APPENDIX A

Written Testimony

1. Ms. Susan Swanton, Maine Marine Trades Association
2. Mr. Patrick Strauch, Maine Forest Products Council (includes letter from Mr. Allan Ryder)
3. Ms. Brenda Peluso, Maine Association of Non-Profits
4. Mr. Frank Draus (includes letter to the Board from Mr. Chris Moran)
5. Ms. Jamie Clark
6. Mr. Raymond Rodrigue
7. Mr. Richard McCarthy, State Fire Marshal's Office (supplements)
8. Ms. Julie O'Brien
9. Ms. Susan Howland, including follow-up letter dated November 20, 2012
10. Mr. Frederic Licht
11. Ms. Gina Martinez (follow-up testimony dated 11/19/12)
12. Mr. Scott L. Nelson

MAINE MARINE TRADES ASSOCIATION

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Maine Regulatory Fairness Board
Public Hearing
November 16, 2012
Testimony of Susan Swanton
Executive Director – Maine Marine Trades Association

Good Afternoon Sec. Summers and members of the Regulatory Fairness Board. My name is Susan Swanton, I am the executive director of the Maine Marine Trades Association and I am very grateful for this opportunity to tell you a little bit about our organization and the industry we serve. At this point if I was speaking to a group of visitors to Maine, or speaking out of state to others in the industry I would say "welcome to Maine" – or greetings from Maine – "where we have been building boats for more than four hundred years". While we may not be Maine's largest industry – we are surely one of its oldest and one that continues to be a great source of pride for our state.

MMTA was founded by a very dedicated group of volunteers from the industry and incorporated as a non-profit in 1966. For its first 20 years it was run completely by volunteers. But in the late 1980's a full-time professional Executive Director was hired to manage day to day operations and grow the organization. I'm only the second person to hold that position; in addition to me there is just one other person on staff. We still rely heavily on our volunteer network of board members, committee members and others who are willing to lend a hand when we need one.

With a small staff and a limited budget we focus our efforts on three major things – education and training (primarily for incumbent workers); legislative and regulatory issues and the creation and promotion of best practices - especially as they relate to worker safety and the environment. And somewhere in all of that we do our best to find ways to promote our members, our industry and the State of Maine.

We are proud to serve a very diverse membership that ranges from the largest of our production boat builders, to the smallest job shops – and everything in between. Our members are primarily classified as boat builders, boat yards, marinas and/or dealerships – but also include sail makers, canvas shops, machine shops, metal fabricators, marine retailers and wholesalers, boating publications, dock & float builders, boat brokers, naval architects and

surveyors as well as whole host of companies that provide services to these primary classifications. Our members are located literally from Kittery to Eastport and westward into the major lakes regions of Sebago, Belgrade and Moosehead. Our membership numbers are generally in the neighborhood of 150 companies.

Based on recent data compiled by the National Marine Manufacturers Association the recreational boating industry in Maine contributes over $300 million in annual sales and 5,300 jobs to Maine's economy.

So – what holds us back – besides an economy that doesn't always cooperate? There are a number of things – lack of a skilled workforce, regulation, difficulty in getting the word out about who we are and what we have to offer, taxes, the high cost of insurances, ethanol in gasoline – just to name a few. Perhaps the same sort of things that you are hearing about from other industries – I know we are not alone. So finding some solutions would really be helpful to us all. I won't try to address all these issues today but I will touch on some of them – especially one regulatory issue that is somewhat unique to our industry.

Even in the worst of times I hear members complain about the difficulty in finding skilled workers. Much of the work that we do here – whether it's building something new, or dealing with repairs, refits or major restorations – is custom work. Our reputations are based on the quality of our work and the quality of the work is directly related to the quality of the worker. Yet we are not finding people who can do what we need. Our society seems intent on pushing every young person into a four year degree track whether or not that track holds any interest for them or will lead them to meaningful employment. We have lots of high quality careers available for young people that come with full time, year round employment, excellent wages and generous benefits packages. Yet we discourage students from seeking out these careers and by so doing we leave industries like ours in the lurch. More attention needs to be paid to these careers and things like apprenticeships and lifelong learning that will allow incumbent workers to build on acquired skills and keep pace with rapidly changing technology.

On the regulatory front, I'd like to call your attention to a number of items that I hear about from my members on a regular basis. Some of these are state issues, some are really federal issues but worth mentioning because in some cases the state is delegated to deal with them. It also makes sense to understand the impacts of federal regulation because it adds additional burden to an already long list of regulatory programs that we are obliged to comply with. In your packets is a list of nearly 20 regulatory programs that affect many, if not most of our members. This list does not include OSHA regulations or any municipal regulations that may apply when dealing with construction or other locally controlled activities. This is – just the tip of our iceberg.

The two biggest regulatory topics for us are health and safety – namely OSHA - and environmental, both federal and state. In both cases failure to comply translates into hefty fines that really hurt and don't necessarily have the desired effect of improving compliance. By no means would I suggest that there should be no regulation or no penalty for willful failure to

comply – because above all, as responsible business people our first responsibility is to keep a safe workplace for ourselves, our employees and customers and to make sure that what we do in our work does not have a damaging and lasting ill effect on our natural environment. But there really needs to be a way for regulators to understand that we also have to keep our businesses healthy, that there has to be some balance along the way. While a person from OSHA really only has to be fluent in OSHA regulations, Jane or Joe Boatyard is expected to be fluent in OSHA, EPA, DEP, etc. Oh – and by the way, they also have to be good enough at their 'day job' to keep the doors open. We frequently don't speak the same language, we are not always able to stay on top of the frequent and often confusing changes in regulation and we certainly don't do business in a perfect environment. Our days are frequently hectic, we are almost always at the mercy of the weather and there always seems to be some customer emergency that needs immediate attention. Then a regulator shows up. So you start the day thinking you're going to do this that and the other thing and before the crew gets to their morning coffee break the entire 'plan' has changed. It keeps life interesting – but from a management perspective, it's a nightmare.

In our experience collaborative work between regulatory agencies and the industry has led to better understanding on both sides and improved achievement in terms of compliance. Our partnership with DEP and the Maine Coastal Program led to Maine becoming the first state in the nation to house a Clean Marinas Program in a trade association – rather than at an agency or a Sea Grant program. We're proud of this, we've worked hard at it and it has really made a difference for all of our members – whether they have become designated facilities or not. We've raised awareness and folks use our checklist often as a way to self-monitor.

Just last year we did a clean marinas visit at a very tiny company – 3 people – but still a full service boatyard. When we did our visit – we found a few things (minor things) that we wanted them to 'fix' before we designated them. Shortly after our visit they had a DEP inspection – unannounced, but came through with flying colors. This is not an easy thing – especially for such a small company. This is an industry created and led program, we are hard on ourselves. But since it is a beyond compliance program we hold the line. The story of this little company is a success story and proof that this approach should be more universally adopted. Keep the regulators and the regulated community at the same table – focus on the common goals, share the knowledge, celebrate the success! Unfortunately – due to the economy we have no funding for this anymore – so how we manage to keep serving this need is really in question at the moment.

We are now facing additional rule making from DEP that is being required by EPA and their regulation regarding air emissions. I believe that DEP has a reasonable understanding of what we deal with in our yards – but EPA is applying pressure. If we don't get this right we will be hurt and we just can't bear any more damage at this point.

We have also had great success working with *SafetyWorks!* to improve understanding of OSHA regulations and compliance. However, the current OSHA policy that focuses far more on enforcement (and writing citations and collecting fines) then on education and outreach for

businesses is a real problem. Remember I was talking about how we can't know it all, and we sometimes don't speak the same language. Well – we don't and when an inspector shows up and their main goal is to 'get ya' they are going to find things, sometimes very minor things. Sometimes things that make no sense to them in terms of how we do a job are quite different from the methods we know actually allow us to do a job safely. They're not boat builders after all (any more than we are OSHA inspectors). So I am really saddened to see that OSHA's new attitude is forcing their people to adopt a more adversarial approach with business. And I have been in meetings with OSHA staff who have genuinely seemed as disheartened by this as we are – hopefully the pendulum will swing back the other way before too long. In addition, OSHA's policy of reducing fines for quick mitigation of identified compliance failures is now very seriously limited.

And for me this brings back that age old question – 'if I have limited dollars to spend on my business, and I have to spend them all on a fine, instead of investing in an improvement that needs to made, how am I ever supposed to make to that improvement'. This really came home for me one day when a boat yard worker told me that he was scared to death to think that OSHA would be coming around. So of course I was curious about why – from his perspective – he would be scared. He said "OSHA shows up – people get laid off". Perhaps that had happened to him in the past – maybe in the long run it wasn't the worst thing that could have happened to him, but how sad to think that the very agency that is supposed to protect workers may inadvertently be causing harm by putting people out of work – not to mention instilling fear in the very people they are charged to serve.

Perhaps one of our most vexing regulations is a program at the Department of Conversation's Bureau of Parks and Lands – it's called the Submerged Lands Lease Program. I wish that I could give you a quick and simple description of this program but with a piece of legislation that rambles on for 8 pages and an additional 34 pages of department rules based on the legislation I'm not sure I can do it justice. The state maintains that the docks, floats and piers that exist over navigable waters beyond the mean low water mark are an infringement on the rights of Maine citizens to use the submerged lands under them. Somehow – the fact that we exist is perceived as a denial of access and therefore we are forced to enter into lease agreements with the state and pay exorbitant lease fees. We have always maintained that we provide a public benefit because we provide access to the water for the many thousands of people who pass through our facilities every year on their way to a day on the water. I would request that you take a look at the language of the law – which is confusing, leaves an awful lot of discretion in the hands of the director in terms of how he applies the law and ultimately is really a tax as part of the rather convoluted formula includes fees based on upland property tax valuations and a percentage of income. There is little to no equity in the way lease fees are determined and we remain unsure what benefit is derived from a program that seems to do little more than create a revenue stream for a state agency. We can understand the state's position but we really can't bear the cost – a much simpler and more affordable solution must be found. But despite the best efforts of our industry to work with the Department and other stakeholders on this issue we have gotten nowhere. If there is just one thing that comes from this hearing today I would ask that it be some attempt to provide some relief on this issue. I can promise that we will be

happy to be a part of any conversation, any stakeholder process or any additional gathering of information if it will help us come to some equitable conclusion.

In closing let me leave you with an additional thought that might be useful – for our industry there is cross-over jurisdiction between agencies (sometimes just state, sometimes state and federal). Any opportunity that exists for interagency coordination, simplification and streamlining of applications and reporting requirements should be pursued. It may have an upfront cost – but ultimately could save us all a lot of time, money and aggravation.

I hope that you all know that we are most grateful for your service on this Board, for your willingness to provide us with an opportunity to hear us out and consider our issues. We are not looking for a hand out – but a hand up as we struggle with regulatory burdens – especially in these economically challenging times is truly appreciated.

Links to additional information regarding submerged lands leases:

Statute: http://www.mainelegislature.org/legis/statutes/12/title12sec1862.html

Submerged Lands Rules:
http://www.maine.gov/doc/parks/programs/sublands/PDF/059c053.pdf

of state ownership recognized under the federal Outer Continental Shelf Lands Act, 43 United States Code, Chapter 29, Subchapter III (2009), and that includes both "generating facilities," as defined by Title 35-A, section 3451, subsection 5 and "associated facilities," as defined by Title 35-A, section 3451, subsection 1. [2009, c. 615, Pt. B, §1 (NEW).]

G. "Slip space" means the area adjacent to a pier or float that is used for berthing a boat. [1997, c. 678, §13 (NEW).]

[2009, c. 615, Pt. B, §1 (AMD) .]

2. Submerged lands leasing program. The director may conduct a submerged lands leasing program under which, except as otherwise provided by subsection 13, the director may lease, for a term of years not exceeding 30 and with conditions the director considers reasonable, the right to dredge, fill or erect permanent causeways, bridges, marinas, wharves, docks, pilings, moorings or other permanent structures on submerged and intertidal land owned by the State. The director may refuse to lease submerged lands if the director determines that the lease will unreasonably interfere with customary or traditional public access ways to or public trust rights in, on or over the intertidal or submerged lands and the waters above those lands.

