



Ann Machado <amachado@portlandmaine.gov>

Zoning Letter for 100 Kensington St

2 messages

Ann Machado <amachado@portlandmaine.gov>
To: Paul Bulger <pbulger@jewellandbulger.com>

Wed, Aug 10, 2016 at 11:44 AM

Paul -

Here is the letter for 100 Kensington St. Please let me know if you would like me to mail you the original.

Ann

Ann Machado
Zoning Administrator
Permitting and Inspections Department
City of Portland, Maine
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 **zoning letter - 100 Kensington St.pdf**
75K

Paul Bulger <pbulger@jewellandbulger.com>
To: Ann Machado <amachado@portlandmaine.gov>

Fri, Aug 12, 2016 at 11:13 AM

Ann,

Thank you for your thoughtful reply and analysis.

I see the definitional problems in relation to the Navigator application. I have asked Mr.

Agnew to review Navigator operations to see if we can supplement the application to better meet and match the requirements in the zone. I have some ideas that may address the definitional problems presented by the Ordinance.

First, I am giving some thought to the issues of statutory construction. If printing and publishing are expressly allowed in the zone, and "publishing" and related services is everything that Navigator does, and it so happens that "printing" in bulk is performed off-site, does that mean that they are not a printing and publishing use? If Navigator was Simon & Shuster, and they performed editing, type-setting, preprinting and printing and marketing and billing from this location, but they do bulk print runs in New Jersey, are they any less a publisher who prints and publishes?

The use itself is non-retail and therefore office use in the very same way that "back office" use is office use. It does not draw retail or consumer traffic, and the back office book-keeping, marketing, advertising sales, and editing is indistinguishable from the back office operation of the Press Herald. Hypothetically, assuming for the sake of argument that the Press Herald proposed to locate the same operations at this site, it must be that because their management group has a separate 500 square foot office at corporate headquarters on Monument Square, with a CEO and a CFO at that office that that means that their use is allowed. However, Navigator doing the same thing is not allowed, by this definition.

I assume then, that if Alex Agnew and his CFO and Editor set up “Navigator World Headquarters” on Danforth Street and reapplied to relocate “back office” operations at 100 Kensington, that, by definition, would make it “back office”. Effectively the actual use does not change in a material way, but the primary business office would be on Danforth Street and “back office” support at 100 Kensington. That may be the answer to the problem.

I am noodling this around and I will be in contact on this shortly.

Thanks again.

Paul S. Bulger, Esq.

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From: Ann Machado [mailto:amachado@portlandmaine.gov]

Sent: Wednesday, August 10, 2016 11:45 AM

To: Paul Bulger <pbulger@jewellandbulger.com>

Subject: Zoning Letter for 100 Kensington St

[Quoted text hidden]

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