

The Oregonian

Portland developers sue to evict Right 2 Dream Too homeless camp

*By Jessica Floum
February 8, 2017*

Two Portland development companies set on renovating Old Town Chinatown's Grove Hotel are suing the owners of property across the street to evict the homeless tent camp set up there.

Filed by developers of the Grove Hotel, a high-profile project designed to help revitalize the neighborhood, the suit argues the camp violates Portland's zoning code, defies Oregon's permitting rules for setting up a park or camp and impedes redevelopment of the Northwest Portland neighborhood.

Bob Naito is lead owner of Grove Hotel Partners, which is developing the nine-story hotel, along with Grove Hostel Properties, a group that includes developer David Gold and others. They are working to remake the historic hotel, which stretches for a full block from Fourth Avenue to Fifth Avenue on West Burnside Street in Old Town, into a high-end tourist destination with restaurants and other retail offerings on the ground floor.

They argue the camp, known as Right 2 Dream Too and located at Northwest Fourth Avenue and Burnside Street, interfered with the renovation of the hotel by reducing the neighborhood property values and lowering the value of their proposed project by \$900,000.

Portland city officials have long struggled to find another location for the camp, even after directing \$846,000 toward to project. The tent camp, governed by its occupants, has operated on the site with the permission of its owners for more than five years.

Portland City Council voted in February 2016 to move the controversial camp to the Central Eastside, but a ruling by the Oregon's land-use board blocked the move. The ruling found that city officials abused local zoning rules by trying to classify a residential camp as a nonprofit so they could move it to an area zoned for industrial use.

In 2013, Commissioner Amanda Fritz and former Mayor Charlie Hales worked to find a new home for the camp in the Pearl District, but neighbors and local business owners fought the plan until Hales looked elsewhere.

City officials created a list of 21 potential new sites. None worked out so the city turned to the Central Eastside location.

The Oregon land-use's ruling left the camp with an uncertain future, which could soon be determined by the Multnomah Circuit Court.

Pregnant employee claims Ted Wheeler's top aide discouraged maternity leave

*By Brad Schmidt
February 8, 2017*

A pregnant city employee courted for a job inside Ted Wheeler's administration claims she was pressured to take less time off to care for her newborn if she wanted to work for Portland's mayor, interviews and records obtained by The Oregonian/OregonLive show.

The employee, Erika Nebel, informally requested 12 weeks of maternity leave - the same amount government employers are required to provide under state and federal law - while discussing potential policy or administrative positions with Wheeler's top aide as he assembled the mayor's team late last year. Her baby is due this spring.

But Nebel claims Wheeler's chief of staff, Maurice Henderson, told her 12 weeks of leave would impose too big a burden on Wheeler's remaining staff and budget, emails and interviews show. Nebel contends Henderson then steered her toward a different job, with the Portland Bureau of Transportation, where he said that amount of leave would be less burdensome to her employer.

Henderson declined to comment Wednesday but flatly denied the allegations through a mayoral spokesman. Emails that Henderson sent to Nebel show he told her that she misunderstood their conversations and he encouraged her to take 12 weeks of leave. Henderson did not ultimately turn Nebel down for the job; instead, she declined to continue pursuing it and took the transportation post.

Nebel declined to comment for this story.

But Nebel did outline her concerns in a lengthy Dec. 14 email to Henderson obtained by The Oregonian/OregonLive through a public records request. Nebel wrote that Henderson's comments made her feel unsupported, undervalued and scared.

"No prospective employee should feel pressure to take less family leave than what is federally allowed," Nebel, 28, told Henderson in the email. "It is my hope that the Wheeler administration learns from this misstep and is able to demonstrate support for expectant and working mothers."

Nebel reported her allegations to Portland's human resources bureau Dec. 14, copying director Anna Kanwit on the email to Henderson. City rules require a prompt investigation of discrimination or retaliation complaints.

But the city did not launch an investigation. Instead, records reveal that Kanwit helped guide Henderson's response to Nebel - providing edits to an email he planned to send her - while simultaneously asking Henderson not to indicate he was sharing that message with Kanwit.

Kanwit on Wednesday said she didn't consider Nebel's email a complaint and therefore didn't investigate. City rules are purposely ambiguous about what constitutes a complaint, Kanwit said.

