

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS



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MICHAEL E. WESTORT
DEWEY MARTIN

1289 Washington Avenue

All persons interested either for or against this Interpretation Appeal will be heard at a public hearing in Room 209, City Hall, Portland, Maine, on Thursday evening, May 24, 1990 at 7:00 p.m. This notice of required public hearing has been sent to the owners of property directly abutting and directly across a street or alley from the subject property as required by the Ordinance.

Mr. Paul S. Bulger, Attorney for Thomas Realty Associates and Lawrence J. Hoch, co-owners of the property at 1289 Washington Avenue, is asking the Board of Appeals to determine whether the property is "grandfathered" as a four unit building in the R-3 Residence Zone, or whether the finding by the Building Inspector should be reversed.

LEGAL BASIS OF APPEAL: The Board of Appeals may reverse said action of the Building Inspector only if it finds that said action is based on an erroneous interpretation of said Ordinance. Section 14-472 of the City Zoning Ordinance (Portland Land Use Code (1989)).

John C. Knox
Secretary

/el
5/2/90

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1289 Washington Avenue

May 1, 1990

Mr. Paul S. Bulger, Attorney
Richardson & Troubh
P. O. Box 9732
Portland, Maine 04104

Re: Thomas Realty Associates
and Lawrence J. Hoch,
Co-owners

Dear Mr. Bulger:

This will acknowledge receipt of your application for an Interpretation appeal concerning the building located at 1289 Washington Avenue in the R-3 Residence Zone. On behalf of your clients, you are asking the Board of Appeals to determine whether the property is "grand-fathered" as a four unit building in the R-3 Residence Zone, or whether the finding by the Building Inspector should be reversed.

This interpretation appeal will be scheduled for consideration before the Board at their meeting on Thursday, May 24, 1990, in Room 209, City Hall, Portland, Maine. As soon as agendas become available for distribution, a copy will be sent to your office.

Sincerely,

Warren J. Turner
Warren J. Turner
Administrative Assistant

cc: Merrill S. Seltzer, Chairman, Board of Appeals
Joseph E. Gray, Jr., Director, Planning & Urban Development
P. Samuel Hoffses, Chief, Inspection Services
William D. Giroux, Zoning Enforcement Officer
Merlin Leary, Code Enforcement Officer
Charles A. Lane, Associate Corporation Counsel

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DEWEY MARTIN

1289 Washington Avenue

May 30, 1990

Mr. Paul S. Bulger, Attorney
Richardson & Trough
P. O. Box 9732
Portland, Maine 04104

Re: Thomas Realty Associates
and Lawrence J. Hoch,
Co-owners

Dear Mr. Bulger:

At the meeting of the Board of Appeals, on Thursday evening, May 24th, the Board voted by a unanimous vote of six members present to overturn the decision of the Zoning Enforcement Officer based upon testimony presented at the public hearing. It appeared that this building has contained four apartments prior to Dr. Fiorica's acquisition of the building in 1968. The Board therefore recognized this building as having four apartment units in response to the application for an interpretation appeal filed by you on behalf of your clients.

A copy of the Board's decision is enclosed with this letter for your records.

Sincerely,

Warren J. Turner
Warren J. Turner
Administrative Assistant

Enclosure: Copy of the Board's Decision

cc: Dr. Thomas Fiorica, 1289 Washington Avenue, Portland, Maine 04103
Merrill S. Seltzer, Chairman, Board of Appeals
Joseph E. Gray, Jr., Director, Planning & Urban Development
P. Samuel Hoffses, Chief, Inspection Services
Merlin Leary, Code Enforcement Officer
Charles A. Lane, Associate Corporation Counsel

1289 Washington Ave
R-3 Residence
zone



CITY OF PORTLAND
INTERPRETATION APPEAL

DECISION

For the Record

Names and addresses of witnesses (proponents, opponents and others):

Paul S. Bulger Atty _____
Thomas Fiorino _____
Robert Collins _____

Exhibits admitted (e.g., renderings, reports, etc.):

Findings of Fact

1. The Board finds as fact that: Uphold the decision
of the building inspectors
0-6
2. The finding(s) of fact above-stated is(are) based on the following reasons: _____

Determinations of Law

1. The Board determines as a matter of law that: _____

2. The determination(s) of law above-stated is(are) based on the following reasoning: _____

Conclusion

After public hearing on May 24, 1950, and for the reasons above-stated, the accompanying application is hereby (check one)

granted.

granted subject to the following condition(s):

denied.

Dated: May 24, 1950

John C. Furr
Secretary of the Board

Yes

NO
John C. Furr
Carl F. Moelli
Thomas J. Judd
Mark W. Tuttle
Merrill A. Helgeson
Franklin

10

APPLICATION FOR PERMITS

PERMIT ISSUED

B.O.C.A. USE GROUP
B.O.C.A. TYPE OF CONSTRUCTION 01232

OCT 5 1984

ZONING LOCATION PORTLAND, MAINE .. Oct 1, 1964

~~CITY OF PORTLAND~~

To the CHIEF OF BUILDING & INSPECTION SERVICES, PORTLAND, MAINE

The undersigned hereby applies for a permit to erect, alter, repair, demolish, move or install the following building, structure, equipment or change use in accordance with the Laws of the State of Maine, the Portland B.O.C.A. Building Code and Zoning Ordinance of the City of Portland with plans and specifications, if any, submitted herewith and following specifications:

LOCATION 120 Washington Avenue Fire District #1 G, #2 D
1. Owner's name and address Mr. Howard Foxica - Jay, Me. Telephone
2. Lessee's name and address Telephone
3. Contractor's name and address G. F. Richards Const. - Livestock Reynolds Ave. Telephone 637-3444
Proposed use of building Full factory No. of sheets
Last use No. families
Material No. stories Heat Style of roof Roofing
Other buildings on same lot
Estimated contractual cost \$ 5,000

FIELD INSPECTOR—Mr. @ 775-5451

Appeal Fees \$
Base Fee 35.00
Late Fee
TOTAL \$ 35.00

To add a enclosed stairway on rear of dwelling, to serve 3rd floor to ground as per plans. 4 plans sheets

Stamp of Special Conditions

send permit to # 3 04254

NOTE TO APPLICANT: Separate permits are required by the installers and subcontractors of heating, plumbing, electrical and mechanicals.

DETAILS OF NEW WORK

Is any plumbing involved in this work? **no** Is any electrical work involved in this work? **yes**
Is connection to be made to public sewer? If not, what is proposed for sewage?
Has septic tank notice been sent? Form notice sent?
Height average grade to top of plate Height average grade to highest point of roof
Size, front depth No. stories solid or filled land? earth or rock?
Material of foundation Thickness, top bottom cellar
Kind of roof Rise per foot Roof covering
No. of chimneys Material of chimneys of lining Kind of heat fuel
Framing Lumber—Kind Dress'd or full size? Corner posts Sills
Size Girder Columns under girders Size Max. on centers
Studs (outside walls and carrying partitions) 2x4-16" O. C. Bridging in every floor and flat roof span over 8 feet.
Joists and rafters: 1st floor 2nd 3rd roof
On centers: 1st floor 2nd 3rd roof
Maximum span: 1st floor 2nd 3rd roof
If one story building with masonry walls, thickness of walls? height?

IF A GARAGE

No. cars now accommodated on same lot to be accommodated number commercial cars to be accommodated
Will automobile repairing be done other than minor repairs to cars habitually stored in the proposed building?

APPROVALS BY: DATE MISCELLANEOUS
BUILDING INSPECTION—PLAN EXAMINER Will work require dist. ring of any tree on a public street?
ZONING:

June 5, 1981

Thomas J. Fiorica
12 Church St.
Jay, Maine

Re: 1289 Washington Ave.

Dear Sir:

When the first and second floors at above address were made into separate apartments, some of the second floor outlets were left on the first floor meter. This means the first floor tenant is paying for some of the second floor electricity.

Please have an electrician check this out and make the necessary changes.

Very truly yours,

Richard I. Libby
Electrical Inspector

RLL:lk



City of Portland.

5000

3376

7-29-1911

To the Inspector of Buildings of the City of Portland:

The undersigned respectfully makes application for a permit to erect enlarge a building on Washington Ave street, at number 21 No 3 to be 2 stories high 47 1/2 feet long, 34 feet wide; also an addition to be 2 stories high, 34 feet long, 34 feet wide, and to be used as a Dwelling

The material to be used in the erection enlargement of said building is to be as follows:

Exterior walls to be made of Wood
Roof to be made of "
Gutters to be made of "
Cornices to be made of "
Bay windows to be made of "
Dormer windows to be made of "

The builder is H. S. Thurston Address 47 Pleasant Ave
The architect is F. C. Moore Address Beaumont St.
The owner is E. H. Beadell Address Beaumont

(Applicant to sign here) H. S. Thurston

OFFICE OF
INSPECTOR OF BUILDINGS,
FOR THE
CITY OF PORTLAND.
OFFICE HOURS:
10-11 A. M. 4-5 P. M.

The above petition was granted the 29 day of July 1911.

REAL ESTATE ASSESSMENT RECORD - CITY OF PORTLAND, MAINE

LAND NOS.	STREET	BLDG. NO.	CARD NO.	DEVELOPMENT NO.	AREA	DIST.	ZONE	CHART	BLOCK	LOT
1283-1291	Washington Ave		OF			11		402	B	1-2

TAXPAYER ADDRESS AND DESCRIPTION HOMAN MARTIN M 1291 WASHINGTON AVENUE CITY REAL ESTATE-PORTLAND ME ASSESSORS PLANS ON FILE IN ASSESSORS OFFICE CITY HALL PLAN 402-B-1-2 WASHINGTON AVE #1283-1291 & GERTRUDE AVE #1-7 AREA 14088 SQ FT LOTS 3-4	RECORD OF TAXPAYER	YEAR	BOOK	PAGE	PROPERTY FACTORS				
					TOPOGRAPHY		IMPROVEMENTS		
					LEVEL	<input checked="" type="checkbox"/>	WATER		
					HIGH		SEWER		
					LOW		GAS		
					ROLLING		ELECTRICITY		
					SWAMPY		ALL UTILITIES	<input checked="" type="checkbox"/>	
					STREET		TREND OF DISTRICT		
					PAVED	<input checked="" type="checkbox"/>	IMPROVING		
					SEMI-IMPROVED		STATUS	<input checked="" type="checkbox"/>	
					DIRT		DECLINING		
					SIDEWALK	<input checked="" type="checkbox"/>			
					TILLABLE		PASTURE	WOODED	WASTE

LAND VALUE COMPUTATIONS AND SUMMARY 1952

FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	YEAR	1951	1952
71	100	13.00	100	13.00		920	
678	100	13.00	100	13.00		810	
C.I. +5%						+ 90	
TOTAL VALUE LAND						1820	1820
TOTAL VALUE BUILDINGS						5930	5360
TOTAL VALUE LAND AND BUILDINGS						7750	7180
SQ. FT. TO-FROM CH.						BLK.	LOT
SQ. FT. TO-FROM CH.						BLK.	LOT

LAND VALUE COMPUTATIONS AND SUMMARY

FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	19	19
TOTAL VALUE LAND						
TOTAL VALUE BUILDINGS						
TOTAL VALUE LAND AND BUILDINGS						
SQ. FT. TO-FROM CH.						BLK. LOT
SQ. FT. TO-FROM CH.						BLK. LOT