A. For fill, permanent causeways, bridges, marinas, wharves, docks, pilings, moorings or other permanent structures and for nonpermanent structures occupying a total of 500 square feet or more of submerged land or occupying a total of 2,000 square feet or more of submerged land if used exclusively for commercial fishing activities:

(1) Except as otherwise provided by subsection 13, the director shall charge the lessee a rent that practically approximates the fair market rental value of the submerged land. The reduction factors and base rate for use categories are as follows:

(a) A reduction factor of 0% with no base rate or rental fee for nonprofit organizations or publicly owned facilities that offer free public use or public use with nominal user fees. Public uses include, but are not limited to, municipal utilities and facilities that provide public access to the water, town wharves, walkways, fishing piers, boat launches, parks, nature reserves, swimming or skating areas and other projects designed to allow or enhance public recreation, fishing, fowling and navigation and for which user fees are used exclusively for the maintenance of the facility;

(b) A reduction factor of 0.1% plus a base rate of $0.025 per square foot for commercial fishing uses of renewable aquatic resources. Commercial uses of renewable aquatic resources include, but are not limited to, facilities that are directly involved in commercial fishing activities. Such facilities include, but are not limited to, fish piers, lobster impoundments, fish processing facilities and floats or piers for the storage of gear;

(c) A reduction factor of 2% for any slip space rented or otherwise made available for private use by commercial fishing boats for a fee;

(d) A reduction factor of 0.2% plus a base rate of $0.05 per square foot for water-dependent commerce, industry and private uses. Water-dependent commerce, industry and private uses other than commercial uses of renewable aquatic resources include, but are not limited to, all facilities that are functionally dependent upon a waterfront location, can not reasonably be located or operated on an upland site or are essential to the operation of the marine industry. Such facilities include, but are not limited to, privately owned piers and docks, cargo ports, private boat ramps, shipping and ferry terminals, tug and barge facilities, businesses that are engaged in watercraft construction, maintenance or repair, aquariums and the area within marinas occupied by service facilities, gas docks, breakwaters and other structures not used for slip space;

(e) A reduction factor of 4% for any slip space rented or otherwise made available for private use for recreational boats for a fee; and

(f) A reduction factor of 0.2% for upland uses and fill located on submerged lands prior to July 1, 2009 and 0.4% for new upland uses and fill after July 1, 2009 plus a base rate of $0.05 per square foot. Upland uses include, but are not limited to, all uses that can operate in a location

other than on the waterfront or that are not essential to the operation of the marine industry. These facilities include, but are not limited to, residences, offices, restaurants and parking lots. Fill must include the placement of solid material other than pilings or other open support structures upon submerged lands.

If the director determines that the municipally assessed value of the adjacent upland is not an accurate indicator of the value of submerged land, the director may make adjustments in the municipally assessed value so that it more closely reflects the value of comparable waterfront properties in the vicinity or require the applicant to provide an appraisal of the submerged land. The appraisal must be approved by the director.

For offshore projects where municipally assessed value for the adjacent upland or submerged lands appraisals are unavailable or the director determines that such assessment or appraisals do not accurately indicate the value of the submerged land, the director may establish the submerged lands annual rental rate and other public compensation as appropriate by negotiation between the division and the applicant. In such cases the annual rent and other public compensation must take into account the proposed use of the submerged lands, the extent to which traditional and customary public uses may be diminished, the public benefit of the project, the economic value of the project and the avoided cost to the applicant. If the State's ability to determine the values listed in this paragraph or to carry out negotiations requires expertise beyond the program's capability, the applicant must pay for the costs of contracting for such expertise;

(2) After October 1, 1990, the director may revalue all existing rents to full fair market rental value. Rents for all uses except slip space may be adjusted annually as needed over a period not to exceed 5 years until the full fair market rental value is reached. After the full fair market rental value is reached, the director may revalue rents for all uses except slip space every 5 years based on changes in municipally assessed value and programmatic cost adjustments to the base rate. Adjustments to the base rate may not exceed 4% per year. Rents for slip space may fluctuate annually depending on the gross income of the facility;

(3) Except as otherwise provided by subsection 13, the director may also lease a buffer zone of not more than 30 feet in width around a permanent structure located on submerged or intertidal land, as long as the lease is necessary to preserve the integrity and safety of the structure and that the Commissioner of Marine Resources consents to that lease;

(4) Any existing or proposed lease may be subleased for the period of the original lease for the purpose of providing berthing space for any boat or vessel;

(5) No portion of an existing or proposed lease may be transferred from a person subleasing that portion to provide berthing space for any boat or vessel except for a transfer to heirs upon death of the sublessee holder or a transfer to the original leaseholder subject to terms agreed to by the lessor and sublessee at the time of the sublease. This subparagraph does not apply to any subleasing arrangements entered into before June 15, 1989; and

(6) The director may grant the proposed lease if the director finds that, in addition to any other findings that the director may require, the proposed lease:

(a) Will not unreasonably interfere with navigation;

(b) Will not unreasonably interfere with fishing or other existing marine uses of the area;

(c) Will not unreasonably diminish the availability of services and facilities necessary for commercial marine activities; and

(d) Will not unreasonably interfere with ingress and egress of riparian owners.

[2009, c. 615, Pt. B, §1 (AMD); 2011, c. 657, Pt. W, §7 (REV).]

B. For dredging, impounded areas and underwater cables and pipelines, the director shall develop terms and conditions the director considers reasonable. [1997, c. 678, §13 (NEW).]

C. The director shall charge an administrative fee of $100 for each lease in addition to any rent. A fee of $200 must be charged for a lease application that is received after work has begun for the proposed project. [2003, c. 254, §1 (AMD).]

Regulation and Small Businesses involved in the Marine Trades Industry in Maine

The Maine Marine Trades Association believes that regulation is necessary. When 'done right' it provides a framework for compliance that is equitable, easy to understand and clear in its goals and requirements. However, we frequently find that regulation is far too often unclear, not applied fairly or consistently and enforcement is punitive. While we would never argue that a company that willfully neglects or refuses to comply with the law should be allowed to continue to operate with impunity – we do see a real need for clarity, consistency and an attitude of collaboration when a company has made an honest effort to comply but fallen short of the goal.

In order to help our members better understand some (but by no means all) of their obligations with regard to various compliance issues we compiled a directory of issues that most boatyards and marinas must be aware of in hopes that this would provide them with a starting point. The following list was compiled in 2009. It includes regulation that is, in some cases mandated at the federal level but administered by a state agency. In addition, there are municipal codes that also have some effect on how a facility can do business. Because of its all encompassing importance we chose not to list the myriad of OSHA related issues that we must deal with each day. Agencies with jurisdiction are noted in parentheses.

General Boatyard/Marina (ME Dept. of Environmental Protection, ME Dept. of Conservation, US Army Corps of Engineers)

- **Piers and Wharves**
- **Works in Waterways**
- **Submerged Lands Lease**

Specific Boatyard/Marina Permits and Regulations (ME Dept. of Environmental Protection)

- **Stormwater**
- **Antifouling Paint Contaminated Wash Water**
- **Moorings**
- **Pump-out Stations**

Ancillary Activities – Boatyards/Marinas Permits and Rules (ME Dept. of Environmental Protection, Inland Fisheries & Wildlife; Agriculture; Motor Vehicles; US Environmental Protection Agency)

- **Boat Dealers Certificate**
- **Boat Leasing**
- **Watercraft Leasing**
- **Trailer Dealers and Users**
- **Temporary Plates**
- **Dealer Plates**
- **Oil Storage**
- **Hazardous Materials and Waste Management**
- **Motor Fuel**
- **For Hire Operation**
- **Trailer Transit Plates**
- **Surface Coating Operations (EPA 6H)**

MAKING THE MOST OF APPRENTICESHIPS

MMTA Annual Conference & Business Meeting

Nov. 1, 2012

Ginny Carroll

Director Apprenticeship & Strategic Partnerships
Maine Department of Labor
207-623-7974
Virginia.A.Carroll@maine.gov

REGISTERED APPRENTICESHIP

- Overview
- Benefits
  - Employer
  - Employee
- Tuition Assistance
- Additional Services from DOL

Maine Forest Products Council

Maine's woods are working

Officers

President
Mark Doty
Plum Creek

Vice president
James Contino
Verso Paper

Secretary
Richard Robertson
Farm Credit of Maine

Treasurer
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Executive Committee

Don White
Prentiss & Carlisle

Peter Triandafillou
Huber Resources

Steve Schley
Pingree Associates

Terry Walters

Jim Robbins
Robbins Lumber

Nicolas Fontaine
Fontaine Inc.

Maine Regulatory Fairness Board Presentation

November 16, 2012

Patrick Strauch, Executive Director

Chairman: Secretary of State Charles E. Summers, Jr.
Board Members: Mark A. Tyler, Patricia Kuhl, Michael R. Cote, Douglas Smith
RE: Invitation to speak about regulatory issues facing the Forest Industry

Introduction

It is my pleasure to accept your invitation to testify today. My name is Patrick Strauch. I reside in Exeter, Maine and I am in my ninth year as executive director of the Maine Forest Products Council. The council was established 51 years ago to represent the broad spectrum of the forest industry, including paper mills, sawmills, loggers, truckers, wood processors, related service industries and landowners with more than 9 million acres of commercial forest land.

Successes

I know your charge is to seek input as part of advising the governor on opportunities for regulatory reform, but I do want to start with a discussion of successes that we have witnessed in the last two years. I've included a letter to DOT Commissioner David Bernhardt from Alan Ryder, general manager of the Timber Resource Group. A strong customer service attitude is building within Maine government, and businesses within my industry are experiencing this shift as a welcome improvement. Another example within this department is the recent invitation to participate in a DOT advisory board.

One of the most historic regulatory changes that occurred for the commercial forestland owners is the reform of the Land Use Regulation Commission to the Land Use Planning Commission. The former agency was on a trajectory with the landowners and citizens of the jurisdiction that would have been catastrophic.

Unintended consequences in Natural Resource regulations

One of the most interesting things about the management of forests is the complexity of all the biological systems that are a part of these ecosystems. Applying regulations in essentially vegetation management systems can be over simplified. For example when the USFWS enacted Critical Habitat for Canada lynx on 6 million acres of land in northern Maine, they listed the Maine Forest Practices Act as an issue of concern because lynx feed on snowshoe hare, whose preferred habitat is 15-year-old clearcuts. This is just an example about how policy formulated in a political environment, without consideration of biological principles, can be problematic.

Some of the challenges ahead

- Chapter 315 – Assessing and Mitigating Impacts to Scenic and Aesthetic Uses
- Taxation in the Unorganized Territory (UT) – inequities because "trees don't vote."
    - School Tuition
    - Education and Tree Growth Tax reimbursements to UT tax district
    - Tax Increment Financing Reform in the UT

- Modify Pine Tree Zone energy credits and Energy Maine benefits to support manufacturing investments to modernize facilities.

We appreciate this opportunity to discuss issues vital to our industry. We will continue to speak with our members about their concerns and ideas. We are happy to see the improvements that have been achieved because of the governor's efforts to insure that Maine is friendly to business, including the forest products industry.

Timber Resource Group Inc
188 Main Street • P.O. Box 271 • Farmington, ME 04938 • 207-778-8502 • 207-778-3280 Fax

December 12, 2011

Commissioner David Bernhardt, P.E.
Maine DOT
Augusta, ME 04330

Dear Commissioner,

Over the last 3 months I have had to deal with various personnel in the Maine DOT and I thought I would share my experiences.

Our company, Timber Resource Group (TRG), has 10 Log Yards located throughout New England, with 6 in Maine. With our Log Yard in Pittston, Maine we have been before the Town Planning Board in four separate meetings over the past three months clarifying our permit to operate. The Town has requested several points of information we needed to get from the Maine DOT.

Starting in mid-October I contacted the DOT, via their website, with a couple of questions. They returned my email within 2 hours with instructions on where to get the information or who to contact by phone. I found the material I needed (traffic count report near our location in Pittston) on line and called the agency for information on the accident reports. The person I dealt with on the accidents reports was **Jody H. Wisniewski**. She emailed me the information less than 10 minutes after my request!

In November the Town of Pittston requested our company install the OBDS signs plus "Trucks Entering" signs near our site. During this process I dealt with **Robert Sinclair** (for OBDS) and **David Allen** for the "Trucks Entering" signs.

Both men promptly returned my calls, got me straightened out on what was allowed and wasn't; and I was extremely impressed that Mr. Allen did not require for us to go through a lengthy paperwork process to erect the signs. His comment to me was "I am aware of the project and I give you permission to erect the signs. If you feel you need to exchange emails or paperwork that is fine, but a gentleman's agreement is okay with me and you have my permission". He then provided me with the specifications on installing the signs and let me know of a facility that we could possibly buy the approved signs and posts.

Thank you very much for the prompt, helpful, streamlined and courteous service we received from the Maine DOT! It helps with these small things for us to do business in Maine.

Respectfully,

Allan C. Ryder

Allan Ryder
General Manager

4. No advertisement of liquor shall contain either subject matter or illustrations inducing minors or immature persons to drink, nor shall depict any person in the act of drinking liquor.

