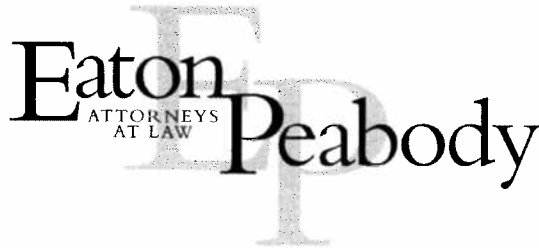


Erik M. Stumpfel
Direct Dial 207-992-4346
estumpfel@eatonpeabody.com



80 Exchange Street
P.O. Box 1210, Bangor, Maine 04402-1210
Phone 207-947-0111 Fax 207-942-3040
www.eatonpeabody.com

November 13, 2008

VIA UPS NEXT DAY AIR

Nancy Desjardin, Clerk
Kennebec County Superior Court
95 State Street
Augusta, ME 04330-5680

Re: City of Gardiner v. Peter M. Wlodylo, et al.

Dear Nancy:

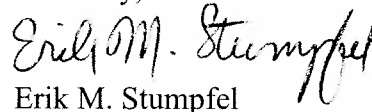
Enclosed please find the following for filing regarding the above-referenced matter:

1. Dangerous Building Complaint, together with Exhibits;
2. Proposed Order;
3. Summary Sheet; and
4. Our check in the amount of \$150.00 as payment of the filing fee.

The original Summonses will be filed with the court following service upon the defendant and parties-in-interest.

Thank you for your assistance.

Sincerely,


Erik M. Stumpfel

EMS/law

Enclosures

cc: Jeffrey D. Kobrock, City Manager, City of Gardiner (w/encl.)

STATE OF MAINE
KENNEBEC, ss

SUPERIOR COURT
Civil Action
Docket No. _____

CITY OF GARDINER,)
a municipal corporation located in)
Kennebec County, State of Maine)
)
Plaintiff)
)
v.)
)
PETER M. WLODYLO)
of Gardiner, Kennebec County,)
State of Maine)
)
Defendant)
)
and)
)
DEBRA A. WLODYLO)
MICHAEL J. WLODYLO)
)
Parties-in-Interest)

DANGEROUS BUILDING COMPLAINT
17 MRSA § 2851(4)

Plaintiff City of Gardiner, by its counsel, complains against the Defendant Peter M. Wlodylo as follows:

1. This is a dangerous building complaint pursuant to Title 17 MRSA § 2851(4).
2. The Plaintiff, City of Gardiner, is a municipal corporation organized and existing under the laws of the State of Maine, located at Gardiner, Kennebec County, Maine.
3. The Defendant, Peter M. Wlodylo, is a resident of the City of Gardiner, Maine.
4. The Defendant, Peter M. Wlodylo, together with Parties-in-Interest Debra A. Wlodylo and Michael J. Wlodylo, are the owners of a residential property located at 173 Highland Avenue in the City of Gardiner.

5. Title to the property is held by the Defendant and Parties-in-Interest Debra A. Wlodylo and Michael J. Wlodylo as surviving joint tenants, pursuant to a warranty deed from Peter M. Wlodylo dated January 19, 2001 and recorded in Book 6392, Page 253, Kennebec County Registry of Deeds. A true copy of said deed is attached hereto as City's Exhibit 1, and is incorporated herein by reference.

6. On January 2, 2006, Defendant Peter M. Wlodylo applied to the City of Gardiner for a demolition and building permit in order to demolish a 28' by 24' section of Defendant's residence at 173 Highland Avenue and then reconstruct the residence, including replacement of a portion of the existing foundation. Said permit applications were granted by the City of Gardiner on June 12, 2006. Pursuant to the City's applicable ordinances, the permits required substantial completion of the work concerned within two (2) calendar years, *i.e.*, by June 12, 2008. A true copy of said demolition and building permit (Permit # 06-BP-071) is attached hereto as City's Exhibit 2, and is incorporated herein by reference.

7. As of June 2008, Defendant's project was not substantially complete. In response to the Defendant's request for renewal of the building permit, the City's Code Enforcement Officer, on June 6, 2008, offered a 90 day extension of the existing permit, on the condition that the Code Enforcement Officer be allowed to inspect the state of the work as of June 12, 2008 and to re-inspect on September 10, 2008 to determine the extent of progress during the extension period. A true copy of the Code Enforcement Officer's June 6, 2008 letter is attached hereto as City's Exhibit 3 and is incorporated herein by reference.

8. Said permit extension offer was pursuant to section R105.3.2 of the 2003 International Residential Code, adopted by the City of Gardiner as the City's residential building code pursuant to 30-A MRS § 3003.

9. Defendant Peter M. Wlodylo and Party-in-Interest Michael J. Wlodylo declined the City's permit extension offer by separate letters dated June 12, 2008. Nonetheless, based on an exterior inspection of the premises, the Code Enforcement Officer on June 25, 2008 issued an extension of the existing building permit through September 12, 2008. A true copy of the City's permit extension is attached hereto as City's Exhibit 4 and is incorporated herein by reference.

