

## The Oregonian

# Attorney files lawsuit over Portland's proposed homeless shelter

*By Brad Schmidt*

*August 22, 2016*

Prominent attorney John DiLorenzo made good Monday on his threat to sue the city of Portland for planning to open a temporary homeless shelter on property owned by the sewer bureau.

DiLorenzo wants a Multnomah County judge to intervene. But Portland will fight and says DiLorenzo's claim is without merit.

At issue: whether Portland's plan will deprive the city's sewer bureau from getting fair value for its property.

The argument reignites DiLorenzo's still-pending lawsuit from 2011 alleging Portland has misspent money from water and sewer customers on projects unrelated to water and sewer services. DiLorenzo has already secured several victories in the case and forced the city to reverse course on other questionable projects.

Now, DiLorenzo wants Judge Stephen K. Bushong to decide whether Portland's latest effort is illegal.

Two weeks ago, the City Council voted 3-2 to force the Bureau of Environmental Services to lease its riverfront property to the Portland Housing Bureau for a temporary homeless shelter. The 14-acre site, known as Terminal 1, is at 2400 N.W. Front Ave.

Although no lease has been signed, the City Council directed the Housing Bureau to pay no less than \$10,000 a month. But the sewer bureau is currently collecting \$26,200 a month and a broker estimates the property is worth about \$100,000 a month.

Portland last week also received offers from seven businesses who want to buy the land, with offers ranging from \$6 million to \$10 million.

DiLorenzo argues the City Council has precluded the sewer bureau from leasing the land at fair market value or selling it at full price.

The sewer bureau "will be deprived at least \$10 million," he argued in Monday's filing, which will require the agency to take on more debt either resulting in rate increases for customers or eliminating the potential to reduce sewer rates.

DiLorenzo wants to accelerate a ruling by adding the lease issue to his existing lawsuit.

But Tracy Reeve, Portland's top attorney, said the complaint should be filed as its own lawsuit and officials will fight DiLorenzo.

Reeve also said officials have set a floor of \$10,000 a month but the sewer bureau will be fully compensated. The bureaus have until Oct. 7 to sign a final lease.

"It's premature because no final amount has been agreed to and executed," she said. "There aren't going to be ratepayer resources used to fund the shelter activities," she added.

## The Portland Tribune

### Terminal 1 controversy continues

*By Jim Redden*

*August 23, 2016*

The controversy over the City Council's decision to open a temporary — and perhaps permanent — homeless facility at Terminal 1 has only increased in recent days.

Commissioner Nick Fish, who oversees the bureau that owns the property, tells the Portland Tribune he might not approve the lease authorized by the City Council for the project. Fish says the 14-acre parcel at 2400 N.W. Front Ave. is worth far more than the \$10,000 a month the council directed the Portland Housing Bureau to pay for it on Aug. 10.

"I'm in no hurry to authorize the lease and have asked for legal guidance on it," says Fish, who oversees the Bureau of Environmental Services.

Fish believes the lease should be as much as \$100,000 a month, which he says is the market rate for the property. His position was reinforced last week when seven bids from private developers to buy the property were released. They ranged from \$6 million to \$10 million.

According to Fish, the lease must be market rate because the property was purchased by BES ratepayers. Fish says ratepayers cannot legally subsidize non-BES projects.

That view is supported by Portland attorney John DiLorenzo, who went to court Monday to block the shelter project on those grounds. DiLorenzo is currently suing the city in Multnomah County Circuit Court over alleged misspending of BES and Portland Water Bureau funds by the council. The judge has already ruled such spending must be reasonably related to the primary missions of the bureaus.

Last Wednesday, Commissioner Amanda Fritz, who also opposes the project, voted against an application to Metro for a \$100,000 grant to determine whether the homeless shelter and large project proposed by developer Homer Williams is feasible. Fritz said the grant was a "waste of money" and also charged that project supporters violated earlier promises that no public money would be spent on the project, beyond the housing bureau lease payments.

The application was approved in a 3-1 vote. Voting for it were Mayor Charlie Hales and commissioners Dan Saltzman and Steve Novick, the same three who approved the lease. Fish, who voted no on the lease, was absent.

#### **Big bids**

Terminal 1 was originally owned by the Port of Portland. After it became obsolete, BES bought it for about \$6.3 million to use as a staging ground and access point for the Big Pipe project to reduce combined sewer overflows into the Willamette River. After that project was completed, the City Council declared the property surplus and directed it to be sold through a previously approved surplus sales process.

