

Wayne T. Adams  
Christian L. Barner  
Milda A. Castner  
Susan Bernstein Driscoll  
Scott M. Edmunds  
William J. Gallitto, III  
Jason G. Howe  
David C. Johnson  
Courtney Michalec Hart  
Brin M. Moore  
Sarah B. Neault



Durward W. Parkinson  
Danielle M. Quinlan  
Leah B. Rachin  
Laura H. White  
*Of Counsel*  
Jonathan Bangs  
Barbara I. Belik  
Michael W. Macleod-Ball  
*In Memoriam*  
C. Wesley Crowell  
1929-2015

March 26, 2019

City of Portland  
Attn: Jean Fraser, Planner  
389 Congress St.  
Portland, ME 04101  
*Via Email Only:* [jf@portlandmaine.gov](mailto:jf@portlandmaine.gov)

***Re: Right Title & Interest of Applicant & Successor; Easement Rights***

Jean:

As you are aware, this office represents Banyan North, LLC (“Applicant”), the current owner of the land commonly known as 1363 Washington Street, Portland, ME 04103 (the “Property”). At the request of the City of Portland’s legal counsel, we are providing this letter to resolve questions regarding: (i) right, title, and interest in the Property; (ii) existence of a valid and binding Purchase & Sale Agreement (“P&S”), and; (iii) to confirm that certain rights to be conveyed under an easement agreement will run with the land for the benefit of Applicant, its successors and assigns.

As to title and subject to a purchase money mortgage and other financing documents, the Applicant holds title in the Property pursuant to a deed recorded in the Cumberland County Registry of Deeds in Book 34113, Page 290 – a copy of which is on file with the City as part of the Phase II Site Plan Amendment filed by consultant Michael Barton.

This letter will confirm that Banyan is subject to a certain Purchase & Sale Agreement (“P&S”) to sell the Property to an entity which will operate, or which will lease to a third party who will operate, a Taco Bell at the same location. Closing is scheduled to occur in early April – provided the Applicant receives City approval prior thereto.

Lastly, this letter will confirm that – as requested by the City – the Applicant is diligently pursuing an easement to allow for vehicles departing the Property to exit onto Washington Street by way of the “right turn only” driveway shared with Dollar Tree and North-Port. As written, the agreement will create an easement for the benefit of the Applicant which runs with the Property.

The statements in this opinion letter is issued subject to the following limitations:

- (a) We are licensed to practice law only in the State of Maine and we express no

opinion with respect to the effect of any laws other than the Applicable Laws of the State of Maine and federal law.

(b) The opinions contained herein represent our best legal judgment, are based upon the facts and assumptions set forth above and upon existing law and currently applicable rules, regulations and court decisions. We undertake no obligation to advise any party of facts or changes in law occurring after the date of this opinion letter which might affect the opinions expressed herein.

(c) For purposes of the examination of the documents referred to above, we have assumed the genuineness of all of the signatures, the authenticity of all documents submitted to us as originals, and the conformity to originals of all documents submitted to us as certified or photostatic copies, which facts we have not independently verified.

All opinions expressed herein are made and issued for the sole and exclusive benefit of the City of Portland, its agents and employees, in connection with the above-referenced Site Plan Amendment Application and shall not be relied upon by any party other than the City of Portland for any reason whatsoever.

Questions can be directed to my attention at the Kennebunk address below.

Sincerely,



**BERGEN & PARKINSON, LLC**

JGH/nb