5. No liquor advertising shall suggest any beneficial or tonic effect from drinking thereof.

6. The use of radio or loud speaker equipment in or on any licensed premises for the purpose of attracting attention to the interior of the said premises is forbidden, except radio programs originating from the licensed premise.

7. *Repealed.*

8. No licensee shall display more than one liquor sign and from only one window.

(APA Office Note: information received indicates that the provisions of Section 7.8 have been repealed and replaced by statute, Title 28-A Section 710.)

9. No advertising of liquor shall contain any subject matter relating to contests or prizes that require the purchase of or the awarding of any alcoholic beverage.

10. Signs, posters, placards, or other items bearing advertising matter for use inside a retail premise may be furnished, given, rented, loaned or sold to a licensee if they have no value to the licensee except as advertisements, and if the total value of all such materials furnished by any manufacturer or wholesaler and in use at any one time in any licensed premises does not exceed $1000; provided, that the manufacturer or wholesaler does not directly or indirectly pay a licensee for displaying such materials or for any expense due to their operation. The value of such materials shall include all expenses incurred directly or indirectly by the manufacturer or wholesaler in connection with the purchase, manufacture, transportation, assembly and installation of such materials and all additions thereto, and further provided that any manufacturer or wholesaler may furnish, give, rent, loan, or sell one malt and one vinous inside electric sign to each licensee which shall not be included in the $1000 maximum for all materials furnished in this rule.

MANP
maine association of nonprofits

advancing | connecting | strengthening

November 16, 2012

Testimony to the Maine Regulatory Fairness Board

Good Afternoon. I am Brenda Peluso, Public Policy Director for the Maine Association of Nonprofits. We represent over 770 nonprofits across the state of Maine who work every day to serve residents and solve problems in our communities. Through contracts with the state combined with private philanthropy, the charitable nonprofit sector protects and educates children, trains the workforce, nurses the sick, supports our elders, cares for returning soldiers, rebuilds cities, fosters faith, elevates the arts, protects natural resources, and more. Beyond the vital services charitable nonprofits provide across Maine, they also account for 17.4 percent of the private workforce in our state, and are therefore critical to our economic recovery.

Unfortunately, the strength of the charitable nonprofit sector is being threatened. Although many of the issues we experience in Maine have existed for years, the state's current financial condition has exacerbated them to the point where the capacity of the charitable nonprofit sector is declining rapidly, with 32 percent reporting operating at a deficit and 20 percent reporting having cut staff positions according to the 2012 Nonprofit Finance Fund Survey.

Much of this is a result of cuts in government spending in an effort to balance the State's budget. While we understand the pressures on the State to do so, we are also painfully aware of the inefficiencies involved in the government-nonprofit contracting 'system" costing both the state and providers valuable resources that could be spent in service to mission. The system is plagued by cumbersome, redundant requirements and burdensome practices in Maine, as well as across the country. While no one is to blame for this, it has evolved to this point over decades, the need to make comprehensive changes in a planful way is critical.

A study by the Urban Institute in 2010 identified major issues affecting charitable nonprofits, and ranked Maine as being one of the worst states with regard to five areas:

	Maine's Ranking 1=worst, 50=best
Government not paying for the full cost of a service	2
Government paying late	2
Government changing terms of signed contract mid-stream	1
Complex time consuming application processes	9
Complex time consuming reporting requirements	4

WWW.NONPROFITMAINE.ORG

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207.871.1885

Frank Draus Properties
28 Airport Drive
Houlton Me. 04730
Tel 207 532 0560
Chris cell 532 8758

Dated 10 12 2012

Governor Paul Lepage
1 State House Station
Agusta, Maine 04333-0001
Tel. 207-287-3531
Fax 207-287-1034

Governor Lepage.

I understand that you are trying to correct the problems whithin the State of Maine.

I have enclosed copies of my complaints against two Aroostook County Judges. These Judges Omara and Daigle .
I feel that these Judges unfairly biased against Landlords, and greatly favor non paying tenants.
I have sent these complaints to:
Cab Howard at the Committee for Judicial Responsibility and Disability.

Because of their alleged Bias I strongly feel that these Judges should **Not** Be Re Appointed.

Please review these documents and forward copies to the appropriate parties for scrutiny.

Notice of Complaint Aroostook County Judge Omara
Statement Reg. Case Frank Draus V Gary Gardner Docket n --(HOUDC-SA-2012-00044) Regarding Eviction.

Notice of Complaint Aroostook County Judge Daigle
Statement Reg: Case Frank Draus V Mataya Gardner Docket (HOUDC-SA-2012-00082) Regarding Eviction.

Please review these documents and forward copies to the appropriate parties for scrutiny.
I will be waiting for a Positive response from you.

Frank Draus

1.

Chris Moran
6-1 Clover Court
Houlton Maine 04730
Tel 1 207-532-8758
Dated 11/14/2012

Gentlemen, From LDrors

My Name is Chris Moran. I am a apartment manager in houlton.

1 For about 5 years now, On almost every occasion that I had to take legal action against non paying tenants.

2 I had to initiate legal action in the courts, paying the service fees, court costs and additional service's for the sheriff. f.e.n.d fees, and the writ of possession fees, etc.

3 On almost every occasion have been unsuccessful using the court system.

4 The tenants would get free legal from pine tree legal. They, with the help of the pine tree legal, or the court system, would find a way to keep the tenant on the property with out paying.

5 On almost every other instance, if tenant had no legal council the judge would find a minor technicality to dismiss the case and make me pay to begin the process all over again, while the tenant continued to live rent free at my expense.

6 On one occasion, I had to sue a tenant for damages in small claims court.
The defendants did not appear.

7 I had won a default judgment. After paying all the court costs, when the defendant still did not pay.

8 We were then required by the court, to hold a disclosure hearing.

9 When applying for a disclosure hearing, we found out that we could not collect. Because the non paying tenants were on social security or disability.

10 It seems that the state judges and the law are very unfair towards the landlords.

11 In every case I have dealt with, the tenants would trash and damage the property and stay up to 6 months, with the help of the court system and the landlord is left to cover the cost.

12 The legal system is costing the landlord thousands of dollars including lawyer fees repairs heat and electric Ect., and loosing several months revenue.

13 As a property manager, trying to use this current system, it is almost impossible for a landlord to stay in business.

14 These people are "street wise" non paying tenants using the legal system to beat the Landlords. This system needs to be changed.

15 Sate law is forcing landlords to subsidized non paying tenants rent.

I propose that steps are taken to solve these problems on behalf of all renters, apartment managers and landlords

SOLUTIONS

1. The judges need to make these non paying occupants pay rent, while staying in the apartment.

2. These street wise non paying tenants, using the system to deprive the landlord of his property and rent revenue, need to be charged with theft of deception, theft of services.

3. People on Welfare, disability, social security, and government assistance should be held accountable and made to pay instead of being immune from collection.

4. If the state laws are going to allow them to occupy the residence at the landlords expense, and not pay rent, then the sate should issue a voucher to the landlord to cover the rent that is due.

Please feel free to contact me at the above Telephone no at your earliest convenience.

Chris Moran

This whole thing is very terribly unfair..it is an ABUSE against landlords. .The Maine Legal System. It Is a terrible Violation Against landlords..

Gary Gardner at 159 military street apt 1.. Houlton maine Is behind over 2 months in rent payment/. So,.He gets a free lawyer from pine tree legal Jeff Ashbee to fight me. I attempt to evict him at, so far, the cost of around $200 in court fees. My Attorney is charging me $200.00 per hour .. Mr. Gardners free pine tree legal lawyer, gets the eviction delayed..at least another month. Meanwhile, Gary Gardner/ et al, is still occupying the apartment, using **My electric,** that he was supposed to put into his name last fall, and,
Mr. Gardner was bragging that he spent the HEAP electric money, that he was supposed to turn over to cover the electric bill.

So far 1200.00 behind in rent plus 400 in fees plus 300 or 400 in Heap assistance = $2000.00.. add it to the last few winter months Im billed 800.00 = $2800.00 ...the delay in eviction means,

I have to start the eviction and pay, all over again, another 200 in fees and court costs 300 in lawyer fees, plus another months rent lost 600 plus any other electric bills 200 .....= **$1300.00 plus the $2800.00 already lost .....= $4100.00** estimated loss .... and thats if i am successfull in evicting him in June. Gary Gardiner Gets a free lawyer, Free Electric, free rent....**The Lawyer gets Paid, The Judge gets Paid, Pine tree legal gets paid, The court gets paid, the sheriff gets paid,**

and I'm Getting Screwed.

This one tenant, using the Main current legal system may cost me upwards of $5000.00 and possibly forcing a bankrupt situation. Upon serving him again, Gary just laughed and said "see you in court"...

There must be something you can do to help correct these unjust laws. to help...

LANDLORDS BEWARE:

Frank Draus Properties
28 Airport Drive
Houlton Me. 04730
Off. Tel 207 532 0560
Chris Moran cell 532 8758

Dated 10/16/2012

JUDICIAL COMPLAINT

This "Fed up" Houlton Landlord calls for investigation of 2 Aroostook County Judges behavior against landlords, and, calls for all landlords to band together and Join in with their complaints.

Due to the State of Maine landlord tenant laws, and these Judges decisions, the process for removing "dead beat tenants" turns out to be quite expensive. " Landlords Must Beware !"

It is very time consuming and frustrating. Landlords suffer property losses and loss of rental income, while Judges give tenants a "free ride", forcing us landlords into bankruptcy. Draus, a Houlton landlord for 25 years, "is sick of getting Screwed"' by these Judges decisions.

Draus says " I'm fed up with being intimidated and treated with disrespect, every time I appear "pro se", in court in another attempt, to recover my property. If I try to object, I'm looking up at a 6 ft. 8 in. 300 + lb. Mean looking Bailiff, ready to take me out."

"They expect us Landlords to respect the law, but they don't show us Respect or Justice."

Mr. Draus is in the process of filing Complaints to the Committee of Judicial Responsibility and Disability against two Aroostook County Judges. Omara and Daigle.

Because the governor appoints Judges, Mr. Draus calling for an investigation and is forwarding copies of his complaints to Governor Lepage, as well as the Judicial overseers.

Mr. Draus says: " These Judges that rule unfairly, need to be held accountable."

1. Mr. Draus contends: Omara and, Judge Daigle, are Severely biased against landlords. He believes that, over the years, the unfair bias of Aroostook County Judges, in their interpretation of the eviction laws, has cost him loss of Income, property rights, quality of life, and Livelihood.
2. Mr. Draus believes he is not the only landlord with this dilemma. Draus is asking all landlords to stand up against these laws and Judges who they feel rule unfairly, against them.
3. Mr. Draus says: "It's time that proper attention be brought to these matters, and, I believe a thorough investigation into the landlord tenant cases, will prove the validity of these complaints."
4. It appalls Mr. Draus, to find out that Appointed District Court Judges are paid salaries in excess of $92,000.00 to $125,000.00 per year, plus expenses, while taking away our income. That's over $4,800.00 by weekly, in excess of $ 9,500.00 per month.

Draus says: "That is a lot of money, To " Play God" with our livelihoods."

5. "They should not be re appointed, and then, see how much it hurts to lose **their** income."
6. Mr. Draus says: "dead beat streetwise tenants", using the "free" pine tree legal service, aided by Judges Omara and Daigle, under color of law, have repeatedly stolen services from him over the years. Draus says: "These Judges fail to treat a tenants refusal to pay rent as stealing."

"Whether it's stealing a wallet, a TV, a car, or **rent from a landlord, it is still stealing."**

8. The few times Mr. Draus recalls rulings in his favor, was by default, or when the defendant didn't show up for the hearing, or when a traveling judge sat on the bench from another area.
9. Draus believes Judges Omara and Daigles deliberate, insensible decisions, have contributed to his severe financial hardship, by allowing tenants to remain, & trashing his property, rent free.

Judges don't realize, Landlords pay taxes that pay their salaries. Not "deadbeat" tenants.

 JUDICIAL COMPLAINT

10. Mr. Draus requests this issue to be thoroughly investigated, to determine their ability to conduct and wield their power of decision with sensible fairness. Mr. Draus wants in place, an ethical, fair Judiciary, that fully realizes their position of expected public trust and responsibility.

11. Mr. Drauses attorney, on several occasions warned him, these judges were tenant biased. Mr. Drauses attorney Rhoda, (who now raised his fees to $200.00 per hour), explained he believed Judges bias was because some of them previously were lawyers for Pine Tree Legal.

12. In anti landlord decisions, Jeff Ashby, of Pine Tree Legal, the Judge on the bench, and the Attorney for the plaintiff, all make out Great !, they all get paid at the expense of the landlord.