10. Notwithstanding the City's 90 day permit extension, as of September 12, 2008 the Defendant's project remained substantially incomplete, with no significant work completed during the previous 90 days. On September 23, 2008, in response to neighbors' complaints, the City's Code Enforcement Officer conducted an exterior inspection of the property to determine the extent of progress during the extension period, and to determine the safety of the structure in its existing condition. The Code Enforcement Officer was assisted in his inspection by David Skidgel, PE, of Wright-Pierce Engineering.

11. As a result of the September 23rd inspection, Mr. Skidgel issued a three-page report detailing his findings concerning the safety and structural integrity of the property in its existing condition. A true copy of said report is attached hereto as City's Exhibit 5, and is incorporated herein by reference.

12. As a further result of the September 23rd inspection, the City's Code Enforcement Officer wrote to Defendant Peter M. Wlodylo on October 2, 2008, offering a second 90 day extension of the existing building permit, on the conditions that certain corrective work be undertaken and that structural hazards identified in the engineer's report be corrected, within the 90 day extension period. A true copy of the Code Enforcement Officer's October 2, 2008 letter is attached hereto as City's Exhibit 6, and is incorporated herein by reference.

13. Defendant Peter M. Wlodylo was asked to sign a copy of the October 2, 2008 permit extension letter, acknowledging the conditions of the extension, but declined to do so. In response to objections by Defendant Peter M. Wlodylo, the Code Enforcement Officer issued further clarification letters on October 14 and 28, 2008. True copies of those letters are attached hereto as City's Exhibits 7 and 8 respectively, and are incorporated herein by reference.

14. Notwithstanding the City's clarification letters, Defendant Peter M. Wlodylo has refused to accept the additional 90 day building permit extension with the conditions attached thereto.

15. As a result of Defendant Peter M. Wlodylo's refusal to accept the additional 90 day permit extension, permit number 06-BP-071 has now expired.

16. Since expiration of the building permit, Defendant Peter M. Wlodylo continues to work, if at all, in a very sporadic manner on the building project, but not in a manner to correct the structural hazards identified in the City engineer's report.

17. In its current condition, the residential structure at 173 Highland Avenue is structurally unsafe and unstable, and constitutes a hazard to its occupants and to abutting property owners and users of the adjacent public street. As such, the structure constitutes a dangerous building under 17 MRSA § 2851.

WHEREFORE, the Plaintiff City of Gardiner pursuant to 17 MRSA § 2851(4) hereby asks for entry of an Order by the court, directing the Defendant. Peter M. Wlodylo, to abate the dangerous condition of the residence at 173 Highland Avenue by completing the following work within 90 days from the date of the Court's Order:

(a) Pour a concrete foundation under the southeast framed wall and floor structure that has been left unsupported by the work to date.

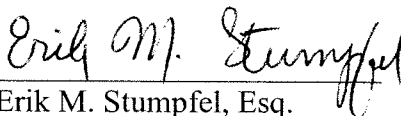
(b) Upon completion of foundation work (a) above, backfill all excavated areas up to grade level.

(c) Support the southeast framed wall and floor structure by securing them to the new foundation.

(d) Complete the southeast exterior wall with plywood or other approved sheathing to prevent the wall from racking or collapse.

Dated: November 14, 2008

CITY OF GARDINER

(By) 
Erik M. Stumpf, Esq.
City Solicitor
Maine Bar Reg. No. 2826

Eaton Peabody
80 Exchange Street
P.O. Box 1210
Bangor, Maine 04402-1210
Tel. (207) 947-0111 ext. 746

**NO TRANSFER
TAX PAID**

WARRANTY DEED
Joint Tenancy

**KNOW ALL MEN BY THESE PRESENTS,
002537**

That I, Peter M. Wlodylo, of Gardiner, in the County of Kennebec and State of Maine,

in consideration of one dollar and other valuable considerations,

paid by Peter M. Wlodylo, Debra A. Wlodylo, Mark A. Wlodylo and Michael J. Wlodylo.

whose mailing addresses are: 173 Highland Avenue, Gardiner, Maine

the receipt whereof I do hereby acknowledge, do hereby **give, grant, bargain, sell**

and convey unto the said Peter M. Wlodylo, Debra A. Wlodylo, Mark A. Wlodylo and Michael J. Wlodylo

as joint tenants and not as tenants in common, their heirs and assigns forever,

A certain lot or parcel of land with the buildings therein, situated in the City of Gardiner, County of Kennebec and State of Maine, bounded and described as follows:

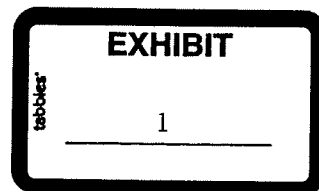
Being a part of lots marked and numbered 41 and 42 on a plan of sub-division of the homestead farm of the late Ichabod Plaisted in said Gardiner, made by Moses Springer, August 16, 1843, resurveyed and corrected November 12, 1874 by C. J. Noyes, C.E. and bounded as follows: Commencing on High Street where the Westerly line of Clinton Street intersects the same; thence Northerly on said Clinton Street ten rods or thereabouts to where formerly was an old post and board fence at the Southeast corner of land now or formerly owned by the estate of Roscoe Carlton; thence Westerly on a straight line by said Carlton's land to land formerly of one Hill, now Lizzie Jones; thence Southerly on said Jones' land to said High Street; thence Easterly on said High Street to bounds first mentioned.

