

The Oregonian

Portland police Capt. Mark Kruger's past discipline to be erased -- including for tribute to Nazi-era soldiers -- under city settlement

*By Maxine Bernstein
July 16, 2014*

To settle a legal claim, the city of Portland has agreed to pay \$5,000 to Portland police Capt. Mark Kruger and erase two disciplinary actions from his personnel record: a suspension for his public tribute to five Nazi-era German soldiers at a city park and a reprimand for retaliating against a female lieutenant.

The steps are part of a negotiated settlement reached after Kruger, now in charge of the Drugs and Vice Division, filed a notice of his intent to sue the city in January 2013.

Kruger, through his attorney, argued that the city and the police bureau's Director of Services Mike Kuykendall slandered him in a series of text messages. Kuykendall repeatedly referred to Kruger as a Nazi in an exchange of texts with Lt. Kristy Galvan.

"It goes without saying that Captain Kruger is highly offended by Lt. Galvan's and Mr. Kuykendall's comments," Kruger's attorney Sean Riddell wrote in the 2013 tort notice. "It would appear that Mr. Kuykendall was planning on or used his position in the Chief's office to protect Lt. Galvan or harm Captain Kruger."

Kruger made the text messages public in his tort claim. Kuykendall wrote in one that Kruger hasn't liked a book since he read "Mein Kamph," misspelling the name of Adolf Hitler's manifesto.

In another text, Kuykendall referred to himself as Galvan's "DOS (for Director of Services) Guardian Angel" and her "DOS Daddy."

The tort notice led to the sudden resignation of Kuykendall, who served as Police Chief Mike Reese's right-hand man in the bureau's top civilian position at the time.

The city denied the validity of Kruger's legal claim, but said it wanted to bring it and all potential claims by Kruger to a close.

As part of the unusual settlement with Kruger, the city agreed to pay him back for the 80 hours suspension without pay he received in 2010 for nailing "memorial plaques" of five Nazi soldiers to a tree on the east side of Rocky Butte Park sometime between 1999 and 2001. Kruger was a Portland officer at the time, but wasn't on duty when he erected the plaques as a shrine he called "Ehrenbaum" or "Honor Tree."

Under the settlement, the 80 hours will be added as vacation pay to Kruger's vacation bank. The 2010 disciplinary letter, in which Reese had cited Kruger for bringing "discredit and disgrace upon the Bureau and the City," will be removed from Kruger's Police Bureau and human resources file.

Under the deal, the police chief also will provide a complimentary three-paragraph letter to Kruger, saying he's performed "above expectations" in his work on the force and has strengthened ties with the community.

"I am writing to affirm that I consider you to be a competent and valuable member of the Portland Police Bureau. Your skills and talents as a Critical Incident Commander and ability to connect with the community are outstanding," the letter from Reese reads in part. "As well, your work with the immigrant community has strengthened our relationship with new Portlanders."

Reese declined comment.

Kruger, through his attorney Sean Riddell, said of the settlement Wednesday: "My record now accurately reflects the high quality of my work serving the citizens of Portland. I am looking forward to getting back to business of protecting the public and keeping the peace."

The 2010 Portland police internal affairs investigation of Kruger over the controversial plaques was initiated only under pressure and through a complaint from Robert Seaver, a former friend of Kruger's who knew about the plaques.

Internal affairs found Kruger had taken the plaques down while he was facing federal lawsuits between 2002 and 2005 alleging excessive force during downtown anti-war protests. He gave them to the city attorney's office, which stashed them away for years and vigorously fought against producing them during discovery in the federal case. They weren't uncovered until a police internal affairs investigator found them in the city attorney's office about four years ago.

Attorney Alan Graf -- one of the plaintiff's lawyers in the federal lawsuit against Kruger who had fought to obtain the plaques as part of discovery -- was outraged by the city's settlement with Kruger.

"That's sick, sick," said Graf, now a lawyer in Virginia. "It's unbelievable. The only conclusion that I can come to is that Kruger has dirt on some of the people in power, and they're afraid of him. The City of Portland should be ashamed of itself."

Tracy Reeve, who as a deputy city attorney represented Kruger in the federal case, is now the city attorney for Portland. She said outside counsel for the city negotiated this settlement with Kruger.