13. It's like a "conspiracy theory".. "Dead beat streetwise tenants" with the help of Pine Tree Legal: (Jeff Ashby), use the States "slanted tenant laws", along with the help of "Biased Judges" Omara and Daigle, to keep playing the game of: " let's see how long we can keep non paying tenants occupying the landlords property, and the case log full." Court Job security Right?

14. These Judges, by ruling for the tenant, seem to want to keep the "pro se" landlords in an endless continuous case log, loop of paying, re filing and re paying, court costs, lawyers fees, Etc., over and over again, **without** allowing the landlord to collect his rightful rental income.

15. Forcing the landlord to allow the tenant free occupancy, without ordering him to pay rent makes no sense, and unjustly violates the Landlords rights, resulting in severe financial loss.

NOTE: **The landlord should not ever, be forced to subsidize the tenants rent.**
But the judges decisions are continually causing this to happen.

16. This is very wrong. These Judges need to be held accountable.

Tenants may have rights. Landlords also have rights. !!! And under the constitution,
Judges seem to ignore article I section 1.
Where The Maine Constitution Guarantees Certain Rights as in:

Article I. Declaration of Rights.

Section 1. Natural rights. All people are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those of enjoying and defending life and liberty, <u>acquiring, possessing and protecting property,</u> and of pursuing and obtaining safety and happiness.

17. Through the decisions of these Judges, Mr. Draus claims his rights are being violated. More often than not, These judges are making a mockery of landlords Constitutional Rights. **<u>Acquiring, possessing and protecting property, and deriving profit,</u>** is virtually impossible.

18. When a case is ruled against the landlord, the landlord has to begin the process all over again. It costs him additional lawyers fees, court costs, legal and service fees, along with costs of heat, electric, repairs, taxes, and mortgage. Payments that cannot be made, due to the rent revenue lost, due to the extended time, the Judges decision allows free occupancy to the tenant. The "Deadbeat Tenants" trash the place and "laugh all the way to the Courthouse."

19. Draus says: In his 25 years, he doesn't recall the Judge ordering to the tenant to continue paying rent, while "his honor" allowed them to continue to occupy and trash his property. Yet, Draus still had to pay all his own bills, expenses lawyer, taxes, Etc., With no rent collected.

JUDICIAL COMPLAINT

20. These judges don't seem to realize, by their judgment, the tenant is seldom ever held accountable. Because of their decisions, The apartment gets trashed, the rent does not get paid. And, The landlord loses his property value, rights and livelihood. The Judge loses Nothing.

Have these judges lost their sense of reasonable responsibility?

21. The tenants on SSI, or disability, or low income, get free health care, a free cell phone, free food stamps, a free lawyer, (pine tree legal), free rent, free electric. The Court gets paid, the lawyer gets paid. The judge gets paid: over $ 10,000.00 monthly, plus benefits, expenses, Etc.,

And under the Judges gavel,

The Landlord: "Gets Screwed ! "

Are These Judges oblivious to the damages they cause to landlords in their rulings ?
The landlord should, "not ever", be forced to subsidize the tenants rent.
These judges decisions are continually causing this to happen.
They Need To Be Held Accountable

This Needs To Change !

Mr. Draus calls for all landlords to ban together and Join in the fight, with their complaints.

LANDLORDS BEWARE:

Facts for **Additional Complaints**

Note : If a landlord is lucky enough to evict the tenant, he then needs to file a small claims action against them, in order to recover the back delinquent rent and property damages owed..

But, If he is lucky enough to get a judgment for damages and rent owed., (if they are on SSI, SSI disability, Or welfare,) the law will not allow him to proceed with collection. Why?

Because, The process has to go through a disclosure hearing first, of which **SSI, SSI disability, welfare from which SSI etc., recipients are immune.**

Now, this, brings up another point. If a landlord cannot collect from tenants that have not paid rent (theft of services) and trashed his property, because they get a government check.

Then How is it, that the State **is allowed collect** fines from these people for: traffic violations, drug related offenses, child support, and other offenses Etc., ? **When the landlord can't.** I believe this system is Grossly Unfair and needs to be Changed.

Thank you in advance for your attention in this matter. I'll be looking forward to your positive response.

Frank Draus

Properties

Frank Draus

28 Airport Drive
Houlton Me. 04730
Tel 207 532 0560
Chris cell 532 8758

Mataya Gardner, et/ al
159 Military Street Apt 3
Houlton Me. 04730
Tel. Mataya Gardner 207-694 -4211

Mataya Gardner, Et al

JUDICIAL COMPLAINT

Landlords Beware

The State Of Maine Legal System Is Unjust, causing Landlords to Lose Income Livelihood..
It appears that the Maine Justice system is appointing Judges to the bench that are either Biased against Landlords. Or incompetent.

Judgment By His Honor DANGLE Reg. FEND Draus Vs Mataya Gardner dated Sept. 24, 2012 Judges writing is Illegible. Mr. Moran brought the document to the clerk of the court for transcription. The clerk was unable to determine the substance of the judges writing.

The defendant Mataya Gardner and friend Tannika Annitt took the unit on June 5, 2012. Mr. Moran was informed that there was a grease fire on the night of June 17, 2012 at the apartment that Mataya and Tannika were occupying. The Houlton fire Dept. was called to put it out. Mataya explained to Chris Moran, the property manager, that they had left the stove on cooking chicken in grease and forgot about it. At that time she appeared to be "high".

Mr. Moran served the 30 day notice of Eviction and a letter of explanation to Mataya Gardner, and Tannika Annitt, Et al, on June 18, 2012.

Tannika voluntarily moved out shortly thereafter.

Matayas Boyfriend Scott Totten joined her shortly thereafter in July. They have been occupying the apartment for several months since without paying rent, using the electric, water / utilities at Mr. Drauses expense. In addition Scott has caused physical damage to the unit.

However, Mataya, in court, on September 24th, denied to the judge that she was occupying the premises and stated she was only a guest of her boyfriend Scott Totten.

Prior to this, when Mr. Moran inquired at the Houlton PD about the possibility of removing Scott from the premises, Officer Mcguire told Mr. Moran that Scott had told Officer Mcguire it was Matayas apartment and he was only a guest of Mataya.

These streetwise people keep changing their stories to get a free ride for housing at Mr. Drauses expense using the Maine Court system.

Mr. Moran served the 30 day notice of Eviction in the name of Mataya Gardner, Tannika Annitt, Et al, June 18, 2012. Mr. Moran also had the sheriff serve Mataya, et al with FEND documents and court was scheduled for September 24th.

Mataya, in court, on September 24th, lied, and denied that she was a tenant, and stated she was not a tenant but only a guest of her boyfriend Scott Totten and claimed it was his apartment.

Mr. Moran contends that this was not true because Mr. Totten did not move in until sometime in July or after Tannika had vacated.

The 30 day eviction was served on Mataya and Tannika, who before eviction asked to move from the downstairs, to occupy the upstairs apartment 3, on June 5th. 2012

The Notice included Et al, So as to include anyone else that may also occupy the unit.

In court on Sept. 24th, When Mr. Draus pointed out to the Judge, that he used the phrase Et al, His Honor stated that et al was incorrect, and in the singular, and that Mr. Draus should have put in an (s) Et Als, to reflect the plural.

Because of this alleged technicality, The Judge tabled the case and continued it for another month till October 29th and verbally Instructed Mr. Draus to file eviction against her boyfriend Scotty Tottten. This continuance of 6 weeks, causes harm and deprives Mr. Draus of availability time to quickly re rent the apartment, and, also runs up further expenses for Mr. Draus.

Mr. Draus followed the proper rules of procedure Title 14 sec 6002 ... 30 day eviction notice and FEND.

Mr Draus contends that the Judge, erred in his Judgment, by allowing the tenant Mataya Gardner, Et al, to remain on the property, causing further costs & financial harm to Mr Draus. Drauses rights under The Maine State Constitution Article 1 Sec: 1 . The Right to Own, protect, enjoy, and derive profit from the use of property.

Mr. Draus feels that he used the correct version of **Et Al and it was not necessary to put an (s) after the abbreviation et al, to be correct,** in his action to evict the tenant with the 30 day notice and Forced Entry And Detainer action.
Legal Definition of Et Al below...

Mr. Draus followed the rules Title 14 sec 6002 ... 30 day eviction notice.

Mr Draus contends that the Judge, erred in his Judgment, by allowing the tenant Mataya Gardner, Et al, to remain on the property, Thereby, causing further additional costs & financial harm, violating Mr. Drauses rights under The Maine State Constitution Article 1 Sec: 1 . The Right to Own protect and enjoy, and derive profit from the use of property.

Mr. Draus feels that he used the correct version of **Et Al and it was not necessary to put an (s) after the abbreviation et al, to be correct,** in his action to evict the tenant with the 30 day notice and Forced Entry And Detainer action

The defendant Mataya Gardner since June 2012 has occupied the unit. Her Boyfriend Scott Totten joined her in July. They have been in the apartment for several months without paying rent while also using the electric, water utilities at Mr. Drauses expense.

When Mr. Draus pointed out that he used the adverb Et al. His Honor stated that et al was in the singular and that Mr. Draus should have put in an (s) Et Als, to reflect the plural. What is the education of this judge redarding latin?

Note:
Landlords pay taxes which help pay Government employees salaries.. Welfare recipients and unemployed do not.

An abbreviated form of et alia, Latin for "and others." When affixed after the name of a person,

et al. indicates that **additional persons** are acting in the same manner, **such as several plaintiffs or grantors.**

When **et al.** is used in a judgment against defendants, it means that the quoted words are applicable to **all the defendants.**

et al. n. abbreviation for the Latin phrase et alii meaning **"and others."** This is commonly used in shortening the name of a case, as in "Pat Murgatroyd v. Sally Sherman, et al."

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et al. adverb and all, and everyone, and more of the same, and other parties, and other things, and others, and the rest

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Frank Draus

CONSTITUTION OF THE STATE OF MAINE

2003 ARRANGEMENT

(Arranged by the Chief Justice of the Maine Supreme Judicial Court and approved by the Maine State Legislature,
Resolve 2003, chapter 98, pursuant to the Constitution of Maine, Article X, Section 6)

PREAMBLE.

Objects of government. We the people of Maine, in order to establish justice, insure tranquility, provide for our mutual defense, promote our common welfare, and secure to ourselves and our posterity the blessings of liberty, acknowledging with grateful hearts the goodness of the Sovereign Ruler of the Universe in affording us an opportunity, so favorable to the design; and, imploring God's aid and direction in its accomplishment, do agree to form ourselves into a free and independent State, by the style and title of the State of Maine and do ordain and establish the following Constitution for the government of the same.

Article I.

Declaration of Rights.

Section 1. Natural rights. All people are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those of enjoying and defending life and liberty, **acquiring, possessing and protecting property,** and of pursuing and obtaining safety and happiness.

Section 2. Power inherent in people. All power is inherent in the people; all free governments are founded in their authority and instituted for their benefit; they have therefore an unalienable and indefeasible right to institute government, **and to alter, reform, or totally change the same, when their safety and happiness require it.**

Title 17-A: MAINE CRIMINAL CODE

Part 2: SUBSTANTIVE OFFENSES

Chapter 15: THEFT §354. Theft by deception

State Of Maine Theft by Deception

1. A person is guilty of theft if:

A. The person obtains or exercises control over property of another as a result of deception and with intent to deprive the other person of the property. Violation of this paragraph is a Class E crime; or [2001, c. 383, §156 (AFF); 2001, c. 383, §34 (NEW).]

Title 17-A: MAINE CRIMINAL CODE

Part 2: SUBSTANTIVE OFFENSES Chapter 15: THEFT

§357. Theft of services

1. A person is guilty of theft if:

A. The person obtains services by deception, threat, force or any other means designed to avoid the due payment for the services that the person knows are available only for compensation. Violation of this paragraph is a Class E crime; or [2001, c. 383, §156 (AFF); 2001, c. 383, §42 (NEW).]

et al. Legal Definition

An abbreviated form of et alia, Latin for "and others." When affixed after the name of a person,

et al. indicates that additional persons are acting in the same manner, such as several plaintiffs or grantors.

When **et al**. is used in a judgment against defendants, it means that the quoted words are applicable to **all the defendants.**

et al. **n. abbreviation for the Latin phrase et alii meaning "and others." This is commonly used in shortening the name of a case, as in "Pat Murgatroyd v. Sally Sherman, et al."**

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et al. **adverb and all; and everyone, and more of the same, and other parties, and other things, and others, and the rest**

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Good afternoon. My name is Jamie Clark. I am the second-generation owner of Levant Corner Store, a convenience store, restaurant, grocery and agency liquor store located in Levant, Maine.

I am what you might call, a convenience store kid. I had the unique upbringing of being raised "in" a convenience store and restaurant. My parents owned Village Variety, Glenburn from 1991 to 1998 and I "grew up" stocking shelves, coolers and rolling out pizza dough.

