

**CITY OF PORTLAND
MEMORANDUM**

To: Mayor and Council

From: Mary Costigan, Associate Corporation Counsel

Re: **Litigation History of Maine State Pier Proposers**

Date: June 26, 2007

Councilor Donoghue requested that legal staff research the litigation history of the two proposers for the Maine State Pier Development. My research included a search of reported cases in the LexisNexis database, as well as telephone calls to cities where the two parties have participated in development projects or own properties. This research was by no extent exhaustive, but was intended to get a general sense of each party's past participation in litigation and relations with municipalities with whom they do business.

Beginning with Ocean Properties, a LexisNexis search turned up six reported cases in which Ocean Properties, Ltd. was a party. None of the cases involved litigation with a municipality. Two of the cases dealt with real estate commissions, two with a subcontractor contract issue, one involved a damages issue for an incident at a hotel and one case upheld a lower court decision without giving details. Ocean Properties was a defendant in all of the cases.

I spoke with municipal employees in Portsmouth, NH, Key West, FL and Bar Harbor and inquired about their relations with Ocean Properties. In Portsmouth, Ocean Properties is currently in litigation with the city regarding a development project that is being undertaken in the city by a different developer. The project involves the construction of a hotel, conference center and parking garage. The City will pay for the parking garage. Ocean Properties participated in one law suit that challenged zoning changes made to accommodate the project. The City prevailed. In another suit, which is still pending, Ocean Properties is challenging the City's approval of a \$15 million bond to build the garage. In terms of Ocean Properties' own projects in Portsmouth, there were no issues stated.

A municipal employee in Key West said that they have no conflict with Ocean Properties and that they assert their rights in a reasonable manner. In Bar Harbor, Ocean Properties has had to obtain after-the-fact permits for work that was done without the proper permits. A municipal employee did note that the quality of the work in the end product is excellent.

A LexisNexis search for The Olympia Companies (TOC) and Olympia Equity revealed no reported cases with a party of that name. I spoke with municipal employees in Bangor and Portsmouth regarding their relations with TOC and both said there have been no conflicts or litigation.

Again, this search was by no means exhaustive, but I hope it provides you with helpful information. Please let me know if you need anything further.