"Because I had previously represented Captain Kruger ... the City elected to retain outside counsel to represent it in the mediation of Captain Kruger's claims. I was not involved in the settlement of those claims and have no comment," Reeve said in an email.

When he was disciplined in 2010, Kruger wrote a letter of apology to the chief, the bureau, the City Council and community. He described himself as a European and military history buff, but denied any admiration for Nazis, and said he had no knowledge that one of the officers he honored was involved in war crimes.

In 2010, Reese also ordered Kruger to take "Tools for Tolerance" training, and participate in a "mentorship arrangement" for at least six months to up to two years. At the time, the chief found Kruger violated a bureau directive on professional conduct and Portland city code, which says no person shall attach anything to property in a city park. "Your conduct, the publicity surrounding it, and negative perceptions about its nature raise legitimate questions about your ability to be effective in your job," Reese wrote then.

As part of the current settlement, Reese wrote that Kruger "completely fulfilled all of the conditions" set out in his 2010 discipline letter. The removal of Kruger's discipline stemming from the plaques, the chief wrote, "will give all parties the opportunity to move on from this past conduct."

The city also agreed to remove a 2014 letter of reprimand from Kruger's file that followed a city finding that Kruger retaliated against Lt. Galvan.

The discipline came after Kruger posted a letter on his East Precinct door that exonerated him from Galvan's earlier claims that he'd been harassing her. The typed letter did not have Galvan's name on it, but her name was handwritten in red on top of the letter Kruger posted to his office door.

While the letter of reprimand on the retaliation finding will be removed immediately from Kruger's police file, the city Bureau of Human Resources won't remove the letter from its files until Feb. 21, "if no similar issues arise."

Galvan voluntarily resigned from the bureau this year. As part of her own settlement with the city stemming from her legal claim of workplace harassment against the city and Kruger, the city will pay her \$50,000.

City Commissioner Steve Novick, who learned about the settlement Wednesday afternoon through The Oregonian story online, said he's "equally outraged and astonished," by the terms of the agreement and the fact that no one in the city informed any council member about the settlement.

"It's outrageous," Novick said, of the city's agreement to erase Kruger's discipline stemming from his controversial Nazi-memorial plaques. He said the soldiers that Kruger memorialized were part of the military arm of the Nazi party. He called the removal of the discipline "an insult to anyone of Jewish or Russian or Polish descent."

"The irony of the fact that we heard of this the week after Chief Reese completed a diversity training does not escape me," Novick said.

Portland Commissioner Steve Novick blasts city decision to erase Capt. Mark Kruger's discipline for Nazi soldier tribute

*By Maxine Bernstein
July 16, 2014*

City Commissioner Steve Novick , who learned Wednesday afternoon from The Oregonian of a city settlement that erases Portland police discipline of Capt. Mark Kruger, said he's "equally outraged and astonished," by the terms of the agreement and the fact that no one in the city informed council members about it.

To settle a tort claim that Kruger had filed against the city last year, the city agreed to pay Kruger \$5,000 and to erase two disciplinary actions he faced: an 80-hour suspension without pay in 2010 for his public tribute to five Nazi-era German soldiers at a city park and a 2014 written reprimand for retaliating against a female lieutenant.

The city also agreed to give Kruger an additional 80 hours of vacation time, and have the chief write him a complimentary letter about Kruger's police work and service to the community.

"It's outrageous," Novick said of the city's agreement to dismiss Kruger's discipline.

He said the soldiers that Kruger memorialized on a tree at Rocky Butte were part of the military arm of the Nazi party. He called the removal of the discipline "an insult to anyone of Jewish or Russian or Polish descent."

"The irony of the fact that we heard of this the week after Chief Reese completed a diversity training does not escape me," Novick said.

Novick called it "particularly offensive" that the city agreed to pay Kruger back for the lost pay from his suspension in 2010.

"It suggests that in retrospect, the city doesn't think he deserved any punishment at all," Novick said.

Mayor Charlie Hales, who signed off on the settlement agreement on June 16, released this statement late Wednesday:

"I'm not defending actions from 15 years ago. And I'm not addressing the details of the negotiated settlement. But removing disciplinary documents from police files doesn't change the facts, especially in a well-known story like this one. Since I arrived, we have improved police discipline rules to make them timely, consistent and predictable. There's still more work to be done. We are moving the bureau forward."