ASSESSMENT RECORD INCREASE DECREASE

ASSESSMENT RECORD	INCREASE	DECREASE
1900	LAND 875	
1900	BLDG. 2900	
1900	TOTAL 3775	
1951	LAND 1100	
1951	BLDG. 3550	
1951	TOTAL 4650	
1952	LAND 1100	
1952	BLDG. 3225	- 325
1952	TOTAL 4325	- 325
1953	LAND 1100	
1953	BLDG. 3350	125
1953	TOTAL 4450	125
1954	LAND	
1954	BLDG.	
1954	TOTAL	
1955	LAND	
1955	BLDG.	
1955	TOTAL	
1956	LAND	
1956	BLDG.	
1956	TOTAL	
1957	LAND	
1957	BLDG.	
1957	TOTAL	
1958	LAND	
1958	BLDG.	
1958	TOTAL	

LAND VALUE COMPUTATIONS AND SUMMARY

FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	1954	19
TOTAL VALUE LAND					1820	
TOTAL VALUE BUILDINGS					5970	
TOTAL VALUE LAND AND BUILDINGS					7790	
SQ. FT. TO-FROM CH.						BLK. LOT
SQ. FT. TO-FROM CH.						BLK. LOT

LAND VALUE COMPUTATIONS AND SUMMARY

FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	19	19
TOTAL VALUE LAND						
TOTAL VALUE BUILDINGS						
TOTAL VALUE LAND AND BUILDINGS						
SQ. FT. TO-FROM CH.						BLK. LOT
SQ. FT. TO-FROM CH.						BLK. LOT

YEAR	ORIG. COST	RENTAL
YEAR	SALE PRICE	EXPENSE
YEAR 1946	U. S. R. S. 8.00	NET

$89 \times 1007 = 51$
 $37 @ 30\% = 11$
 62

RECORD OF BUILDINGS

GRADE DENOTES QUALITY OF CONSTRUCTION: A-EXCELLENT; B-GOOD; C-AVERAGE; D-CHEAP; E-VERY CHEAP

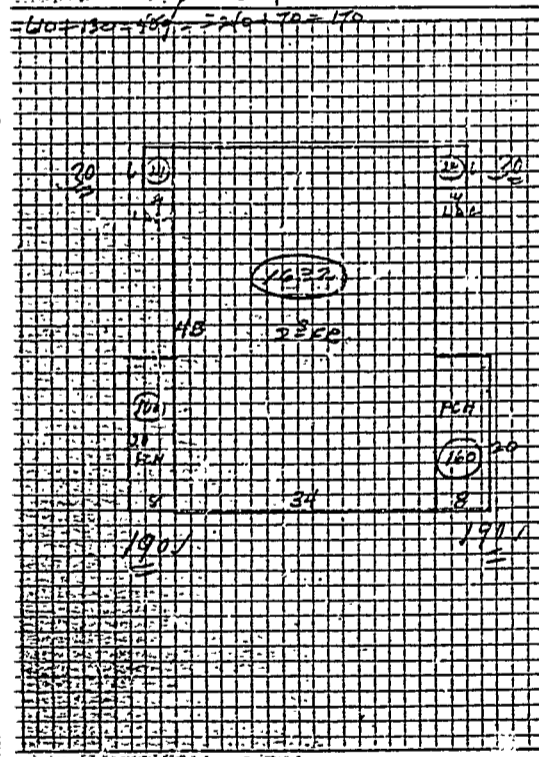
YEAR 18

YEAR 19

1/2 = 612 - 200, 1/2 = 412 + 200

CONSTRUCTION		
FOUNDAT ON	FLOOR CONST.	PLUMBING
CONCRETE	WOOD JOIST ✓	BATHROOM 2 ✓
CONCRETE BLOCK ✓	STEEL JOIST	TOILET ROOM
BRICK OR STONE	MILL TYPE	WATER CLOSET
PIERS	REFIN. CONCRETE	LAVATORY
CELLAR AREA FULL ✓	FLOOR FINISH	KITCHEN SINK 2 ✓
1/4 3/4 1/2	B 1 2 3	STD. WAT. HEAT 2 ✓
NO. CELLAR	CEMENT ✓	AUTO. WAT. HEAT
EXTERIOR WALLS	EARTH	ELECT. WAT. SYST.
CLAPBOARDS	PINE	LAUNDRY TUBS
WIDE SIDING	HARDWOOD ✓✓	NO PLUMBING
DROP SIDING	TERRAZZO	TILING
NO SHEATHING	TILE	BATH FL. & WCOT.
WOOD SHINGLES ✓		TOILET FL. & WCOT.
ASBES. SHINGLES		LIGHTING
STUCCO ON FRAME	ATTIC FLR. & STAIRS ✓	ELECTRIC ✓
STUCCO ON TILE	INTERIOR FINISH	NO LIGHTING
BRICK VENEER	B 1 2 3	NO. OF ROOMS
BRICK ON TILE	PINE ✓✓	BSMT. 2ND 6
SOLID BRICK	HARDWOOD	1ST 1 3RD
STONE VENEER	PLASTER ✓✓	OCCUPANCY
CONC. OR CIND. BL.	UNFINISHED	SINGLE FAMILY
TERRA COTTA	METAL CLG.	TWO FAMILY ✓
VITROLITE	RECREAT. ROOM	APARTMENT
PLATE GLASS	FINISHED ATTIC	STORE
INSULATION	FIREPLACE 2 ✓	THEATRE
WEATHERSTRIP	HEATING	HOTEL
ROOFING	PIPELESS FURNACE	OFFICES
ASPH. SHINGLES ✓	HOT AIR FURNACE ✓	WAREHOUSE
WOOD SHINGLES	FORCED AIR FURN.	COMM. GARAGE
ASBES. SHINGLES	STEAM	GAS STATION
SLATE TILE	HOT WAT. OR VAPOR ✓	ECONOMIC CLASS
METAL	NO HEATING	OVER BUILT
COMPOSITION	GAS BURNER	UNDER BUILT
ROLL ROOFING	OIL BURNER 2 ✓	D 9-20-53 AS. M.M.
INSULATION	STOKER	LD. 98 PD. 30
		MS. 6 CK. 100

COMPUTATIONS		
UNIT	1951	1954
1630 S.F.	7830	7850
S.F.		
ADDITIONS	+440	+440
2-2-1-1	+20	+20
BASEMENT		
WALL		
ROOF		
FLOORS		
ATTIC	+160	+160
FINISH		
FIREPLACE	+360	+360
HEATING	-170	-170
PLUMBING	+350	+350
TILING		
M.F.	+750	+780
TOTAL	10010	10430
FACT +5	390	390
REP. VAL.	10400	10820



SUMMARY OF BUILDINGS										
OCCY	TYPE	GR.	AGE	REMOD.	COND.	REP. VAL.	P. D.	PHY. VAL.	F. D.	SOUND VAL.
DWG.	25 FR	C	43		F	10400	45%	5720	100	5150
GAR.	20 CAR 20X20	C	36		F.P	360	55%	160		100
RENTAL	C 10 X 20					100	50%	50		50
						10820	45	5950	100	5360
E										
F										
G										

YEAR	1955	1954
TAX VAL.	3225	3225
OLD VAL.	3000	3225
CHANGE	225	225

1951 TOTAL BLDGS.	
TAX VAL.	1057 - 1225
OLD VAL.	1054 - 2350
CHANGE	

1945	Honan Julia Frances-Katherine E Sheasgreen	14088	1000	4975*	1932
		14088	950	3850*	193
1949	Honan Martin M.	14088	900	3675*	1934
		14088	850	3475*	1935
		14088	800	3125*	1936
		14088	750	2975*	1937
		14088	725	2900*	1938
		14088	875	2900*	194
		14088	1100	3550*	195
		14088	1100	3225*	1952

See New Card

*Total of two or more buildings. CITY OF PORTLAND, MAINE

1283-1285-1291 Washington Ave (30% Int)		402-B-1-2			
DATE OF OWNERSHIP	NAME OF OWNER	APPROX. AREA	VALUATION		DATE OF VALUATION
			LAND	BUILDINGS	
1954	Honan Martin M H. or sub	14088	1100	3350	1954
1964	DeForte Andria & Antoinette	14088	1275	3350	1962
1969	DeForte Andrea	14088	3025	11350*	1965
1970	Florida, Thomas J. et al.	14088	2625	10100	1966
74	(93 Evans Rd Brookline, MA) Hoch Lawrence J 10% Int	14088	680	2560	74
1987	Thomas Realty Assoc 90%	14088	680	2780	82
		14088	1800	5940	1984
		14088	1800	6170	1986
		14088	16160	53100	1987
		14088	16160	55800	1988

1233-1291 Washington Ave (30% Int)		402-B-1-2			
DATE OF OWNERSHIP	NAME OF OWNER	APPROX. AREA	VALUATION		DATE OF VALUATION
			LAND	BUILDINGS	
1974	Baldini Elio (18 Salt Spray In CE) 30% Int	14088	2040	7680	74
1986	Thomas Realty Assoc. 1289 Wash. Ave	14088	2040	8350	82
		14088	5390	17820	1984
		14088	5390	18500	1986

Out 87

Applicant: *Paul S. Bulger*
Address: *1289 Washington Ave*
(283-1291)
Assessors No.: *402-B-1-2*
+ 1-7 Gertrude Ave.

Date: *May 16, 1990*

representing
Thomas Realty and
Associates and
Lawrence J. Hoch,
owners

CHECK LIST AGAINST ZONING ORDINANCE

- Date -
- Zone Location - *R-3*
- Interior or corner lot - *Corner lot*
- Use -
- Sewage Disposal -
- Rear Yards -
- Side Yards -
- Front Yards -
- Projections -
- Height -
- Lot Area - *14,088 sq. ft.*
- Building Area -
- Area per Family - *6,500 sq. ft.*
- Width of Lot -
- Lot Frontage -
- Off-street Parking -
- Loading Bays -

- Site Plan -
- Shoreland Zoning -
- Flood Plains -

L	16,160
B	60,718
<hr/>	
T	76,870

Taxes *\$ 2,671.23*

CHART	LETTER	BLOCK	LOT	STREET CODE	STREET NUMBER	CENSUS TRACT	CENSUS BLOCK	LAND USE	ZONING	LAND NOS.	STREET	BLOG NO.	CARD NUMBER
			01						R3			1289	01007

RECORD OF OWNERSHIP	BOOK PAGE	TAX YEAR	ACCOUNT NUMBER	DATE MO	DATE YR	TYPE 1 LAND 2 L & B	SALE PRICE	SOURCE	VALIDITY 1-YES 2-NO
<i>Richarda Gray</i>	6538	83	R11245		84	1 2			1 2
<i>Thomas Realty Assoc (Thomas Firm) 797-4196</i>	46	83	T08702	08	84	1 2			1 2

ALDINI ELIO
6 SALT SPRAY LANE
APE ELIZABETH ME
4107

U2-B-1-2 WASHINGTON
VE 1283-1291 &
ERTRUDE AVE 1-7-30
NT 140885F

90% '87 ✓

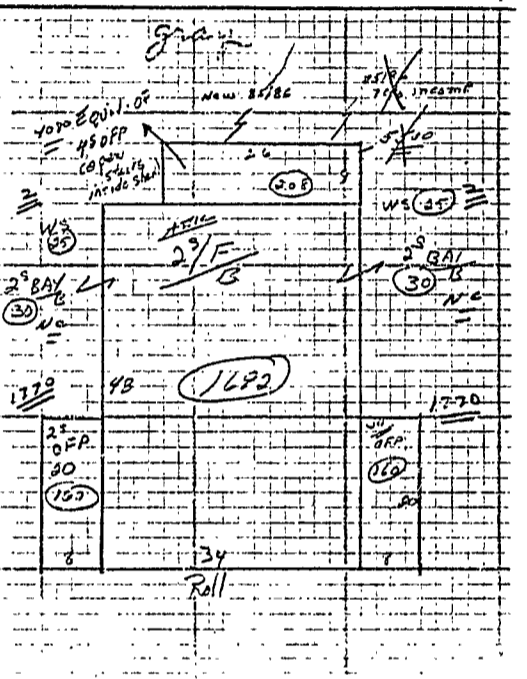
B-03440

GENERAL PROPERTY FACTORS	LAND COMPUTATIONS						REVISED LAND VALUE	EXEMPT	ASSESSMENT RECORD			
	NEW ACCOUNT	FTG.	DEPTH	UNIT PRICE	DEPTH FACTOR	ADJ. PRICE			LAND ADJ.	ASSESSMENT	INCREASE	DECREASE
NEIGHBORHOOD I.D.									LAND	5390		
TOPOGRAPHY RATING							17960		BLDGS.	17820		
STREET OR ROAD							3870		TOTAL	23210		
UTILITIES							2390		LAND	5390		
LAND ADJUSTMENT %							70% '96		BLDGS.	18500	690	
									TOTAL	23890		

BUILDING PERMIT RECORD			NOTES:		LAND	BUILDING	TOTAL
DATE	PERMIT NO.	AMOUNT	DESCRIPTION		2,040	7,680	9,720
12/22	5000		ADD CONC STAIRS REUR. ✓	4/20/85 8721 32 encl stairway - framed			
1/23	2000		INT. RENOV. TO 65MT. ✓	1/21/85 8721 11/15-16/85			
				1-31-89 Talked w/ neighbor - mentioned that there			
				would be some center in front. There are 5			
				olee. meters - pos. chg. of use, 2m.			
				5-13-89 Spoke w/ tenant - claims unit there			
				has been cosmetic reno. - appears in good			
				condition.			
				1-24-90 Called owner - minor work to fault. No C.			
				renov or updating & verified units. P.C.			