After my parents sold the business in 1998, I graduated from high school, college and landed at the Bangor Daily News as the New Media Audience & Revenue Manager. But my yearning to follow in my parents' entrepreneurial footsteps and own my own business never went away. In 2008, I left the NEWS to own and operate my own convenience store, Levant Corner Store, with my husband.

Our location is optimal for servicing our customers who reside in seven outlying towns: Etna, Stetson, Carmel, Hermon, Kenduskeag, Glenburn and Levant. We are 7 miles from the nearest store in Bangor, 4.5 miles from the store in Outer Levant and 5.5 miles from the closest store in Hermon. We truly are the "only store around". But with declining industry margins in cigarettes and gasoline, it is becoming more important for convenience store owners, particularly the small "mom and pops" such as ourselves, to focus and improve on our restaurant margins and offerings. In difficult economic times, we must capitalize and grow higher profit margin areas in order to offset the slowing, more traditional categories of our business to continue to thrive. Failing to do so IS SIMPLY NOT an option for us!

In an effort to ***grow our business*** and to add to our customer offerings we have been working to acquire an "on-premise" alcohol license for our sit down restaurant. We have obtained approval from the Town of Levant but most recently were denied by the State of Maine.

The only reasoning for the State's denial of our license request was a need to "build a full interior wall separating the restaurant from the store and to install a second entrance allowing access to the restaurant only" (See Figure 8). It is our contention the current configuration of our operation is more than satisfactory to reasonably and responsibly administer the issuance and consumption of alcohol in the sit down area. The existing single access provides more than adequate control for access – if not making it better monitored and controlled. Second, the restaurant is located in its own wing of the building and adequately separated from the remainder of the other operations.

Although we certainly respect the State's concerns about ensuring establishments issued on-premise licenses be capable of responsibly administering the law, the requirements relative to our current building configuration are simply "not practical" or "defendable".

In addition to a costly renovation, the State's suggested layout would:

1. Not allow employees/owners to use our current cash registers to process

restaurant sales (both take-out and eat-in) as the full wall proposed by the State extends behind the counter.

2. Eliminate the access of our current take out/walk-in customers from purchasing both restaurant items to go, and convenience store items such as chips, soda and beer to take home to their families.
3. Our self-service coffee bar also would not be accessible to our walk in customers.

Over the past several months, we have invited numerous State Representatives to tour our business and allow us the opportunity to express our concern with this denial. After seeing our facility, all that visited agreed the proposed changes suggested by the State would not work for our current operation.

If golf courses can acquire on-premise licenses for dispersing alcohol on the golf course (over 10 acres) – we can't understand how or why the law would then prohibit our business from the same. Maine has come to be known as an "anti-business" state due to its over regulatory requirements. We view this as a perfect example of "over regulation". We are asking for your help in being granted an exception and changing existing regulation. This will allow us to expand and grow our business and in turn allow us to better serve our valued customers!

Figure 1. View of side of building and parking lot from Union Street.

Figure 2. Parking lot view of restaurant seating wing and front door.

Figure 3. View of front counter/entrance where state suggests a full wall and double entrance be constructed, thus blocking access to the use of the cash registers to process food sales.

Figure 4. View of front doors and coffee station from register one. Also proposed location of full wall to be built behind counter.

Figure 5. View of front counter and bathrooms from restaurant seating area.

Figure 6. View into the restaurant seating area.

Figure 7. View into back section of restaurant seating area.

Figure 8. Proposed modifications/requirements by State to obtain on-premise license.

Hi my name is Raymond Rodrigue. My brother and I are the owners of Crystal Falls dance hall in Chelsea. I am required to have a sprinkler system for Crystal Falls. It would be a hardship to have to it put in. We are asking to get an exemption like the non profit organization are . If this was a safety issue, which it is not, we should both be required to have sprinkler systems. We have been in operation for 23 years, not having any serious violation, only a few minor violation. The building has have seven door and 16 window that qualified for fire exit for 375 people. In the main exit we have 4 doors for 375 people. The Augusta Civic Center has only 7 door for 6000 people in their main exit. In the hall there is 5/8 sheetrock on the wall and the ceiling has a 1 ½ hour fire rating. The electricity is all done in conduit or flexible metal conduit, not romex wire. The boiler room in the cellar is double sheeted sheetrock wall and ceiling. The door is a fire rated steel door.

Smoking has been against the law for 6 years or longer. The attendance has been decreasing for the last 5 years or 6 years. Our attendance has only average around 87 people on Saturday nights. A lot of our customers no longer come because of the economy. The hall give our customer a cheap place to go where they can listen to live bands and forget about the hardship of life.

The bands gets $500 to $600 dollars which they wouldn't get if we have to closed. The state gets over $1100 in different licenses and over $1700 in sales tax in the concessions which they wouldn't get if we have to close. BMI gets over $1,200 in license fee . We also have to pay insurance, real estate tax, heat and lights, snow removals and other routine maintenance, By the time we pay for all these and others expense there isn't much left.

The state says they do help small business but in reality they don't. I wish this board could help me out. I want to thank this board for the opportunity to listen to me.

This board is my last chance to continue my business.
If you have any questions I will be glad to answer them.

STATE OF MAINE
Department of Public Safety
Office of State Fire Marshal
45 Commerce Drive, Suite 1
Augusta, ME 04330

JOHN ELIAS BALDACCI
GOVERNOR

ANNE H. JORDAN
COMMISSIONER

JOHN C.DEAN
STATE FIRE MARSHAL

Friday, December 14, 2007

Existing Assemblies Policy for NFPA 101, 2006 edition

The requirement for fire sprinkler protection in certain existing assemblies with occupant loads that exceed 100 comes from the 2006 edition of National Fire Protection Association's 101 Life Safety Code, in section 13.3.5.1. They are listed as (1) Bars with live entertainment, (2) Dance halls, (3) Discotheques, (4) Nightclubs, and (5) Assembly occupancies with festival seating.

In category (5) listed above, it should be noted that the code explains that "festival seating" refers to live entertainment events where no seating other than a floor or ground surface is provided for the audience who are gathered to observe a performance. The annex further explains that these events are those that are expected to result in overcrowding, and *"it is not the intent to include exhibitions, sports events, dances, conventions and bona fide political, religious and educational events. Assembly occupancies with 15 square feet or more per person should not be considered festival seating."* Recognize however that some of these categories may already require fire sprinkler systems under other parts of the Life Safety Code, as they also did in the 2003 edition.

The following is our official policy on implementing this new section of the code:

(a) Banquets, (such as wedding banquets), where a specific banquet event and/or a banquet meal is the focus will be exempt.

(b) Nightclubs where only a single entertainer, (or a couple), is performing and there is no promoted dancing, will be exempt.

(c) Private clubs, (such as Elks Club, American Legion, etc.), where the occupancy is limited to the membership of those clubs will be exempt.

These exceptions assume that the basic, longstanding NFPA 101 Life Safety Code requirements are being met.

We also acknowledge that a large number of seasonal facilities such as Maine campgrounds, church-owned facilities and youth camp facilities would not fall into any of the 5 types of existing assemblies that require a fire sprinkler system, although it is possible that some might.

Where fire sprinkler systems are required, in nearly all cases, we will allow the use of a state-fabricated fire sprinkler standard, called the Maine Life Safety standard, which was developed as an affordable option to other standards.

Where there is a history of violations, there will be no grace period, but we will allow up to 5 years of time for installation of fire sprinkler systems for facilities where there is no history of violations.

MAINE FIRE DEATHS

Compiled by the State Fire Marshal's Office & the Public Information Office of the Maine Department of Public Safety

November 2012

FIRES SINCE 1990 WITH THREE OR MORE DEATHS

11/10/12	**Orrington, 4 dead, father and 3 children, combustibles too close to the wood stove**
2/28/06	Limestone, father, mother and child die in house fire. Cause unknown.
1/13/2000	Unity, six-year-old triplets, playing with cigarette lighter. Unity Fire Chief Bob Jones collapses and dies at fire scene
1/11/99	Surry, Father, Mother and adult son, cause unknown
5/31/98	Madison, Father and two children, cause unknown
4/23/97	Lewiston, Father and two children, accidental
9/5/94	Kittery, Mother and two children, smoking
2/3/93	Augusta, Mother and two children, stove burner left on
6/19/93	New Sweden, Mother and two children, electrical short circuit
1/23/92	Kittery, two men and a woman, smoking
12/3/92	**Portland, 4 dead in apt. house, arson/homicide**
2/18/91	Topsham, three adults, combustibles too close to wood stove
6/7/90	Milo, three dead, children playing with matches or lighter
10/26/90	**Corinna, 4 dead, one adult & 3 children, smoking**

MAINE'S WORST FIRES SINCE 1945

1/31/45	Auburn, **17 killed**, one nurse and 16 infants at Le Coste Baby Home.
1947	Forest fires, **15 killed** and over 200,000 acres burned. Damage over $30 million dollars.
7/4/67	Oxford, **eight killed**, 3 adults and 5 children
3/2/50	Monson, **eight killed**, 2 adults and 6 children
11/30/74	Eagle Lake, **seven killed**, a mother and 6 children
4/7/73	St. George, **seven killed**, two adults and 5 children
3/27/60	Winthrop, **six killed**, a mother and 5 children
9/20/84	Hartland, **five killed**, one adult & 4 children

Nov. 16, 2012

To the members of the Maine Regulatory Fairness Board, I thank you for this public hearing.

My name is Julie O'Brien, and I have been a hair salon owner for 22 years. In my salon, the hairdressers are self employed "booth renters." They are already licensed cosmetologists who must acquire an additional license through the Board of Barbering and Cosmetology in order to work in a licensed salon as self employed. However, they can travel around to work in people's homes, nursing homes, and assisted living homes, and hotel rooms, etc. without any additional license or oversight.

As a salon owner, I have experienced an ever-increasing delay when getting a booth license from the Department of Licensing. When I first opened for business in 1990, an applicant could drive up to the licensing office, drop off their application, and I would receive a phone call the next business day with permission to let them start working. In 2005, an applicant was told it could take 2 weeks to get approval. I lost that renter because she didn't want to wait up to two weeks to start earning income. Her husband had been laid off, and they were in danger of losing their home. Now, in March, 2012, an applicant was told it could take 3 weeks. She too, was behind on her bills and needed income as quickly as possible. She was told that there are only two staff in the licensing office to handle all the license applications of nine boards. When I just called in October, I was told they couldn't estimate how long it would take for approval. Every application is addressed in the order it was received. This office is severely inadequate; it's hurting the working class people of this state as well as the small businesses.

When I don't have enough workers and turn customers away, those customers may never come back. Then when I get a hairdresser, I don't have enough customers for them to make a living. It's a waste of precious money to buy expensive advertising to bring in customers and then turn them away. Also, if a hairdresser wants to move to another location or I want them to leave, we are both trapped. I don't know of any other licensed profession that requires an additional license in order to be self employed in an already licensed business. I've had licensed massage therapists working in my salon per diem with no difficulty at all, but I can't do that with hairdressers. According to the laws, hairdressers must either be an employee or have a booth rental license. With the slow licensing response time from the Licensing Department, it's like being held in a "choke-hold" that doesn't stop when you cry "uncle."

Back in the 90's, I used to attend all of our Board's meetings, rulemaking hearings, and legislative lawmaking hearings. I observed the "downsizing of government" first hand, beginning with Governor McKiernan's freeze on state employees. Governors King, Baldacci, and LePage have continued the downsizing to the level it is today.

Around 2005, after I lost that potential booth renter, I knew that it was time for the Board's rulemaking, and I asked Sen. Lynn Bromley's office for help. Her aide spoke with Jerri Betts, the Administrator of our board. I was told that it was up to the Licensing Department to determine the staffing needs and not the Board.

I used to complain that our licensees were just a "money-making-machine" for the state, generating over $650,000.00 every year in revenue. But just this Fall, our license fees were reduced from $50 a year to $20. To me, that sent a clear message that the "powers that be" deliberately have absolutely no intention of adding any staff to alleviate this problem. So now I ask, "What's next?" As far back as I can remember, all the politicians talk about creating jobs and helping small business, but in the next breath they say they're going to downsize government and eliminate waste. To me, they've gone so far that it's like having an illness, but still being in denial about going to a doctor.