"Getting copied on an email is not what I'd consider a complaint," Kanwit said. "I get copied on lots of emails."

Kanwit also said there would have been nothing to investigate because Henderson documented his support in writing for Nebel to take 12 weeks of maternity leave. Kanwit said she advised Henderson to document his support.

"Absolutely," she said. "The best way to make sure the person has the correct impression is to put it in writing. Then it's not left to interpretation."

The availability of family leave is one of the country's highest-profile employee rights. In Oregon, which offers more protections than the national law, every employer with at least 25 employees is required to post prominently in the workplace information about employees' rights and the state and federal family leave laws.

Employment attorneys contacted by The Oregonian/OregonLive say the allegations are troubling but, even if true, may not represent a clear-cut violation of state or federal law. That's because Henderson documented his support for Nebel's leave and because Nebel ultimately withdrew her candidacy for Wheeler's team.

But the charges nonetheless cast a shadow over Portland's new mayor. Just weeks into his administration, Wheeler has come under fire for the city's shaky response to January's snowstorm and at least four hypothermia deaths among vulnerable homeless residents.

Now, Wheeler's hand-picked deputy faces accusations of discrimination, just as former Mayor Charlie Hales' chief of staff did for alleged comments made to an aide who is HIV positive. The city settled that claim for \$25,000.

Wheeler declined to comment Wednesday, but his spokesman strongly denied allegations that his office is unwilling to accommodate working families.

"Maurice flatly denies that he ever pressured Ms. Nebel to take anything less than the full amount of time off allowed under law," Wheeler spokesman Michael Cox wrote in an email. "As the email record shows, Maurice was dismayed by the apparent misunderstanding, and clarified his commitment to both the law and to continuing discussions over a potential position in the Mayor's office. We are committed to a family-friendly office for mothers, fathers, and those expecting children."

Wheeler in August named Henderson, a relative newcomer to city politics, as his chief of staff. One of Henderson's first duties: hold preliminary conversations with would-be mayoral employees and compile a list of finalists for Wheeler.

Henderson first approached Nebel about a potential job on Election Day, according to Nebel's Dec. 14 email.

Nebel had spent the past four years working for Portland Commissioner Steve Novick, beginning as a front-desk receptionist before rising to a policy adviser on transportation issues. Henderson, in his role as assistant transportation director since 2015, reported to Novick and knew Nebel.

Novick lost his re-election bid in a surprising upset Nov. 8. That night, Henderson arrived at the Spirit of 77 bar in Northeast Portland, where Novick's supporters had gathered, to speak with Nebel and at least one other Novick aide about potential jobs working for Wheeler, according to Nebel's email and interviews.

Over the next month, Nebel and Henderson had on-and-off conversations about her possible roles working on city policy or as a bureau liaison for Wheeler, emails show. At the same time, Nebel considered a job offer from the transportation bureau.

According to Nebel's email, she didn't tell Henderson about her desire to take 12 weeks of parental leave until a Dec. 2 phone call.

Five days later, they discussed the topic again. Nebel and Henderson subsequently offered wildly different recollections of that Dec. 7 telephone conversation.

According to Nebel's email, the entire eight-minute talk focused on "the challenges posed by" an aide taking parental leave within the first year of Wheeler's administration.

"You talked about how you were unable to accommodate three months (12 weeks) due primarily to budget and needing all hands on deck," she wrote in her email.

Fearing the job was slipping away, Nebel offered to take only eight weeks of leave, or alternatively six weeks off plus two weeks at a reduced capacity, she wrote in her email. But each time, she wrote in the email, Henderson voiced concerns and said he'd need to talk with the human resources department.

Nebel accused Henderson of telling her to accept the transportation job if she wanted to take 12 weeks of leave because the bureau "was financially able and willing," according to her email.

Three former city employees who saw Nebel on Dec. 7, including immediately after the phone call, vouched for Nebel's recollection of events in separate interviews with The Oregonian/OregonLive.

Each remembered Nebel explaining that Henderson allegedly said he was reluctant to provide 12 weeks of maternity leave and encouraged Nebel to accept a job with the transportation bureau.

"She wasn't crying immediately," said one former city employee who saw her after the call. "She looked like she was in shock."

Later that day, Nebel texted a different former city employee about Henderson.

"I had a really weird conversation with Maurice today and I don't know how to react," Nebel wrote, according to a copy of the text provided to The Oregonian/OregonLive by the former city employee.