Being the same premises conveyed to Wacław Wlodylo, Mary Wlodylo and Peter M. Wlodylo by Warranty Deed of Richard N. Sawyer and Barbara A. Sawyer dated December 17, 1970 and recorded in the Kennebec County Registry of Deeds in Book 1539, Page 83.

The said Wacław Wlodylo conveyed all his rights, title, and interest in and to the above described real estate to Peter M Wlodylo by Quit-Claim Deed dated June 9, 1972 and recorded in the Kennebec County registry of Deeds in Book 1585, Page 347. The said Mary Wlodylo is now deceased. See Abstract of Divorce Decree dated November 3, 1977 and recorded in the Kennebec County Registry of Deeds in Book 2057, Page 244 whereby the Maine District Court, Seventh District, awarded the above described premises to Peter M. Wlodylo on his divorce from Sherry A. Wlodylo.

To have and to hold the aforegranted and bargained premises, with all the privileges and appurtenances thereof, to the said Peter M. Wlodylo, Debra A. Wlodylo, Mark A. Wlodylo and Michael J. Wlodylo as joint tenants and not as tenants in common, their heirs and assigns, to their own use and behoof forever.

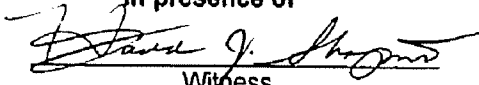
Peter Wlodylo (handwritten signature)



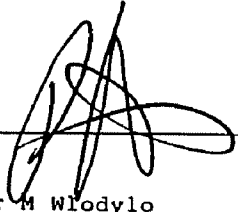
And I do covenant with the said Grantees, their heirs and assigns, that I am lawfully seized in fee of the premises, that they are free of all encumbrances; that I have good right to sell and convey the same to the said Grantees to hold as aforesaid; and that I and my heirs shall and will warrant and defend the same to the said Grantees, their heirs and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, I the said Peter M. Wlodylo as Grantor, and relinquishing and conveying all rights by descent and all other rights to the above described premises, have hereunto set my hand and seal this 19th day of the month of January, A.D. 2001.

Signed, Sealed and Delivered
in presence of


Witness

Witness

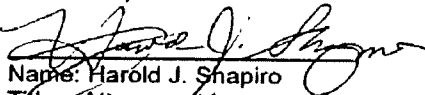


Peter M Wlodylo

State of Maine
County of Kennebec, ss.

January 19, 2001

Then personally appeared the above named Peter M. Wlodylo, and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Name: Harold J. Shapiro
Title: Attorney at Law

RECEIVED KENNEBEC SS
2001 JAN 30 AM 9:00

ATTEST: 
REGISTER OF DEEDS



City of Gardiner

Planning/Code Enforcement Office
6 Church Street Gardiner, ME 04345
(207) 582-6892
www.gardinermaine.com

BUILDING PERMIT

PERMIT #:06-BP-071 DATE: 6/12/06 PROJECT COST: \$10,000. FEE: \$14.

APPLICANT NAME: PETER WLODYLO

PERMIT: Replace 136' of existing foundation walls; demolish a 28'x24 section of existing house facing Clinton St and rebuild an 8'x28' 2-story addition w/ a 16'x28' deck attached in its footprint; construct a 2nd story 16'x21' deck to house facing Highland Av to connect w/triangular deck to 2nd story deck on Clinton St.

LOCATION: 173 Highland Av MAP: 36 LOT: 125

*** CONTACT CODE ENFORCEMENT OFFICE FOR NOTED INSPECTIONS @ 582-6892 ***

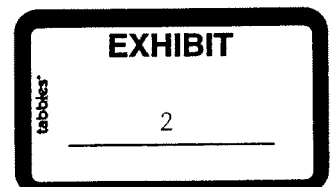
INSPECTION RECORD

CHECK	DATE	SIGN OFF	NOTES
SITE			
FOUNDATION ***			
UNDERGROUND UTILITIES			
SUBSURFACE SYSTEM, 1 ST INSPECTION			
SUBSURFACE SYSTEM, 2 ND INSPECTION			
ROUGH IN:			
FRAME ***			
ELECTRICAL ***			
PLUMBING			
CHIMNEY			
MECHANICAL			
FINISH:			
STRUCTURE ***			
ELECTRICAL ***			
PLUMBING			
OTHER ***before occupancy			

CONDITION(S): 1.) Shall call the Code Enforcement Officer for inspection at stages indicated by *** as noted in the left hand column of this document before proceeding to additional steps.
2.) Construction shall comply with all setbacks and other requirements of Gardiner's Land Use Ordinance.

PLEASE POST AT WORKSITE

PERMIT IS VOID IF CONSTRUCTION IS NOT STARTED WITHIN ONE (1) YEAR OF DATE ISSUED
AND MUST BE SUBSTANTIALLY COMPLETED WITHIN TWO (2) YEARS OF DATE ISSUED.



Gardiner

MAINE *Where history and progress meet*

June 6th2008

Mr. Peter Wlodylo
173 Highland Ave.
Gardiner, Me 04345

Dear Mr. Wlodylo,

This letter is in response to your certified letter #7005 03900004 sent to me on May 28th 2008

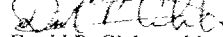
Under normal conditions 24 months should have been enough time to substantially complete your project.