This situation reminds me of when Maine State Beauty Academy was still being overseen by the Department of Education. Many complaints were being filed, but the Department of Education didn't even investigate. Eventually, the school closed its doors, the students were left in the lurch, the true story came out, and the taxpayers lost a lot of money. Why did it end this way? The Department of Education was understaffed. Since then, the Barbering & Cosmetology Board has taken over the schools, while the Licensing Department has not only crippled its office staff, but has cut its cosmetology inspectors by half. Now we have only one inspector for cosmetology when we used to have two. The board has no control over this; it's the Licensing Department's oversight to determine staff levels. When I discussed this booth renter licensing problem with my customers, I heard of their problems getting new licenses. One woman finished her master's degree program, passed the licensing exam, and still waited three more months to get her license before she could even apply for higher paying jobs. Another person who works in a nursing home, took a course to distribute medication to the residents, passed the test, and again, it took several months to get her new license. The nursing home needed the help, and she needed the increased pay. In my mind, there is no valid reason to be so understaffed in the Licensing office when the licensing fees are supporting their services. It's not the taxpayers' money; it's the licensing fees. Then once a person finally gets their new license, they're so relieved that the last thing they think about is filing an official complaint.

But, getting back to my business problem, in today's world of mandatory pay-online technology, booth rental licensees should be able to pay their fees, print out a receipt, and be able to start work immediately. Then let the Licensing Department get around to their part on their own timetable and stop hurting the working people and business owners. To me, it's the right thing to do, and I hope you, the members of the Maine Regulatory Fairness Board, can help.

Thank you for your consideration,

Julie G. O'Brien
Owner
Making Waves Salon
213 Rte 1
Scarborough, ME 04074

March 14, 2012
Making Waves Salon
213 Rte 1
Scarborough, ME 04074

Governor Lepage
#1 State House Station
Augusta, Maine 04333-0001

Dear Governor Lepage,

I've been a hair salon owner for 22 years, and I've been advertising for over a year to find hairdressers to booth rent at my salon. Now that someone is interested, I've learned that she was told it could take14 business days for her booth rental license application to be processed and show up on the state website before she is allowed to work. That translates into close to 3 weeks! She was told that there are only 2 staff to take care of 9 boards, and that the Barbering & Cosmetology board was the biggest. This is just the way life is... This hairdresser has had her valid cosmetologist license for over 10 years, as well as a valid shop license in her own home for over 4 years. She even showed up in person at the Professional Licensing office to make the process happen faster, because she needs the income. Waiting almost 3 weeks to work because the Professional Licensing office is understaffed is totally unacceptable!

Why do I say this is unacceptable? During Nov., 2010, I purchased a data file of the active licensees so I could advertise directly. Once the license renewals had all been completed, on Nov. 14, there were 520 barbers; 9,209 cosmetologists; 1,404 booth renters; and 2,142 shops. I hadn't requested the data for manicurists or aestheticians because I wouldn't be advertising to them. The above 13,275 licenses, each costing $50 yearly, generated $663,750. With that kind of money, the Department should be able to provide enough staff to handle the license applications in a more responsible timely manner, so they aren't preventing someone's ability to support him/her self. And that's the income from this one board alone; consider the additional income from the other 8 boards.

As far as I'm concerned, any hairdresser that drives up in person, should be able to get some kind of paperwork that would enable her to work immediately. Furthermore, hairdressing isn't a life-threatening profession, and hairdressers are allowed to work house-to-house without any additional licensing or inspection. With this in mind, a booth rental license should be able to be completed online, with the ability to print out the receipt as proof of payment. Then, let the Department employees take whatever time they want to do their part.

To me, under-staffing makes generating income for the state the biggest priority. So why not just take the money, and stop interfering with the lives of hard-working people who just want to work to pay their bills and survive. If Maine doesn't like being called "unfriendly to business," then it needs to stop "biting off the hand that feeds it."

Sincerely,

Julie G. O'Brien
Owner

Cc: Ann Head, Geraldine Betts, Sen. Phil Bartlett, Rep. Heather Sirocki

757 Main St. # 28
So. Portland, ME 04106
June 1, 2005

Board of Barbering and Cosmetology
35 SHS
Augusta, ME 04333

Dear Clerk,

I would like to be on the July 18 agenda to address the Board, concerning the turn-around-time for someone to get a booth license. I've already discussed the situation with both Mary Ackerson and Gerry Betts. I have contacted Senator Lynn Bromley's office and discussed it with her Aide, Michael Johnson. After he discussed the matter with Gerry Betts, there appears to be no simple solution other than a change to the Rules or a Legislative change. I believe the next step is to bring it to the Board at their next meeting.

Sincerely,

Julie O'Brien

P.S. Please call my home phone at 879-0510 and leave a message to confirm that you received this fax.

TO: Gerry Betts
FROM: Julie O'Brien, Making Waves Salon, Scarborough
DATE: March 7, 2005
SUBJECT: Booth Rental License

I received your March 4 letter via fax today. Thank you for your prompt reply. This morning, however, I further spoke with Mary Ackerson, trying to come up with an option which would enable someone to start their booth rental without delay. This idea concerned whether an applicant who was willing to drive directly to the Licensing Office in Gardiner would be able to receive his/her license in person. To me, this would solve the problem for me and any future applicant, since last week's applicant has already "moved on" to other opportunities. Mary thought "no."

To me, if the State allows people to get motor vehicle licenses and registrations at our local town halls, then what is standing in the way of someone who already has their cosmetology license and is willing to drive to the Gardiner Office in person, from acquiring the necessary booth rental license to start making a living. I find it hard to believe that the State of Maine wants to make it impossible for needy, hard working, motivated people to go to work. I'd like to get your position on this scenario, please.

Thank you for your consideration.

Julie O'Brien
(w) 883-5525 (h)879-0510 (FAX)879-0510

TO: Gerry Betts
FROM: Julie O'Brien, Making Waves Salon, Scarborough
DATE: March 2, 2005
SUBJECT: Booth Rental License

This morning I spoke with Mary Ackerson, my inspector, about wanting to let someone start booth renting at my salon before she has received her actual booth license from the State. Since 1990, when I first opened a salon, the policy was, as long as the Department had received the renter's application and money, then he/she would be allowed to start working as a booth renter under the salon's "umbrella" of inspection. Over the years, I would speak with either you or Marjorie Crandlemire on the phone and get verbal permission. Mary is either unfamiliar with this procedure or the policy has changed. According to her, it would take at least a week for the actual license to be sent out.

In this case, the applicant is desperate to earn money. One of my renters just finished up on Saturday. The timing is right for both of us. Furthermore, for myself, it sometimes takes over a year to find a replacement renter. If I lose this opportunity, a year's rent loss is over $7,000. To me, the old policy protected both the worker and the business owner from being hurt by the laws set up to protect the public as well as by the lack of adequate staffing within the departments.

Please let me know as soon as possible because there is a very small window of opportunity for this the be successful.

Thanks for your consideration,

Julie O'Brien
(w) 883-5525 (h) 879-0510 (FAX)879-0510

Wayfarer
MARINE CORPORATION
59 Sea Street • Camden, Maine 04843
Telephone: 207-236-4378 • Fax: 207-236-2371
info@wayfarermarine.com www.wayfarermarine.com

November 16, 2012

The Honorable Charles E. Summers, Jr.
Secretary of State
Chairman of the Maine Regulatory Fairness Board
148 State House Station
Augusta, ME 04333

Dear Chairman Summers and Members of the Board,

My name is Susan Howland, and I am the CEO/CFO of Wayfarer Marine Corporation in Camden, Maine. We employ nearly 40 full-time, year round employees. We are a full service boatyard and marina, whose focus is on refit and repair of large yachts up to 110 feet in length. In 2013, we will celebrate our 50th year in business.

We appreciate the opportunity to come before the Board and have the opportunity to express our thoughts to you of how we could improve Maine's Regulatory Environment. I was formerly employed at a large banking corporation before joining Wayfarer in 2007. Working in a small business has many unique challenges that are hard to fathom unless you have done it. I am living proof of that. The number of rules and laws is quite overwhelming, as well as the number of regulatory agencies which all want to have involvement in how small businesses operate. There are often many of them but only one of you.

As we all know, the economic conditions, since the recession began four years ago, have made the business environment very challenging. All of our operating costs have been rising, such as insurance, heating, electricity, to name a few. There are over 30,000 small businesses in Maine; most of those businesses only have a handful of people to carry out the administrative and managerial aspects of running the business. Most of us have fewer employees today than we have ever had due to the recession. That is what makes the **regulation "pile-up"** such a burden. It would be manageable if it was coming from one place, but a boatyard could have the Department of Environmental Protection at its door one day, OSHA could arrive the next, and two people from the Environmental Protection Agency arrive, and then it's the MEMIC auditor. Finally you may get a visit from the State sales tax auditor.

I can speak for Wayfarer and tell you I have had to spend a considerable amount of time in the last two years with most of the above agencies which show up unannounced. It is costly to have to spend half of or nearly an entire day walking the yard to see how storm water drains off the buildings and through the soil. It is not the best use of our very limited resources. Instead of meeting with our clients and servicing our customers, I am spending time with regulatory groups. When looking at all the sources of pollution in our State, this is not the best use of our limited State resources either. I would ask that you charge legislators to put themselves in the shoes of small business owners and when making regulatory decisions look at the existing regulations to determine how they can help small businesses manage by focusing on the most important things that bring about the greatest benefit to all.

The next item we would like to address is the topic of Maine's **Submerged Land Lease Program** administered by the Bureau of Parks and Lands. In 2008, the State made a decision to increase the fees associated with this program by removing the $1,200 cap and agreed to phase the increase in over a five year period. Subsequently, Wayfarer has gone from paying approximately $1,200 per year to over $10,000 a year in 2012 and will ultimately pay nearly $14,000 by the time the complete increase is phased in. The calculation requires Wayfarer to pay back to the State a portion of the gross income earned by the marina during the calendar year. That to us simply means it is a tax. It seems grossly unfair to take a traditional waterfront business that is subject to exceptionally high waterfront property taxes and income tax and then place another tax on top of that. This takes revenue out of the business and gives it back to the State of Maine. This program does not seem to give any value back to the waterfront community or to the State other than a revenue source. This is an unfair tax that we advocate should be repealed. If we are to hold on to our traditional waterfront businesses that are part of the State's fabric, we must find a way to reduce operating costs for those businesses. Eliminating one unnecessary tax would be a positive start.

The last item I would like to address is **Chapter 129 Surface Coating Facilities**. This is a new rule being considered by the Maine DEP. How this rule is implemented is critical and our State should not select a "one size fits all" approach. This rule has been initiated by the EPA in their crackdown on air emissions. Boatyards are committed to ensuring a healthy environment where we live and work. Clean water and air are critical to our long term success. The issue we have with the rule is how the DEP is proposing to calculate a business's capacity to produce emissions. The proposed method of calculation is unfair and could cost small boatyards to make unnecessary capital improvements in an already difficult economy. The proposed method inventories how much spray paint equipment a yard owns, such as the number of spray guns. The rule then considers every facility a 24 by 7 operation to calculate total potential emissions.

For a service yard like Wayfarer, this method is irrational and greatly overstates potential emissions. We operate from 7am to 3:30pm Monday through Friday and have operated that way for 50 years. To have to meet a standard based on a 24 by 7 operation schedule when Wayfarer has 50 years of history to the contrary is an unfair regulation. Wayfarer spray paints on occasion. We are not a production yard or boat builder painting on a regular basis. We traditionally paint fewer than six boats a year. We are being asked to comply as if we were painting boats 24 hours a day, 7 days a week with all of our spray guns in use. When in reality, in our best year, we would be lucky to get to 10% of that, and we are likely closer to 5%. To ask a yard to take precautions that would be necessary for operating at 100% when in reality the yard is only operating at 5% makes zero sense. This type of over-regulation will kill business in Maine and in the United States. Most of our large paint customers are from out of the country, and they can go anywhere in the world to get the work done. Increasing our costs unnecessarily will make us non-competitive and will not increase safety.

Keeping our air clean is important. How we go about doing it is equally important. I find it hard to believe that small boatyards in Maine that employ less than 50 or even 100 people generate anywhere near the emissions of the vehicles Maine citizens drive every day. If the focus is on the environment and clean air, then we should focus on the sources that are causing the bulk of the pollution. I can assure you that small boatyards in Maine are not the downfall of the air quality in Maine. We all need to do our part, but rules need to be fair and the calculations need to make sense.

Thank you for your time and consideration.

Regards,

Susan Howland
Chief Executive Officer/Chief Financial Officer

c: Mr. Mark A. Tyler, Vice Chairman
Ms. Patricia Kuhl
Mr. Michael R. Cote
Honorable Douglas Smith

Wayfarer MARINE CORPORATION
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November 20, 2012

The Honorable Charles E. Summers, Jr.
Secretary of State
Chairman of the Maine Regulatory Fairness Board
148 State House Station
Augusta, ME 04333

Dear Chairman Summers and Members of the Board,

Thank you for the opportunity to testify before the Maine Regulatory Fairness Board on Friday, November 16. As I mentioned in my testimony, Lyman Morse Boatbuilding shares these same concerns outlined in my letter submitted on the 16th.