Because of a conflict of interest, the city hired outside counsel, Kari Furnanz of the law firm Hart Wagner, to negotiate the settlement. Furnanz recently left the firm and serves as an administrative law judge for Oregon's Bureau of Labor and Industries, according to the state bar directory.

Right 2 Dream Too: Guilty verdict in trespassing trial of Portland homeless camp co-founder Ibrahim Mubarak

*By Sara DiNatale
July 16, 2014*

A Multnomah County jury on Wednesday found Ibrahim Mubarak, co-founder of the Right 2 Dream Too homeless community in downtown Portland, guilty of trespassing and interfering with a police officer.

After a two-day trial, a jury of six determined that Mubarak broke the law in his interaction with Officer Jennifer Thompson under the Burnside Bridge the night of Feb. 27.

He and others were checking on people sleeping on the sidewalks in a parking lot near the University of Oregon's White Stag Building and Mercy Corps headquarters.

Much of the trial hinged on whether Mubarak was allowed to be in the parking lot in which he was arrested and if the lot was private property.

He will be sentenced later Wednesday afternoon.

Mubarak, 57, has been a public face of the Right 2 Dream Too encampment, which has occupied a vacant lot at Northwest Fourth Avenue and West Burnside Street since 2011.

City leaders have been working to find a new home for the campers with \$846,000 chipped in by private developers earlier this year toward lease or purchase of a site.

Right 2 Dream Too: Ibrahim Mubarak, homeless camp co-founder, sentenced to 80 hours of community service

*By Sara DiNatale
July 16, 2014*

Ibrahim Mubarak, a co-founder of Portland's Right 2 Dream Too and Dignity Village homeless communities, was sentenced Wednesday to 80 hours of community service for trespassing and interfering with an officer.

The charges followed Mubarak's arrest in a parking lot under the Burnside Bridge Feb. 27, where Mubarak he was checking on people sleeping on a sidewalk.

Mubarak, who is a well-known leader in the homeless community, is not allowed to fulfill his community service requirement by helping the homeless, said Judge Edward Jones.

Jones sentenced Mubarak after a jury of six people on Wednesday unanimously found him guilty of all charges following a two-day trial.

"I'm going to continue to do my work," Mubarak said following his sentencing. "This is not going to stop me."

Mubarak, 57, is a public face of the Right 2 Dream Too encampment, which has occupied a vacant lot at Northwest Fourth Avenue and West Burnside Street since 2011.

City leaders have been working to find a new home for the campers with \$846,000 chipped in by private developers earlier this year toward lease or purchase of a site.

Mubarak will be on probation for the next year, but the judge imposed no travel restrictions.

Mubarak was arrested after a confrontation with Officer Jennifer Thompson of the Portland Bureau Police, who arrested him in a parking lot located between the University of Oregon's White Stag Building and the Mercy Corps headquarters.

Mubarak's trial focused on whether that the parking lot was a private or public space and whether his arrest was lawful.

Prosecutor Jonathan Rue and defense attorney Kenneth Kreuzer argued over the meaning of a lease agreement between the city, which owns the lot, and Venerable Properties, the company that manages it.

Although a no trespassing sign is posted on the premises, Kreuzer argued that the lease agreement allows members of the public to walk through the lot.

Rue told jurors that Kreuzer's explanation of the 57-page lease "does not make sense."

The prosecutor said the lot is private property and Mubarak needed permission to be there from Venerable Properties.

Rue also said Mubarak did not follow lawful orders from Thompson when asked to leave the parking lot. Thompson told him repeatedly to step off private property and onto the sidewalk, according to her testimony.

The sidewalk is a public area where people were sleeping the night Mubarak was arrested.

Mubarak said afterward he disagreed with the verdict.

"They accused me of not complying with a direct order from a police officer who came down where there was no riot and no clear form of trespassing or no disruptions, but wanted to bully her power in the wrong direction," Mubarak said.

Jones, however, told the courtroom Mubarak could have handled the situation better and needs to handle similar situations better in the future. The judge said the confrontation between Mubarak and the police officer, which was filmed and shown to jurors, could have turned violent.

Mubarak's trial drew a crowd of community support. Jones told the full courtroom it was unusual to see so many people sit through a trial. About 20 people who know Mubarak were present for the verdict.