S.F.	TO-FROM	CH	BL	LOT

VACANT LOT				OCCUPANCY				GROUND FLOOR AREA				OTHER FEATURES			
DWELLING DATA				SINGLE FAMILY				ADDITION POINTS				MASONRY TRIM			
CONSTRUCTION				APARTMENT				GRADE FACTOR				MODERNIZED KITCHEN			
2.2 STORY 2				NO. UNITS				C & O FACTOR				RECREATION ROOM			
1 BRICK 2 FRAME 3 FR. & MAS. 4 CONC. BLK. 5 STUCCO 6 STONE 7 8 9				OTHER				COU				WOODBURNING FIREPLACE			
AGE				COTTAGE				DEPRECIATION				BASEMENT GARAGE			
ERECTED 1900 REMODELED 19				UNFIN				DWELLING COMPUTATIONS				ATTACHED GARAGE			
LIVING ACCOMMODATIONS				FIN. OPEN				FIN. DIV.				TOTAL OTHER FEATURE POINTS 24			
TOTAL ROOMS 12 BED ROOMS 4 FAMILY ROOMS -				FIN. DIV.				19 19 85196 1987 19 8718							
FULL BATHS 4 HALF BATHS - TOTAL FIXTURES 20				PLUMBING M O				BASE PRICE 74698 74698							
FOUNDATION				BATHROOM 4				PLUMBING 7500 7500							
CONCRETE				TOILET ROOM				BASEMENT FIN.							
BRICK BLOCK WALLS				FLUSH				ATTIC + 2030 + 2030							
PIERS/SLAB/CRAY				LAVATORY				HEATING							
BASEMENT - FULL				SHOWER - EXTRA				ADDITIONS 3940 9418 8020							
0 1/4 1/2 3/4				KITCHEN SINK 4				DOORMERS							
EXTERIOR WALLS				HOT WATER HEATER 4				TOTAL BASE 88170 93660 92240							
WOOD VINYL ALUM				NO PLUMBING				GRADE FACTOR 1.05 1.05 105							
SHINGLES - WOOD				WATER ONLY				TOTAL 92580 98340 96850							
SHINGLES - ASPHALT				REMODELING DATA				OTHER FEATURES 2400 2400 2400							
SHINGLES - ASBESTOS				KITCHEN				TOTAL 94980 100740 99250							
BRICK VENEER				PLUMBING				C & O FACTOR 1.10 1.10 110							
BLANKET INSULATION				HEATING				REPL. COST 104480 110810 109180 109180							
ROOF INSULATION				GENERAL				DEPREC. 45 45/2 45/5 45							
ROOFING				ECONOMIC CLASS				R.C.L.D. 57460 59130 57050 60050							
SHINGLES - ASPHALT				OVER BUILT				NO. OF ENTRIES				TOTAL VALUE 1950			
SHINGLES - WOOD				UNDER BUILT				TOTAL VALUE - BUILDINGS				YEAR			
SHINGLES - ASBESTOS								59410 -				59410 @ 10% = 17820			
SLATE								61680				65% = 61680 @ 20% = 12336			
ROLL								59000				60% = 59000 @ 90% = 53100 - sec. Ac. 45			
FLOORS								62000				87% = 62000 @ 70% = 43400			
CONCRETE								67460				81% = 67460 @ 70% = 47222			
EARTH															
FINE															
HARDWOOD															
ASPH. TILE															
CARPET															
NOTES:															
OWNER															
TENANT															
NO ANSWER															
INSPECTED															
REFUSED ENTRY															
INFO # DOOR															
REFUSED INFO															



NO.	TYPE	SIZE	GRADE	RATE	REPL. COST	DEPR.	R.C.L.D.	TYPE CODE	NOTES
1	01	20X20	C	12.20	4880	60	1950	01 GARAGE	4 Electric meters
								02 CARPORT	See one list
								03 PATIO	5'
								04 SHED	
								05 POOL	
								06 BARN	

VACANT LOT		OCCUPANCY		GROUND FLOOR AREA		OTHER FEATURES																																																																
DWELLING DATA CONSTRUCTION STORY 1 BRICK 4 CONC. BLK. 7 STONE 2 SPLIT-LEVEL 3 FR. & MAS. F. 8 STUCCO 9 AGE ERECTED 1 _____ REMODELED 19 _____		SINGLE FAMILY TWO FAMILY APARTMENT NO UNITS OTHER COTTAGE UNFIN. FIN. OPEN FIN. DIV.		ADDITION POINTS GRADE FACTOR C & D FACTOR CDU DEPRECIATION %		MASONRY TRIM MODERNIZED KITCHEN RECREATION ROOM WOODBURNING FIREPLACE BASEMENT GARAGE ATTACHED GARAGE TOTAL OTHER FEATURE POINTS																																																																
LIVING ACCOMMODATIONS TOTAL ROOMS _____ BED ROOMS _____ FAMILY ROOMS _____ FULL BATHS _____ HALF BATHS _____ TOTAL FIXTURES _____		PLUMBING M 0		DWELLING COMPUTATIONS BASE PRICE 1979/90 19 19 PLUMBING 7500 BASEMENT 2030 HEATING 8020																																																																		
FOUNDATION CONCRETE VC. BLOCK WALLS CK STONE WALLS CRG/SLAB/CRAWL CEMENT-FULL 3/4 1/2 3/4 FINISHED ATTIC DORMER LF		BASEMENT & ATTIC FIN. BSMT. AREA HEAD ROOM GARAGE S D ATTIC - FL. & STR. FINISHED ATTIC		BATHROOM TOILET ROOM FLUSH LAVATORY SHOWER - EXTRA KITCHEN SINK		TOTAL BASE 92240 GRADE FACTOR 105 TOTAL 96850 OTHER FEATURES 2400 TOTAL 99250 C & D FACTOR 1.10 REPL. COST 109180 DEPREC. 40 R.C.L.D. 65510																																																																
EXTERIOR WALLS VC. VINYL ALUM. NGLES - WOOD NGLES - ASPHALT NGLES - ASBESTOS CK VENEER ANKET INSULATION OF INSULATION ROOFING NGLES - ASPHALT NGLES - WOOD NGLES - ASBESTOS STEAM HOT AIR - FORCED FLOOR FURNACE ELECTRIC AIR CONDITIONING UNIT HEATER NO. OF HTG. STS.		INTERIOR FINISH 1 2 3 PINE HARDWOOD PLASTER DRYWALL PANELING		REMODELING DATA KITCHEN PLUMBING HEATING GENERAL		OTHER BUILDINGS AND YARD <table border="1"> <thead> <tr> <th>NO.</th> <th>TYPE</th> <th>SIZE</th> <th>GRADE</th> <th>RATE</th> <th>REPL. COST</th> <th>DEPR.</th> <th>R.C.L.D.</th> <th>TYPE CODE</th> </tr> </thead> <tbody> <tr> <td>1</td> <td></td> <td>21 20 x 20</td> <td>C</td> <td>12.20</td> <td>4880</td> <td>60%</td> <td>1950</td> <td>01 GARAGE</td> </tr> <tr> <td>2</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>02 CARPORT</td> </tr> <tr> <td>3</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>03 PATIO</td> </tr> <tr> <td>4</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>04 SHED</td> </tr> <tr> <td>5</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>05 POOL</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>06 BARN</td> </tr> </tbody> </table>		NO.	TYPE	SIZE	GRADE	RATE	REPL. COST	DEPR.	R.C.L.D.	TYPE CODE	1		21 20 x 20	C	12.20	4880	60%	1950	01 GARAGE	2								02 CARPORT	3								03 PATIO	4								04 SHED	5								05 POOL									06 BARN
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1		21 20 x 20	C	12.20	4880	60%	1950	01 GARAGE																																																														
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FLOORS CONCRETE BATH WOOD H. TILE TYPET		ECONOMIC CLASS OVER BUILT UNDER BUILT		NO. OF ENTRIES TOTAL VALUE BUILDINGS 60210 YEAR NOTES: 67460 x 90%		NOTES:																																																																
NOTES: OWNER TENANT NO ANSWER INSPECTED REFUSED ENTRY INFO @ DOOR REFUSED INFO		BY BY BY BY BY BY																																																																				