In addition to the concerns expressed in my letter dated November 16, I also want to express my support for the elimination of the **Use Tax** for the boatbuilding and repair industry in Maine. The elimination of the use tax would allow the boatbuilding and repair industry to be more competitive with states, such as Rhode Island, which do not have a use tax. In Maine, if boats do not leave the state within 30 days of the build/repair, the use tax is assessed. This tax has a direct adverse effect on any additional revenue that could be realized by the boatbuilding/repair industry in terms of continued warranty work. This lost revenue also results in lost jobs for Maine people. There are many other businesses that also lose when these boats leave too soon. Restaurants, retail shops and rental agencies miss out when the owner, captain and crew of the boat leave as well. These folks rent homes in Maine and many people actually purchase second homes in Maine which results in new property tax payers.

We could be shortsighted when considering the removal of the use tax as a loss of state revenue. There is revenue to be gained in other categories by allowing jobs to be created by the increased demand this could generate. Yards in Maine are competing for the refit and new boatbuilding projects on the world-wide market. We need to do everything we can to keep Maine competitive and to keep these well-paying jobs in the marine industry and to work to grow these jobs.

Thank you again for your time and consideration.

Regards,

Susan Howland
Chief Executive Officer/Chief Financial Officer

c: Mr. Mark A. Tyler, Vice Chairman
Ms. Patricia Kuhl
Mr. Michael R. Cote
Honorable Douglas Smith

LICHT

Novembe 16th, 2012

Re: Maine Regulatory Fairness Board Hearing
Talking Points Frederic Licht, PE, LSE and Steve Blais PE, LEED – MEREDA

My name is Frederic (Rick) Licht and with me is Steve Blais and we are practicing professional engineers and are here to provide testimony on behalf of the Maine Real Estate and Development Association (MEREDA). We wish to provide this committee with "real world" experiences within the State Site Law and Stormwater Rules to demonstrate unintended consequences of conflicting rules and regulations which have a direct and measurable negative impact on business and economic growth.

The Site Location of Development Act (38 MRSA §§ 481-490) regulates all large development projects in the State of Maine. In concert with Site Law, the DEP Chapter 500/502 Stormwater Rules (38 MRSA § 420-D) are inherently intertwined on most if not all Site Law Projects. Site Law invokes the Stormwater Rules though the Site Law Rules. One of the important considerations of development is the increase in stormwater volume and rates through increased impervious areas associated with most forms of residential, industrial or commercial development. The current rules are promulgated through the EPA to meet Clean Water Act non point discharge requirements which are administered at the State Level through the DEP.

A continued problematic area is that of "redevelopment" as defined. As policy makers, planners and engineers we all support and encourage development in designated Growth Areas of our communities. Brownfield development or redevelopment of previously developed areas in downtowns and urban centers offer the well established benefit of revitalization of blighted areas, developing where infrastructure already exists, reduced dependency on the automobile to commute to the suburbs and the ability to integrate walkable commercial or residential development into communities. However under the Stormwater Rules, again which are also invoked through Site Law, redevelopment is narrowly defined such that a change from one "*Type*" of impervious surface to another (i.e. from gravel or pavement to rooftop) requires complete stormwater mitigation for quality and quantity under the General and Flooding Standards of the Stormwater Rules. This rule is discouraging development in growth areas and downtown areas.

What is the relationship between these rules and economic development you ask? Let me provide an example:

Mr. Smith has an opportunity to develop a new high density housing project in a blighted urban area at the site of a former developed use. The project will create over three acres of impervious area which triggers a Site Law permit and the Chapter 500 Stormwater Rules. The site has two acres of old broken pavement and gravel from previous uses - which is considered completely "impervious" under the current standards. He plans to construct badly needed high density elderly and affordable housing on top of these impervious areas making use of a previously developed site rather than encouraging sprawl by developing the project on the edge of town in farm and forest land. The fact that there is no increase in total "*impervious*" area also means that there will be no or minimal increase in the peak rate or "flooding standard" which again is a good thing environmentally. By comparison, the same development on the alternative farm parcel would have turned 2 acres of pasture/woods into impervious area for a net gain of 2 acres of impervious which

would require mitigation via a stormwater basin or other approved stormwater management device. The addition of such a pond also gobbles up even more additional farmland for the same size development which was proposed in the urban area.

So at the urban site Mr. Smith finds that he still must meet the "*General*" or water quality treatment standards which requires the construction of some form or forms of mitigation be it a wet pond, underdrained soil filter or other approved methods. However the site is constrained by its location in an urban growth area and there is minimal room to add stormwater measures (again there is NO increase in total impervious area –just a change from gravel/pavement to building). Therefore one of the three buildings planned are cut and the projects increased costs for stormwater controls coupled with the reduced density make the site economically infeasible. Remember that the site was already previously impervious so the environmental impacts from the change from old parking to new building roof area are negligible.

So where is the problem?

One – our policies rightfully so encourage development in growth areas. The redevelopment of old sites is to be encouraged for the benefits of not eating up undeveloped land, reducing sprawl, utilizing available infrastructure and services, etc. However the narrowly defined term "redevelopment" requires the same level of stormwater management as developing a raw parcel of land to meet the "General" standards for stormwater quality. Urban land is typically more expensive to boot. So the current standards provide a *Disincentive* to developing in growth areas where redevelopment is concerned and an Incentive to move projects further from downtown or growth areas. The unintended consequences of how "redevelopment" is treated within the Stormwater is treated is a specific example of a single regulation having potentially significant impacts on Smart Growth development in the State.

This is a very real and recurring theme within the development community. We encourage the DEP to re-start the previous stakeholder group meetings to review these and other rules which are hindering responsible development with no net environmental gain.

Thank you for your time and allowing us to speak today.

Frederic (Rick) Licht, PE, LSE
MEREDA Representative
Licht Environmental Design, LLC
35 Fran Circle
Gray, Maine 04039
rlicht@securespeed.net

Mr.Martin,

Thank you for a great opportunity to speak on Friday. I only wish I knew in advance I would have come better prepared & with a summary handout. Please forward my attached information to the board members.

I can be reached at (207) 450-0654 or via this email & welcome communication. I would also love to sit in with any group to discuss business solutions.

It is my hope that this group of understanding professionals might make Maine an easier place to conduct & succeed at business.

Respectfully,
Gina Martinez - (207) 450-0654
GMartinez
Fly By Night Inc. dba Mr.Goodbar & Spill The Wine Old Orchard Beach
Director of Dining Service @ Seventy-Five State Street Portland

Date: November 19, 2012
To: Maine Regulatory Fairness board
From: Gina & John Martinez of Fly By Night Inc. dba Mr.Goodbar/Spill The Wine Old Orchard Beach
PO Box 25 Old Orchard Beach, Maine 04064
(207) 450-0654
Subject:Liquor Licensing & Inspection Rule & Regulations

1. Liquor Licensing; class cost VS privilege Chap 2 Item 6 a & b
   In 2003 when I bought Mr.Goodbar my license cost $2210.00 = Class A Lounge (class X). This permitted & allowed for indoor smoking, 5 piece menu, no designated cook on duty, State inspections & education.
   In 2004:
   - We no longer have State inspections; it was left to municipalities.
   - We no longer could allow for indoor smoking. Many establishments did not see this as a huge deterrent to their business however new rules restricting smoking in open air areas or 20' doors rules are causing stress between business, neighboring businesses & police. **Businesses that can allow for open air smoking with supervision should be allowed to accommodate their clientele.**
   - We still pay $2210 & the only difference between a Class A lounge (class X) & a Restaurant/Lounge (class XI) is the menu requirement!!
   - **Class V: Clubs pay $495 per year & are exempt from life safety requirements (sprinklers w/capacity over 100), allowed to smoke indoors, allow card game, pull tab, lottery etc.**
2. **Games of Chance; We'd like to see organized legalization of games & pools.**
   - **It is illegal to have dice or a deck of cards**
   - **BRASS The Bar & Restaurant Association of Old Orchard Beach has proposes that there be an added box on the top of the actual liquor licensing application adding to types of license: ☐ Games & Pools (with an added license fee).**
3. **Hours of Operation; Extend serving hours in the State of Maine**
   - **Having all venue forced to close at 1am especially in multiple venue areas like Old Orchard Beach or the Old Port causes a dumping of patrons. This puts more stress on venue staff, taxi services and public safety personnel.**
   - **BRASS meet with NLOC (the Nightlife Oversight Committee of Portland) and discussed having extended business hours would . . .**
     a. Allow for people to leave naturally
     b. Give businesses a choice of closing hours (not every venue would stay past 1am)
     c. Allow for police dept. staff to move to venues at their closing time
     d. Taxi services could be available
4. Maine Beverage Contract: should not be renewed!!
   - It's a monopoly . It's 30-40% higher wholesale cost to small businesses than our neighboring State of NH. We should e allowed the freedom to shop. Maine gets it back on the Sales & Use Tax! Or Maine needs to be competitive and stop killing its own businesses.
5. ASCAP/BMI & SESAC (Organized Mafia); these three agencies are harassing bullies. They are coming after Restaurants/Bars/Lounges in Maine! They are backed by the Federal Government & need to be stopped. We need protection from agencies like this, who bully small businesses into paying outrageous copy write fees. Their contract fees are national & we are expected to

pay the same as a Las Vegas nightclub that servers alcohol/food 24/7, that have several shows booked in one business day. The revenue between us & them (less restricted) is apples & oranges yet the fees are the same!

6. Dance License: Issued by the State Fire Marshall's Office $117.00. As I see it this license is for life safety inspections and that is how it should be titled. All business venues should be inspected & licensed not just ones with definitive dance floors!
    - Follow this link to get NY's Mayor Bloomberg's perspective . . . http://articles.nydailynews.com/2008-07-13/news/17901068_1_cabaret-license-social-dancing-new-yorkers
7. Chapter 7 Number 8: Advertising & Signs applicable to all license holders
    - Inspector Dan Smaha agreed that this should be repealed.
8. Liquor Liability Insurance: our annual premium ranged from $450-$600 per year. Now with only several companies willing to write this type of insurance we are being quoted $2200+ per year! Piece of mind has been put out of the financial reach of many small businesses.
9. Sprinkler requirement for 100+ capacity cost $25k-$35k, a hardship for many small business. Not-for-profits: private clubs are exempt, yet allow indoor smoking. A compliance check for members only does not happen! They are also allowed gaming privileges.

Side Note: Gina spoke about the Board of Nursing Licensing requirements VS. Board of Dietetics

Dietetics: License fee = $180 per year
Requires = 10 CEU's per year (average cost $6 per)
Average entry level salary for DTR's $24k per yr

Nursing: License fee = $30 per year
Requires = 0 CEU's per year unless required by employer
Average entry level salary for RN's = $58 per year

I called the Board of Nursing & was told that there were too many licensed registered nurses in the State for their staff to manage CEU verification.

As Hon. Douglas Smith mentioned with the technology we have before us this is not true. My CEU's are recorded online & reported to the State online & my license is paid for & issued online!

The 0 CEU requirements is also a life safety issue. With technology changing in ways we treat & care for people someone who is exempt from proving competencies is dangerous.

Solution: raise the RN license fee to be in-line with their mean salary & require CEU hours. A State run program of training sessions could also generate revenue for the State.

Restaurants/Lounges w/food are required to have all staff Serv Safe certified why not our RN health care professionals.

Thank you for listening/reading and any considerations.