Jones said Mubarak must complete at least three hours of his community service within three months.

"Try not to get arrested," Jones told Mubarak before adjourning.

The Portland Tribune

Recall looms over street fee discussion

By Jim Redden

July 17, 2014

Emotions are rising as Mayor Charlie Hales and Commissioner Steve Novick work to nudge their proposed street fee forward.

An opponent to the fee has filed petitions to recall Hales and Novick with the city auditor's office. Ray Horton, a Southeast Portland resident, announced his intention to file the petitions last week on a Facebook page opposed to the fee: Stop Portland Street Fee.

"There's a serious problem with the way the city government, particularly Hales and Novick, are approaching taking money from the people without listening to the people," says Horton, who voted for both of the city officials.

Meanwhile, an important advisory committee appointed by Hales and Novick failed to immediately reach agreement on the terms — or even need — for the fee at its first meeting Monday afternoon.

Members of the committee, who are charged with considering how the fee should be applied to businesses, could not agree on whether the Portland Bureau of Transportation is wisely spending its existing budget, how much additional money is needed to maintain and improve city roads, and where it should come from.

Despite widespread public criticism of the proposed fee, Horton faces an uphill battle. He must collect nearly 35,000 valid signatures from registered Portland voters on each petition by early October. And not everyone who frequents the Facebook page — which has nearly 2,000 "likes" — agrees with the proposed recall, according to co-founder Ann Sanderson.

"Our page contains ideas from many different Portlanders who are passionately opposed to this tax and facilitates many conversations about how to achieve our goals," says Sanderson, who owns the Odango! Hair Studio.

Novick responded during the weekend to news of the recall petitions, saying he and Hales are "morally compelled" to find more money to better maintain the city's streets, and asked Portlanders to offer their ideas.

"We will keep on explaining as best we can how dire our transportation maintenance and safety needs are, and as time goes on I think more and more people, even those that are most unhappy, will start working with us to find solutions," Novick said.

Devastating taxes

Hales and Novick hope to raise around \$50 million a year for maintenance and safety projects from the fee. They want the revenue to be raised evenly between residential properties and non-residential properties, including businesses, governments, and nonprofit organizations, including churches. They want the City Council to vote on the proposal on Nov. 12.

Two new working groups appointed by Hales and Novick to consider alternatives to the non-residential fee held their first meetings this week. One is focused on the business fee. The other is considering the fee on governments, nonprofits and low-income families.

The two work groups were appointed after businesses and nonprofit organizations questioned the proposed method of determining the transportation user fees. The calculations were challenged as unfairly penalizing small businesses, among other things.

There is no working group dedicated exclusively to property owners who do not qualify for low-income discounts. Hales and Novick have reached agreement with City Commissioner Amanda Fritz on a fee that phases into a maximum of \$12 a month during three years, and that has discounts for low-income households, including those living in multifamily buildings.

Sanderson says many other Portlanders will not be able to afford the residential fee, however.

“There are a lot of Portlanders who won’t qualify for a low-income discount whose budgets are tight enough to make this additional tax devastating,” says Sanderson.

Work group issues

The business work group held its first meeting Monday afternoon. It includes representatives of such business organizations as Associated General Contractors; the Building Owners and Managers Association, the Commercial Real Estate Development Association; the Oregon Restaurant and Lodging Association; the Portland Business Alliance; the Working Waterfront Coalition; and Venture Portland, which represents neighborhood business districts. Sanderson also serves on it.

Members could not agree on many of the basic issues at the meeting, however. Downtown developer Greg Goodman wanted more information on how PBOT spends its existing resources. Benjamin Chessar of the Commercial Real Estate Development Association thought more than a \$50 million a year might actually be needed. Sanderson thought the figure might be too high, however.

PBOT Director Leah Treat promised to provide additional information before the next meeting.

The other work group was scheduled to meet this week. Its members represent such nonprofits as: AARP; Central City Concern; the Community Alliance of Tenants; the Coalition of Communities of Color; Ecumenical Ministries of Oregon; Elders in Action; the Latino Network; and the Oregon Food Bank. It also includes schools in the area.

KOIN News 6 contributed to this story.