CHART	LETTER	BLOCK	LOT	STREET CODE	STREET NUMBER	TRACT	BLOCK	LAND USE	ZONING	LAND NOS.	STREET	BLDG. NO.	CARD NUMBER	CLASS CODE	ROUTING NUMBER										
402		B	001	1779	1283			14 12					01001	R	14										
DESCRIPTION				14088 S.F.		DEV. NO.		RECORD OF OWNERSHIP								TAX YEAR	ACCOUNT NUMBER	DATE	TYPE	SALE PRICE	SOURCE				VALIDITY
HOCH LAWRENCE J 93 EVANS RD BROOKLINE MASS 02146																			1 2		1 2 3 4	1 2			
402-1-2 WASHINGTON AV. 1283-1291 & GEKTRUDE AVE 1-7 108 INT 14088 SQ FT H 34345																			1 2		1 2 3 4	1 2			
LAND COMPUTATIONS												LAND USE					ASSESSMENT RECORD								
0 NONE		N	ACTUAL FRONTAGE	EFFECTIVE FRONTAGE	EFFECTIVE DEPTH	UNIT PRICE	DEPTH FACTOR	ACTUAL PRICE	INFLUENCE FACTOR	LAND VALUE		RESIDENTIAL					ASSESSMENT								
LOTS		01	1223	133	100	70	100	70 ⁰⁰	04	6500		06 Multi Use Residential					LAND 1180								
1 REGULAR LOT		L										07 Residential Hotels					BLDGS. 2780								
2 MINUS LOT		L										08 Apartments & Rooms					TOTAL 3460								
3 APARTMENT SITE		L										09 Rooming Houses					LAND								
SQ. FT.		S										10 Condominiums					BLDGS.								
1 PRIMARY SITE		S										11 Single Family					TOTAL								
2 SECONDARY SITE		S										12 Two Family					LAND								
3 UNDEVELOPED		S										13 Three Family					BLDGS.								
4 RESIDUAL		S										14 Four Family					TOTAL								
ACREAGE		A										15 Five to Ten Family					LAND								
1 PRIMARY SITE		A										16 Eleven to Twenty Family					BLDGS.								
2 SECONDARY SITE		A										17 Twenty-One Plus Family					TOTAL								
3 UNDEVELOPED		A										18 Seasonal					LAND								
4 RESIDUAL		A										19 Carages, Sheds, Accessory Building					BLDGS.								
5 TILLABLE PASTURE		A										20 Retail & Personal Services					TOTAL								
6 WOODLAND		A										21 Office & Business Services					LAND								
7 WASTELAND		A										22 Hotel & Motel					BLDGS.								
8 HOMESITE		A										23 Wholesale					TOTAL								
9 HOMESITE		A										24 Parking lots					LAND								
0 TOTAL		A								670		25 Private Clubs					BLDGS.								
GROSS		G								2520		26 Multi Use Commercial					TOTAL								
1 IRREGULAR LOT										3240		27 Manufacturing & Construction					LAND								
2 SITE VALUE												28 Warehouse & Storage					BLDGS.								
3 RESIDUAL												29 Transportation					TOTAL								
4 HOMESITE												30 Communication					LAND								
0 MINUS R.O.W.												31 Extracation					BLDGS.								
												32 Multi Use Industrial					TOTAL								
												33 Vacant Land					LAND								
												34 EXEMPT					BLDGS.								
												35 Religious					TOTAL								
												36 Benevolent & Charitable Institutions					LAND								
												37 Literary & Scientific Institutions					BLDGS.								
												38 Governmental					TOTAL								
												39 Others Exempt By Law					LAND								
GENERAL PROPERTY FACTORS												RESIDENTIAL PROPERTY FACTORS					BUILDING PERMIT RECORD								
N ^o IGHBORHOOD I. D.												NEIGHBORHOOD FACTORS					LOT FACTORS								
TOPOGRAPHY RATING												TYPE					LANDSCAPING RATING								
1 GOOD 2 FAIR 3 POOR 4 VERY POOR												1 RURAL 2 URBAN 3 SUBURBAN 4 SUBDIVISION					1 EXCELLENT 2 GOOD 3 FAIR 4 POOR 5 NONE								
STREET OR ROAD												TREND					DRIVEWAY								
1 PAVED 2 UNPAVED 3 PROPOSED 4 NONE												1 IMPROVING 2 STATIC 3 DECLINING					1 IMPROVED 2 UNIMPROVED 3 NONE								
SIDEWALK												INFLUENCE ON SUBJECT PROPERTY					FRONTING TRAFFIC								
1 YES 2 NO												1 NONE 2 DEVALUING 3 ENHANCING					1 LIGHT 2 MEDIUM 3 HEAVY 4 NONE								
UTILITIES												DESIRABILITY RATING					COMPARISON TO NEIGHBORING PROPERTIES								
1 ALL 2 WATER 3 SEWER 4 ELECTRICITY 5 GAS												1 EXCELLENT 2 VERY GOOD 3 GOOD 4 AVERAGE 5 FAIR 6 POOR 7 VERY POOR					LOT IMPROVEMENTS								
																	1. TYPICAL 2. POORER 3. BETTER 4. NONE								
COLE-LAYER-TRUMBULL CO. © 1973												PORTLAND, MAINE													

V VACANT LOT

DWELLING DATA

CONSTRUCTION
2.0 STORY

AGE
ERECTED 0.00 REMODELED 19.00

LIVING ACCOMMODATIONS
TOTAL ROOMS 1.2 BED ROOMS 6 FAMILY ROOMS 1
FULL BATHS 2.4 HALF BATHS 2 TOTAL FIXTURES 1.5

BASEMENT
1 NONE 2 CRAWL 3 PART 4 FULL

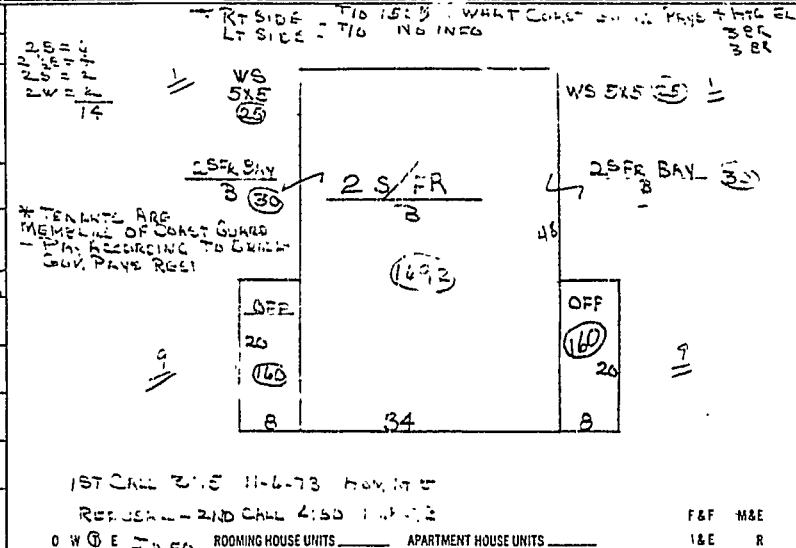
FINISHED BASEMENT LIVING AREA
0 SF.

ATTIC
1 NONE 2 PART FIN. 3 FULL FIN.

HEATING
1 NONE 2 BASE 3 AIR CON.

OTHER FEATURES
0 MASONRY TRIM 5 SF 10
0 MODERNIZED KITCHEN
0 RECREATION ROOM
2 WOODBURNING FIREPLACE 11
0 BASEMENT GARAGE
0 ATTACHED GARAGE

TOTAL OTHER FEATURE POINTS 2.1



COMMERCIAL/INDUSTRIAL BUILDING DATA & COMPUTATIONS

ROOFING	COMPOSITION	SLATE OR TILE	EXTERIOR WALL CODES
METAL	SHINGLE		1 BRICK 3 GLASS 5 STUCCO 7 STONE 9 CONCRETE
FRAMING	B 1 2		2 FRAME 4 C.BLK. 6 TILE 8 METAL 0 ENAM. STL.
WOOD JOIST			EXTERIOR WALLS A B
FIRE RESISTANT			EFF. PERIMETER L/F
FIRE PROOF			PERM. AREA RATIO
FLOORS			NO. OF UNITS
CONCRETE			AV. UNIT SIZE
WOOD			BSMT. SIZE
TILE			SCHEDULE
FINISH TYPE			HT.
UNFINISHED			BASEMENT
FINISHED OPEN			FIRST
FINISHED DIVIDED			SECOND
USE			
STORE			
OFFICE			
APARTMENT			
WAREHOUSE			
VACANT			
ABANDONED			
HEATING			
CENTRAL WARM AIR			
HOT WATER/STEAM			
UNIT HEATERS			
NO HEATING			
AIR COND.			
CENTRAL			
PACKAGE/UNITS			
PLUMBING			
TOILET ROOMS			
OTHER			
SPRINKLER			

OTHER BUILDINGS AND YARD

NO.	TYPE	SIZE	GRADE	RATE	REPL. COST	DEPR.	R.C.L.D.	TYPE CODE
1	01	20 x 20	D	5.15	2060	65%	720	01 GARAGE FR 16 FT
2								02 CARPORT 17 FT
3								03 PATIO 11 FT
4								04 SHED 10 FT
5								05 POOL
6								06 BATHHOUSE 4 FT
7								07 SHOP 22 HOG HOUSE
8								08 SHELTER 23 MILK HOUSE
9								09 STABLE 24 CRIB
10								10 SUMMER 25 GRANARY
11								11 KITCHEN 26 BIN
12								12 CELLAR 27 S/O
13								13 WELL HOUSE 28 HARVESTORE
14								14 B.T. PAVING 29 CABIN
15								15 C.C.H.C. PAVING 30 MOBILE HOME
16								16 PAVING 00 MISC. BLDGS

01 NO. OF ENTRIES TOTAL VALUE 720

DWELLING COMPUTATIONS

BASE PRICE	27,000	
PLUMBING	1,500	4,500
BASEMENT		
BASEMENT FINISH		
ATTIC		
HEATING		
ADDITIONS		
TOTAL BASE	28,500	44,930
GRADE FACTOR	1.05	1.05
TOTAL	45,240	47,180
OTHER FEATURES	2,100	2,100
TOTAL	47,340	49,280
C & D FACTOR	1.15	1.10
REPLACEMENT COST	49,764	54,210
DEPRECIATION	50	50
R.C.L.D.	2,580	27,100

GROSS BUILDING SUMMARY

ID.	USE	CONSTRUCTION	GRADE	AGE	ERECT.	MEMOR.	CDU	SIZE	RATE	REPLACEMENT COST	DEPRECIATION	R.C.L.D.
											27,820	
											25,100	

TOTAL GROSS VALUE 27,820

TOTAL GROSS VALUE 25,100

LISTED R.C.L.D. DATE 11-8-73 BY

GRADE DENOTES QUALITY OF CONSTRUCTION: A-EXCELLENT; B-GOOD; C-AVERAGE; D-CHEAP; E-VERY CHEAP
CDU FACTOR REFERS TO THE CONDITION, DESIRABILITY AND USEFULNESS OF THE BUILDING

HARRISON L. RICHARDSON
WILLIAM B. TROUBH
ROBERT L. HAZARD, JR.
EDWIN A. WEISLER
ROBERT E. NOONAN
JOHN S. WHITMAN
ROBERT J. PIAMPANO
RICHARD J. KELLY
WENDELL G. LARGE
FREDERICK J. BAGGER, JR.*
KEVIN M. GILLIS
MICHAEL P. BOYD
THOMAS E. GETCHELL
JOHN W. CHAPMAN
EVE H. CIMMET
WILLIAM S. WILSON, JR.
MICHAEL RICHARDS
WILLIAM K. MCKINLEY
ELIZABETH G. STODDER
BARRI L. BLOOM
GARY D. VOGL
JAMES A. MCCORMACK
DANIEL F. GILLIGAN
PAUL S. BULGER
DANIEL B. WYMAN
ALLAN M. MUIR
ANN M. MURRAY*
CHRISTOPHER H. ROHEY
FREDERICK P. COSTLOW*
JOANNE P. DUGAN
*RESIDENT IN THE BANGOR OFFICE

RICHARDSON & TROUBH
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
465 CONGRESS STREET
P.O. BOX 9732
PORTLAND, MAINE 04104-5032
TELEPHONE (207) 774-5821
TELECOPIER (207) 761-2056

BANGOR OFFICE
82 COLUMBIA STREET
P.O. BOX 2429
BANGOR, MAINE 04401
TELEPHONE (207) 945-5900
TELECOPIER (207) 945-0758

IN REPLY REFER TO:

28580.2148

RECEIVED
APR 30 1990

April 30, 1990

DEPT OF BUILDING INSPECTIONS
CITY OF PORTLAND

City of Portland
ATTENTION: ZONING BOARD
OF APPEALS
389 Congress Street
Portland, Maine 04101

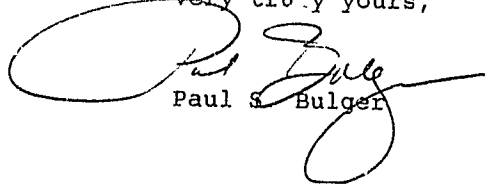
RE: 1289 Washington Avenue, Portland, Maine, Property

Dear Sir or Madam:

Enclosed please find an Application for Interpretation Appeal, Memorandum in Support of Interpretation Appeal, and the Affidavit of Susan K. Lane in Support of Interpretation Appeal, with respect to In re Thomas Realty Associates and Lawrence J. Hoch, owners of 1289 Washington Avenue, Portland, Maine. Would you please schedule this for review at the next meeting, which I understand is May 24, 1990. Further materials in the nature of additional affidavits, will be furnished prior to at the date of the hearing.