Based on your request, I am willing to attach a 90 day extension to your building permit #06-BP-071 that was issued on June 12th 2006.

The conditions for the extension are an on-site inspection to determine the amount of work that has been completed as of June 12th 2008 and an on site inspection on September 10th2008 to evaluate the additional work completed during the 90 day extension period. I will consider further extension requests if needed after September 10, 2008, provided that the work appears to be advancing toward completion at a reasonable rate.

During the initial 90 day extension period, I would ask that you give priority to work on the following items: Finish all ground and foundation work to insure that all buildings are stable. Construct the frame and shell of proposed the addition to weather tightness.

Sincerely,


David P. Cichowski
CEO-LPI

EXHIBIT

tabbles
3

Gardiner

MAINE *Where history and progress meet*

June 25th 2008

Peter Wlodylo
173 Highland Ave.
Gardiner, Maine 04345

Concerning 90 day construction extension grant:

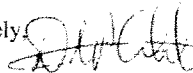
Dear Mr. Wlodylo:

I conducted an exterior inspection of 173 Highland Ave. from Clinton Street on 6-24-08 at approximately 11:00 AM. I took some photographs to document the condition of your construction project to date. By observation in the past two years(from permit issuance June 12th 2006) you have removed a 24' x 28' two story frame section of your home, reattached the remainder of the home to the Central Maine Power grid by means of a temporary pole configuration, and dug in the ground to remove old sections of masonry foundation. As I mentioned in my previous letter dated June 6th 2008, two years is normally more than sufficient time to complete the project as originally permitted.

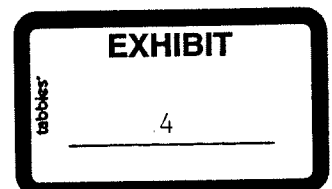
It would be in the best interest of your structure, your neighbors and the city if in this 90 day extension you would focus on reconstruction of what has already been disturbed. In my opinion many phases of the project have been started and then left uncompleted. The east wall of the home has been left covered in plastic only. I have not observed any new foundation walls of which your permit stated you were replacing the old ones. Your home has been temporarily hooked into the electric power grid since the start the demolition phase. In short you need to complete these and other items before more is disrupted.

Your building permit issued June 12, 2006 is conditionally extended for a ninety day period to September 12, 2008. The conditions associated with this permit extension are that you give priority to these unfinished project elements: complete the parts of the foundation which have already been removed, frame the new addition to help complete the wall covered in plastic, a permanent connection to Central Maine Power, and finish roofing and siding to protect your investments. I am granting your extension with conditions to foster a reasonably prompt conclusion to your project. Should you request another extension at the expiration of this ninety day extension, these conditions will provide an objective review of your progress toward project completion.

Sincerely,



David P. Cichowski
CEO-LPI



October 2, 2008
WP Project No. OHTB08

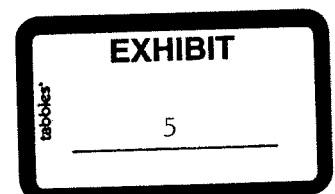
Mr. David P. Cichowski
Code Enforcement Officer
City of Gardiner, Maine
6 Church Street
Gardiner, Maine 04345

Subject: Visual Observations of House at 173 Highland Avenue, Gardiner, Maine

The purpose of this letter is to offer my observations and structural related concerns with the ongoing construction at the residential home at 173 Highland Avenue in Gardiner, Maine. You had requested that we provide a visual inspection of the house and offer our professional opinions concerning the present state of the repairs to the house. I observed the house on September 23, 2008 and was accompanied by you. Please note that my observations and concerns are based on a very limited visual inspection of the building exterior from Clinton Street, the gravel driveway behind the property and the abutting neighbor's property to the north of the house. We did not access the property nor inspect the interior of the house. Please note that I am assuming that the house is oriented such that the front of the house facing Clinton Street is the east side.

The house in question is a two story colonial located at the intersection of Highland and Clinton streets. The house consists of north and south segments - each with its own separate roof and framing system. It is my understanding that the homeowner has received a building permit for various remodeling projects around the house and has subsequently received a time extension on one of the permits. There are various areas around the house that currently are in the state of construction. It is my understanding that the homeowner is performing the construction himself. Following are the areas of construction that pose structural concerns. Please note that although each issue is discussed as a separate concern, they all are interacted and will affect one another. I have enclosed photos on page 3 that were taken at various stages of construction for your reference.

- There is a large excavated hole in the front of the house extending north from the southeast corner of the building to the edge of the driveway and east to Clinton Street. Several vehicles and pieces of construction equipment are parked in the driveway adjacent to the hole. The hole is about 8 feet deep. The excavated hole has very steep edges adjacent to the driveway and below the damaged foundation (see discussion of this issue below). Please refer to Photo 3 for a view of this area.
This excavation should be shored or cut back to a more appropriate sideslope based on the type of soils. There is potential danger that the walls of the excavation could collapse, especially if a heavy rain or seismic event occurs. If the excavation collapses, this could trigger either movement or settlement of the house.





