

# Steve Duin: Waterboarding and the Water Bureau

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Rick Wendler (*Steve Duin*)

By Steve Duin

For The Oregonian/OregonLive

Rick Wendler and Ann Sherman were both slapped around big time by the national foreclosure crisis several years back.

"I went bankrupt. I lost the house, lost the job, and went on disability," says Wendler, who was forced out of his Northeast Portland home in 2011.

Sherman knows the feelings. A certified pharmacy technician, she lost her Southeast Portland home in 2008 when her husband quit working and paying his share of the bills.



Ann Sherman Steve Duin | For The Oregonian/OregonLive

But even as Wendler and Sherman wondered if life could get much worse, along came the obligatory water torture, courtesy of the Portland Water Bureau.

The Water Bureau is the rare utility that never stops billing. Even when the local predatory lender forces Portlanders to vacate their homes through foreclosure, they are still responsible for the ongoing water and sewer bills.

"No other utility in Oregon does what the Water Bureau does," says Margie Sollinger, the city ombudsman. "When you shut off your gas or your cable or your electricity, there's not this rolling, fictional charge that follows you around years after you vacate the property.

"It's unconscionable what they're doing to people. Rick and Ann have gone through this hellish experience. Now they are making choices between paying rent, buying food ... or paying off the Water Bureau for a service they didn't receive and water they didn't use."

The Water Bureau insists it is obligated under the city's municipal bond covenants to collect water, sewer and storm-water fees.

"The city isn't allowed to provide utility services for free," notes Todd Lofgren, senior policy director for Commissioner Nick Fish, who has been charged with the bureau since June 2013 (Amanda Fritz took command on Sept. 4).

"And Code requires that the party in control of a property is responsible for the utility bills."

Back in 2012, however, David Shaff, then head of the bureau, realized the city had a problem.

Foreclosures were rampant. Either banks couldn't process all the distressed property or, as The New York Times reported, they refused to take possession, "most often because the cost of the ordeal - from legal fees to maintenance - exceeds the diminishing value of the real estate."

"Banks would tell people to get out, yet wouldn't complete the foreclosure process," Sollinger says. "They'd change the locks, and put up 'No Trespassing' signs, but they wouldn't change title."

At Shaff's behest, Sollinger says, the city passed an ordinance to "clarify billing responsibility for water service issues."

"Owners may no longer have access to these properties once vacated and secured by lenders," the ordinance reads. "Therefore, it is the lender in possession or control of the property who directly or indirectly benefits from water services provided by the City to the property."

All good, right? Council reminded the Water Bureau it was duly empowered to pursue the lenders who took control of Rick Wendler's and Ann Sherman's homes.

But as Sollinger discovered, the bureau couldn't be bothered. When Wendler and Sherman left those homes, they told the city to shut off the water as they paid their "final" bills.

Yet because their names remained on the title at county records, the billings never ceased. Wendler's tab reached \$3,709. Sherman's topped \$1,877.

"I didn't live there, but every two months, another bill," says Sherman, who now lives with eight family members and an ankle-biting dog in a four-bedroom apartment off Southeast 122<sup>nd</sup> Avenue. "I called them and they said your name is still on the deed, so we're going to bill you.

"I have anxiety. It trashed me. I could cry right now."

Sollinger says she's not aware of a single example of the City "successfully assigning billing responsibility to the lender in possession and control."

Says Fish's office: "This is not tracked by the bureau."

Your city government at work.

Wendler and Sherman didn't use a drop of city water after the banks took control of their homes, yet Lofgren said the bureau can't "write off" their responsibility without "legal instruments or verifiable evidence that they have been physically prevented from entering their property."

Wendler and Sherman had no trouble convincing Sollinger that was the case. The Water

Bureau, on the other hand, treated them like deadbeats. The Water Bureau sent collection agencies after them. The Water Bureau rarely if ever informed displaced homeowners to preserve evidence, Sollinger says, that banks were in possession and control.

Because Sollinger intervened, the bureau reluctantly agreed to reduce Wendler's bill to \$1,844.17 and Sherman's to \$241.79.

Wendler is judgment proof. He says he doesn't have the money, and the bureau, fortunately, can't dock his disability payments. Sherman somehow scraped together the \$241.79, believing she couldn't move back to Portland unless she did.

But get this: Michael Stuhr, the current director of the Water Bureau, wrote Sollinger's office in August and addressed her contention that the bank is the ratepayer responsible for payment of the water and sewer charges.

Just how hard did the bureau work to determine if that was true in Sherman's case?

"As you know," Stuhr told the city ombudsman, "we wrote to the lender, but to date have not received any response."

What diligence. What a commitment to holding accountable the only party still benefiting from the property's connection to the city utility.

What smug, lazy disdain.

-- Steve Duin

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