Multnomah County property records say Terminal 1 has a market value of \$8.6 million. The broker handling the sale told BES it is worth more, however. He predicted the sale would bring

in offers between \$8 million and \$12 million. But that was before the council voted to open a temporary 400-bed homeless shelter in a vacant warehouse on the property and consider a permanent homeless multi-service center there.

Fish believes that vote — which took place just before bids were due — discouraged some potential bidders, and resulted in lower offers. He also believes the vote damaged the city's reputation with anyone who might consider buying property from it in the future.

"The vote dampened the market and hurt the city's reputation," Fish says.

Only three of the bids mention specific development proposals. A \$6 million bid from Costco Wholesale proposes one of its membership stores at the site. An \$8.5 million bid from Kidder Mathews proposes a "new and innovative business park." And Portland developer Jim Winkler offered \$10 million with the idea of having the council rezone the property to accommodate 1,000 affordable housing units.

The other bidders and their amounts are: Kehoe Northwest Properties LLC, \$9 million; WPC 2400 NW Front Ave LLC, \$8 million; Lincoln Property Company, \$10 million; Conax Properties USA Inc, \$8.1 million.

The bids were obtained by the Portland Tribune through a public records request. They were due Aug. 15, five days after the council authorized PHB to lease Terminal 1 from BES for six months, with two automatic six-month extensions. That was five days after the council approved the lease.

The proposal was presented to the council by Saltzman. During the hearing, he said the maximum 18-month period is intended to allow Williams enough time to raise the money necessary to open a larger homeless multi-service center on the property he is calling Oregon Trail to Hope. Williams outlined his proposal at the hearing but did not provide specific details, including the construction costs, which he had previously estimated at between \$60 million and \$100 million.

Fish says he intends to continue the sales process to provide an alternative in case the shelter project is blocked or Williams' larger plan falls through.

### **Oregon Trail to Hope**

The grant application approved by the City Council on Aug. 17 was prepared by the Portland Housing Bureau. It seeks a \$100,000 Equitable Housing Planning and Development grant from Metro, the elected regional government. This is a relatively new program intended primarily to help local governments build more affordable housing. It is unclear whether the application qualifies for the program. That will be decided by a screening committee and, ultimately, the elected Metro Council this fall.

According to the application, the grant would be matched by \$150,000 in private funds and \$15,000 in city staff costs for a total of \$265,000. If approved, the grant would help fund a 12-month project to determine the feasibility of the Oregon Trail to Hope concept at Terminal 1. It describes the concept as a multi-service center providing shelter, services and housing for people experiencing homelessness.

The application says the concept was proposed by developer Homer Williams, who is leading the project, which filed with the state as a public benefit corporation in May. The directors are Williams, business partner T.B. Dame, business partner Matt Brown, and consultant and former Portland Development Commission director Don Mazziotti. Williams and his team have reached out to more than 38 government, nonprofit, business, faith and other partners to build support for the project over the past six months, the application says.

According to the application, if the grant is approved, a Stakeholder Adviser Committee will be convened to assist with the project by December of this year and a consultant will be hired by Jan. 31, 2017.

The work will then be conducted in three phases. The Visioning phase will define the vision for the project — including “the incorporation of a racial equity lens” — by March 31, 2017. The Feasibility Analysis phase will include an analysis of the zoning, land use, site acquisition and financial requirements for the project, to be completed by May 31, 2017. The Master Plan Development phase will produce a map of the site with scheduled uses by Oct. 30, 2017.

One issue to be explored is how much the site must be cleaned up to be suitable for residential uses. The Oregon Department of Environmental Quality has notified the city that it can be occupied now, provided the asphalt surface is not broken. That is not expected to happen while the warehouse is being used as a temporary homeless shelter, but it will if the larger project goes forward.

The application was accompanied by letters of support from Saltzman, Williams, Transition Projects, the Union Gospel Mission, and Marc Jolin, director of the newly formed city-county Joint Office of Homeless Services, which is negotiating the operating agreement for the temporary shelter with Williams’ group.

## **Willamette Week**

### **Portland’s Short-Term Rental Rules Are Such a Joke That an Airbnb Employee Ignores Them**

*By Rachel Monahan*

*August 24, 2016*

When Rebecca Rosenfelt moved to Portland from San Francisco last summer, she and her husband paid \$1.6 million for two Boise neighborhood townhouses and almost immediately began renting one of them out on Airbnb for as much as \$350 a night.

The four-bedroom townhouse is one of six properties Rosenfelt listed on the short-term rental marketplace Airbnb—three in Portland, one in San Francisco, and two in Northern California's Sonoma County.