City settles threatened lawsuit by controversial police captain

*By Jim Redden
July 17, 2014*

Mayor Charlie Hales is defending his management of the Portland Police Bureau, despite a recent decision to remove disciplinary actions from the personnel record of a captain who honored Nazi-era soldiers on his own time.

The bureau had suspended Mark Kruger for posting the plaque and reprimanded him for retaliating against a lieutenant. The city will also Kruger \$5,000 after Kruger threatened to sue, claiming a city official repeatedly slandered him in text messages by referring to him as a Nazi.

In a statement released late Wednesday afternoon, Hales said, “I’m not defending actions from 15 years ago. And I’m not addressing the details of the negotiated settlement. But removing disciplinary documents

from police files doesn't change the facts, especially in a well-known story like this one. Since I arrived, we have improved police discipline rules to make them timely, consistent and predictable. There's still more work to be done. We are moving the bureau forward."

But Rev. Chuck Currie, an outspoken local human rights advocate, blasted the agreement in a Wednesday statement, saying, "Capt. Kruger must see this as a victory. But his worship of SS troops might be erased from a city file as part of some bizarre move after he harassed a female colleague — another incident he has not been held fully accountable for — but Portlanders will remember this police officer who dressed as a Nazi and built a shrine in honor of Hitler's most fearsome troops. We won't forget. And our trust of the Portland Police Bureau and the Portland City Council will be further diminished because of this day. The U.S. Department of Justice investigation of the Portland Police, which found a pattern of civil rights abuses by Portland officers, didn't go far enough. There is a cancer in our bureau and no effective civilian control of this entity whose employees can get away with literally anything."

KOIN News 6 contributed to this story.

Willamette Week

Mayor Charlie Hales and Commissioner Steve Novick Respond to Ray Horton's Recall Effort

*By Aaron Mesh
July 16, 2014*

Today's edition of WW features an interview with Ray Horton, the Mount Tabor retiree who is fighting a proposed Portland "street fee" by trying to recall Mayor Charlie Hales and Commissioner Steve Novick. Horton says he filed his recall petitions on July 11 because Hales and Novick "have a dismissive attitude toward people who express concerns about budgeting."

WW asked both officials to respond to Horton—who has so far collected 15 of the 34,921 signatures he'll need to get on the ballot.

Hales issued the following statement:

I appreciate the fact that everybody is free to exercise their civic rights.

I took an oath to act in the best interest of all Portlanders, and have spent the last 18 months putting the city's house in order. That has meant facing the 2013 budget crisis, making major changes in how our police operate, paying down debt, investing in our kids through SUN schools and other strategies, and overhauling urban renewal areas to benefit all. I'm proud of the actions I and our City Council have taken to put a great city onto a sound foundation.

Continuing that active approach to Portland's needs now means acting to fund street and park maintenance. Leadership means taking action even when there are those who disagree.

Novick sent WW a statement he first released to The Portland Tribune on July 12:

When the Mayor and I came into office we inherited a transportation system that has been neglected for years, and we are morally obligated to do something about it. We've attended a lot of town halls, and there don't seem to be many people who want us to cut police, fire and parks to raise money for transportation, so I remain convinced that the only responsible thing we can do is raise more revenue. I understand that some people are unhappy. In late May I received an email from a constituent saying 'there are ways to get you out faster than 2016.' But since then that same constituent and I have had a

lengthy, cordial conversation about how to address our transportation needs. We will keep on explaining as best we can how dire our transportation maintenance and safety needs are, and as time goes on I think more and more people, even those that are most unhappy, will start working with us to find solutions.

In his email to WW, Novick adds: "If I WEREN'T trying to do something about the maintenance and safety issues in our transpiration network, I would deserve to be recalled."

The Mercury

Hall Monitor

Building Battle Comes to a Head

By Denis C. Theriault

July 16, 2014

FOR MONTHS, Portland City Hall has been privately wrestling with the controversial notion that developers and builders (whose campaign cash reliably buys a sympathetic ear in local government) should get a chance at multimillion-dollar subsidies, so long as they promise to help rid Old Town and Chinatown of its dismal parking lots.

Get ready to watch it become a reality, starting this Wednesday, July 16.

Essentially, any developer and landowner willing to provide market-rate housing in the neighborhood—units priced for people earning as much as the city's median income—would be freed from having to pay out required fees meant to ease their project's expected impact on the city's infrastructure.