- The plywood siding has been removed from a large portion of the front of the house. The exposed wood studs are covered by either plastic sheeting or "Tyvek" home wrap. Please refer to Photos 1 and 2 for a view of this area.
This wall may be unstable without the plywood and not offer the proper required lateral strength if the house is subjected to either wind or seismic loads.
- The southeast portion of the house is unsupported as follows:
 - The ends of the first floor framing joists at the southeast end of the house are not supported. Please note that the east side wood stud bearing walls are directly supported by the joists at this location so the walls are also unsupported. There appears to be several steel lally columns under the floor, about 3 feet from the joist ends. However, it is questionable whether pipe columns are providing adequate support for the floor joists and whether the columns are properly supported from the ground below (it appeared that one of the columns was only partially bearing on an outcrop of ledge). Please refer to Photo 2 for a view of this area.
This portion of the building appears to be unstable and is in danger of movement that could be easily triggered from the normal use of the house, a heavy wind or seismic event or buildup of snow on the roof.
 - Most of the foundation wall on the east side of the house has been exposed and it appears that several portions of the foundation have been removed. In addition, a portion of the exposed foundation at the garage has been undermined by the excavated hole in front of the house. It appears that a portion of the wood bearing wall in this area is unsupported. Please refer to Photo 3 for a view of this area.
This portion of the building appears to be unstable and is in danger of movement that could be easily triggered from the normal use of the house, a heavy wind or seismic event, a buildup of snow on the roof or movement of the remaining soil below.
- There are various working platforms installed at the roof level. I was not able to determine if these were properly supported from the roof or house structure. The platform on the west side is of special concern given the size of the platform and the fact that several of the edges are unsupported.

It is my opinion that the construction activities discussed above have created unsafe conditions for the current occupants and potentially adjacent properties, especially given the close proximity of this house to the neighboring house at the north end of the property.

If you have any questions or comments concerning the content of this letter, please contact me at 523-1406. We look forward to continue working with the City on any future projects you may have.

Sincerely,

WRIGHT-PIERCE

David Skidgel, PE

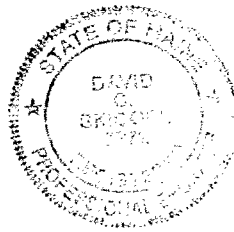




Photo 1 - View of house from Clinton Street

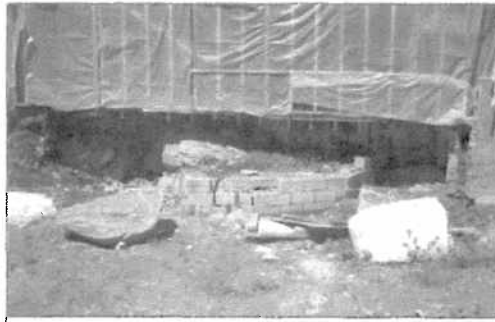


Photo 2 - Unsupported first floor framing



Photo 3 - Excavated hole and exposed foundation

Gardiner

MAINE *When history and progress meet*

October 2nd, 2008

Mr. Peter Wlodylo
173 Highland Ave.
Gardiner, Me 04345

Dear Mr. Wlodylo,

On June 25th, 2008, the City of Gardiner issued you a 90 day extension to your building permit (#06-BP-071) effective June 12th, 2006. The original permit was issued for the standard two year period. In the June 25th letter, I cited the following permit condition items: 1) the east side of the house was covered with plastic; 2) the foundation remained incomplete; and, 3) you were still using a temporary CMP hook-up for power. On my September 12th site inspection I noted that you had not addressed any of these items, as conditioned in the June 25th letter. Subsequently I conducted a follow up inspection on September 23rd with David Skidgel P.E. so that an independent professional opinion could be developed. Although the lack of progress on these critical items is disappointing, the City of Gardiner will issue another 90 day extension to your building permit, pursuant to the following terms and conditions.

- To reiterate conditions imposed at the original extension on June 12, 2008, the unfinished exterior foundation and walls need to be stabilized before new areas are disturbed.
- The City has determined that there are several construction activities that have created unsafe conditions for the current occupants and potentially adjacent properties, based on the September 23rd inspection with Mr. Skidgel. You need to address the following issues, as identified on that inspection.
 - a) The large excavated hole in the front of the house needs to be shored or cut back to a more appropriate sideslope, based on the type of soils.
 - b) The area where plywood siding was removed, and is now covered with plastic, needs to be stabilized for the proper lateral strength materials.

EXHIBIT

6

tabbles

- c) The southeast portion of the house needs to be stabilized with more structural support.
- d) The exposed foundation on the east side of the house needs to be stabilized, at locations including a hole at the garage foundation and a portion of the wood bearing wall.

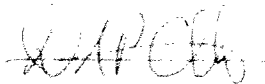
A copy of the report is attached for further background information on the September 23rd inspection.

- Work in the City's "right of way" (ROW) is allowed but requires city permission. The Clinton Street ROW is approximately twenty feet from the centerline of the street. You need to notify me in writing of your building plans, as it has involved substantial use of/or construction in the City's ROW or roadway travel lanes. This poses safety issues that City must evaluate. Any work in/or use of the City's ROW will require 48 hours advance written notice and specific written permission to proceed.
- In response to an abutter's complaint, I have observed that an upper deck and cement footings that are on the NW corner of the building are outside the scope of the building permit. You must come into compliance with the permit within the term of this permit extension. I would be happy to discuss how you might comply with the scope of the original permit.
- The City's Ordinance limits outdoor construction work that exceeds 45 decibels is allowed only between the hours of 6 AM until 8 PM.
- Any other conditions that were identified for completion in the June 25th letter must be completed over the next 90 day extension period.