When Portland began allowing short-term rentals in 2014, City Hall created rules to ensure that Airbnb's clients wouldn't add to a citywide housing crunch by taking apartments and homes off the market and renting them out to tourists. San Francisco passed similar restrictions. Among those rules: People can list only properties where they live for at least nine months a year.

Rosenfelt's six properties violate the spirit of those rules—and at least two of her rentals, the San Francisco condo and Northeast Portland townhouse, flout the letter of the law by not having the required city permits and safety inspections.

And Rosenfelt should know the law: She's an Airbnb manager at the tech company's Portland headquarters.

Critics have long complained that Portland's short-term rental regulations are toothless—two years after the rules were adopted, less than a quarter of Airbnb clients have bothered to get the required \$178 permit and safety inspection.

Now those skeptics say the rules have become such a joke that even an Airbnb employee ignores them.

"It just makes it look like those rules were only ever for show," says Margot Black, an organizer with Portland Tenants United. "Even an Airbnb manager is blatantly flouting them. The fact that it's in the midst of a housing crisis makes it all the more obscene."

Rosenfelt says she's trying to get city permits for the Boise townhouse that she's listed for more than a year. "I'm in the process of permitting the Airbnb," she tells WW. She declined to answer questions about how she could get a permit for a home she doesn't live in, directing WW to Airbnb for answers.

After WW contacted Rosenfelt on Aug. 22 about her listings, she pulled all six of them down.

As Portland becomes a global destination for both new residents and visitors, competition from tourists exacerbates an already intense housing crunch.

Last fall, Mayor Charlie Hales declared a housing emergency. And he's sought to increase the supply of housing by loosening the rules for building accessory dwelling units—or "granny flats"—and foreclosing on abandoned homes.

But City Hall has still not cracked down on illegal short-term rentals.

An analysis commissioned by WW shows that if illegal short-term rentals were removed from the Airbnb website, as many as 1,718 homes could be made available to Portland residents instead of tourists.

Some leaders say the city's housing supply is being drained by short-term rental scofflaws.

"If you take thousands of units off the market, it's going to have an impact," says Commissioner Nick Fish. "People now have the option of making more money renting to short-term rather than long-term tenants. We have, in effect, created an incentive."

City Hall welcomed Airbnb in 2014, making Portland the nation's first city to legitimize the short-term rental marketplace by levying lodging taxes on it.

The city requires Airbnb hosts to live in any house that's rented for less than 30 nights at a time and allows hosts to rent out an entire house for 90 days a year. Generally, no more than two bedrooms can be rented.

"That's how we were trying to make sure we didn't lose a bunch of housing stock that would otherwise be available," says Mike Liefeld, enforcement program manager for the Bureau of Development Services.

City inspectors still rely on a complaint-driven system to identify offenders. About 79 percent of the 3,500 Portland listings on Airbnb don't have city permits, according to data provided by the city and Murray Cox of the tech website Inside Airbnb.

In 2015, WW reported that dozens of Airbnb clients were ignoring city rules by listing multiple short-term rentals—sometimes while living out of state ("Hotel California," WW, Feb. 17, 2015). A recent examination by Cox shows the problem has persisted even after repeated deadlines from the city and the threat of fines to the company.

In one example, one woman has 22 listings all clustered near Northeast Alberta Street, none of them giving a city permit number, according to data from Inside Airbnb.

Rosenfelt, 33, has worked as a product manager for Airbnb since 2012, according to her LinkedIn profile.

She bought her first apartment in Northwest Portland in 2008 on money she earned renting out her New York apartment while she traveled for work, she told the website Apartment Therapy. (That apartment in Northwest is still rented on Airbnb, but in monthlong increments that don't run afoul of the city's rules.) She started her own venture called Inhabit Vacations; she says it was acquired by Airbnb in 2012. Her two Sonoma County listings appear to date from that venture.

Rosenfelt's condo in San Francisco remained listed on Airbnb. She can't get a legitimate Airbnb permit for the San Francisco address as long as she lives in Portland, because San Francisco also requires Airbnb clients to live in the units they rent out. There's no record of a permit ever being issued to Rosenfelt, officials with San Francisco's short-term rentals office say.

She's not the first Airbnb employee to run afoul of the rules. The company's CEO, Brian Chesky, was busted in January for failing to register his apartment in San Francisco, but he easily rectified the situation by registering his couch, for which he asks \$50 a night.

But unlike Chesky, Rosenfelt can't fix her mistake with paperwork—she's breaking the rules in two cities, including residency requirements.

