensions shall not be unreasonably withheld by the **CITY**.
  6. If the restoration work is not completed on or before January 25, 2010, the **OWNER** and the **USERS** shall be jointly and severability liable to the **CITY** in the amount of \$300 per day until the restoration work is completed.
  7. The **OWNER** and the **USERS** further agree to pay the **CITY**'s reasonable attorney's fees if the City prevails in any action required to be filed as a result of their non-compliance with the Agreement.
  8. The restoration work shall not be considered completed until inspected and improved by the **CITY**, however any delay in conducting such inspections following a written request shall not be attributed to the **OWNER** or **USERS** for the purpose of calculating any penalty owed by the **OWNER** and **USERS** to the **CITY**.
  9. Following restoration the **OWNERS** and **USERS** shall not plow or park on any portion of the property except the graveled portion, unless or until a court of competent jurisdiction determines that they have the right to do so.



10. In the event that any provision of this Agreement or the applicability thereof to any person or circumstance is held invalid by a court or regulatory authority, it shall not affect the validity or enforceability of any other provision of this Agreement.
11. No covenant, condition, duty, obligation or undertaking contained in or made a part of this Agreement shall be waived except by written agreement of the parties, and forbearance or indulgence in any form or manner including, but not limited to, failure or waiver of enforcement by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty or obligation; and notwithstanding any such forbearance or indulgence, the party shall have the right to invoke any remedy available under this Agreement or under law or equity.
12. This Agreement shall be governed by and construed in accordance with the laws of the State of Maine.


**IN WITNESS WHEREOF**, the **OWNERS** and **USERS**, and the **CITY** have caused this instrument to be signed and sealed in their respective names by their respective duly authorized officers the day and year first written above.

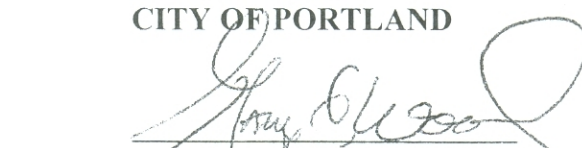
  
 \_\_\_\_\_  
 Witness

**OWNERS**  
  
 \_\_\_\_\_  
 Sadri and Nawad Shir

\_\_\_\_\_  
 Witness

\_\_\_\_\_  
 By:  
 Its:

  
 \_\_\_\_\_  
 Witness

**CITY OF PORTLAND**  
  
 \_\_\_\_\_  
 By: Gary C. Wood  
 Its: Corporation Counsel