Gina Martinez (207) 450-0654

Gina

Department of Public Safety
Liquor Licensing & Inspection Division

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

BUREAU USE ONLY
License No. Assigned:
Class:
Deposit Date:
Amt. Deposited:

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☐ MALT ☐ SPIRITUOUS ☐ VINOUS

INDICATE TYPE OF LICENSE:

☐ RESTAURANT (Class I,II,III,IV)
☐ HOTEL-OPTINONAL FOOD (Class I-A)
☐ CLASS A LOUNGE (Class X)
☐ CLUB (Class V)
☐ TAVERN (Class IV)
☐ RESTAURANT/LOUNGE (Class XI)
☐ HOTEL (Class I,II,III,IV)
☐ CLUB-ON PREMISE CATERING (Class I)
☐ GOLF CLUB (Class I,II,III,IV)
☐ OTHER: _____

* ☐ games / pools

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.) **DOB:**	**2. Business Name (D/B/A)**
DOB:	
DOB:	**Location (Street Address)**
Address	**City/Town** **State** **Zip Code**
	Mailing Address
City/Town **State** **Zip Code**	**City/Town** **State** **Zip Code**
Telephone Number **Fax Number**	**Business Telephone Number** **Fax Number**
Federal I.D. #	**Seller Certificate #**

3. If premises is a hotel, indicate number of rooms available for transient guests: _____
4. State amount of gross income from period of last license: ROOMS $ _____ FOOD $ _____ LIQUOR $_____
5. Is applicant a corporation, limited liability company or limited partnership? YES ☐ NO ☐

If YES, complete Supplementary Questionnaire

6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☐
7. If manager is to be employed, give name: _____
8. If business is NEW or under new ownership, indicate starting date: _____

   Requested inspection date: _____ Business hours: _____
9. Business records are located at: _____
10. Is/are applicants(s) citizens of the United States? YES ☐ NO ☐
11. Is/are applicant(s) residents of the State of Maine? YES ☐ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married: Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth

Residence address on all of the above for previous 5 years (Limit answer to city & state

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other then minor traffic violations, of any State of the United States? YES ☐ NO ☐

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued? Yes ☐ No ☐ If **Yes**, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☐ NO ☐

16. Does/do applicant(s) own the premises? Yes ☐ No ☐ If **No** give name and address of owner: _____

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) _____

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services? YES ☐ NO ☐ Applied for: _____

19. What is the distance from the premises to the **NEAREST** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? _____ Which of the above is nearest? _____

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☐

If YES, give details: _____

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to $2,000 or both."

Dated at: _____ on _____, 20 ____
Town/City, State Date

Please sign in blue ink

_____ _____
Signature of Applicant or Corporate Officer(s) Signature of Applicant or Corporate Officer(s)

_____ _____
Print Name Print Name

NOTICE – SPECIAL ATTENTION

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

Class I	Spirituous, Vinous and Malt **CLASS I:** Airlines; Civic Auditoriums; Class A Restaurants: Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	$ 900.00
Class I-A	Spirituous, Vinous and Malt, Optional Food (Hotels Only) **CLASS I-A:** Hotels only that do not serve three meals a day.	$1,100.00
Class II	Spirituous Only **CLASS II:** Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	$ 550.00
Class III	Vinous Only **CLASS III:** Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	$ 220.00
Class IV	Malt Liquor Only **CLASS IV:** Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	$ 220.00
Class V	Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) **CLASS V:** Clubs without catering privileges.	$ 495.00
Class X	Spirituous, Vinous and Malt – Class A Lounge **CLASS X:** Class A Lounge	$2,200.00
Class XI	Spirituous, Vinous and Malt – Restaurant Lounge **CLASS XI:** Restaurant/Lounge; and OTB.	$1,500.00
FILING FEE		$ 10.00

UNORGANIZED TERRITORIES $10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All fees must accompany application, made payable to: **TREASURER, STATE OF MAINE. – DEPARTMENT OF PUBLIC SAFETY, LIQUOR LICENSING AND INSPECTION DIVISION, 164 STATE HOUSE STATION, AUGUSTA ME 04333-0164.** Payments by check subject to penalty provided by Sec. 3, Title 28A, MRS.

Games / Pools _____ $ _____

STATE OF MAINE

Dated at: _____, Maine _____ ss
City/Town (County)

On: _____
Date

The undersigned being: ☐ Municipal Officers ☐ County Commissioners of the

☐ City ☐ Town ☐ Plantation ☐ Unincorporated Place of: _____, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and herby approve said application.

_____ _____

_____ _____

_____ _____

THIS APPROVAL EXPIRERS IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§ 653. Hearings; bureau review; appeal

1. **Hearing.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.
   - A. The bureau shall prepare and supply application forms. [1993, c.730, §27(amd).]
   - B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c.140, §4 (amd).]
   - C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premise license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premise license that has been extended pending renewal with 120 days of the filing of the application. [1999, c589, §1 (amd).]
2. **Findings.** In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:
   - A. Conviction of the applicant of any Class A, Class B or Class c crime; [1987, c45, Pt.A§4 (new).]
   - B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c.45, Pt.A§4(new).]
   - C. Conditions of record such as waste disposal violations, health or safety violation or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c.730, §27 (amd).]
   - D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c.592,§3 (amd).]
   - E. A violation of any provision of this Title; and [1989, c.592, §3 (amd).]
   - F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601. [1989, c.592, §4 (new).]

[1993, c730, §27 (amd).]

3. **Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.
   - A. [1993, c.730, §27 (rp).]
4. **No license to person who moved to obtain a license. (REPEALED)**
5. **(TEXT EFFECTIVE 3/15/01) Appeal to District Court.** Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

DEPARTMENT OF PUBLIC SAFETY

LICENSING & INSPECTION UNIT
164 STATE HOUSE STATION
AUGUSTA, ME 04333-0164

RULES AND REGULATIONS

Chapter 1: OPERATION AND CONTROL OF ALL LICENSED PREMISES

1. All licenses are issued subject to the provisions of the State Laws and Federal Alcohol Administration laws, municipal ordinances and rules and regulations made pursuant thereto, and all municipal, State and Federal licenses and permits required by such laws, ordinances or rules and regulations must be kept in full force and effect by licensees during the entire effective license period of the liquor license.

   A. All license applications shall include the complete and entire ownership in accordance with Title 28 A Section 651, 2A. All persons owning, and or operating with a financial interest in the operation shall be named as licensees, except bona fide employees.

2. Licenses erroneously issued by the Bureau of Liquor Enforcement will be considered void and must be returned to the Bureau on demand.

3. Wherever reference is made in the following rules and regulations to acts or omissions forbidden on the part of the licensee, corporation or individual, it shall be held and construed to mean acts of such licensee, corporation or individual or their clerk, servant or agent. Whoever is found in charge of a licensed premise or making service or waiting on trade in such licensed premise shall be prima facie construed to be a clerk, servant and agent of the licensee.

Partly in response to this report and much to her credit, Commissioner Mary Mayhew has embraced the Maine Association of Nonprofits' efforts to convene a committee to develop recommendations to streamline and simplify the government-nonprofit contracting system in the Department of Health and Human Services. From this, 64 cost saving recommendations were identified and four were put forth as priorities. While these four recommendations are already in the process of being implemented, we realize that accomplishing all 64 will take time and considerable effort. Many of these can be accomplished internally, without the need for changes in regulations or laws, but there are those that will require these more formalized changes.

The Commissioner has asked that the Maine Association of Nonprofits continue to work with her so that this important initiative is not lost in the day-to-day operations of the Department and that improvements to the contracting system that benefit both the state and private providers continues to move forward.

Our purpose here today is not to ask for support on any one specific issue, but rather to make you aware of the efforts underway to find administrative efficiencies so that when we come to a point in this process where changes to regulations and/or laws are necessary, this Board and the Legislature can be forthcoming in their support knowing that they are part of a much larger effort to reform the government-nonprofit contracting system in Maine.

Thank you for your time and consideration of this important issue.

http://survey.nonprofitfinancefund.org/#respondents,demand,actions,gov,engagement,finhealth/0:L

4. Violation of any Commission rule and regulation, State law or municipal ordinance, occurring on a licensed premise after legal hours of sale of liquor or on days when sale of liquor is forbidden by law, shall be grounds for suspension or revocation of license.

5. No licensee shall have or permit on his licensed premises any gaming devices, sealed tickets, punch board or any mechanism which dispenses money or other valuable thing which is redeemable or exchangeable for money or other valuable thing, other than premises properly licensed. Free replays shall not be considered a thing of value.

   A. All other types of machines or mechanisms designed for amusement or entertainment may be permitted on licensed premises. Pool tables may be used in designated areas as authorized by the Bureau. The licensee and the owner shall be required to furnish such additional information to the Bureau as the Bureau in its sole discretion deems necessary for proper supervision of such activity.

6. The use of any device or game of chance to aid directly in the sale or distribution of liquor is prohibited.

7. All premises licensed to sell liquor and adjoining premises used by the licensee in the operation of the business will be kept in a clean and sanitary condition at all times and will be licensed by the Department of Human Services or the Department of Agriculture.

   A. All premises licensed to sell alcoholic beverages for on premise consumption shall have separate toilet facilities for each sex and will be equipped in such a manner to comply with Human Services Rules.

8. No licensee shall permit or allow visibly intoxicated persons to remain on the licensed premises. No licensee shall show effects of, nor allow any of his employees, agents or entertainers to consume or to show any effect of liquor while on duty or performing on the licensed premises.

9. *(Repealed.)*

under 17 years of age will be permitted to entertain provided his/her parent is present.

A. No on-premise licensee shall permit the direct handling of liquor on the licensed premises by any person under the age of 15 years. Persons who are at least 15 years old may stock coolers or bus tables, but may not sell, serve or mix liquor.

4. All licenses and permits requiring local approval must be submitted to the Bureau within 60 days of the local approval date. Applications not submitted to the Bureau in a timely fashion will be returned to the licensed applicant for re-approval by the city, town or county.

5. *(Repealed.)*

6. Every on-premise licensee required to sell food shall maintain a food inventory of $2.00 per seat and shall keep on hand dishes and utensils to serve the maximum seating capacity. Utensils and dishware may be paper or plastic. Every on-premise licensee will keep separate records of all food purchased and sold, and separate records of liquor purchased and sold. Soft drinks may not be included as food sales.

$1500.00 annually

A. All Class A restaurants must keep their kitchen open during all hours of operation for the service of full course meals. The kitchen must be staffed by a cook or other personnel in addition to wait staff personnel who provide alcoholic beverages.

$2200.00 annually

B. Class A Lounges must offer food for sale during all times they are serving liquor. For purposes of this rule, the term "food" refers to cold or hot meals, including sandwiches, salads, and other forms of solid nourishment including, but not by way of limitation, hamburgers, cheeseburgers, hot dogs, pizzas, and other food items which customarily would appear on a well balanced menu. The term "food" specifically does not include prepackaged snack foods, such as popcorn, chips, or pretzels.

7. Except as provided by Title 28-A Section 1001, 3E, no club licensee shall sell liquor or permit it to be sold on the club premise during any function or activity other than strictly a club function or activity. No function or activity on the club premise shall be considered a club function when the club solicits attendance by the public.

Working with private landowners since 1977

Scott L. Nelson LLC

Licensed Professional Forester **19 Spring Street Dover-Foxcroft, Maine 04426**
Phone 207-564-2820; Email slnelson1@roadrunner.com

November 16, 2012

To: The Maine Regulatory Fairness Board

Unfortunately I was unable to attend the 11/16/2012 meeting.

I have been practicing forestry in the state of Maine for the last 35 years. I would like to address several issues with the State of Maine's Timber Liquidation Law. The Maine legislature defines liquidation harvesting as:

The purchase of timberland followed by a harvest that removes most or all commercial value in standing timber, without regard for long-term forest management principles, and the subsequent sale or attempted resale of the harvested land within 5 years

I would like to add that it also requires two satisfied parties, the original seller and the subsequent buyer. In most cases there is a third party that is also satisfied and this is the buyer of the property after it has been harvested. This third party in many cases is buying this land as a long term investment.

Not all businesses have a land base large enough to continually cut exclusively on their own property without requiring acquisition of additional land. Nor are all business plans the same in the forestry business. Some are short tem where as other businesses are long term.

Those whose business plan does not involve long term management and work in an area where the forest is fragmented need to continually acquire land. To be successful, these businesses must pay down the debt as rapidly as possible. The value of the standing timber no longer pays for these woodlots. Any balance due on these lots can be further paid down by the resale of the land.

This then becomes the inequity between business working in the unbroken forest land in the northern part of the state and for those businesses in the more populated areas. The so called liquidation harvest that allows for the removal of greater then 50 % of the volume with a subsequent land sale within 5 years is possible. However the lot must meet one out of four criteria established by the state to exceed the 50 % removal. This is not

always possible. It also requires a detailed plan that must be stand specific. This all adds to the bottom line.

The other inequities are a liquidation sale is possible if the businesses' ownership of land is less then 100 acres. It is also possible to liquidate up to 1000 acres if done by a Master Logger. Both of these scenarios are not necessarily part of all businesses.

Prior to the law being passed, anyone attending the public meetings would have to agree that this was a very gray area and the practice of buying and selling land was not necessarily negatively impacting Maine's' forestry business. These companies that are considered timber liquidators harvest land in a manner that is no different then 1000s of acres being harvested in the northern tier of the state. The state knows those businesses involved in possible liquidation harvest and are easily scrutinized by the Maine Forest Service. These companies, if in violation, and can face huge monetary fines with restrictions on future land purchases that can ultimately lead to the failure of the company. These companies employee staff and provide jobs to logging companies that also have staff. In addition I believe that the majority of foresters find this a poor piece of legislation and even those involved with the enforcement of this law will privately say that they too are not in favor of this law.

Sincerely,

Scott L. Nelson
LPF#728