

109-D-24 ISLAND AVE- CLIFF ISLAND

PERKINS, THOMPSON, HINCKLEY & KEDDY
ATTORNEYS AND COURT SELLORS AT LAW

ONE CANAL PLAZA
P.O. BOX 423
PORTLAND, MAINE 04112

WILLIAM S. LI'NELL
1888 1208
ELLIOT P. PERKINS
1899-1976
AREA CODE 207
TELEPHONE 774-2635

FRANKLIN G. HINCKLEY
CASPAR F. COWAN
ROYDEN A. KEDDY
CHARLES P. BARNES II
JAMES R. FLAKER
PETER G. RICH
THOMAS SCHULTEN
BRUCE E. LEDDY
OWEN W. WELLS
DOUGLAS S. CARR
ANDREW A. CADOT
C. BROCK HORNBY
THOMAS G. SITZMAN

LEE D. URBAN
ANDREW J. LEDDY, JR.
RICHARD G. MOON
JOHN R. OPPERMAN
THOMAS S. WHEATLEY
PRISCILLA F. GRAY

PORTER THOMPSON
OF COUNSEL

February 7, 1980

Mr. Walter Hiltcn
Building Inspector
Portland City Hall
Portland, Maine 04111

Re: Cliff Island Property
Casco Bay, Portland

Dear Mr. Hilron:

This office represents Mr. & Mrs. Ralph S. Hanson, who own a cottage on the northwest shore of Cliff Island, in Casco Bay, Portland, shown on the Tax Maps as Lots 26 and 27 on Sheet 109-B. ²⁴ This property directly abuts two lots acquired by Keith M. Hagenbach in 1968, each containing 6000 sq. ft., shown as lots 24 and 25 on Sheet 109-B. Mr. Hagenbach took title to the lots by separate deeds, one running to himself and the other to his daughter. However, the two parcels were under common ownership on June 5, 1957, owned by Ralph C. C. lley and his wife, and therefore under §602.19 L of the Portland Zoning Ordinance these undersized lots must be treated as one.

We understand that Mr. Hagenbach is considering construction of a residence on this property, which consists almost entirely either of ledge or of swampy ground, being located within a natural drainage area. As indicated on the Tax Map the property extends to the edge of the cliffs on the northwest shore of Cliff Island. It runs back to what is indicated on the Tax Maps as a 20-foot right of way, but in fact there are no deeded rights to use that right of way: the deeds to each of the lots extending from that right of way to the cliffs were simply described as abutting an "open passageway" or a "passageway to be left open forever". As a matter of law, this would give each of the lot owners a right to pass over the area, but no right to alter or improve the same as for vehicle traffic. This 20-foot open passageway has never been conveyed by the woman who conveyed the abutting shore lots in the 1880s nor her heirs, it has never been improved over the past one hundred years, and of course it is neither a public street nor has

ISLAND AVE.

Mr. Walter Hilton

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February 7, 1980

it been approved by the municipal officers as access, so that the Hagenbach lot or lots do not satisfy the requirements for a building permit set forth in §602.19-L.

I have discussed this situation briefly with Malcolm Ward. It would seem that no development could occur on this lot. However, in the event that your department should receive an application for a building permit, or should become aware of a petition for approval of access directed to the members of the Portland City Council, we would greatly appreciate your advising us of this.

Sincerely yours,

Charles P. Barnes II

CHARLES P. BARNES II

cpb/lml

encl.

cc: Mr. & Mrs. Ralph S. Hanson
Mr. Keith M. Hagenbach
Mr. Roger K. Berle
Dept. of Environmental Protection

PERKINS, THOMPSON, HINCKLEY & KEDDY
ATTORNEYS AND COUNSELLORS AT LAW

ONE CANAL PLAZA
P O BOX 126
PORTLAND, MAINE 04112

WILLIAM S. LINNELL
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ELLIOT P. PERKINS
1889-1876
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PORTER THOMPSON
OF COUNSEL

February 7, 1980

Mr. Alva D. Achorn
Bureau of Land Quality Control
Dept. of Environmental Protection
Augusta, Maine 04333

Re: Cliff Island Property, Casco Bay, Maine

Dear Mr. Achorn:

This office represents Mr. & Mrs. Ralph S. Hanson, who own a cottage on the northwest shore of Cliff Island, in Casco Bay, Portland. This property directly abuts two lots acquired by Keith M. Hagenbach in 1968, each containing 6000 sq. ft. Although Mr. Hagenbach took title to the lots by separate deeds, one ran to himself and the other to his daughter; however, the two parcels were under common ownership on June 5, 1957 and under the Portland Zoning Ordinance these undersized lots must be treated as one.

We understand that Mr. Hagenbach is considering construction of a residence on this property, which consists almost entirely either of ledge or of swampy ground, being located within a natural drainage area. It would seem that the subsoils could not qualify for waiver of the minimum lot size, in the event that subsurface sewage disposal were proposed. We anticipate that in the event of development Mr. Hagenbach would require a waste discharge license and, in order properly to dispose of treated effluent into Casco Bay, substantial alteration of the cliffs above which the property is located would be required.

In the event that you should receive an application for waiver of the minimum lot size or for a permit for alteration of coastal wetlands, we would greatly appreciate your advising us of such application.

Sincerely yours,

Charles P. Barnes II
CHARLES P. BARNES II

cpb/lml

cc: Mr. & Mrs. Ralph S. Hanson
Mr. Keith M. Hagenbach
Mr. Roger K. Berle
Portland Building Inspection Dept. ✓

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Y

PERKINS, THOMPSON, HINCKLEY & KEDDY
ATTORNEYS AND COUNSELLORS AT LAW

ONE CANAL PLACE
P O BOX 428
PORTLAND, MAINE 04112

WILLIAM S LINNELL
1885 19-58
ELLIOT P PERKINS
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PRISCILLA F. GRAY

PORTER THOMPSON
OF COUNSEL

February 7, 1980

Mr. Stephen Groves, Director
Bureau of Water Quality Control
Dept. of Environmental Protection
Augusta, Maine 04333

Re: Cliff Island Property
Casco Bay, Portland

Dear Mr. Groves:

This office represents Mr. & Mrs. Ralph S. Hanson, who own a cottage on the northwest shore of Cliff Island, in Casco Bay, Portland. This property directly abuts two lots acquired by Keith M. Hagenbach in 1968, each containing 6000 sq. ft. Mr. Hagenbach took title to the lots by separate deeds, one running to himself and the other to his daughter; however, the two parcels were under common ownership on June 5, 1957 and under the Portland Zoning Ordinance these undersized lots must be treated as one.

We understand that Mr. Hagenbach is considering construction of a residence on this property, and on account of the terrain it seems clear that sewage disposal would require the issuance of a waste discharge license. Although there are a number of obstacles to development of the property, it is possible that Mr. Hagenbach could overcome them in one way or another. Therefore, in the event that you should receive an application for waste discharge license from Cliff Island into Casco Bay, by either Mr. Hagenbach or his daughter Penelope J. Keens, we would greatly appreciate your advising us of such application.

Sincerely yours,

Charles P. Barnes II
CHARLES P. BARNES II

cpb/lml

cc: Mr. & Mrs. Ralph S. Hanson
Mr. Keith M. Hagenbach
Mr. Roger K. Berle
Portland Building Inspection Dept.

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