



# PORTLAND MAINE

*Strengthening a Remarkable City, Building a Community for Life • [www.portlandmaine.gov](http://www.portlandmaine.gov)*

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

February 12, 2009

Charles Aceto  
744 Brighton Avenue, #3  
Portland, ME 04102

Re: 744 Brighton Avenue – 259 B060 – R-3 – illegal dwelling unit

Dear Mr. Aceto,

This letter is a follow up to the telephone conversation that we had yesterday. When our office gets a complaint about a multi-tenant building, we do research to determine the legal use of the building. In researching 744 Brighton Avenue, the most recent permit that I could find was permit #002421 that was issued to you on August 8, 1989 to build a 24' x 24' attached garage. The use given on the permit was a two-family house. Since that is the most recent permit we have, the legal use of the building is a two-family dwelling. You told me yesterday that there are three dwelling units in the building, so at this point the use of the building is not legal. You need to bring your building into compliance.

744 Brighton Avenue is located in the R-3 residential zone. Section 14-87 of the ordinance lists the uses that are permitted in that zone, and section 14-88 lists the conditional uses that are allowed. A three family dwelling is not listed in either of these sections. Section 14-89 says that uses “not expressly enumerated herein as either permitted uses or conditional uses are prohibited”. Under the ordinance, a three family home is not permitted.

Section 14-391 of the ordinance outlines a process where properties with existing illegal dwelling units may be recognized as a legal nonconforming use. Part of the criteria for this process is that the illegal dwelling unit has to have been in existence since April 1, 1995 and the applicant cannot have been the person who constructed the illegal unit. I have enclosed the application for Legalization of Nonconforming Dwelling Units. It outlines the application process of legalizing illegal units. If the application is denied, then you will be required to remove the illegal dwelling unit.

You have thirty days to bring your building into compliance. Either we must receive your application for Legalization of Nonconforming Dwelling Units within thirty days of the date of this letter, or you need to remove the illegal unit and bring the use of the building back to a two-family dwelling. To remove the illegal unit you would have

to remove the kitchen including all the equipment (stove, microwave, refrigerator and kitchen sink). The plumbing for the sink would have to be capped at the wall or floor. An inspection will be scheduled to confirm that the illegal unit has been removed if we don't receive an application within thirty days.

Please feel free to call me at 874-8709 if you have any questions.

Yours truly,

Ann B. Machado  
Zoning Specialist  
(207) 874-8709