The Boise townhouses Rosenfelt purchased were built just last year. Nearly three years ago, a developer purchased a modest house on Northeast Rodney Avenue for \$259,000, demolishing it to make way for Rosenfelt's two, 3,000-square-foot townhouses.

Those new units might have increased the city's housing supply—but it appears one of them is partly being used as a bootleg hotel. (Airbnb officials say Rosenfelt is renting at least a portion of her second townhouse to a long-term tenant, as well as advertising it as a short-term rental.)

"Apparently someone who works for Airbnb is setting a bad example," Fish says. "It doesn't surprise me. They have been very resistant to being good corporate citizens to solve the problem."

Airbnb spokeswoman Alison Schumer defends the company's record in working with Portland, blaming the city's "complex" process for getting permits.

Schumer declined to comment on why Rosenfelt was allowed to list six properties on Airbnb. "We are working with this employee to help her navigate the registration process," Schumer says.

## The Portland Mercury

### Hall Monitor: Putting Out Fires At Terminal 1

*By Dirk VanderHart*

*August 24, 2016*

IT WAS a minor skirmish in the battle arena Terminal 1 has become.

On Wednesday, August 17, a week after a deeply divided Portland City Council took steps to create a massive homeless campus at the surplus city-owned property, it needed money to study the effort.

So the Portland Housing Bureau (PHB) brought an ordinance before council, asking for permission to apply for a \$100,000 Metro grant. That money would be used to pay a consultant to analyze how adequately the 14.5-acre Terminal 1 might eventually house more than 1,000 homeless Portlanders.

Mayor Charlie Hales and commissioners Dan Saltzman and Steve Novick supported the application. Commissioner Amanda Fritz, who's been outspoken against the proposal, said she couldn't justify the expense of taxpayer money. Commissioner Nick Fish, her ally in that regard, was absent.

The measure passed city council along familiar and sharp divisions, in other words. It was also sort of meaningless.

PHB had already applied for the Metro grant [PDF] four days before getting council's blessing to do so—a fairly common practice. It turns out no city policy even requires bureaus to get formal permission to apply for grants, though such permission can help bolster an application.

PHB Director Kurt Creager told me his people brought the measure before council because Terminal 1 is so contentious.

"Since it was a high profile issue we didn't want to make any assumptions about it," Creager said.

Then he revealed something far more interesting: Another disagreement embroiling Terminal 1 might also amount to less than it seems.

One day after local attorney John DiLorenzo sued the city [PDF], claiming it's preparing to rob utility customers by not reaping full rents for Terminal 1, Creager said that's not the case at all.

He says he and Bureau of Environmental Services (BES) Director Michael Jordan have reached an agreement to lease the land at market rate.

"BES has given us a number and I have accepted that number," Creager told me. He wouldn't go into specifics, saying the matter would still need to be approved by Fish, but noted "it will reflect the market rate as calculated by BES." Fish's office in the past has put that amount at roughly 35 cents per square foot.

And Creager said something else of note: PHB doesn't think it will need all of Terminal 1's 96,000-square-foot warehouse when it moves homeless Portlanders into an emergency shelter there in coming months.

“We think we’re going to go live with a number of about 100 [people], comparable to the Peace Shelter downtown,” he said, referencing a recently shuttered shelter.

While it does that, PHB will happily share the space with companies that are currently leasing Terminal 1 from BES. The shelter would gradually expand use of the warehouse, until it’s occupying the whole thing—all of it at market rate.

It’s a deal that could stamp out DiLorenzo’s claims in short order—another skirmish potentially over, with many more to go.

## **The Proposed Homeless Shelter at Terminal 1 Is Now Part of a Lawsuit**

*By Dirk VanderHart  
August 22, 2016*

The fight over Terminal 1 has a new home: The courts.

As promised, local attorney John DiLorenzo filed a fresh pleading today in an ongoing legal dispute over how the city spends sewer funds. He says Portland’s on the verge of violating it’s own rules at Terminal 1, the plot of land at 2400 NW Front controlled by the Bureau of Environmental Services.

As we’ve reported extensively, BES has been trying to sell that plot at City Council’s direction—receiving offers as high as \$10 million for the 14.5-acre site. But on August 10, council put the brakes on that process, instead ordering BES to lease the property to the Portland Housing Bureau for at least six months. There are tentative plans to put a large homeless shelter in a 96,000-square-foot warehouse at the site.