They spoke face-to-face later that day, the former city employee said. "She said she was really worried," the person said. "She felt like she was in an impossible situation."

A third former city employee, who also saw Nebel that day, recalled Nebel's angst. The employee remembers Nebel explaining that she offered to take fewer weeks off, hoping to appease Henderson and secure a job working for Wheeler.

"She was put in a position where she had to negotiate against herself," the former employee said.

Henderson had a different view of the conversation.

One day after their phone call, on Dec. 8, Henderson emailed to say he spoke with human resources and reiterated his interest in hiring Nebel. He wrote that he also wanted to "ensure that we were clear on a few things."

"As we discussed, our office and I am of course committed to ensure that people are able to take advantage of" family leave "and any type of compensation that is required by law and within our appropriate powers to grant," Henderson wrote to Nebel.

Before he sent her that message, Henderson shared it with Kanwit, the human resources director, asking her for guidance, edits or suggestions. "I think this message is fine," Kanwit responded.

Henderson emailed Nebel again Dec. 9 to say he was "still interested in working with you to make our position work." But Henderson said he would "completely understand" if she accepted a job in the transportation bureau.

Nebel waited until Dec. 14 to respond. In that email, Nebel told Henderson she was withdrawing her candidacy as a direct result of their phone call, "in which I was pressured to take less than the federally protected 12 weeks of family leave."

"As chief-of-staff for the incoming mayor, you spoke on behalf of the Mayor-Elect when you reached out to begin negotiating terms of joining the Wheeler administration," Nebel wrote in her email. "You were also speaking on behalf of the Mayor-Elect when you pressured me to pursue another job if I wanted to take 12 weeks of family leave (which you are required to allow under federal law)."

The city provided that email and others Wednesday, three weeks after The Oregonian/OregonLive filed a public records request seeking copies of all emails regarding job opportunities for Nebel in Wheeler's office or with the transportation bureau. Officials charged \$100 to search for and provide the records.

"I want the very best for everyone who works for the city and it's my goal here that other women, and all parents for that matter, don't go through what I did in our conversation last Wednesday," wrote Nebel, who now works for the transportation bureau's parking division as an assistant program specialist earning \$65,811 annually.

No one responded to Nebel for more than a week. But emails show that Henderson and Kanwit were talking.

In direct response to Nebel's email, Kanwit emailed Henderson on Dec. 14 with a message: "We should probably talk." Henderson wrote back to say he'd call the next day.

A week later, Henderson drafted a response to Nebel's complaints and shared it via email with Kanwit on Dec. 21, thanking Kanwit for her "guidance and support."

Kanwit responded the next day with changes "to make it a little shorter and more direct." Kanwit also asked Henderson not to copy her on the email when he responded to Nebel. Henderson followed Kanwit's guidance, instead forwarding to Kanwit his response to Nebel - with a message: "FYI...thanks again!"

In his Dec. 22 emailed response, Henderson wrote that he was "very dismayed by how our conversations have been perceived by you." Henderson wrote that he appreciated Nebel's willingness to reduce her leave but he didn't ask her to make the sacrifice. And he wrote he was only trying to be encouraging about options within the transportation bureau.

"To be clear, it was never my intent to suggest you take less than 12 weeks of leave," he wrote.

Kanwit on Wednesday said she remained impartial throughout the process. Kanwit said she couldn't remember if she ever responded to Nebel, but added that Nebel could have contacted her if she was unsatisfied.

"I did have Erika's interests at heart," Kanwit said, adding that she directed Henderson to make it clear that Nebel was entitled to 12 weeks of leave.

Both the Oregon Family Leave Act and the federal Family and Medical Leave Act require government agencies to provide up to 12 weeks of unpaid leave for a new parent who requests it. Under a city policy from 2016, employees now receive full pay for up to six weeks of a 12-week leave.

Karen O'Connor, a partner at the law firm Stoel Rives, said it's not uncommon for some supervisors to misinterpret regulations for family leave.

"The fact of someone making an incorrect statement doesn't mean that the discrimination happened, if you can go back and fix it right away," said O'Connor, who represents defendants in employment cases.

But Courtney Angeli, a partner at the law firm Buchanan Angeli Altschul & Sullivan, said employers are responsible for knowing and following the law.