Thank you.

Very truly yours,



Paul S. Bulger

PSB/kc
Enclosures
cc: Thomas Fiorica
chr:x043001.kc



CITY OF PORTLAND

INTERPRETATION APPEAL

APPLICATION

Applicant's name and address: Thomas Realty Associates and Lawrence J. Hoch

Applicant's interest in property (e.g., owner, purchaser, etc.):
Thomas Realty Associates (90%) and Lawrence J. Hoch (10%) are co-owners

Owner's name and address (if different):
1289 Washington Avenue, Portland, Maine

Address of property (or Assessor's chart, block and lot number):
1289 Washington Avenue, Portland, Maine 402-B-1-2

Zone: R-3 Present use: 4 Unit Apartment Building

Order, decision, determination, or interpretation complained of:

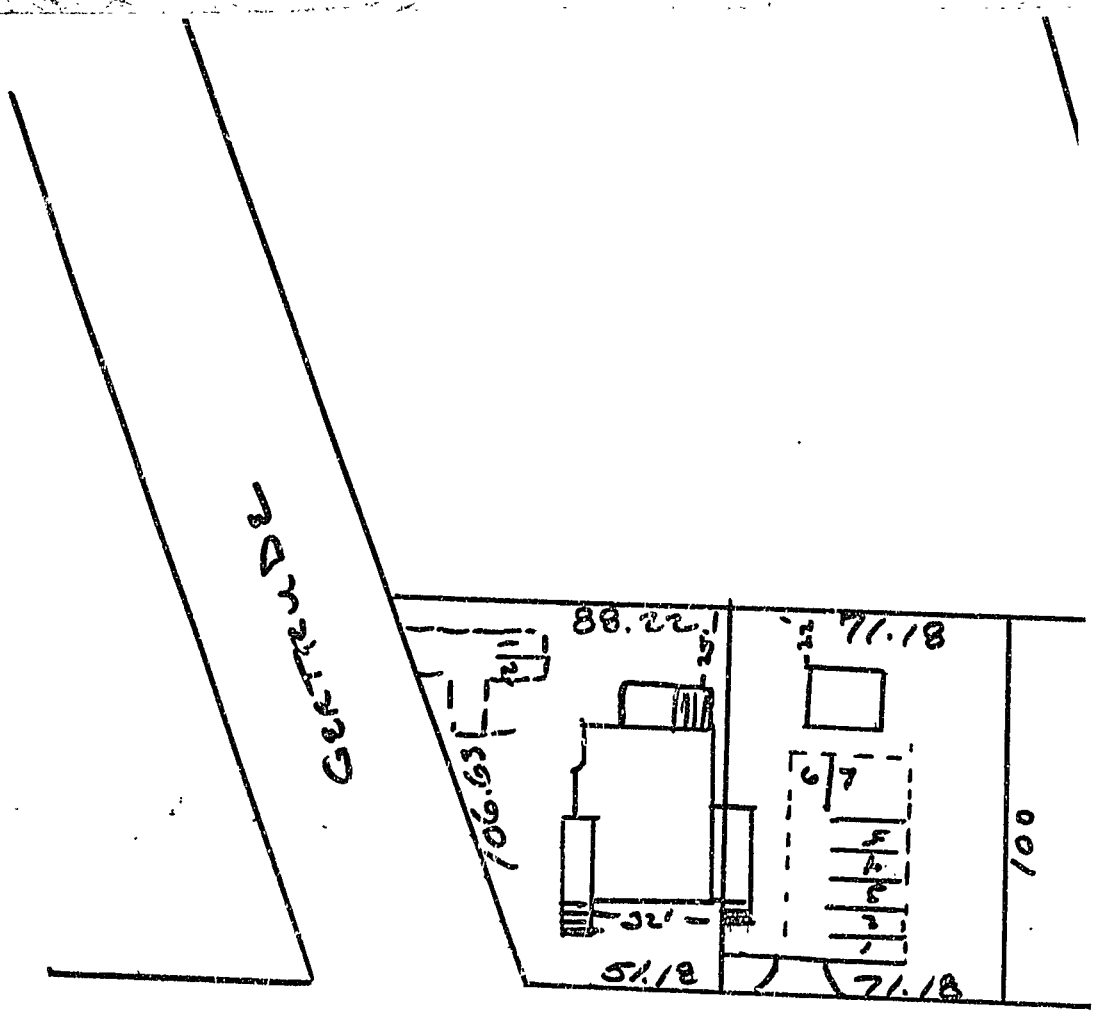
Disputed provision: Section 14-381.

Type of relief requested: Interpretation for grandfathering.

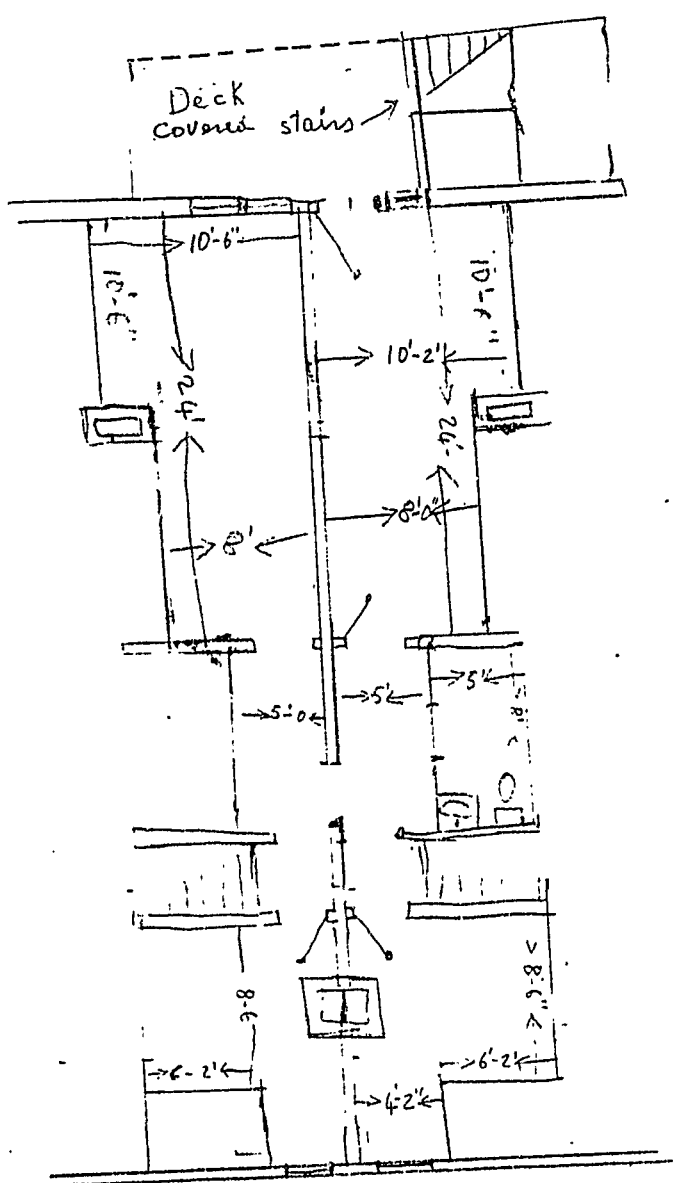
The undersigned hereby makes application for the relief above-described, and certifies that all information herein supplied by him is true and correct to the best of his knowledge and belief.

Dated: 7/20, 1990

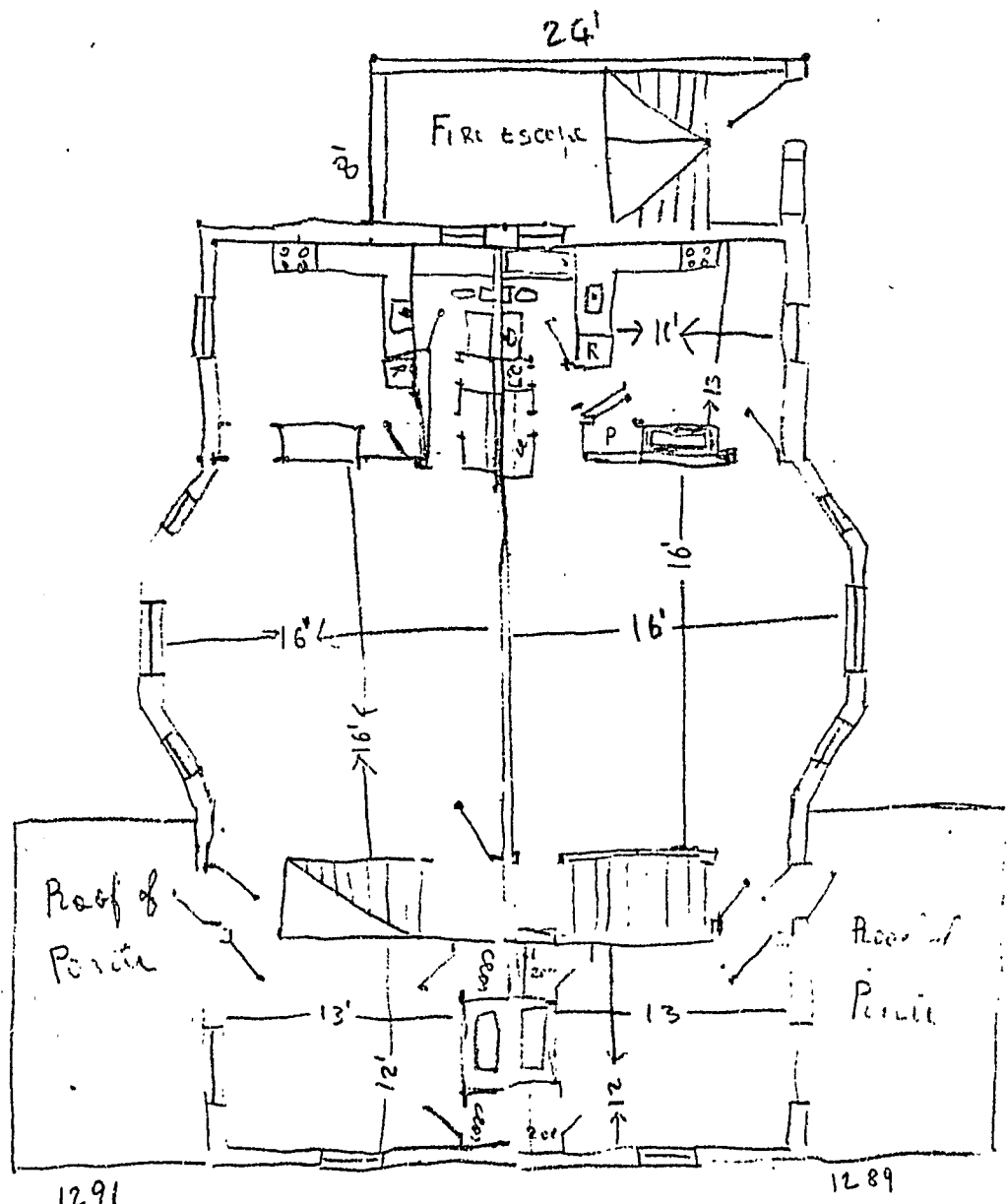
Paul S. Bulger
Signature of Applicant
Paul S. Bulger
Attorney for the Applicants