Those fees are formally known as system development charges (SDCs). They're no trifle.

SDCs are a vital spigot of cash for our transportation, water, parks, and environmental services bureaus. Forgoing those fees in Old Town and Chinatown, city officials say, could cost those bureaus up to \$7 million in new revenue over the next five years.

(That's assuming, of course, developers actually decide to bite.)

For backers like Mayor Charlie Hales and Commissioner Dan Saltzman, it's all part of a worthy tradeoff. Especially if it leads to big buildings—which might spur further, unsubsidized development—on land that's pretty much been lying fallow.

Neighbors want housing, they say. And it's another way, Saltzman's been keen to point out, to help keep Portland from turning into San Francisco.

But skeptics—like Commissioners Amanda Fritz and Nick Fish—see a flurry of red flags. It's not just the money—even though both oversee bureaus that would be directly affected. It's also the precedent. That kind of perk has been offered, historically, to developers only willing to provide affordable housing (priced for people making no more than 60 percent of the median income).

Moreover, Old Town and Chinatown both reside in an urban renewal district—meaning the city would be using future general fund and utility revenues to subsidize projects eligible for urban renewal cash.

And Hales is stepping on the toes of the Portland Business Alliance—which argued in an email this spring that fee waivers wouldn't be enough to help apparently flagging projects like a Goodman family collaboration with Gerding Edlen near NW 1st and Couch.

Those arguments are hardly unreasonable. But they also haven't convinced the likely swing vote on the issue, Commissioner Steve Novick.

Novick isn't worried about setting precedents. He says this is a subsidy for one neighborhood, not a redefinition of affordable housing citywide.

He also made sure to say he "respects" Hales' passion—saying the same respect has guided his support for some of Fish and Fritz's priorities (business license tax deductions and tree code enforcement, respectively).

Novick's only nit? The policy would only require market-rate pricing for just 10 years. He wants some protection against a sudden increase in year 11.

But otherwise, "I'm leaning toward supporting the mayor's proposal," he says.

Meanwhile, there's a matter of timing.

Hales' office scheduled the first major hearing right in the middle of Fritz's long-planned overseas vacation. The second hearing on the proposal, when commissioners vote, will come a week later. Sources say Hales' office had offered to bump the first hearing back a week. But that would have put off a vote until July 30, when Fish will be away. Fritz declined the offer.

"It would be bad politics to organize votes around when people are gone," says Dana Haynes, Hales' spokesman, "because people come back." And they might remember.

The Bottom Line vs. the Fault Line

Well-Connected Landlords Want the City to Pay for Mandatory Seismic Retrofits

By Nathan Gilles

July 16, 2014

COMMISSIONER STEVE Novick and emergency planners let everyone know last fall they'd be pushing harder than usual for safer, earthquake-ready Portland buildings—shoring up, if they could, Portland's weak building codes.

But with Novick closer than ever to getting his way on mandatory seismic retrofits for some of the city's most vulnerable structures—brick apartments and other masonry buildings—a new landlord lobby has begun pushing back with a seemingly simple request: Pay us.

The group calls itself the Heritage Bricker Housing and Jobs Coalition, or "Brickers" for short. The Brickers (they've registered with the state as the Masonry Building Owners of Oregon) represent roughly 25 Portland landlords who collectively own 125 seismically unsound buildings. These are mostly older brick apartments—what engineers call unreinforced masonry buildings, or URMs—and most of them are extremely likely to collapse and kill their occupants in a big earthquake.

The Brickers claim they can't afford the high costs of retrofits—ranging from hundreds of thousands into the millions—without a subsidy.

"People have the perception that everybody who owns an apartment building is filthy rich. A lot of these people owe 75 percent of the value of their buildings to the bank," says Brickers founder Walter McMonies. "A lot of [Brickers] screamed like stuck pigs over the prospect of having to pay."

McMonies says he organized the group soon after the Mercury first reported on Novick's intentions last fall ["Coding for Quakes," News, Oct 16, 2013]. A semi-retired attorney at Lane Powell, McMonies also knows firsthand about the costs involved in retrofitting: He co-owns five Portland apartment buildings, and says he's retrofitted two—one, partially—while he's looking into retrofitting one more.