This is the second 90 day extension. You have the right to appeal any decision of the Code Enforcement Officer within 30 days of issuance. Please sign and return this letter, as proof of acceptance to these terms. The permit is not valid until you sign and return this letter to the City.

The conditions include an on site inspection on December 31st, 2008 to evaluate the work completed during this 90 day extension.

Sincerely,



David P. Cichowski
CEO-LPI

Peter Wlodylo

Gardiner

MAINE *Where history and progress meet*

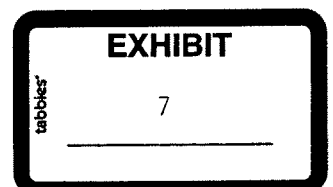
October 14, 2008

Mr. Peter Wlodylo
173 Highland Ave.
Gardiner, Me 04345

Dear Mr. Wlodylo,

Thank you for your October 6th letter regarding an extension to your building permit. Given the number of your questions, I felt it was important to respond to your letter and offer some clarification for you, on the following items.

- If you are claiming the deck, a portion of which is outside the scope of the original permit, was built to serve primarily as a handicap access ramp, you are eligible to seek a "disability variance" from the city's board of appeals. I have enclosed a copy of the application, for your use. Without a disability variance the condition remains unchanged from the October 6 letter.
- Regarding your temporary CMP service, the City is asking that there be a plan to install permanent service. It is asking for this information, and encouraging progress on major structural and safety items just as it is on the completion of your construction project.
- Work in the ROW is allowed. However, traffic lanes cannot be blocked or materials (such as gravel or barrels) left in the ROW without prior approval. To answer your question specifically, you do not have to ask for permission before each delivery of construction related materials. We are requesting that you provide us notification of work in the ROW or travel lanes so that we may assure you are meeting public safety needs (i.e. not blocking traffic, undermining the road, etc).
- Rather than focus on how or why there isn't any plywood being used to stabilize the wall, as described in the previous letter, it has been determined that without



any plywood or temporary diagonal bracing installed the structure is unsafe. This needs to be addressed in this next 90 day extension period.

I would like to reiterate that the conditions in my October 2nd condition letter to you, still stand. I hope that these clarifications provide you enough information to take the next step, which is to sign my October 2nd letter, so we can move forward with permit extension. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "David P. Cichowski". The signature is written in a cursive style with some loops and flourishes.

David P. Cichowski
CEO-LPI

Enclosure: Disability Variance Application

Gardiner

MAINE *where history and progress meet*

October 28, 2008

Mr. Peter Wlodylo
173 Highland Ave.
Gardiner, Me 04345

RE: Permit Renewal Request

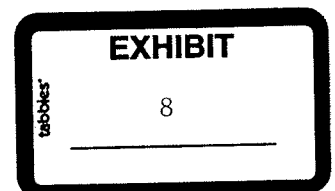
Dear Mr. Wlodylo,

The following is the City's response to your October 24th letter, in attempt to answer your questions, regarding a building permit extension. I previously wrote to you on October 14th in response to other questions you had posed in relation to your permit extension. I wrote to you on October 2nd, offering a conditional extension of your building permit.

(1) The permit requirement under section 2563 of the City's ordinances does not apply to deliveries of building materials, if the materials are immediately stored, used or placed on your property. Off-loading of building materials from a delivery vehicle is allowed without a permit. However, if the materials are placed in any part of the public street, then a permit and fencing are required.

(2) I do not have authority to approve disability variances. Disability variances must be approved by the Board of Appeals under 30-A MRSA sec. 4353(4-A). Under that section, a disability variance is restricted to "installation of equipment or construction of structures necessary for access to or egress from the dwelling by the person with the disability." The statute also allows the Board of Appeals to impose reasonable conditions on its approval. A deck, by itself, without a handicap access ramp, does not qualify under this definition. A disability variance is required only where the equipment or structures would otherwise violate the City's ordinances, for example, a set-back violation.

If you disagree with my determination, as Code Enforcement Officer, that your deck, by itself, does not qualify for a disability variance, you may take an administrative appeal from the Code Officer's determination to the Board of Appeals.



(3) An "existing deck" that "sticks out beyond the building by 4 feet" may not exceed that dimension without permit approval. The plot plan submitted with and approved as part of the permit did not authorize extension of the deck into the setback area. "Replacement" does not mean "enlargement" unless the increased area is shown in the final permit / plot plan.

Once again, if you disagree with the City about what was and was not authorized by the June 12, 2006 permit, you may take an administrative appeal of the Code Enforcement Officer's determination to the Board of Appeals.

(4) Your remaining points have been addressed in previous letters.

I would like to reiterate that the conditions in my October 2nd condition letter to you, still stand. If you wish to discuss these conditions further, we can schedule a time to meet. The permit will be extended upon acceptance of the conditions. Thank you.