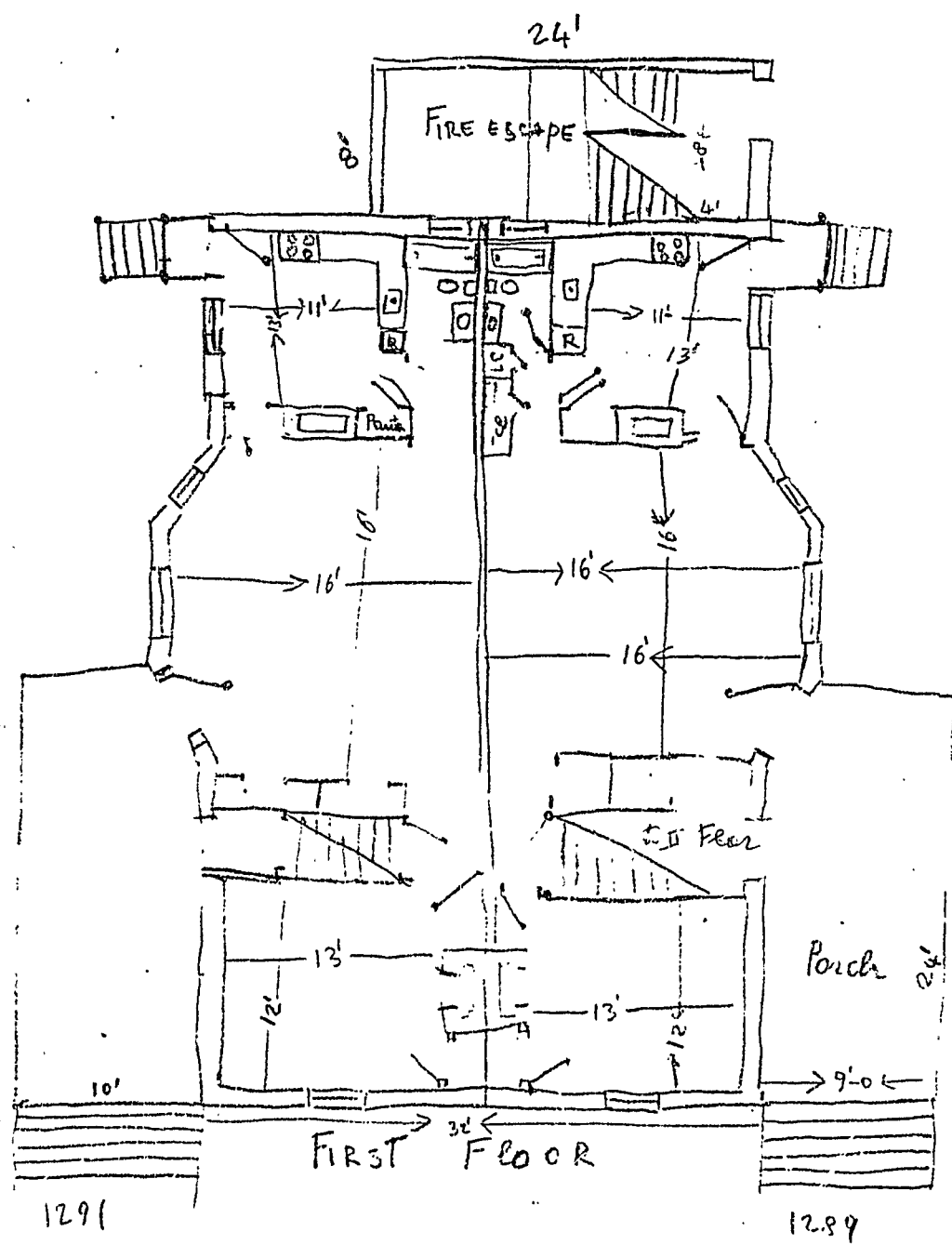
WASHINGTON AVENUE



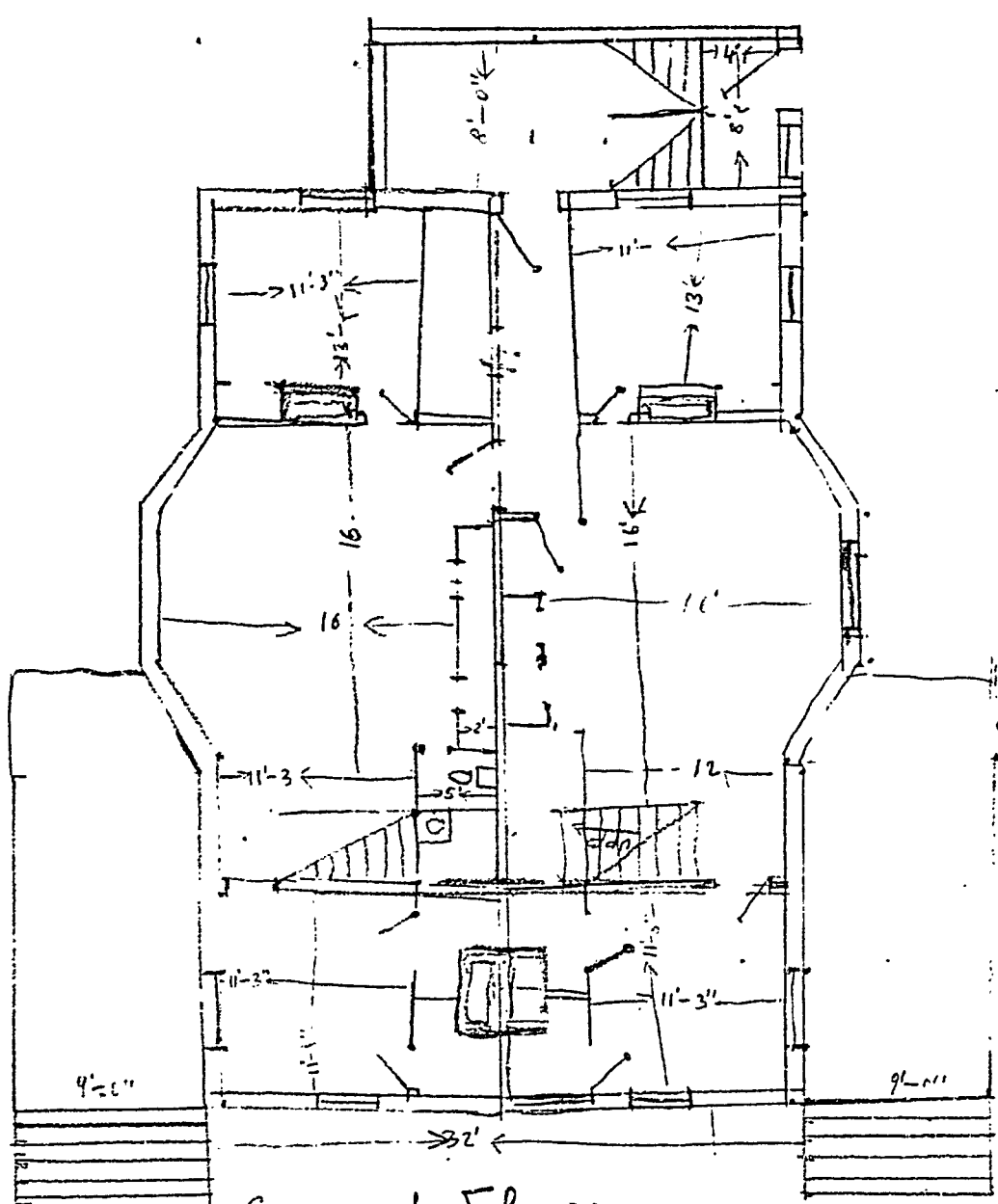
attic
1289 Washington Ave



Second Floor
 1289 Washington Ave



Washington Ave



1291

Ground Floor
Worlington Ave

1289

CITY OF PORTLAND)
ZONING BOARD OF APPEALS)

IN RE: THOMAS REALTY ASSOCIATES AND LAWRENCE J. HOCH
(1289 WASHINGTON AVENUE, PORTLAND, MAINE)

MEMORANDUM IN SUPPORT
OF INTERPRETATION APPEAL

STATEMENT OF FACTS

The applicants, Thomas Realty Associates and Lawrence J. Hoch, are co-owners of the property located at 1289 Washington Avenue, Portland, Maine. Thomas Realty Associates owns a 90% interest in the property and Lawrence J. Hoch owns a 10% interest therein. The property consists of a lot of 14,088 square feet, with a two-story building thereon. The property is currently used as a four-unit apartment building, and has been so used since the current owners purchased the property, in 1968. The area in which the property is located is an R-3 zone.

Appellants caused an investigation to be conducted to determine the exact date upon which the building commenced its use as a four-unit dwelling. However, as evidenced by the affidavit of Susan K. Lane, that investigation has proved inconclusive. There is no indication in the records of the housing inspector that the property was or was not used as a four-unit apartment building prior to 1957. The housing inspector's records do indicate that numerous permits were applied for and granted listing the property as "multi-family". The tax assessor's records were also inconclusive. Although several years appear to be missing, the earliest listing, 1950,

mistakenly list the property as two-family. Later charts indicate that the property has been considered by the Assessor's Office as a four-family, at least as early as 1982.

In 1984, the current owners, through counsel, responded to a letter dated October 19, 1984, indicating that the inspector's office believed the use had been changed from a two to a four-family, without proper permits. Jeffrey H. Houle wrote to P. Samuel Hoffses, Chief of Inspection Services for the City of Portland, on October 31, 1984, indicating that the current owners purchased the property in 1968, as a four-unit property. However, Mr. Houle's letter was not responded to by the Inspection Services Division.

On March 19, 1990, William Giroux, Zoning Enforcement Officer for the City of Portland, wrote to Mr. and Mrs. Fiorica, principals in Thomas Realty, indicating the requirement of a variance for a change in use. The Fioricas had been otherwise notified that certain renovations, including insulating and dry walling of the basement, in which they intend to place laundry facilities for the building, should be halted. The owners submit this Memorandum in support of their interpretation appeal, in which they ask the Board of Appeals to determine the property as a grandfathered four-unit building in the R-3 zone.

INTERPRETATION APPEAL

The purpose of this interpretation appeal is to challenge the determination of the City of Portland Zoning Code Enforcement Officer, William D. Giroux, who stated in his letter dated March 19, 1990, that property contained four units, as opposed to

two units, which his records apparently indicate. He likewise stated that there is no record of a building permit issued for a change of use.

Section 14-381 of the Portland Code provides, "Any lawful use of buildings, structures, premises or parts thereof, existing on June 5, 1957, and made nonconforming by the provisions of this article or any amendment thereto, may be continued although such use does not conform with the provisions of this article or amendment thereto. Because the property's use as a four-unit property is now not allowed by the zoning ordinance, Section 14-86 through 91, it must be shown to have been used on June 5, 1957, as currently used, to be grandfathered. Thus, if, on June 5, 1957, the date of the enactment of the Portland Code, the property in question was used as a four-unit apartment building, it would be "grandfathered".

The relevant test is whether, on the date of the enactment of the ordinance, the property's nonconforming use was actual and substantial. Seven Islands Land Co. v. Maine Land Use Reg., 450 A.2d 475, 481 (Me.1982). As set forth in the Statement of Facts, above, and as more specifically detailed in the attached affidavits, the use of the property was a four-unit apartment building at the time the current owners purchased it, in 1968. Further, it appears from all available evidence, that this use had been in place for some time, and nearly undoubtedly prior to 1957. Additional evidence, if discoverable, will be presented at the hearing to provide further documentation of the pre-Code use of the property.

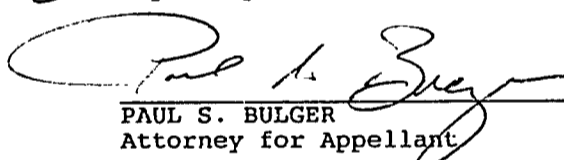
The zoning administrator's determination is based primarily on the fact that there is no record of a permit for a change of use from a two to a four-unit property. However, this determination is based in turn on the allegation that the zoning administrator's records show that the property should contain two units. However, the affidavit of Susan K. Lane shows that there is no conclusive evidence to support the zoning administrator's, nor his records', determination that the property is or was a two-unit building. The Appellant thus believes the determination by the zoning administrator is erroneous.