Angeli, who represents plaintiffs, said it would be "an unlawful practice" to retaliate by dropping someone from consideration for a job because that person asserted her right to take family leave.

"Ignorance of what the law requires, which might have been the case here, is not an excuse for retaliation," she said.

The Portland Tribune

Portland landlord could pay more than \$100K to relocate tenants

*By Amelia Templeton/OPB
February 8, 2017*

More than 70 tenants evicted from a historic building in Northwest Portland could be among the first to receive relocation aid, which the City Council required in an emergency measure passed on Feb. 2.

The bill requires landlords to pay relocation aid up to \$4,500 per unit if they evict tenants without cause, or raise rents more than 10 percent.

The Portland City Council said it made the measure effective immediately in order to help the residents of several large apartment buildings where hundreds of residents received notice of no-cause evictions or steep rent increases in January.

Landlords have 30 days to respond to the new legislation and either rescind their notices, pull the rent increase below the threshold, or pay the relocation costs.

"We'll be looking at our budget, and trying to figure out how we're going to come up with the funds to pay for the additional relocation costs," said Eric Cress, founder of the company Urban Development Partners, best known as the company behind many of the new apartments on Division Street.

UDP is no-fault evicting all residents of a building known as the Fairmount, which occupies most of a city block in Northwest Portland.

The building is two stories, with a wraparound porch and peeling red paint. Originally a hotel, the Fairmount is one of the few buildings that remains standing from the 1905 Lewis and Clark Exposition. The building has 80 units, 10 of which have fallen into disrepair and aren't occupied.

UDP bought the Fairmount building a year ago, intending to restore it. Cress said the roof needs to be replaced immediately, and the city has started fining UDP over the poor condition of the structure.

"We've had to stick the building together, and we've waited as long as we can to do the repairs," said Cress.

All its tenants received 120 days notice of a no-cause eviction last month.

Before the new city ordinance passed, the company had voluntarily offered tenants smaller relocation payments, ranging from \$600 to \$1,200, according to renters who spoke to OPB.

Cress said he understands how difficult it is for tenants to find new housing in Portland's tight market, particularly if they've been paying below-market rents.

"We're a Portland company. These are essentially our neighbors," he said. "It's a difficult time."

Cress said UDP has all the permits it needs to begin renovating the property, and expects to spend between \$100,000 and \$150,000 on the more expensive relocation aid that the city requires.

"We had volunteered to pay about half of that," he said.

"I felt pretty blind-sided by the no-cause eviction," said Morgan Reese, a county employee who's lived in the Fairmount for five years. "The assistance will make a huge difference."

Reese knew the building needed repairs, but wasn't expecting those would require all the tenants to leave.

"The market is very tight and the lowest-priced units I've seen are still double our current rent, so my partner and I are having to seriously discuss how we're going to do it," she said.

The average one-bedroom in the Fairmount rents for well under \$1,000 a month, significantly less than the \$1,618 average rent for one-bedroom units in the neighborhood, according to the Portland Housing Bureau.

Larry Dessommes, a retired philosophy teacher, has also lived at the Fairmount for five years.

He describes the building as "a wooden tent" and points out insect damage in the wooden door frame of his unit. Dessommes said he wasn't too surprised by the eviction notice.

"We've known about it for a while. This building's pretty dilapidated," he said.

Dessommes, 78, said he's hoping to move into a house with four or five friends. He described prices in the Portland rental market as "astronomical," particularly for someone like him living on a fixed income. But he said he has mixed feelings about the city's relocation aid ordinance.

"It'd be nice to receive that kind of money," he said. But Dessommes also isn't sure it's fair for the property owner to have to pay.

"Generally, I'm opposed to governments forcing people to do stuff," he said.

On Feb. 6, two landlords filed a lawsuit over the relocation aid bill. The suit is funded by the Defense Fund of Multifamily Northwest, a trade and lobby group for the state's apartment owners.

The suit argues that the council's ordinance violates a state prohibition on rent control.

"We see no difference between an ordinance that just flat out bans the practices versus one that permits them but requires a payment of a penalty that is that hefty," says Attorney John DiLorenzo, who is arguing the case for Multifamily Northwest.

For his part, developer Cress said he believes it is fair for the city to ask landlords to pay some form of relocation aid, given how difficult it is for renters to find new housing in the current market.