Please let me know if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "David P. Cichowski". The signature is written in a cursive style with a large initial "D" and "C".

David P. Cichowski
CEO-LPI

STATE OF MAINE
KENNEBEC, ss

SUPERIOR COURT
Civil Action
Docket No. _____

CITY OF GARDINER,)
a municipal corporation located in)
Kennebec County, State of Maine)
)
Plaintiff)
)
v.)
)
PETER M. WLODYLO)
of Gardiner, Kennebec County,)
State of Maine)
)
Defendant)
)
and)
)
DEBRA A. WLODYLO)
MICHAEL J. WLODYLO)
)
Parties-in-Interest)

ORDER

Upon hearing of the City of Gardiner's dangerous building complaint against Defendant Peter M. Wlodylo pursuant to Title 17 MRSA § 2851(4), the court hereby FINDS and ORDERS as follows:

FINDINGS

1. The Defendant, Peter M. Wlodylo, together with Parties-in-Interest Debra A. Wlodylo and Michael J. Wlodylo, are the owners of a residential property located at 173 Highland Avenue in the City of Gardiner, as joint tenants.

2. On June 12, 2006, the City of Gardiner approved Defendant Peter M. Wlodylo's application for a demolition and building permit in order to demolish a 28' by 24' section of Defendant's residence at 173 Highland Avenue and then reconstruct the residence, including

replacement of a portion of the existing foundation. Said permits required substantial completion of the work concerned within two (2) calendar years, *i.e.*, by June 12, 2008.

3. Notwithstanding expiration of the original building permit, Defendant's project remains substantially incomplete. Defendant has declined to accept conditional extensions of the building permit offered by the City.

4. In its present condition, the residence at 173 Highland Avenue is structurally unsafe and unstable and constitutes a dangerous building within the meaning of 17 MRSA § 2851. The building further constitutes a nuisance and a hazard to members of the general public including abutting property owners and users of the adjacent public street.

5. Specifically, as identified in the September 23, 2008 inspection report by David Skidgel, PE, of Wright-Pierce Engineering, (a) there is a large unfilled excavation in front of the house extending from the southeast corner to the edge of the driveway and east to Clinton Street. This excavation has an inadequate sideslope and thereby poses a danger of collapse of the excavation walls and movement or settlement of the house; (b) an interior wall of the building has been exposed by removal of a 28' by 24' section of the residence. This wall lacks exterior sheathing with sufficient lateral strength to resist wind or seismic loads; (c) the southeast portion of the house is unsupported by a foundation and as a result is unstable, posing a danger of collapse due to normal use, a heavy wind or seismic event, buildup of snow on the roof or movement of remaining soils below; and (d) the foundation wall on the east side of the residence and the garage foundation have been exposed, with portions of those foundations removed or undermined. As a result, a bearing wall of the residence is unsupported and the residence is unstable, posing a danger of movement due to normal use, a heavy wind or seismic event, building up of snow on the roof or movement of the remaining soils below.

ORDER

Based on the foregoing Findings, the court hereby Orders the Defendant Peter M. Wlodylo, to abate the dangerous condition of the residence at 173 Highland Avenue by completing the following work within 90 days from the date of the Court's Order:

(a) Pour a concrete foundation under the southeast framed wall and floor structure that has been left unsupported by the work to date.

(b) Upon completion of foundation work (a) above, backfill all excavated areas up to grade level.

(c) Support the southeast framed wall and floor structure by securing them to the new foundation.

(d) Complete the southeast exterior wall with plywood or other approved sheathing to prevent the wall from racking or collapse.

It is hereby further **ORDERED** that the Clerk shall incorporate this Order into the Docket by reference pursuant to M.R.Civ.P. 79(a).

Dated: _____, 2008

Justice, Superior Court

This summary sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by the Maine Rules of Court or by law. This form is required for the use of the Clerk of Court for the purpose of initiating or updating the civil docket. (SEE INSTRUCTIONS ON REVERSE)