The affidavit of Susan K. Lane shows that all evidence available leads to the conclusion that the property was used as a four-unit building prior to the enactment of the Portland zoning ordinance, on June 5, 1957. The records of the housing inspector, where applicable, reference the property as a "multi-unit". The records of the tax assessor, likewise fail to shed any light on the subject except to show assessment as a four-family unit as early as 1982. Perhaps most importantly, the affidavits of Thomas Fiorica, Robert Collins, and Michael Jandreau show that at the time that Mr. Fiorica purchased the property in 1968, it was a four-unit property. No conclusive evidence can be presented to establish otherwise.

Therefore, Appellants submit that an inference that the property was used as a four-unit building on June 5, 1957, is appropriate. Thus, the Board of Appeals should find, under the Portland Code Section 14-381, that such use by the current owners as a four-unit property is in effect "grandfathered". Once a

nonconforming use is shown to exist, it shall not be effected by the user's title or possessory rights in relation to the owner of the land. Keith v. Saco River Corridor Comm., 464 A.2d 150, 154 (Me. 1983). Therefore, Appellant's use of the property as a four-unit building should be found as a lawful, nonconforming use, in accordance with Section 14-381 of the Portland Code, and that Appellant should not be restricted from certain renovations to the basement of the property, in accordance with the building permit (which was properly applied for and granted), and which does not change the use of the property, but merely adds laundry facilities for each side of the building, as set forth in the affidavit of Thomas Fiorica.

DATED at Portland, Maine this 30th day of April, 1990.


PAUL S. BULGER
Attorney for Appellant

RICHARDSON & TROUBH
465 Congress Street
P.O. Box 9732
Portland, Maine 04104-5032
(207)774-5821

CHR:P040404.KC

CITY OF PORTLAND)
ZONING BOARD OF APPEALS)

IN RE: THOMAS REALTY ASSOCIATES AND LAWRENCE J. HOCH
(1289 WASHINGTON AVENUE, PORTLAND, MAINE)

AFFIDAVIT OF SUSAN K. LANE IN
SUPPORT OF INTERPRETATION APPEAL

NOW COMES the Affiant, being duly sworn, and deposes and states as follows:

1. My name is Susan K. Lane, and I am a legal assistant employed by Richardson & Troubh, attorneys for the Appellants, Thomas Realty Associates and Lawrence J. Hoch.

2. On April 11, 1990, I diligently searched the records of the housing inspector's office and of the tax assessor's office, with respect to the property known as 1289 Washington Avenue, Portland, Maine.

3. The results of my diligent search are as follows:

a. Housing inspector's records:

- i. 7/29/11, permit for construction of two-story 47x34 dwelling, no indication of use.
- ii. 5/15/20, permit for construction of henhouse, no indication of use.
- iii. 10/21/30, application for permit to construct a poultry house, no indication of use.

- iv. 5/5/53, application for heat cooking or power (two oil burners), indicated use is two-story dwelling.
- v. Plumbing permit dated 5/31/61 indicating property use as "multi-family".
- vi. Plumbing permit dated 6/5/61, no indication of property use.
- vii. Plumbing permit dated 7/29/63, no indication of use of property.
- viii. 11/18/69, plumbing permit, indicating use of property as "multi-family".
- ix. 7/11/75, application for electric (two meters), no indication of use.
- x. 9/12/75, letter citing violations for dwelling unit number 2, no indication of use.
- xi. 3/31/78, application for electric (three meters), no indication of use.
- xii. 3/6/80, application for electric (one meter), no indication of use.
- xiii. 1981, order to correct substandard housing conditions, no indication of use.
- xiv. 6/81, meter changes letter regarding first and second floor (no indication of use).
- xv. 11/12/81, letter of defects, no indication of use.

- xvi. 12/3/81, notice of defective furnace, no indication of use.
- xvii. 5/14/84, application for electric (eight meters), no indication of use.
- xviii. 10/1'84, application for permit, use indicated as "multi-family".
- xix. 10/5/84, permit for construction of enclosed stairways, indicating use as multi-family.
- xx. 10/29/85, permit for electric, no indication of use.
- xxi. 3/27/86, application for permit for repairs after fire, no indication of use.
- xxii. 5/25/89, application for permit for interior renovation to basement (storage only) indicating use as four-family.
- xxiii. No indication of any "change of use" following 1975.

b. The tax assessor's records available are attached hereto as Exhibit A. On information and belief, based upon information provided to me by the tax assessor's office, missing records, between 1954 and 1982 are unretrievably stored and non-discoverable.

Dated at Portland, Maine, this day of April, 1990.


SUSAN K. LANE

STATE OF MAINE
CUMBERLAND, SS.

April 30, 1990

Personally appeared before me the above-named Susan K. Lane and made oath that the foregoing statements are true to the best of her knowledge, information and belief and, insofar as based on information and belief, she believes them to be true.

Before me,


Notary Public

KAREN E. CLARK
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES JULY 23, 1994

CHR:P042302.CH

CITY OF PORTLAND)
ZONING BOARD OF APPEALS)

IN RE: THOMAS REALTY ASSOCIATES AND LAWRENCE J. HOCH
(1289 WASHINGTON AVENUE, PORTLAND, MAINE)

AFFIDAVIT OF ROBERT COLLINS IN
SUPPORT OF INTERPRETATION APPEAL

NOW COMES the Affiant, being duly sworn, and deposes and
states as follows:

1. My name is Robert Collins and I am a certified
electrician.

2. Since approximately 1968, I have performed various and
sundry electrical projects on the property known as 1289
Washington Avenue, Portland, Maine, for its owner, Thomas
Florica.

3. Since 1968, when I first commenced working at the
premises, it has been a four-unit property.

4. Recently, I have been employed by the owners to install
several new meters at the property, not for the addition of
additional units, but for "the house" for laundry facilities and
central lighting.

Dated at Portland, Maine, this 30 day of April, 1990.


ROBERT COLLINS

STATE OF MAINE
CUMBERLAND, SS.

April 30, 1990

Personally appeared before me the above-named Robert Collins
and made oath that the foregoing statements are true to the best

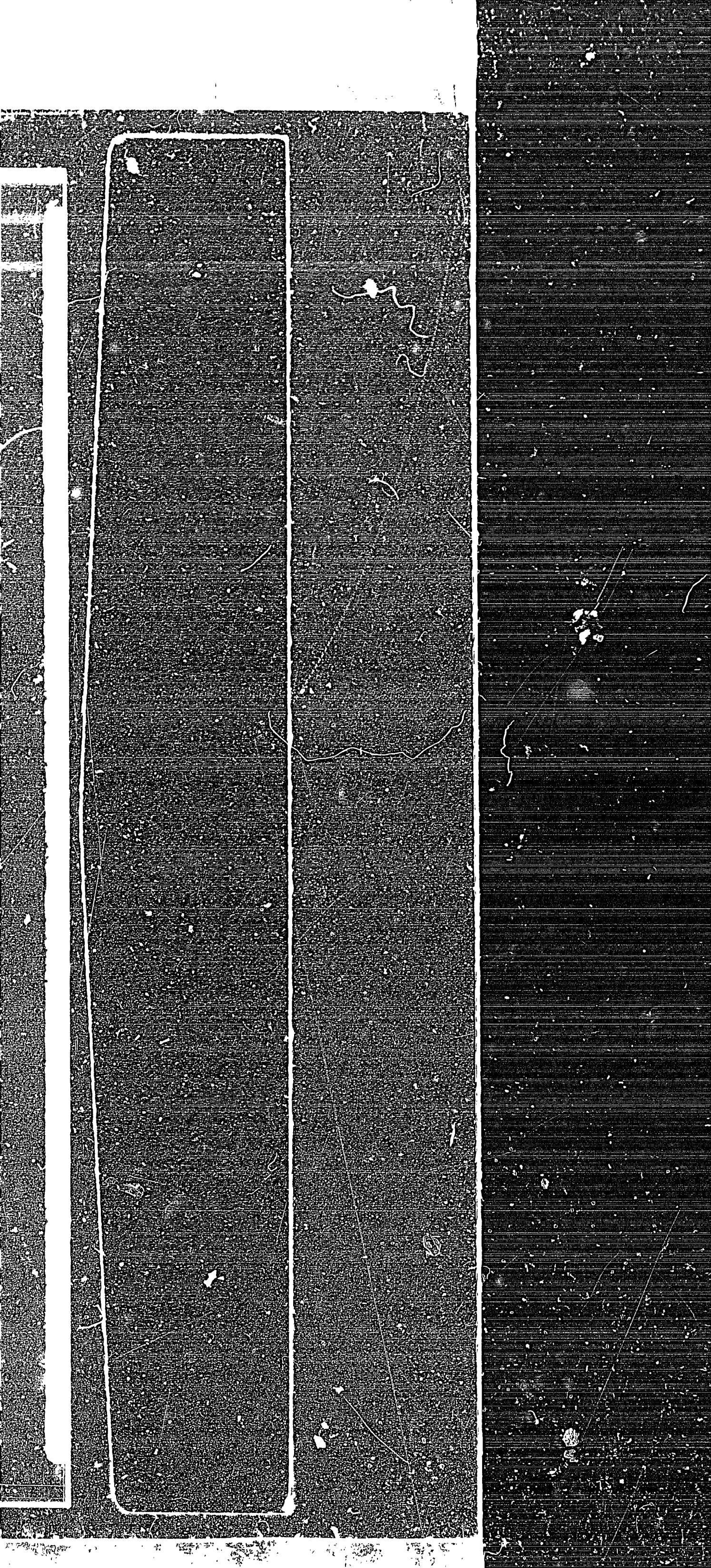
of his knowledge, information and belief and, insofar as based on information and belief, he believes them to be true.

Before me,

Karen E. Clark
Notary Public

CHR:P042304.CH

KAREN E. CLARK
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES JULY 23, 1994



CITY OF PORTLAND)
ZONING BOARD OF APPEALS)

IN RE: THOMAS REALTY ASSOCIATES AND LAWRENCE J. HOCH
(1289 WASHINGTON AVENUE, PORTLAND, MAINE)

AFFIDAVIT OF MICHAEL L. JANDREAU

NOW COMES the Affiant, being duly sworn, and deposes and states as follows:

1. My name is Michael L. Jandreau, and I am a resident of Livermore Falls. By trade I am a carpenter.
2. Beginning in 1960, the time Thomas Fiorica acquired property located at 1289 Washington Avenue, Portland, Maine, I have been working on and off at the property performing repairs and other carpentry work.
3. In 1968, when Mr. Fiorica acquired the property, the building contained four apartments.
4. The apartments, as they existed at the time of Mr. Fiorica's acquisition, have been unchanged to date, with the exception of cosmetic, electrical, and dry wall work.
5. Since Mr. Fiorica's acquisition of the property, the attic of the property has always been accessible from the owner's apartment.
6. Since Mr. Fiorica's acquisition of the property, the basement of the property has always been accessible from the first floor apartments.

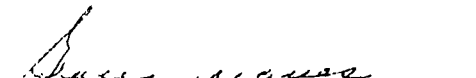
DATED: 5-4-90


MICHAEL L. JANDREAU

STATE OF MAINE,
CUMBERLAND, ss.

DATE: 5-4-90

Personally appeared before me the above-named MICHAEL L. JANDREAU and gave oath and affirmation that the above facts are true and accurate to the best of his knowledge and belief.