It's hard to know precisely which buildings might be involved. McMonies declined the Mercury's request to share the Brickers' roster—although he did acknowledge "there are some big boys in there who own 20 to 30 buildings."

Beyond McMonies, state records list the board of directors for the Masonry Building Owners of Oregon as follows: Elizabeth Tilbury from Tilbury Ferguson Investment Real Estate; Jeffrey Reingold from Income Property Management; Steve Rose from Bristol Equities; and Al Solheim from AWS Real Estate.

All but Rose have contributed large checks to current city commissioners, according to state records, with Mayor Charlie Hales the only elected Portland official to receive money from each of the remaining directors. Tilbury and Reingold have also funded campaigns for Commissioner Dan Saltzman. And Solheim has given not only to Hales and Saltzman, but also to Commissioners Nick Fish and Novick.

The Brickers also have enough money to hire a lobbyist to press their case.

They had their coming-out party on June 17 during a city council work session on URMs. Gwenn Baldwin, a seasoned political hand who's worked for Whole Foods and the Metro Multifamily Housing Association, the state's largest landlord lobbying group, joined them that day. (Baldwin did not return calls seeking comment.)

"This is really about a financial barrier system," Baldwin told the council, making the argument that building owners have to eat the cost of retrofits because tenants won't pay higher rents for safety the same way they might for new appliances.

URMs are known killers in big quakes—not just because they collapse, injuring and killing their occupants, but also because they send masonry flying and clog streets.

Since 1995, Portland code has required all URMs to undergo retrofits, provided the buildings meet certain requirements. The problem is many building owners have managed to elude the rules—helped by code changes in 2004 passed at the urging of cost-conscious developers.

According to numbers collected by the Portland Bureau of Development Services (BDS)—which is in charge of enforcing Portland's existing, anemic code—retrofits cost \$25 to \$75 a square foot. (To put this in perspective, Portland URMs measure anywhere from 5,000 to 30,000-plus square feet.)

Novick, who oversees the Portland Bureau of Emergency Management (PBEM), the lead agency pushing for a new policy, has repeatedly said successful seismic reform requires "carrots as well as sticks." Novick, however, concedes finding the cash could be tricky.

"Ideally what we should be able to do is to make carrots available to everybody," says Novick. "But the logic gets a little mucked up when you have a limited number of incentives to offer."

However, the commissioner's not willing to budge on passing something mandatory.

"Voluntary measures and educational measures have a very spotty record. Things get done when people are required to do them," Novick says.

So what funding ideas are being tossed around?

According to PBEM's director, Carmen Merlo, one option is working more closely with the Portland Development Commission (PDC), which found financing in the past for several Old Town/Chinatown retrofits, including the University of Oregon's White Stag Building. Another is obtaining state financing, which would require new legislation. Merlo says nothing is set in stone yet.

Novick seems to have the mayor's ear on seismic issues. Earlier this year, the commissioner hustled \$5.5 million from the PDC's River District for seismic retrofits. Who will get the dough is still up in the air. Unfortunately, these efforts pale next to what needs to be done.

Nearly all Portland buildings—not just URMs—are at risk in the event of a major earthquake. That includes wood-frame houses that aren't attached to their foundations (or have weak foundations), brittle concrete buildings (called non-ductile concrete buildings), and even some of the city's steel-framed high rises (normally pretty resilient, they might have weak welds). But how well any of these buildings will perform is largely conjecture. The truth is we just don't know.

The city's last study on URMs was in the mid-1990s, when building codes finally started reflecting our geology.

The study spotted 1,865 URMs in Portland. However, this analysis was just a "windshield" study, meaning buildings were eyeballed from the street. Their blueprints weren't dug up to verify what, if any, seismic work had been done.

That may change. Merlo says PBEM will be submitting a funding request so she can pay a researcher to plod through records and see what's actually been retrofitted.

(Ironically, probably the best sense of how many people live in URM's comes from McMonies, who tallied up the old city numbers in his own 2010 assessment, published in the Center for Real Estate Quarterly Journal. According to McMonies, Portland's URM's account for 5,200 apartment units. Collectively he estimates the buildings are worth about \$350 million. Yet McMonies' numbers, like the city's, are just educated guesses.)

Novick says he's happy with the response he's getting on the URM issue from the mayor and the rest of council, adding he thinks he now has the backing for a policy with "real teeth." This is a far cry from the last time Portland politicians gathered to address the city's easily circumvented earthquake rules.