The specifics of the lease won’t be worked out for months, but there’s a decent chance that BES could rent out Terminal 1 for well under market rate. If that happens, DiLorenzo says, sewer utility ratepayers would effectively be subsidizing a project that has nothing to do with their bills. From the new supplemental pleading:

*In contravention of the Portland City Charter, the City has:*

- a. used Sewer Fund monies for purposes not reasonably related to sewer services, including, but not limited to preparing and marketing Terminal 1 for use as a homeless shelter;*
- b. precluded BES from receiving fair market value (either for sale or lease) for the Terminal 1 property acquired and maintained with Sewer Funds, even after the property has ceased serving any purpose reasonably related to the sewer system, and after BES had marketed the property in an effort to return money to the Sewer Fund;*
- c. required ratepayers to subsidize services not reasonably related to the sewer system by forcing BES to enter into a lease of the Terminal 1 property for an amount far below market rent.*

According to an e-mail DiLorenzo sent to news outlets, the City Attorney’s Office is prepared to fend off this motion. Officials have declined to offer insight into any attorney opinions for why

the city's actions aren't illegal. Commissioner Nick Fish, who runs BES and opposes a shelter there, has repeatedly suggested the vote could leave the city vulnerable in court.

A determining factor in that question might be how much the housing bureau is required to pay to lease Terminal 1. The resolution passed by council earlier this month set a floor for that rate at \$10,000 a month. That's well under market rate—and also less than BES is currently leasing the space for—but there is precedent. As the Mercury's reported, BES leased the property's warehouse for that rate to Nike-affiliated TrackTown USA last year.

DiLorenzo doesn't care about that transaction.

"It appears that the Nike rental arrangement was temporary at best and preceded the bureau's decision to designate Terminal 1 as surplus property and to sell it for the benefit of ratepayers," DiLorenzo told the Mercury (though, as the pleading he filed today acknowledges, the property was designated as surplus before the TrackTown lease). "This new arrangement conflicts the surplus designation and certainly any opportunities to sell the property for industrial use."

## The Portland Business Journal

### City slapped with lawsuit over Terminal 1 homeless camp proposal

By Jon Bell

August 23, 2016

After the Portland City Council voted earlier this month to lease its Terminal 1 property along the Willamette River for use as a homeless camp for up to 400 people, local attorney John DiLorenzo threatened to sue.

DiLorenzo backed up that threat this week, filing suit against the city, claiming that resident ratepayers aren't getting the full value for the Terminal 1 property if it's used for the shelter.

The Oregonian reported that DiLorenzo filed suit yesterday.

The city's Bureau of Environmental Services had been shopping the 14.5-acre Terminal 1 property to prospective buyers, who offered between \$6 million and \$10 million for the property for a range of different development projects. But the council's vote two weeks ago essentially put the sale process on hold, instead laying out the initial plan for BES to lease the property to the Portland Housing Bureau for at least \$10,000 a month. The idea, first touted by developer Homer Williams, is to use a warehouse on the property for a temporary homeless shelter for up to 400 people.



DiLorenzo's suit claims that leasing the property to the housing bureau will shortchange resident ratepayers because the arrangement does not take advantage of the full value of the property.

If plans for the homeless shelter continue to move forward, the city has until Oct. 7 to come up with a lease deal for the Terminal 1 site.

## **Hales releases fossil fuel draft, environmental groups say it needs work**

*By Andy Giegerich  
August 22, 2016*

Mayor Charlie Hales has issued a draft of the city's new policy that bans bulk fossil fuel terminals that hold 5 million-plus gallons of materials.

The "draft fossil fuel infrastructure policy" is open for public comment. It would make 11 terminals in the Portland Harbor nonconforming uses, "which would limit expansions to their current sites."

Portland's City Council had passed a Hales resolution on the matter in November.

Hales, in unveiling the draft, cited both June's oil train derailment in Mosier and the battle over the proposed Pembina propane terminal.

"The effects of the oil train derailment in Mosier would pale in comparison to growing fossil fuel infrastructure along our river, after we've invested billions of dollars for cleanup," he said in a release.

"When the Pembina facility was proposed, we heard loud and clear from the community that Portland growth should align with our values. We need to send a clear message to the energy market that Portland is transitioning to a low-carbon economy powered by clean, renewable energy."

The Columbia Riverkeeper and other environmental groups expressed concerns about the proposal.

"Portland is poised to take its place as the leading city in curbing fossil fuel use, but this proposal is actually less stringent than the City of Vancouver's recent vote when it comes to crude oil," said Dan Serres, the group's conservation director, in a release.

"Vancouver flatly prohibited crude oil facilities. Portland should match or exceed Vancouver's standard and outright prohibit new crude oil facilities. We don't think the city's November 2015 resolution was meant to allow any new facility that could draw in more unit trains of oil."

A hearing on the proposal takes place Sept. 13.