Notary Public

Permit # _____ City of Portland BUILDING PERMIT APPLICATION Fee \$50. Zone _____ Map # _____ Lot# _____
 Please fill out any part which applies to job. Proper plans must accompany form.

402-B-1

Owner: Thomas Realty Assoc. Phone # _____
 Address: 1289 Washington Ave. - Ptld, ME 04103
 LOCATION OF CONSTRUCTION 1289 Washington Ave.
 Contractor: _____ Sub: _____
 Address: _____ Phone # _____
 Est. Construction Cost: _____ Proposed Use: multi-family
 Past Use: _____
 # of Existing Res. Units _____ # of New Res. Units _____
 Building Dimensions L _____ W _____ Total Sq. Ft. _____
 # Stories: _____ # Bedrooms _____ Lot Size: _____
 Is Proposed Use: Seasonal _____ Condominium _____ Conversion _____
 Explain Conversion INTERPRETIVE APPEAL - recognise four apart-

For Official Use Only
 Date: 4/30/90 Subdivision: _____
 Inside Fire Limits: _____ Name: _____
 Bldg Code: _____ Lot: _____
 Time Limit: _____ Ownership: _____ Public _____ Private _____
 Estimated Cost: _____

Zoning: Street Frontage Provided: _____
 Provided Setbacks: Front _____ Back _____ Side _____ Side _____
 Review Required:
 Zoning Board Approval: Yes _____ No _____ Date: _____
 Planning Board Approval: Yes _____ No _____ Date: _____
 Conditional Use: _____ Variance _____ Site Plan _____ Subdivision _____
 Shoreland Zoning Yes _____ No _____ Floodplain Yes _____ No _____
 Special Exception _____
 Other: _____ (Explain) _____

Foundations:
 1. Type of Soil: _____
 2. Set Backs: Front _____ Rear _____ Side(s) _____
 3. Footings Size: _____
 4. Foundation Size: _____
 5. Other: _____
 Floor:
 1. Sills Size: _____ Sills must be anchored.
 2. Girder Size: _____
 3. Lally Column Spacing: _____ Size: _____
 4. Joists Size: _____ Spacing 16" O.C.
 5. Bridging Type: _____ Size: _____
 6. Floor Sheathing Type: _____ Size: _____
 7. Other Material: _____
 Exterior Walls:
 1. Studding Size _____ Spacing _____
 2. No. windows _____
 3. No. Doors _____
 4. Headings Size _____ Span(s) _____
 5. Bracing: Yes _____ No _____
 6. Corner Posts Size _____
 7. Insulation Type _____ Size _____
 8. Sheathing Type _____ Size _____
 9. Siding Type _____ Weather Exposure _____
 10. Masonry Materials _____
 11. Metal Materials _____
 Interior Walls:
 1. Studding Size _____ Spacing _____
 2. Header Sizes _____ Span(s) _____
 3. Wall Covering Type _____
 4. Fire Wall if required _____
 5. Other Materials _____

Roofing:
 1. Ceiling Joists Size: _____
 2. Ceiling Strapping Size _____ Spacing _____
 3. Type Ceilings: _____
 4. Insulation Type _____ Size _____
 5. Ceiling Height: _____
 Roof:
 1. Truss or Rafter Size _____ Span _____
 2. Sheathing Type _____ Size _____
 3. Roof Covering Type _____
 Chimneys:
 Type: _____ Number of Fire Places _____
 Heating:
 Type of Heat: _____
 Electrical:
 Service Entrance Size: _____ Smoke Detector Required Yes _____ No _____
 Plumbing:
 1. Approval of soil test if required Yes _____ No _____
 2. No. of Tubs or Showers _____
 3. No. of Flushes _____
 4. No. of Lavatories _____
 5. No. of Other Fixtures _____
 Swimming Pools:
 1. Type: _____
 2. Pool Size: _____ x _____ Square Footage _____
 3. Must conform to National Electrical Code and State Law.
 Permit Received By Louise E. Chase
 Signature of Applicant Paul I. Bulger Date April 30, 1990
 Signature of CEO Paul Bulger Date _____
 Inspection Dates _____

appeal sustained 5-24-90

PLOT PLAN

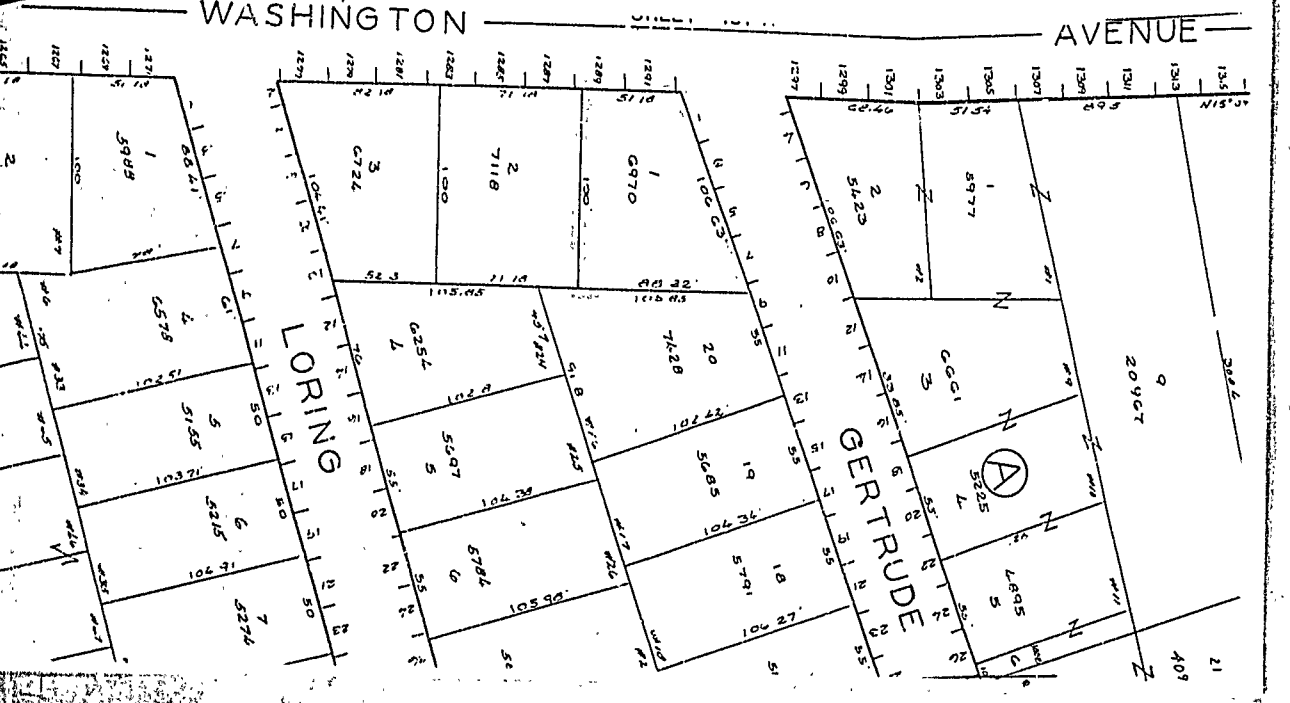
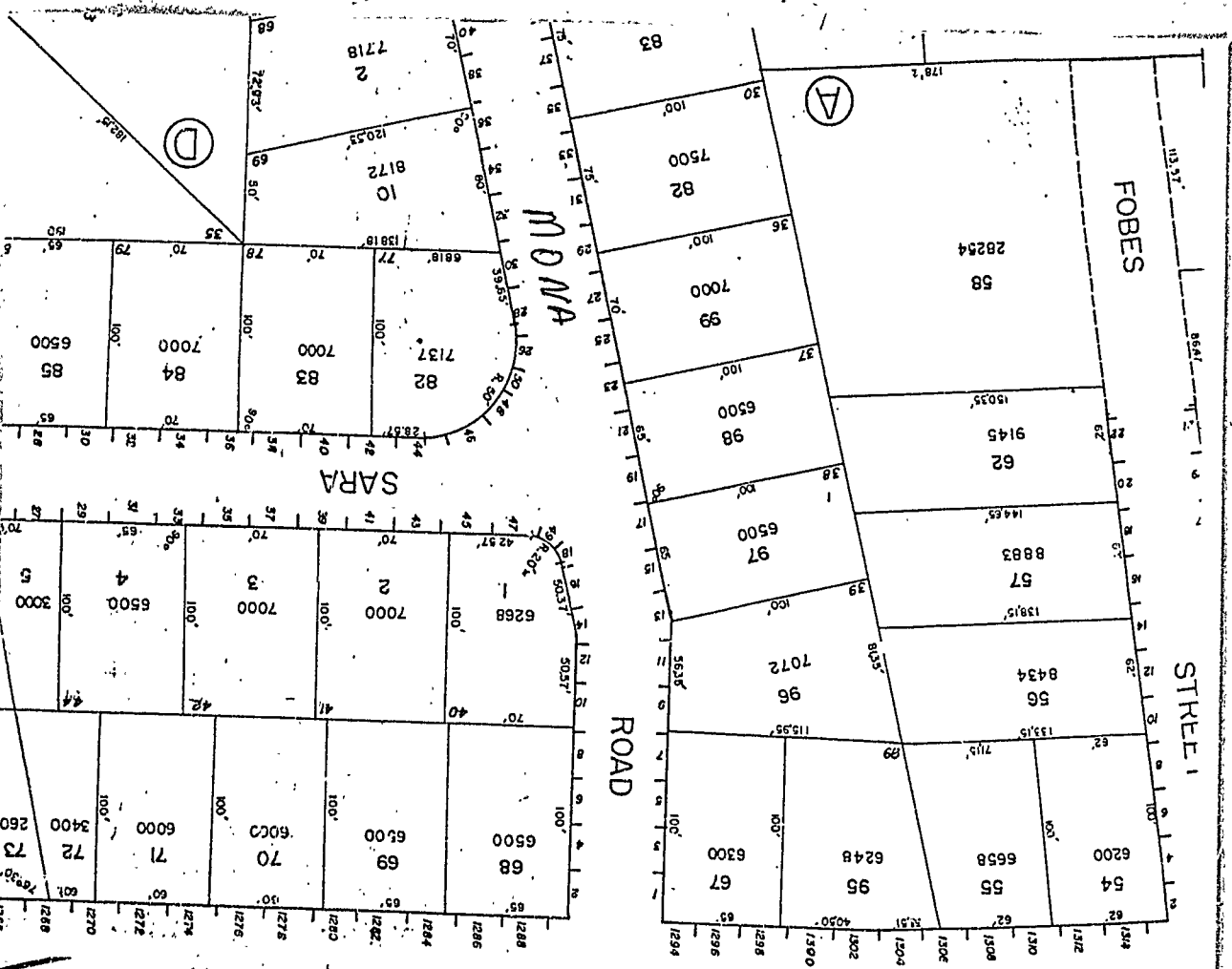
N



FEES (Breakdown From Front)	Type	Inspection Record	Date
Base Fee \$ 50			/ /
Subdivision Fee \$			/ /
Site Plan Review Fee \$			/ /
Other Fees \$			/ /
(Explain)			/ /
Late Fee \$			/ /

COMMENTS

Signature of Applicant Paul S. Bullock Date April 30, 1990
Paul S. Bullock Agent for Owner



402-B-1

1289 Washington Ave
Thomas Beatty

402-B-2 Appel Rivers 1279 Washington 04/03
B-3 Lawrence Rivers 16 Haring Ave
B-4 Dean - Sharon H Smith
B-20 Richard M Zema, Sr.
& Gertrude Hill Part 04/03

A-2 } Simpson Memorial Church
1301 Washington Ave

A-3

437-B-68 Henry & Ruth H Kenny
1286 Washington 04/03

A-67 Armand R & Wendy A Bilodeau
1296 Washington 04/03