I. County of Filing or District Court Jurisdiction:		
II. CAUSE OF ACTION (Cite the primary civil statutes under which you are filing, if any.) <i>Pro se</i> plaintiffs: If unsure, leave blank. Dangerous Building Proceeding 17 MRSA Sec. 2851(4)		
III. NATURE OF FILING		
<input checked="" type="checkbox"/> Initial Complaint <input type="checkbox"/> Third-Party Complaint <input type="checkbox"/> Cross-Claim or Counterclaim <input type="checkbox"/> If Reinstated or Reopened case, give original Docket Number _____ (If filing a second or subsequent Money Judgment Disclosure, give docket number of first disclosure)		
IV. <input type="checkbox"/> TITLE TO REAL ESTATE IS INVOLVED		
V. MOST DEFINITIVE NATURE OF ACTION. (Place an X in one box only) <i>Pro se</i> plaintiffs: If unsure, leave blank.		
<u>GENERAL CIVIL (CV)</u>		
Personal Injury Tort <input type="checkbox"/> Property Negligence <input type="checkbox"/> Auto Negligence <input type="checkbox"/> Medical Malpractice <input type="checkbox"/> Product Liability <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Domestic Torts <input type="checkbox"/> Other Negligence <input type="checkbox"/> Other Personal Injury Tort Non-Personal Injury Tort <input type="checkbox"/> Libel/Defamation <input type="checkbox"/> Auto Negligence <input type="checkbox"/> Other Negligence <input type="checkbox"/> Other Non-Personal Injury Tort	Contract <input type="checkbox"/> Contract Declaratory/Equitable Relief <input type="checkbox"/> General Injunctive Relief <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Other Equitable Relief Constitutional/Civil Rights <input type="checkbox"/> Constitutional/Civil Rights Statutory Actions <input type="checkbox"/> Unfair Trade Practices <input type="checkbox"/> Freedom of Access <input checked="" type="checkbox"/> Other Statutory Actions Miscellaneous Civil <input type="checkbox"/> Drug Forfeitures	<input type="checkbox"/> Other Forfeitures/Property Libels <input type="checkbox"/> Land Use Enforcement (80K) <input type="checkbox"/> Administrative Warrant <input type="checkbox"/> HIV Testing <input type="checkbox"/> Arbitration Awards <input type="checkbox"/> Appointment of Receiver <input type="checkbox"/> Shareholders' Derivative Actions <input type="checkbox"/> Foreign Deposition <input type="checkbox"/> Pre-action Discovery <input type="checkbox"/> Common Law Habeas Corpus <input type="checkbox"/> Prisoner Transfers <input type="checkbox"/> Foreign Judgments <input type="checkbox"/> Minor Settlements <input type="checkbox"/> Other Civil
<u>CHILD PROTECTIVE CUSTODY (PC)</u>		
<input type="checkbox"/> Non-DHS Protective Custody		
<u>SPECIAL ACTIONS (SA)</u>		
Money Judgment <input type="checkbox"/> Money Judgment Request Disclosure		
<u>REAL ESTATE (RE)</u>		
Title Actions <input type="checkbox"/> Quiet Title <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Easements <input type="checkbox"/> Boundaries	Foreclosure <input type="checkbox"/> Foreclosure for Non-pmt (ADR exempt) <input type="checkbox"/> Foreclosure - Other Trespass <input type="checkbox"/> Trespass	Misc. Real Estate <input type="checkbox"/> Equitable Remedies <input type="checkbox"/> Mechanics Lien <input type="checkbox"/> Partition <input type="checkbox"/> Adverse Possession <input type="checkbox"/> Nuisance <input type="checkbox"/> Abandoned Roads <input type="checkbox"/> Other Real Estate
<u>APPEALS (AP) (To be filed in Superior Court) (ADR exempt)</u>		
<input type="checkbox"/> Governmental Body (80B)	<input type="checkbox"/> Administrative Agency (80C)	<input type="checkbox"/> Other Appeals
VI. M.R.Civ.P. 16B Alternative Dispute Resolution (ADR):		
<input type="checkbox"/> I certify that pursuant to M.R.Civ.P. 16B(b), this case is exempt from a required ADR process because: <ul style="list-style-type: none"> <input type="checkbox"/> It falls within an exemption listed above (i.e., an appeal or an action for non-payment of a note in a secured transaction). <input type="checkbox"/> The plaintiff or defendant is incarcerated in a local, state or federal facility. <input type="checkbox"/> The parties have participated in a statutory prelitigation screening process with _____ (name of neutral) on _____ (date). <input type="checkbox"/> The parties have participated in a formal ADR process with _____ (name of neutral) on _____ (date). <input type="checkbox"/> This is a Personal Injury action in which the plaintiff's likely damages will not exceed \$30,000, and the plaintiff requests an exemption from ADR. 		

VII. (a) **PLAINTIFFS (Name & Address including county)**
or **Third-Party**, **Counterclaim or Cross-Claim Plaintiffs**
 The plaintiff is a prisoner in a local, state or federal facility.

City of Gardiner
6 Church Street
Gardiner, ME 04345
Kennebec County

(b) Attorneys (Name, Bar number, Firm name, Address, Telephone Number) **If all counsel listed do NOT represent all plaintiffs, specify who the listed attorney(s) represent.**
(If *pro se* plaintiff, leave blank)

Erik M. Stumpf, Esq.
Maine Bar #2826
Eaton Peabody
P.O. Box 1210
Bangor, ME 04402-1210
207-947-0111

VIII. (a) **DEFENDANTS (Name & Address including county)**
and/or **Third-Party**, **Counterclaim or** **Cross-Claim Defendants**
 The defendant is a prisoner in a local, state or federal facility.

Peter M. Wlodylo
173 Highland Ave.
Gardiner, ME 04345
Kennebec County

Debra A. Wlodylo
Michael J. Wlodylo
173 Highland Ave.
Gardiner, ME 04943
Kennebec County
(Parties-in-Interest)

(b) Attorneys (Name, Bar number, Firm name, Address, Telephone Number) **If all counsel listed do NOT represent all defendants, specify who the listed attorney(s) represent.**
(If known)
Defendant is Pro Se

IX. **RELATED CASE(S) IF ANY** _____

Assigned Judge/Justice _____ Docket Number _____

Date: November 19, 2008

Erik M. Stumpf, Maine Bar #2826
Name of Lead Attorney of Record or *Pro se* Party
Erik M. Stumpf
Signature of Attorney or *Pro se* Party

c: