

Order 124A-13/14

Passage: 9-0 on 12/16/2013

MICHAEL F. BRENNAN (MAYOR)  
KEVIN J. DONOGHUE (1)  
DAVID A. MARSHALL (2)  
EDWARD J. SUSLOVIC (3)  
CHERYL A. LEEMAN (4)

**CITY OF PORTLAND**  
IN THE CITY COUNCIL

Effective 12/26/2013

JOHN R. COYNE (5)  
JILL C. DUSON (A/L)  
JON HINCK (A/L)  
NICHOLAS M. MAVODONES (A/L)

**ORDER ACCEPTING REPLACEMENT EASEMENT  
IN THE VICINITY OF 409 CUMBERLAND AVE  
RE: AVESTA 409 CUMBERLAND LP**

**ORDERED** that the replacement easement from Avesta 409 Cumberland LP to the City in the vicinity of 409 Cumberland Ave to amend an existing sidewalk easement is hereby accepted in substantially the form attached hereto as Attachment 1.

**REPLACEMENT EASEMENT**

KNOW ALL PERSONS BY THESE PRESENTS, that AVESTA 409 CUMBERLAND LP, a Maine limited partnership with a mailing address c/o Avesta Housing Development Company, 307 Cumberland Avenue, Portland, Maine 04101 (the "Grantor"), FOR CONSIDERATION PAID, hereby GRANTS to the CITY OF PORTLAND, a Maine body corporate and politic, with a mailing address of City Hall, 389 Congress Street, Portland, Maine 04101 (the "Grantee" or the "City"), an easement for the purpose described below, over certain land of Grantor's on Forest and Cumberland Avenues in Portland, Maine, more particularly described in Exhibit A attached hereto and made a part hereof (the "Easement Area"). The Easement Area is a portion of the land described in a deed to Grantor of even or near date to be recorded herewith.

The easement granted herein is for the purpose of allowing the City to install, maintain, replace and repair a sidewalk for public use and enjoyment on and over the Easement Area. The City shall be solely responsible for maintaining, operating, repairing and replacing the sidewalk within the Easement Area and adjacent thereto and shall bear all costs and expenses arising from such maintenance, repair or replacement. In exercising its rights under this easement, the City shall take care not to damage Grantor's land or the building thereon, and if any damage shall occur, the City shall promptly repair the same at the City's sole cost and expense.

This Easement amends, supersedes and replaces in its entirety the easement granted by Waterview Development, LLC to the City on June 2, 2005 which is recorded in Book 22739, Page 111 in the Cumberland County Registry of Deeds.

The rights granted to the City in this Easement are subject and subordinate to certain easement rights granted by the City to the Grantor in a separate easement of even date to be recorded herewith.

TO HAVE AND TO HOLD the aforegranted and bargained easement, with all privileges and appurtenances thereof, to the Grantee, its successors and assigns, to its and their use and behoof, forever.

IN WITNESS WHEREOF, Avesta 409 Cumberland LP, the Grantor has caused this instrument to be executed by Pinecone Housing Corporation, its General Partner thereunto duly authorized, this \_\_\_\_ day of \_\_\_\_\_, 2013.

WITNESS:

AVESTA 409 CUMBERLAND LP, Grantor

BY: Pinecone Housing Corporation, its  
General Partner

\_\_\_\_\_

By: \_\_\_\_\_  
Eric Boucher, its Authorized Agent

STATE OF MAINE  
CUMBERLAND, ss.

\_\_\_\_\_, 2013

Personally appeared the above named Eric Boucher, Authorized Agent of Pinecone Housing Corporation, General Partner of Avesta 409 Cumberland LP as aforesaid and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation and limited partnership.

Before me,

\_\_\_\_\_  
Attorney-at-Law/Notary Public  
Printed Name: \_\_\_\_\_  
Commission expires: \_\_\_\_\_

SEEN AND AGREED TO:

CITY OF PORTLAND

By: \_\_\_\_\_  
Mark H. Rees, its  
City Manager

**EXHIBIT A**

**Easement from Avesta 409 Cumberland LP to City of Portland**

A certain lot or parcel of land situated on the westerly side of Cumberland Avenue and the northerly side of Forest Avenue in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

Beginning at the intersection of the southerly sideline of Mechanic Street with the westerly sideline of Cumberland Avenue thence, S 51°23'37"W along the westerly sideline of Cumberland Ave 100.80 feet to the northerly sideline of Forest Avenue;

Thence, N 34°27'10" W along the northerly sideline of Forest Avenue 53.00 feet;

Thence, N 55°28'19" E across land of the Grantor 3.25 feet more or less to the face of the building on said Grantor's land;

Thence, southeasterly and northeasterly along said face of building to the southerly sideline of said Mechanic Street;

Thence, S 34°31'41" E along the southerly sideline of said Mechanic Street 1.0 feet more or less to the point of beginning containing 457 square feet more or less.

The above description was prepared by Owen Haskell, Inc., Land Surveyors, Falmouth, Maine, and are based on a Subdivision Plat Plan of 409 Cumberland Avenue, Maine, dated June 18, 2013, last revised \_\_\_\_\_, 2013, recorded in said Registry of Deeds in Plan Book \_\_\_\_\_, Page \_\_\_\_\_