In October 2004, city council unanimously amended Portland's seismic code, to make it more favorable to landlords and developers. Prominent developers who complained to council about costly retrofits included Bob Ball, who built the Pearl's luxury Wyatt Apartments, and the late Art DeMuro, who rehabbed Old Town's White Stag Block.

"[The Brickers] think they can't make up the costs with higher rents. So that's a problem for them," says Novick. "On the other hand, having buildings that will fall down and kill people when we have an earthquake is a pretty big problem, too."

City Pays \$50,000 to Settle Retaliation Case Police Bureau Never Wanted to Investigate

*By Denis C. Theriault
July 16, 2014*

A sordid soap opera that's flared here and there in the Portland Police Bureau since February 2013—full of resignations, harassment complaints, legal filings, retaliation claims, and texted Nazi jokes—seems to finally be over. Almost.

The Portland City Council this morning approved a \$50,000 legal settlement for former Sergeant Kristy Galvan, whose complaints about her former supervisor, Captain Mark Kruger, touched off a long back and forth that wound up sacking Police Chief Mike Reese's one-time confidante and prompted the city's Independent Police Review office to conduct its first-ever independent misconduct probe of a police employee.

Galvan had been a probationary lieutenant when she first complained about harassment and sexist treatment while working under Kruger in late 2012 and early 2013. She has since left the bureau, a spokesman says, taking a "medical separation" this January. As part of the settlement, a city official said this morning, both Galvan and Kruger have agreed to drop concurrent legal claims against the city. (Although I'm still trying to confirm that.) Galvan, however, still has a complaint (pdf) pending with the state Bureau of Labor and Industries.

The scandal first went public after Mike Kuykendall, the bureau's civilian director of services, was caught sharing Nazi jokes with Galvan and resigned. (Kruger was disciplined years ago for an illegal shrine honoring Nazi-era German soldiers.) And it might have died several months later—until Kruger brought it back to life.

Kruger was cleared of Galvan's accusations—but he couldn't resist crowing about his good news. He posted his exoneration letter on his then-office door in East Precinct, with Galvan's name scrawled across the top in red marker. (The Oregonian first reported that.) Galvan got word of the letter's posting and filed a retaliation complaint with bureau brass. Who pretty much decided not to do anything about it.

According to a report exclusively detailed by the Mercury, Kruger told investigators that Reese's office met with city attorneys before anyone was questioned and decided Kruger's actions didn't amount to retaliation. Kruger was never questioned by the bureau, even though he was coached on how to answer informal questions by Central Precinct Commander Bob Day, a senior member of the police union for high-level command staff.

It took the IPR flexing its muscle, starting its own investigation last year, before anyone sufficiently aired Galvan's claim.

And city documents describing the settlement make clear why it's a good thing IPR has the power to do what it does.

7. BACKGROUND/ANALYSIS

Kristy Galvan was a probationary Police Lieutenant who complained of workplace harassment by her supervising Captain. The case, which received extensive media attention, was investigated by the City and is pending with the State Bureau of Labor and Industries (BOLI). At the conclusion of the city's investigation, which found no evidence of harassment or discrimination, a new claim of retaliation was raised. This new claim was substantiated by the Bureau of Human Resources (BHR). For this and other reasons, Risk Management, in consultation with BHR and the City Attorney's office, entered into pre-litigation mediation with Ms. Galvan and her attorney, resulting in an agreement to settle all pending matters related to her employment. Part of the settlement includes the payment of \$50,000 in exchange for a full release of claims against the City and all our employees and agents.

Because of IPR's probe, Kruger was found guilty of retaliation by the city's bureau of human resources. It's unclear what discipline he might be facing. But if this case had been left to the bureau all by itself, Galvan might not have gotten her settlement. And Kruger almost certainly wouldn't have been found in violation of city rules.

Update 3:05 PM: The O spoke to Kruger's attorney and learned that Kruger will receive \$5,000 through a settlement negotiated via an outside legal firm. And as part of that settlement, his police bureau file will see both the recent retaliation finding and discipline for the Nazi-era shrine stricken from his police record. They'll be replaced, instead, with a commendation from Chief Mike Reese. The retaliation claim will, however, remain on file with human resources.