He said UDP will include the cost of some form of relocation aid into its future renovation projects.

But Cress also worried that the city's emergency policy will create hardship for landlords, particularly smaller-scale landlords who need to make significant repairs to their property.

UDP has all the permits it needs to begin renovating the property, which has 80 units, 10 of which have fallen into disrepair.

Cress would like to see a balanced approach where landlords and the city share in the cost of making more affordable housing available.

He said when his company first came to Portland 10 years ago, focused on building rental housing, city officials showed little enthusiasm for his projects and condominium construction dominated the market.

"There's been a 10-year process of not having a policy that promotes production of more rental housing," he said. "Now, we've got to dig ourselves out of this hole."

Cress also said the public has resisted design measures that increase density and help bring down the cost of new rentals.

"As Portlanders, we've spent way too much time talking about the size of buildings and how much parking they have," Cress said, "and have not really been compassionate about providing affordable housing for the members of the community."

OPB is a new partner of the Portland Tribune. To see their version of the story, visit <http://www.opb.org/news/article/portland-landlord-relocation-tenants-costs/>

State could press city on water treatment after parasite found in Bull Run samples

*By Jim Redden
February 8, 2017*

Portland-area residents and businesses have paid a high price for the city of Portland to comply with a U.S. Environmental Protection Agency rule intended to keep a potentially deadly microorganism and other contaminants out of the region's water supply.

And it hasn't completely worked.

The parasite cryptosporidium has been found four times since the start of the year in the Bull Run Reservoir — the primary water source for Portland and a number of surrounding communities. Although it is too soon to predict what will happen, the Oregon Health Authority

has the power to require the Portland Water Bureau to build a treatment plant at the reservoir to kill the potentially dangerous parasite.

According to OHA spokesman Tony Andersen, the state agency is allowing Portland to continue collecting and testing Bull Run water for crypto — as it is commonly called — under a variance to the Environmental Protection Agency's rule granted in 2012.

But Andersen says the health authority also is "working through a range of options for the future" in case the results exceed the allowable limit. That is 0.075 or more "oocysts" per thousand liters of tested water at the end of current one-year monitoring period. An oocyst is a microscopic structure that proves the existence of the parasite.

If that limit is exceeded, OHA will revoke the variance and set a schedule for the PWB to install the EPA-required treatment.

The last time the bureau studied building an ultraviolet (UV) light treatment plant to kill crypto in the reservoir was in 2012, when the cost was estimated at \$70 million. The cost would be paid by Portland Water Bureau ratepayers, as with the recent cost to disconnect the open reservoirs at Mount Tabor and Washington parks. That was done to meet EPA requirements to keep crypto, other microorganisms, viruses, and other contaminants out of public water supply systems.

Water Bureau officials say the results so far are below the health authority's limit, although the final determination will not be made until the end of the year. They also argue there is no proof anyone has ever gotten sick from Bull Run water. At the same time, the officials are advising "people with severely weakened immune systems to seek specific advice about drinking water from their health care providers."

That is because crypto can cause cryptosporidiosis, a respiratory and gastrointestinal illness. It can affect anyone, but is especially dangerous to immunodeficient people. An outbreak killed 104 people and sickened around 400,000 others in Milwaukee, Wisconsin, in 1993, helping to prompt the EPA to adopt its LT2 rule.

Crypto is spread through animal feces. Because there are no domesticated animals in the Bull Run watershed, city Water Quality Team Manager Yone Akagi says wild animals are most likely the source of crypto found in the reservoir samples.

Akagi does not know why crypto has suddenly been detected in the reservoir. It has not been previously found in the testing required by the health authority since the variance was granted five years ago. One possibility is the heavy storms that have hit the region this year, Akagi says. They may have washed more contaminated soil than usual into the reservoir.

The positive results were found in samples collected on Jan. 2, 3, and 25 and on Feb. 1.

Whatever the cause, the positive results already have required the Water Bureau to accelerate its monitoring schedule, increasing the amount of water collected and tested from 50 liters twice a week to 250 liters four times a week. It can be argued that the more-frequent and larger collections are theoretically increasing the chances more crypto will be found in the samples.

But for now, according to Andersen at the health authority, as the Water Bureau "continues to meet the variance conditions and OHA determines that there is a low public health risk (as is the case with these previous results), the variance will remain in place."