

Willamette Week

City Council Approves First Tax Breaks Under Portland's Inclusionary Housing Policy

*By Rachel Monahan
September 28, 2017*

Portland City Council on Wednesday approved the first three developments to receive tax credits under the Inclusionary Housing program.

The three separate projects—in the Woodstock, Mt. Tabor, and Buckman neighborhoods—will have 170 units of housing, 23 of which will be affordable to people making between 60 and 80 percent of median income.

The new policy, which took effect in February, requires that buildings of 20 units or more create affordable units.

"Launching inclusionary housing with more than 20 affordable new units in three of our great Southeast neighborhoods is great first step," said Mayor Ted Wheeler in a statement. "Moving forward, we have a framework in place to ensure that growth benefits the people who live and work here."

Last week, the Bureau of Planning and Sustainability released a memo analyzing the first six months of the Inclusionary Housing policy. The memo says "it's too early to determine" the impacts of the policy, but that there's no evidence of developers seeking to evade the affordable housing requirements by submitting for projects under 20 units.

The Portland Mercury

Monsanto Tried to Kill a Lawsuit Over Portland River Contamination. It Failed.

*By Dirk VanderHart
September 28, 2017*

Last year, Portland piled on to a group of West Coast cities who say a precursor of agribusiness giant Monsanto tainted their waterways. Monsanto promptly argued the city has no right to file suit. Monsanto was wrong.

Late last week, a federal judge ruled that Portland has standing to sue the company (and two others) for the polychlorinated biphenyls (PCBs) that have found their way into the Willamette River, Columbia Slough, and other waterways. PCBs are toxic, and can cause cancer and a bevy of other nasty health effects. They're among the central chemicals of concern in the ongoing saga of cleaning the Portland Harbor Superfund site.

Portland's suit [PDF] says the city is going to have to spend an immense amount of money cleaning PCBs out of the Portland Harbor, and that Monsanto should bear at least a portion of that cost. The suit, and those like it, point to documents that suggest Monsanto knew PCBs posed health hazards long before that fact came to light in the 1970s.

"Portland's elected officials are committed to holding Monsanto accountable for its apparent decision to favor profits over ecological and human health," City Attorney Tracy Reeve said in a

statement when the city decided to sue in March 2016. "Monsanto profited from selling PCBs for decades and needs to take responsibility for cleaning up after the mess it created."

Monsanto sought to have those claims dismissed [PDF], arguing that the company that exists today shares only a name with the industrial concern that churned out PCBs, among other things. It said Portland's lawsuit was making overreaching claims, and that the city didn't have proper standing to file a suit.

In a September 22 ruling [PDF], US District Judge Michael Mosman disagreed. Concurring with the recommendations of a federal magistrate judge, Mosman found "the City's allegation that it has suffered a special injury by having to expend funds to investigate, monitor, analyze, and remediate PCB contamination is sufficient to establish standing" in court. In doing so, he swatted aside a central portion of Monsanto's motion to dismiss the case.

Mosman did dismiss a number of Portland's claims against Monsanto, because he found the city didn't sufficiently prove it owned the property that is affected by PCBs. The judge is giving city attorneys time to amend their arguments on those claims.

Before it was solely an agriculture company, Monsanto was known as Monsanto Chemical Co., and was the only company in the US producing PCBs (the two additional companies named in the suit are spin-offs of the former chemical company). From the 1930s to the 1970s, the chemicals were seen as useful coolants and lubricants. But they present a huge array of health concerns, and they're extremely hard to get rid of.

As the EPA notes:

PCBs do not readily break down once in the environment. They can remain for long periods cycling between air, water and soil. PCBs can be carried long distances and have been found in snow and sea water in areas far from where they were released into the environment. As a consequence, they are found all over the world.

Monsanto's been found liable for PCBs in the past. Last year, a St. Louis jury ordered the company to pay \$46.5 million to people who'd suffered health problems because of the chemical.

OPB

Portland's Lawsuit Against Monsanto Proceeds, With Some Claims Dismissed

*By Tony Schick
September 28, 2017*

The City of Portland and Port of Portland can proceed with lawsuits against Monsanto, but a judge has dismissed several of the city's claims over chemical contamination of the city's waterways.

Portland is one of eight West Coast cities, including Seattle and Spokane, with pending lawsuits against the agrochemical corporation. The suits focus on lasting contamination from polychlorinated biphenyls or PCBs, a now-banned group of chemicals widely used decades ago, often as coolants or lubricants in electrical equipment.

Monsanto has now lost attempts to dismiss such cases in Oregon, Washington and California.

“This is a sign of a continuing trend. If anything this litigation is going to continue to grow and strengthen in its evidence and legal rulings,” said John Fiske, outside counsel for the City of Portland and other entities suing Monsanto. “It seems like the more Monsanto fights, the better the cases get.”

In a Sept. 22 ruling, District Judge Michael Mosman said the City of Portland does have standing in a nuisance claim against Monsanto and its claim for damages under the Clean Water Act, stating “the City’s allegations that it suffered special damage not suffered by the public generally by being required to expend funds to investigate, monitor, analyze, and remediate PCB contamination were sufficient.”

Mosman dismissed several of the city’s claims against Monsanto for trespass, product liability and negligence, because the city had not “sufficiently alleged damage to the property it owns.”

The judge also granted Portland’s attorneys the opportunity to amend those dismissed claims. Fiske said he was confident the city could successfully amend its claims on those issues.

Monsanto, now an agricultural company, was the largest manufacturer of polychlorinated biphenyls, known as PCBs, between the 1930s and the 1970s. Those chemicals are now in stormwater and wastewater systems across the country.

A spokeswoman for Monsanto said the statute of limitations should factor into such cases.

“The last commercial sale of PCBs occurred in Oregon four decades ago,” spokeswoman Charla Lord said. “We continue to believe, for reasons including the statute of limitations and other issues of liability, that these speculative cases are without merit.”

Fiske said Monsanto has attempted to cite the statute of limitations in each case, each time unsuccessfully. In total, the many lawsuits filed against Monsanto over PCBs could be worth billions of dollars.